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## STATUTORY INSTRUMENTS

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# 1981 No. 226

## Judgments Enforcement (Northern Ireland) Order 1981

### PART X

#### OFFENCES, PROSECUTIONS AND CIVIL LIABILITY

##### **Obstruction and personation of enforcement officers**

**118.** Any person who—

- (a) obstructs or impedes an enforcement officer in the performance of his duties; or
- (b) impersonates an enforcement officer;

shall be guilty of an offence and shall be liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding<sup>[F1]</sup> level 3 on the standard scale], or to both such imprisonment and such fine.

<b>F1</b> 1984 NI 3
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##### **False applications: criminal and civil liability**

**119.—**(1) Any person who himself or by his servant or agent wilfully or recklessly applies for the enforcement of—

- (a) a money judgment for recovery of a sum of money greater than that due thereunder at the date of his application; or
- (b) any judgment which he is not entitled to enforce, whether wholly or in part,

shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>[F2]</sup> level 5 on the standard scale].

(2) Where upon an application for enforcement pursuant to Article 22 an applicant, himself or by his servant or agent, makes any statement in evidence or in writing which he knows or ought to know to be false in any material particular he shall—

- (a) be guilty of an offence and liable on summary conviction to a fine not exceeding<sup>[F2]</sup> level 5 on the standard scale]; and
- (b) be liable in damages at the suit of the debtor.

(3) Where a warrant of arrest is issued and it is shown that documents containing representations made by or on behalf of the creditor which led to the making of an order under Article 27(2)(B) in pursuance of which the warrant was issued, or, as the case may be, documents grounding the creditor's application for the warrant, contain statements which are false in any material particular or that the creditor has failed to inform the Office—

- (a) of any reason given to him or to his agent by the person in respect of whom the warrant was issued for his non-attendance pursuant to a summons under Article 27(1) or Article 28(1)

or (2) or an order under Article 27(2)(A) or Article 28(3) (as the case may be) following which the warrant was issued; or

- (b) of any payment on account of or in full settlement of the amount recoverable on foot of the judgment,

the creditor shall be liable in damages at the suit of the person in respect of whom the warrant was issued and the creditor's application for enforcement shall stand dismissed.

**F2** 1984 NI 3

### False answers

**120.** A person who, on being asked by an officer of the Office in the course of an examination under this Order any question for the purpose of obtaining disclosure of his or any other person's means or the assets and liabilities of any company or firm, knowingly and wilfully makes a statement false in a material particular shall be guilty of an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 .

### Rescue of or interference with goods in custody of Office

**121.** Any person who rescues or attempts to rescue or interferes with any goods which are or are deemed to be in the custody and possession of the Office shall, unless he satisfies the court that he had no reason to believe that the goods were in such custody and possession, be guilty of an offence and shall be liable on summary conviction to a fine not exceeding<sup>F3</sup> level 5 on the standard scale] or to imprisonment for a term not exceeding six months or to both.

**F3** 1984 NI 3

### Offences in relation to attachment of earnings orders

**122.—**(1) Subject to paragraphs (4) and (5), a person commits an offence if—

- (a) being required by Article 74(1), 76(3), 100(1) or 102(2) to comply with an attachment of earnings order, he fails to do so; or
- (b) being required by Article 74(2) or 100(2) to give a notice for the purposes of that paragraph, he fails to give it, or fails to give it within the period required by that paragraph; or
- (c) he fails to comply with a direction under Article 77(1) or (2) or 103(1) or (2); or
- (d) he fails to comply with Article 78 or 104; or
- (e) he gives a notice for the purposes of Article 74(2) or 100(2), or a notification for the purposes of Article 78 or 104, which he knows to be false in a material particular, or recklessly gives such a notice or notification which is false in a material particular; or
- (f) in purported compliance with Article 74(2) or (4)(b) or 100(2) or (5)(b), or with a direction under Article 77(1) or (2) or 103(1) or (2), he makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular.

(2) Where a person commits an offence under paragraph (1)—

- (a) he shall in any case on summary conviction be liable to a fine not exceeding<sup>F4</sup> level 3 on the standard scale]; or
- (b) if the offence is committed in relation to proceedings in, or to an attachment of earnings order made by, the High Court or a county court, he may be ordered by a judge of the

High Court or, as the case may be, a county court judge to pay a fine not exceeding<sup>F5</sup> £2,000], or, where the offence is committed under paragraph (1)( c) or ( d) by the debtor, or under paragraph (1)( e) or ( f) by the debtor or any other person, to be imprisoned for not more than 14 days.

(3) Where a person who has been convicted under paragraph (2), or on whom a fine or a sentence of imprisonment has been imposed under that paragraph otherwise than following such a conviction, commits a second or subsequent offence under the same provision of paragraph (1) in relation to the same provision of this Order (and in the case of an offence under paragraph (1)( a) in relation to the same attachment of earnings order) paragraph (2)( a) and ( b) shall have effect as if the reference therein (in each case) to £100 were to<sup>F5</sup> £2,000].

(4) It shall be a defence—

- (a) for a person charged with an offence under paragraph (1)( a) to prove that he took all reasonable steps to comply with the attachment of earnings order in question;
- (b) for a person charged with an offence under paragraph (1)( b) to prove that he did not know, and could not reasonably be expected to know,—
  - (i) that the debtor was not in his employment, or (as the case may be)
  - (ii) that the debtor had ceased to be in his employment,and that he gave the required notice as soon as reasonably practicable after the fact came to his knowledge.

(5) It shall also be a defence for a person charged with an offence under paragraph (1)( b) of failing to give notice that the debtor had ceased to be in his employment to prove that he had had reasonable cause to believe that the Office, or, as the case may be, the court, had knowledge of the cesser.

(6) Where a person is convicted of or dealt with for an offence under paragraph (1)( a) the court or judge may order him to pay to the Office or, as the case requires, the creditor any sums deducted by that person from the debtor's earnings and not already so paid.

(7) Where under this Article a person is ordered by a judge of the High Court or a county court judge to be imprisoned, the judge may at any time revoke the order and, if the person is already in custody, order his discharge.

(8) Any fine imposed under paragraph (2)( b) and any sums ordered by a judge of the High Court or a county court judge to be paid under paragraph (6) shall be recoverable in the same way as a fine imposed by the High Court or a county court in exercise of its jurisdiction to punish for contempt of court; and any sum ordered by a court of summary jurisdiction to be paid under paragraph (6) shall be recoverable as a sum adjudged to be paid on a conviction by that court.

(9) For the purposes of any statutory provision conferring a right of appeal from an order made in the exercise of jurisdiction to punish for contempt of court, an order made by a county court judge under paragraph (2)( b) shall be deemed to be an order made by a county court in the exercise of such a jurisdiction.

(10) In this Article references to proceedings in a court are to proceedings in which that court has power to make an attachment of earnings order or has made such an order, and references to a debtor or creditor include references to, respectively, the person liable to make payments under a maintenance order (within the meaning of Article 97) or the person entitled to those payments.

**F4** 1984 NI 3

**F5** SR 1984/253

### Misrepresentation by debt collectors

**123.**—(1) A person commits an offence if, with the object of coercing another person to pay money claimed from the other as a debt due under a contract, he—

- (a) falsely represents that process of any court or the Office has been issued, or that any judgment has been obtained, in respect of the money claimed;
- (b) falsely represents, in relation to the money claimed, that criminal proceedings may be instituted for failure to pay it;
- (c) falsely represents himself to be authorised in some official capacity to claim or enforce payment; or
- (d) utters a document falsely represented by him to have some official character or which purports to have, or, by reason of its form or appearance or both, has the appearance of having, some official character which he knows it has not.

(2) A person guilty of an offence under this Article shall be liable on summary conviction to a fine not exceeding<sup>[F6]</sup> level 5 on the standard scale].

**F6** 1984 NI 3

### Conduct of prosecutions

**124.** [<sup>F7</sup>A civil servant in the Department of Justice who is] of a class designated by [<sup>F8</sup>that Department], although not of counsel or a solicitor may, and if the Master so directs shall, prosecute or conduct before a court of summary jurisdiction any proceedings in respect of any offence under this Part.

- F7** Words in art. 124 substituted (12.4.2010) by Northern Ireland Court Service (Abolition and Transfer of Functions) Order (Northern Ireland) 2010 (S.R. 2010/133), art. 4, **Sch. para. 14(4)** (with arts. 5-7)
- F8** Words in art. 124 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 127** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

**Changes to legislation:**

There are currently no known outstanding effects for the Judgments Enforcement (Northern Ireland) Order 1981, PART X.