



2016 CHAPTER 21

PART 1

FINES AND OTHER PENALTIES: ENFORCEMENT

CHAPTER 1

Collection of Fines etc.

Default on payment

Collection officer to contact debtor in default

5.—(1) This section and section 6 apply where a debtor who is subject to a collection order fails to comply with the order.

(2) Where the debtor is an individual, the collection officer must take reasonable steps to contact the individual for the purpose of obtaining or verifying the following information—

- (a) the individual's full name, address, date of birth and National Insurance number,
- (b) particulars of any earnings or other income the individual receives or expects to receive and the name and address of any employer the individual has,
- (c) particulars of any welfare benefits the individual receives,
- (d) particulars of any bank account or similar account held in the individual's sole name, and
- (e) particulars of any vehicles registered in the individual's name.

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(3) Where the debtor is a company, the collection officer must take reasonable steps to contact an officer of the company for the purpose of obtaining or verifying the following information—

- (a) the company's name and registered address,
- (b) particulars of any bank account or similar account held in the company's name, and
- (c) particulars of any vehicles registered in the company's name.

(4) If the collection officer, having taken steps as mentioned in subsection (2) or (3), is unable to contact the debtor or if the debtor fails, without reasonable excuse, to provide the information referred to in that subsection, the collection officer may apply to a magistrates' court for the issue of a summons to require the debtor to attend on the collection officer at the time and place specified in the summons.

(5) A person commits an offence if the person fails, without reasonable excuse, to provide information required under subsection (2) or (3).

(6) A person commits an offence if, in providing information in response to a requirement under subsection (2) or (3), the person—

- (a) provides information which the person knows to be false in a material particular,
- (b) recklessly provides information which is false in a material particular, or
- (c) knowingly fails to disclose a material fact.

(7) In subsection (2)(c), “welfare benefit” means a benefit to which section 5 of the Social Security Administration (Northern Ireland) Act 1992 applies or which is treated by a provision of that section as if it were a benefit to which that section applies.

Commencement Information

II S. 5 in operation at 1.6.2018 by S.R. 2018/99, art. 2(a)

Powers of collection officer in relation to debtor in default

6.—(1) The collection officer may at any time the officer considers appropriate refer the debtor's case to the court which is responsible for enforcing payment of the sum due; and a reference in this Chapter to “the responsible court” is a reference to that court.

(2) The collection officer may, on an application by the debtor (which may be made orally or in writing), vary the terms of the collection order—

- (a) by extending the period within which payment of the outstanding amount is required,

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- (b) by permitting payment of the outstanding amount by instalments of specified amounts on or before specified dates, or
- (c) where the order already permits payment by instalments, by amending the amounts of the instalments, the dates on or before which they must be paid, or both.

(3) The collection officer may, whether or not on an application by the debtor (which may be made orally or in writing) and whether or not the debtor consents—

- (a) if it appears to the officer that the debtor is receiving a relevant benefit (see section 14(3)), make an application for deduction from benefits in relation to the debtor;
- (b) if it appears to the officer that the debtor is receiving or expecting to receive earnings, make an attachment of earnings order in relation to the debtor;
- (c) if it appears to the officer that the debtor is both receiving or expecting to receive earnings and receiving a relevant benefit, either make an application for deduction from benefits or make an attachment of earnings order in relation to the debtor.

(4) But the collection officer may take action under subsection (3) only if the officer, having considered whether it would be appropriate to take action under subsection (2) (on the assumption that the debtor had made the necessary application), is satisfied that it would be more appropriate to take the action under subsection (3).

(5) Where the collection officer is unable to secure compliance with the collection order by taking action under subsection (2) or (3) but is satisfied that there are funds in an account held with a deposit-taker in the debtor's sole name, the collection officer—

- (a) may make an interim bank account order in relation to the debtor (see section 20), and
- (b) where the collection officer does so, must refer the debtor's case to the responsible court.

(6) Where the collection officer is unable to secure compliance with the collection order by taking action under subsection (5), the collection officer may refer the debtor's case to the responsible court with a request that the court make a vehicle seizure order (see section 23).

(7) But the collection officer may not make a referral and request under subsection (6) unless the officer is satisfied that—

- (a) the vehicle to which the request relates is registered in the debtor's name,
- (b) the debtor has sufficient means to pay the outstanding amount, and
- (c) an amount equivalent to the value of the vehicle (if sold) would be sufficient to discharge the outstanding amount and the amount of any

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, Cross Heading: Default on payment. (See end of Document for details)

charges likely to be imposed and costs likely to be incurred in connection with executing a vehicle seizure order in relation to the vehicle.

(8) Before taking action under this section, the collection officer must notify the debtor of the action the officer has decided to take; but, where the collection officer decides to make an interim bank account order, the officer need not notify the debtor of that decision until the order is made and any arrangements required for its implementation are in place.

(9) The collection officer, having referred the debtor's case to the responsible court under this section, may not exercise a power under subsections (2) to (6) in relation to the debtor (but may in reliance on subsection (1) refer the case to the responsible court again).

(10) A magistrates' court may, on a complaint made by a collection officer, issue a summons requiring the debtor to appear at the time and place specified in the summons for the hearing on a referral under this section of the debtor's case; and the summons must direct the debtor to appear—

- (a) if the responsible court is the Crown Court, before that Court;
- (b) if the responsible court is a magistrates' court, before a court of summary jurisdiction.

(11) A person commits an offence if, having been notified under subsection (8) that the collection officer has decided to make a referral and request under subsection (6), the person conceals or disposes of the vehicle in question or attempts to do so.

(12) In subsection (3), “earnings” has such meaning as may be specified in regulations.

Commencement Information

- I2** [S. 6\(1\)-\(11\)](#) in operation at 1.6.2018 by [S.R. 2018/99](#), [art. 2\(a\)](#)
- I3** [S. 6\(12\)](#) in operation at 3.10.2016 for specified purposes by [S.R. 2016/248](#), [art. 4\(b\)](#)
- I4** [S. 6\(12\)](#) in operation at 1.6.2018 in so far as not already in operation by [S.R. 2018/99](#), [art. 2\(a\)](#)

Referral to the court: collection officer's report etc.

7.—(1) Where a collection officer refers a debtor's case to court under section 6, the officer must provide the court with a report which sets out—

- (a) the action the officer has taken for the purpose of securing compliance with the collection order,
- (b) the contact the officer has had with the debtor or, if the officer has been unable to make contact with the debtor, the steps the officer has taken to make contact,

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, Cross Heading: Default on payment. (See end of Document for details)

- (c) the information which the officer has obtained or verified under section 5(2) or (3), and
 - (d) the steps the debtor has taken to pay the sum due.
- (2) In the case of a referral under section 6(6), the report under subsection (1) must state that the collection officer—
- (a) is satisfied as to the matters specified in section 6(7), and
 - (b) is satisfied that section 23(5) (exceptions for vehicles used by disabled persons, emergency services, etc.) does not prevent the making of a vehicle seizure order.
- (3) The collection officer's report is admissible in proceedings before a court as evidence of the facts stated in it; and a court may, for example, take the report into account in deciding whether to issue a warrant under section 10.

Commencement Information

I5 [S. 7](#) in operation at 1.6.2018 by [S.R. 2018/99](#), [art. 2\(a\)](#)

Referral to the court in case where no collection order made

- 8.—**(1) This section applies where—
- (a) the court referred to in section 1(1)(b) does not make a collection order, and
 - (b) the debtor defaults on payment of the sum due.
- (2) The proper officer of the responsible court may at any time the officer considers appropriate refer the debtor's case to the responsible court.
- (3) A magistrates' court may, on a complaint made by the proper officer, issue a summons requiring the debtor to appear at the time and place specified in the summons.
- (4) A summons under subsection (3) must direct the debtor to appear—
- (a) if the responsible court is the Crown Court, before that Court;
 - (b) if the responsible court is a magistrates' court, before a court of summary jurisdiction.
- (5) In this section, “proper officer” means—
- (a) if the responsible court is the Crown Court, the chief clerk;
 - (b) if the responsible court is a magistrates' court, the clerk of petty sessions.

Commencement Information

I6 [S. 8](#) in operation at 1.6.2018 by [S.R. 2018/99](#), [art. 2\(a\)](#)

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, Cross Heading: Default on payment. (See end of Document for details)

Powers of court on referral of debtor's case

9.—(1) At the hearing of a debtor's case on a referral under section 6, the responsible court may—

- (a) extend the period within which payment of the outstanding amount is required;
- (b) permit payment of the outstanding amount by instalments of specified amounts on or before specified dates;
- (c) in a case where the debtor is an individual, order the collection officer to make an application for deduction from benefits or make an attachment of earnings order (even if either of those has previously been done in that case and regardless of whether the debtor consents);
- (d) make a bank account order (whether or not the collection officer has made an interim bank account order in relation to the debtor) (see section 22);
- (e) make a vehicle seizure order in relation to a vehicle registered in the debtor's name (see section 23);
- (f) issue a warrant of distress for levying the outstanding amount;
- (g) if the debtor is an individual aged 18 or over, make a supervised activity order under Article 45 of the Criminal Justice (Northern Ireland) Order 2008;
- (h) if the debtor is an individual aged 16 or 17, make an attendance centre order under Article 37 of the Criminal Justice (Children) (Northern Ireland) Order 1998;
- (i) issue a warrant committing the debtor to prison in default of the outstanding amount;
- (j) remit the whole or part of the outstanding amount, having regard to any change in the debtor's circumstances since the conviction concerned.

(2) At the hearing of a debtor's case on a referral under section 8, the responsible court must consider whether to make a collection order; and—

- (a) where the court does so, subsection (1) applies as if a referral had been made under section 6;
- (b) where the court does not do so, it may act as mentioned in subsection (1)(a), (b) or (d) to (j).

(3) The court may not act as mentioned in subsection (1)(g) or (h) without having considered and dismissed each of the options under subsection (1)(a) to (f).

(4) The court may not act as mentioned in subsection (1)(i) or (j) without having considered and dismissed the option under subsection (1)(g) or (h) (and, accordingly, each of the options under subsection (1)(a) to (f)).

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, Cross Heading: Default on payment. (See end of Document for details)

(5) Where the court decides to act as mentioned in subsection (1)(g) or (i), or decides what action to take in the case of a debtor who is aged under 18, the court must give reasons for its decision.

(6) In a case where an interim bank account order is in force—

- (a) the collection officer must attend the hearing in order to give such oral evidence as the court may require, and
- (b) the deposit-taker (as well as the debtor) may make representations as to why a bank account order should not be made.

(7) Where the court considers that it would be appropriate to make a bank account order, but the amount specified in the order would be less than the outstanding amount, the court may, in addition to making a bank account order, take such other action under subsection (1) as it considers appropriate.

(8) Where the court takes action under subsection (1) otherwise than by making a bank account order, any interim bank account order in force in relation to the debtor is discharged.

(9) Where the court issues a warrant of committal under subsection (1)(i), the length of the period of committal as pronounced by the court is to be reduced by the length of any period during which the debtor has, in the case to which the hearing under this section relates, been remanded or committed in custody under section 12 (but not under subsection (7) of that section).

(10) In a case where the sum due is a sum treated as if it were adjudged to be paid by or imposed on a conviction, the reference in subsection (1)(j) to the time of the debtor's conviction is to be read as a reference to the time when the liability to the sum due arose.

Commencement Information

I7 [S. 9](#) in operation at 1.6.2018 by [S.R. 2018/99](#), [art. 2\(a\)](#)

Power to issue arrest warrant where debtor fails to attend hearing

10.—(1) This section applies where, in the case of a debtor who is an individual—

- (a) a summons is issued under section 6(10) or 8(3), but
- (b) the debtor does not appear before court as required by the summons.

(2) The court before which the debtor was required to appear may issue a warrant for the debtor's arrest if—

- (a) it is not satisfied that the summons was served on the debtor or that the debtor is evading service but is satisfied that a reasonable attempt has been made to serve the summons on the debtor,

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, Cross Heading: Default on payment. (See end of Document for details)

- (b) it is satisfied that the debtor is aware of the liability to pay the sum due and of the possible consequences of defaulting on the payment,
- (c) it is considering the possibility of issuing a warrant to commit the debtor to prison under section 9(1)(i), and
- (d) it is satisfied that issuing a warrant for the debtor's arrest instead of reissuing the summons is proportionate to the objective of securing the debtor's appearance before the court.

(3) On issuing a warrant under this section, the court must endorse the warrant for bail so as to direct that, once arrested, the debtor must be released on entering into the recognizance specified in the endorsement.

(4) A warrant under this section may be executed only by a constable.

(5) A warrant under this section is not to be regarded for the purposes of Article 19(1)(a)(i) of the Police and Criminal Evidence (Northern Ireland) Order 1989 as a warrant issued in connection with or arising out of criminal proceedings.

Commencement Information

I8 [S. 10](#) in operation at 1.6.2018 by [S.R. 2018/99](#), [art. 2\(a\)](#)

Arrest under warrant under section 10

11.—(1) This section applies where a debtor is arrested in reliance on a warrant issued under section 10.

(2) If the debtor enters into the recognizance specified in the endorsement to the warrant, it is not necessary for the debtor to be taken to a police station; and if the debtor is taken to a police station without having entered into the recognizance, he or she must be released from custody on entering into it.

(3) If the debtor enters into the recognizance, the hearing of the debtor's case under section 9 on the referral under section 6 or 8 is to take place at the time and place specified in accordance with provision made in the recognizance.

(4) If the debtor does not enter into the recognizance, the debtor must as soon as is practicable be brought before either a magistrates' court or the Crown Court, whichever is next sitting; and, pending that, the debtor may be kept in custody at a police station.

(5) If the debtor is brought before a magistrates' court and it is the responsible court in the debtor's case, it—

- (a) must at that sitting hear the debtor's case under section 9 on the referral under section 6 or 8, or

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, Cross Heading: Default on payment. (See end of Document for details)

- (b) if it is not possible for the court to do so at that sitting, must adjourn the hearing on the referral to such time and place as it specifies and must remand the debtor in accordance with section 12.
- (6) If the debtor is brought before a magistrates' court but the Crown Court is the responsible court in the debtor's case, it must commit the debtor to the Crown Court in accordance with section 12.
- (7) If the debtor is brought before the Crown Court and it is the responsible court in the debtor's case, it—
 - (a) must at that sitting hear the debtor's case under section 9 on the referral under section 6 or 8, or
 - (b) if it not possible for the court to do so at that sitting, must adjourn the hearing on the referral to such time and place as it specifies and must remand the debtor in accordance with section 12.
- (8) If the debtor is brought before the Crown Court but it is not the responsible court in the debtor's case, it must remit the debtor's case to the magistrates' court which is the responsible court and must remand the debtor in accordance with section 12.
- (9) Where a debtor has entered into the recognizance, the outstanding amount may, before the hearing on the referral of the debtor's case, be paid to the police or the court; and on the payment being made, the warrant ceases to have effect.
- (10) Where the debtor has not entered into the recognizance, the outstanding amount may, before the debtor is brought before the court under this section, be paid to the police or the court; and on the payment being made, the warrant ceases to have effect.
- (11) Where the debtor has been dealt with as mentioned in subsections (5) to (8) pending the hearing on the referral of the debtor's case, the outstanding amount may, before the hearing on the referral, be paid to the court.
- (12) The police, on receiving a payment under subsection (9) or (10), must send it to the court.
- (13) If, at the time of the commencement of this section, Part 1 of the Justice Act (Northern Ireland) 2015 (single jurisdiction for county courts and magistrates' courts) has yet to come into force, this section, pending the commencement of that Part, has effect as if after subsection (5) there were inserted—
 - “(5A) If the debtor is brought before a magistrates' court but another magistrates' court is the responsible court in the debtor's case, it must adjourn the hearing on the referral to that other court at such time and place as it specifies and must remand the debtor in accordance with section 12.”.

Commencement Information

19 S. 11 in operation at 1.6.2018 by S.R. 2018/99, art. 2(a)

Remand or committal under section 11

12.—(1) For the purposes of the remand or committal of a debtor under section 11(5) to (8), the court must either—

- (a) remand or commit the debtor in custody, by committing the debtor to custody to be brought before the responsible court at the end of the period specified by the court (but see also subsection (7)), or
- (b) remand or commit the debtor on bail, by remanding the debtor on bail subject to such conditions as the court may specify for the debtor's subsequent appearance before the responsible court.

(2) A reference in this section to being remanded or committed in custody is to be read in accordance with subsection (1)(a); and a reference in this section to being remanded or committed on bail is to be read in accordance with subsection (1)(b).

(3) If the debtor is remanded or committed in custody, the court may give its consent to the debtor being remanded or committed on bail.

(4) The period for which the debtor may be remanded or committed in custody must not exceed—

- (a) in a case where the debtor consents, 28 days;
- (b) in any other case, 8 days.

(5) The period for which the debtor may be remanded or committed on bail must not exceed 28 days.

(6) If the debtor is aged under 18, he or she may not be remanded or committed in custody.

(7) If the debtor is aged 21 or over, the remand or committal of the debtor in custody may, on an application made by a police officer not below the rank of inspector, be made by—

- (a) committing the debtor to detention at a police station, or
- (b) committing the debtor to the custody of a constable (otherwise than at a police station).

(8) The period for which the debtor may be committed under subsection (7)(a) must not exceed 3 days beginning with the day following that on which the debtor was committed.

(9) The debtor may not be committed to detention at a police station under subsection (7)(a) unless there is a need for him or her to be so detained for the

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purposes of inquiries into a criminal offence; and if the debtor is committed to such detention—

- (a) the debtor must, as soon as that need ceases, be brought back before the court;
- (b) the debtor is to be treated as a person in police detention to whom the duties under Article 40 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (responsibilities in relation to persons detained) relate, and
- (c) the detention of the debtor is to be subject to periodic review at the times set out in Article 41 of that Order.

(10) The debtor may not be committed to the custody of a police officer under subsection (7)(b) unless there is a need for him or her to be kept in such custody for the purposes of inquiries into a criminal offence; and if the debtor is committed to such custody, he or she must, as soon as that need ceases, be brought back before the court.

(11) The court may order the debtor to be brought before it at any time before the expiration of the period for which the person has been remanded or committed.

Commencement Information

I10 S. 12 in operation at 1.6.2018 by S.R. 2018/99, art. 2(a)

Costs relating to referral of debtor's case

13.—(1) The costs of the hearing of a debtor's case under section 9 (including any costs incurred in connection with any matter preliminary or incidental to the hearing, but not including any costs incurred by the debtor) are to be defrayed in the first instance by the Department of Justice.

(2) The costs to be defrayed under subsection (1) are to be such rates or such amounts as may be generally or specifically approved by the Department of Finance and Personnel.

(3) The court hearing the debtor's case under section 9 may, in addition to any other order which it may make at the hearing, order the debtor to pay the whole or any part of the costs referred to in subsection (1); but, if the debtor is an individual aged under 18, the amount of any costs ordered under this subsection may not exceed the outstanding amount.

(4) The payment of an amount imposed by an order under subsection (3) is enforceable in the same manner as a fine or other sum adjudged to be paid by or imposed on a conviction of the court (and this Chapter applies in relation to that amount accordingly).

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, Cross Heading: Default on payment. (See end of Document for details)

(5) The costs of any proceedings under section 11 involving the debtor are to be regarded for the purposes of this section as costs of the hearing of the debtor's case under section 9.

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Commencement Information

III [S. 13](#) in operation at 1.6.2018 by [S.R. 2018/99](#), [art. 2\(a\)](#)

Changes to legislation:

There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, Cross Heading: Default on payment.