



2016 CHAPTER 21

PART 1

FINES AND OTHER PENALTIES: ENFORCEMENT

CHAPTER 1

Collection of Fines etc.

*Introductory*

**Application of Chapter**

1.—(1) This Chapter applies where—

- (a) a person is liable to pay a fine or other sum adjudged to be paid by or imposed on a conviction or a sum which is treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed, and
- (b) a court in Northern Ireland imposed the liability to pay the sum or is responsible for enforcing its payment.

(2) In this Chapter—

- “the sum due” means the sum mentioned in subsection (1)(a),
- “the debtor” means the person liable to pay the sum due, and
- “the outstanding amount” means the amount of the sum due which for the time being remains to be paid.

### *Collection officers and orders*

#### **Collection officers**

2.—(1) The Department of Justice may designate civil servants in the Department to be collection officers for the purposes of this Chapter; and a reference in this Chapter to a “collection officer” is a reference to a person so designated.

(2) The general functions of a collection officer are—

- (a) to provide debtors with information and advice about payment of the sums due;
- (b) to secure compliance with collection orders (see section 3).

(3) Regulations may make further provision about collection officers; and the regulations may, in particular, confer or impose functions on collection officers.

#### **Collection order**

3.—(1) The court referred to in section 1(1)(b) must make an order (a “collection order”) relating to the payment of the sum due, unless it appears to the court that it is impracticable or inappropriate to do so.

(2) The court may not make a collection order in so far as the sum due consists of an amount payable under a confiscation order under Part 4 of the Proceeds of Crime Act 2002.

(3) Where a collection order is made, the powers of a court to deal with the liability of the debtor to pay the sum due are subject to the provisions of this Chapter and to regulations made under it.

(4) A collection order must—

- (a) state the amount of the sum due,
- (b) if the sum due consists of separate amounts, state each separate amount,
- (c) if part of the sum due has already been paid, state the amount already paid and the outstanding amount,
- (d) contain information about how payments may be made under the terms of the order,
- (e) contain information about how to contact the collection officer responsible for securing compliance with the order,
- (f) contain information about the effect of the order and the consequences of failing to comply with it, and
- (g) contain the additional provision required by section 4(3) or (4).

(5) Where a court makes a collection order, it must—

- (a) serve the order on the debtor, and

(b) send a copy to the collection officer.

(6) Where the debtor appeals against the conviction or sentence in a case in which a collection order has been made, the collection order is suspended until the appeal is determined or abandoned.

(7) In a case where, before the commencement of this section, a person has defaulted on payment of a sum of the kind mentioned in section 1—

- (a) if a court has yet to deal with the person for the default, the proper officer may refer the case to the court which is responsible for enforcing payment of the sum for it to consider whether to make a collection order;
- (b) if a court has already dealt with the person for the default, a collection order may not be made.

(8) In subsection (7), “proper officer” means—

- (a) in relation to a magistrates’ court, the clerk of petty sessions;
- (b) in relation to the Crown Court, the chief clerk.

#### **Additional powers where collection order made**

4.—(1) Where a court makes a collection order in the case of a debtor who is an individual, it may also—

- (a) order the collection officer who is responsible for securing compliance with the order to make an application for deduction from benefits in relation to the debtor (see sections 14 to 16);
- (b) make an attachment of earnings order in relation to the debtor (see sections 18 and 19).

(2) But a court may make an order under subsection (1)(a) or (b) only if—

- (a) the court, having considered whether it would be appropriate to require the debtor to pay the sum due in either of the ways mentioned in subsection (4), is satisfied that it would be more appropriate to make the order under subsection (1)(a) or (b), and
- (b) the debtor consents to the making of the order.

(3) If the court makes an order under subsection (1)(a) or (b), the collection order must also state that the order has been made.

(4) If the court does not make an order under subsection (1)(a) or (b), the collection order must also include—

- (a) a term requiring the payment of the outstanding amount within a specified period, or
- (b) terms requiring the payment of the outstanding amount by instalments of specified amounts on or before specified dates.

(5) If the court makes an order under subsection (1)(a), the collection officer must make an application for deduction from benefits in relation to the debtor.

### *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.

(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,

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- (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.

### **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,
- (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 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.

**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,
- (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.

**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.

**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)).



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(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.

### **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,

(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.

### **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
- (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.”.

### **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 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.

### **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).

(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.

### *Deductions from benefits*

### **Application for deduction from benefits**

**14.—**(1) An application for deduction from benefits, in relation to a debtor, is an application to the Department for Social Development for it to deduct sums from amounts payable to the debtor by way of a relevant benefit for the purpose of securing payment of the outstanding amount.

(2) The application may be made only in the case of a debtor who, at the time of the application, is an individual aged 18 or over.

(3) Each of the following is a relevant benefit—

- (a) income support;
- (b) jobseekers' allowance;
- (c) state pension credit;
- (d) employment and support allowance.

(4) If the Department for Social Development grants the application, it must—

- (a) deduct sums from amounts payable to the debtor by way of a relevant benefit, and
- (b) pay the sums deducted to the responsible court for them to be applied towards satisfaction of the outstanding amount.

(5) The application fails, and sections 5 and 6 apply as they would if the debtor had failed to comply with the collection order, if—

- (a) the application is withdrawn,
- (b) the Department for Social Development rejects the application,
- (c) an appeal against the grant of the application succeeds, or
- (d) the Department for Social Development ceases to make deductions at a time when the debtor remains liable to pay any part of the sum due.

(6) A decision by the Department for Social Development for the purposes of this section is to be treated for the purposes of the Social Security (Northern Ireland) Order 1998 as if it were a decision to which Article 13 of that Order (appeals) applies.

(7) The Department of Justice may by order amend this section so as to add a benefit to the list of relevant benefits or remove a benefit from the list.

#### **Deduction from benefits: further provision in regulations**

**15.—**(1) Regulations may make further provision about applications for deductions from benefits; and the regulations may in particular make provision—

- (a) as to the circumstances and manner in which, and the times at which, the Department for Social Development may make deductions and payments for the purposes of section 14;
- (b) as to the calculation of the amounts to be deducted and paid and, in particular, to ensure that sums payable to the debtor by way of relevant benefits do not fall below such limit as is specified;
- (c) as to the priority between the payment of sums under the collection order and the payment of other sums from the amounts deducted;
- (d) as to the circumstances in which the Department for Social Development is to cease to make deductions;
- (e) requiring the Department for Social Development to notify the debtor in such manner and at such time as is specified of the total amount of the deductions made up to the time of the notification.

(2) Regulations may—

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- (a) make provision as to the contents of an application for deduction from benefits;
- (b) make provision that, where the amount to which the application relates has been paid, the court must notify the Department for Social Development and the debtor accordingly.

### **Enquiries into debtor's means**

**16.**—(1) Before exercising the power under section 4(1)(a) or 9(1)(c) to order a collection officer to make an application for deduction from benefits, the court must inquire into the debtor's means; and for that purpose the court may require the debtor to provide—

- (a) his or her full name, address, date of birth and National Insurance number, and
- (b) details of any relevant benefit which the debtor receives.

(2) A person commits an offence if the person fails, without reasonable excuse, to provide information required under subsection (1).

(3) A person commits an offence if, in providing information in response to a requirement under subsection (1), 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.

### **Disclosure of information**

**17.**—(1) The Department for Social Development, or a person providing services to that Department, may disclose social security information to a court or a collection officer for the purpose of—

- (a) facilitating a decision by the court or officer whether or not to make an application for deduction from benefits, or
- (b) facilitating the making of the application by the court or officer.

(2) In subsection (1), “social security information” means—

- (a) information which is held by the Department for the purposes of functions relating to social security,
- (b) information which is held by a person providing services to the Department in connection with the provision of those services, or
- (c) information which is held with information of the description given in paragraph (a) or (b).

- (3) A person to whom information is disclosed under this section commits an offence if the person—
- (a) discloses the information to another person, or
  - (b) uses the information for a purpose other than a purpose referred to in subsection (1).
- (4) It is not an offence under subsection (3)—
- (a) to disclose any information in accordance with a statutory provision or with an order of a court or of a tribunal established by or under a statutory provision or for the purposes of any proceedings before a court,
  - (b) to disclose or use any information which is in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it, or
  - (c) to disclose or use any information which has previously been lawfully disclosed to the public.
- (5) It is a defence for a person charged with an offence under subsection (3) to prove that the person reasonably believed that the disclosure or use was lawful.
- (6) A person guilty of an offence under subsection (3) is liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or both.
- (7) Nothing in this section authorises the making of a disclosure which contravenes the Data Protection Act 1998.
- (8) In this section, “information” means information held in any form.

### *Attachment of earnings*

#### **Attachment of earnings order**

**18.—**(1) An attachment of earnings order is an order requiring the person to whom the order is directed to make such payments as are specified in the order out of the earnings which are payable to the debtor for the purpose of securing payment of the outstanding amount.

(2) An attachment of earnings order may be made only in the case of a debtor who, at the time the order is made, is an individual aged 18 or over.

(3) The person to whom an attachment of earnings order is directed must be a person who appears to the court or collection officer (according to which of them is making the order) to employ the debtor; and references in this section, section 19 and Schedule 1 to the employer, in relation to an attachment of earnings order, are to be read accordingly.

(4) An attachment of earnings order must—



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*Status: This is the original version (as it was originally enacted).*

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- (a) contain particulars specified in regulations enabling the debtor to be identified by the employer,
- (b) contain particulars specified in regulations of the amount to be recovered by the order,
- (c) specify the rate calculated in accordance with regulations as the rate at which amounts are to be deducted from the debtor's earnings,
- (d) specify to whom payments are to be made,
- (e) contain information about how to contact the collection officer, and
- (f) contain such other information as may be specified in regulations.

(5) A person is to be treated as employing another person if that person, as principal and not as a servant or agent, pays to the other person sums defined as "earnings" for the purposes of this section.

(6) In this section, "earnings" has such meaning as is specified in regulations.

(7) Schedule 1, which makes further provision in relation to attachment of earnings orders, has effect.

### **Statement of earnings**

**19.—**(1) Where the court or a collection officer is proposing to make an attachment of earnings order, the court or collection officer may give a direction under subsection (2) or (3).

(2) A direction under this subsection is a direction to the debtor to provide within the period specified in regulations a statement signed by the debtor of—

- (a) the name and address of any employer the debtor has;
- (b) particulars specified in regulations of the debtor's earnings and expected earnings, and of the debtor's resources and needs (including the needs of any person for whom the debtor must, or reasonably may, provide);
- (c) particulars specified in regulations of any matters which are, or may be, relevant to the determination of the rate of deduction for the purposes of section 18(4)(c);
- (d) particulars specified in regulations for enabling the debtor to be identified by the debtor's employer.

(3) A direction under this subsection is a direction to the debtor's employer to provide within a period specified in regulations a statement signed by or on behalf of that person of particulars specified in the regulations of the debtor's earnings or expected earnings.

(4) Where an attachment of earnings order has been made, the responsible court or the collection officer (regardless of which of them made the order) may at any time while the order is in force give a direction under subsection (2) or (3).

(5) A document purporting to be a statement such as is mentioned in subsection (2) or (3) is, in proceedings for or arising out of an attachment of earnings order, to be received in evidence and deemed to be such a statement without further proof, unless the contrary is shown.

(6) A person commits an offence if the person fails, without reasonable excuse, to comply with a direction under subsection (2) or (3).

(7) A person commits an offence if, in providing information in response to a direction 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.

*Freezing bank accounts etc.*

**Interim bank account order**

**20.—**(1) An interim bank account order is an order requiring the deposit-taker to whom it is directed not to do anything which—

- (a) would reduce below such amount as is specified in the order the credit balance of the account so specified, or
- (b) if the credit balance is already below the specified amount, would reduce it further.

(2) Where an interim bank account order is in force and the deposit-taker receives a request from the debtor for it to release the whole of the amount specified in the order to the responsible court, the deposit-taker must (unless there are exceptional circumstances) comply with the request.

(3) Where the court receives payment of the specified amount in accordance with subsection (2), or by some other means, the collection officer must discharge the interim bank account order and notify the court and the deposit-taker accordingly.

(4) Having received a notification under subsection (3), the court must—

- (a) if the sum due has been paid, dismiss the referral under section 6(5), or
- (b) if the sum due has (in spite of the payment of the specified amount) yet to be paid, decide at the hearing under section 9 what action to take in relation to the outstanding amount.

(5) A request of the kind mentioned in subsection (2) must be in the form specified in regulations.

(6) Regulations may make further provision in relation to interim bank account orders; and the regulations may in particular—

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*Status: This is the original version (as it was originally enacted).*

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- (a) make provision enabling a collection officer to require a deposit-taker to provide the officer with information of a specified description;
- (b) make provision as to the contents of an interim bank account order;
- (c) make provision as to the service of an interim bank account order and the arrangements for the hearing on the referral under section 6(5);
- (d) make provision enabling a deposit-taker to impose administrative charges of a specified amount or description in relation to costs incurred by it in complying with an interim bank account order.

(7) A person commits an offence if the person fails, without reasonable excuse, to provide information required by virtue of subsection (6)(a).

(8) A person commits an offence if, in response to a requirement imposed by virtue of subsection (6)(a), 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.

(9) This section and sections 21 and 22 apply in the case of a person who was convicted of an offence, but not sentenced, before the commencement of this section (as well as in the case of a person convicted after that commencement).

### **Hardship payments**

**21.—**(1) Where an interim bank account order is in force, the collection officer may, on a written application by the debtor, make a hardship payment order if the officer is satisfied that, as a result of the interim bank account order, the debtor or his or her family is suffering hardship in meeting ordinary living expenses.

(2) A hardship payment order is an order requiring the deposit-taker to make to the person specified in the order such payments as are specified in the order out of the amount specified in the interim bank account order.

(3) Regulations may make further provision in relation to hardship payment orders; and the regulations may in particular make provision as to—

- (a) the matters to be included in an application for a hardship payment order;
- (b) the procedure to be followed when making the application;
- (c) the matters which the collection officer must take into account when determining an application for a hardship payment order;
- (d) the procedure to be followed when determining the application;
- (e) the contents of a hardship payment order;
- (f) service of a hardship payment order.

**Bank account order**

**22.**—(1) A bank account order is an order requiring the deposit-taker to whom it is directed to pay the amount specified in the order for the purpose of securing payment of the outstanding amount.

(2) The amount to be specified in a bank account order is—

- (a) in a case where an interim bank account order has been made, the amount specified in that order, or
- (b) in a case where no interim bank account order has been made, such amount as the responsible court may determine.

(3) The making of a payment in accordance with a bank account order discharges the deposit-taker from liability to the debtor in respect of the amount of the payment.

(4) A bank account order may not require the making of a payment which would reduce the credit balance below such amount as is specified in regulations.

(5) If the outstanding amount has been paid, the collection officer or (in a case where there is not a collection order) the proper officer of the responsible court must—

- (a) discharge the bank account order and any interim bank account order in force in relation to the debtor, and
- (b) notify the responsible court and the deposit-taker accordingly.

(6) In subsection (5), “proper officer” has the same meaning as in section 8.

(7) Regulations may make further provision in relation to bank account orders; and the regulations may in particular—

- (a) make provision enabling the responsible court to require a deposit-taker to provide the court with information of a specified description;
- (b) make provision as to the contents of a bank account order;
- (c) make provision as to the service of a bank account order;
- (d) make provision enabling a deposit-taker to impose administrative charges of a specified amount or description in relation to costs incurred by it in complying with a bank account order.

(8) A person commits an offence if the person fails, without reasonable excuse, to provide information required by virtue of subsection (7)(a).

(9) A person commits an offence if, in response to a requirement imposed by virtue of subsection (7)(a), 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.

### *Seizure of vehicles*

#### **Vehicle seizure order**

**23.—**(1) A vehicle seizure order is an order—

- (a) that the vehicle specified in the order is to be sold, or otherwise disposed of, in accordance with regulations, and
- (b) that any proceeds of the sale are to be applied in accordance with regulations for the purpose of securing payment of the outstanding amount.

(2) A vehicle seizure order entitles a police officer, or a person authorised by the Department of Justice for the purposes of this Chapter, to seize, remove, secure and store the vehicle specified in the order.

(3) On a referral under section 6(6), the collection officer must attend the hearing in order to give such evidence as the responsible court may require (even though the collection officer's report is, by virtue of section 7(3), admissible at the hearing).

(4) Before making a vehicle seizure order, the responsible court must, in satisfying itself that the order would be justified, reasonable and proportionate in all the circumstances of the case, have particular regard to the likely effect of the order on the debtor's ability to earn a living.

(5) A vehicle seizure order may not be made in relation to—

- (a) a vehicle which displays a current disabled person's badge or recognised badge,
- (b) a vehicle which it is reasonable to believe is used for the carriage of a disabled person,
- (c) a vehicle which is used for police, fire and rescue or ambulance purposes,
- (d) a vehicle which is used by a medical practitioner on call from the practitioner's usual place of work and which displays a badge showing the practitioner's status as such and his or her address, or
- (e) a vehicle of such other description as may be specified in regulations.

(6) In subsection (5)—

“disabled person's badge” means a badge issued, or having effect as if issued, under regulations made under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978,

“recognised badge” has the meaning given in section 14A of that Act, and

“medical practitioner” means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act.

(7) Regulations may make further provision in relation to vehicle seizure orders; and the regulations may in particular—

- (a) specify the matters which a collection officer must take into account before making a request on a referral under section 6(6);
  - (b) specify the matters to be included in a vehicle seizure order;
  - (c) provide that a vehicle specified in a vehicle seizure order may not be sold in reliance on the order before the end of a specified period following the making of the order;
  - (d) make provision in relation to the removal, securing and storage of a vehicle seized in reliance on a vehicle seizure order;
  - (e) make provision enabling the release of a vehicle stored in reliance on a vehicle seizure order;
  - (f) make provision to protect any interest which a person other than the debtor has in a vehicle subject to a vehicle seizure order.
- (8) Provision by virtue of subsection (7)(e) may provide for specified conditions to be met before the vehicle concerned is released; and the conditions may, in particular, include a condition requiring the payment of charges of a specified amount or description.
- (9) This section applies in the case of a person who was convicted of an offence, but not sentenced, before the commencement of this section (as well as in the case of a person convicted after that commencement).

### *Supplementary*

#### **Offences**

**24.—**(1) A person guilty of an offence under this Chapter is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) For the purposes of this Chapter, section 20(2) of the Interpretation Act (Northern Ireland) 1954 (corporate liability for offences)—

- (a) applies with the omission of the words “the liability of whose members is limited”, and
  - (b) where the affairs of a body corporate are managed by its members, applies in relation to the acts or defaults of a member in connection with the functions of management as if that member were a director of the body corporate.
- (3) If an offence under this Chapter is committed by a partnership or proved—
- (a) to have been committed with the consent or connivance of a partner, or
  - (b) to be attributable to any neglect on the partner’s part,

the partner as well as the partnership is guilty of the offence and liable to be proceeded against and punished accordingly.

- (4) In subsection (3), “partner” includes a person purporting to act as such.

## Appeals

**25.—**(1) An appeal against a decision of a collection officer may—

- (a) where the responsible court is a magistrates' court, be made to a court of summary jurisdiction;
- (b) where the responsible court is the Crown Court, be made to that Court.

(2) On an appeal under subsection (1), the court may quash or confirm the decision to which the appeal relates.

(3) An appeal against a decision of a magistrates' court at a hearing under section 9 may be made to a county court.

(4) An appeal against a decision of the Crown Court at a hearing under section 9 may be made to the Court of Appeal, but only with the leave of the Court of Appeal.

(5) An appeal under subsection (1) must be brought before the end of 14 days beginning with the day on which the decision being appealed against was made.

(6) Where an appeal is brought under this section, the collection order is suspended until the appeal is determined or abandoned.

## Guidance

**26.—**(1) The Department of Justice must issue guidance about the operation of this Chapter.

(2) The Department of Justice may from time to time revise guidance under subsection (1); and, where it does so, it must issue the revised guidance.

(3) A collection officer must, in exercising the officer's functions as such, have regard to guidance under this section.

## Interpretation etc.

**27.—**(1) In this Chapter—

- “attachment of earnings order” has the meaning given in section 18(1);
- “bank account order” has the meaning given in section 22(1);
- “collection officer” has the meaning given in section 2(1);
- “collection order” has the meaning given in section 3(1);
- “the debtor” has the meaning given in section 1(2);
- “deposit-taker” has the meaning given in subsection (2) below;
- “interim bank account order” has the meaning given in section 20(1);
- “the outstanding amount” has the meaning given in section 1(2);
- “registered” has the meaning given in subsection (4) below;
- “relevant benefit” has the meaning given in section 14(3);

“the responsible court” has the meaning given in section 6(1);

“statutory provision” has the same meaning as in the Interpretation Act (Northern Ireland) 1954;

“the sum due” has the meaning given in section 1(2);

“vehicle” has the meaning given in subsection (3) below;

(2) “Deposit-taker” means a person who, in the course of a business, may lawfully accept deposits in the United Kingdom; and this definition is to be read with—

- (a) section 22 of the Financial Services and Markets Act 2000,
- (b) any relevant order under that section, and
- (c) Schedule 2 to that Act.

(3) “Vehicle” means a mechanically propelled vehicle intended or adapted for use on roads, except that Article 6 of the Road Traffic (Northern Ireland) Order 1995 (exceptions for certain vehicles) applies as it applies for the purpose of the Road Traffic Orders (as defined by that Order).

(4) “Registered”, in relation to a vehicle, means registered under the Vehicle Excise and Registration Act 1994.

(5) In its application to this Chapter, section 24 of the Interpretation Act (Northern Ireland) 1954 (service of documents) has effect as if the word “registering” were omitted from subsection (1).

(6) The power to make an oral application under this Chapter is, in the case of a company, exercisable by an officer of the company authorised by the company for the purpose.

### **Minor and consequential amendments**

**28.**—(1) Schedule 2, which contains minor amendments and amendments consequential on the provisions of this Chapter, has effect.

(2) The Department of Justice may by order make such consequential, supplementary or incidental provision as it considers appropriate in consequence of, or for giving full effect to, this Chapter.

(3) An order under subsection (2) may amend, repeal, revoke or otherwise modify any statutory provision.