
STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART VIII

CIVIL PROCEEDINGS UPON COMPLAINT

Powers exercisable upon civil complaint

[^{F1}Orders for periodical payment: means of payment

85.—(1) In any case where a court of summary jurisdiction orders money to be paid periodically by one person (“the debtor”) to another (“the creditor”), then—

- (a) if the order is a qualifying maintenance order, the court shall at the same time exercise one of its powers under sub-paragraphs (a) to (d) of paragraph (3);
- (b) if the order is not a maintenance order, the court shall at the same time exercise one of its powers under sub-paragraphs (a) and (b) of that paragraph.

(2) For the purposes of this Article a maintenance order is a “qualifying maintenance order” if, at the time it is made, the debtor is ordinarily resident in Northern Ireland.

(3) The powers of the court are—

- (a) the power to order that payments under the order be made directly by the debtor to the creditor;
- (b) the power to order that payments under the order be made to the collecting officer;
- (c) the power to order that payments under the order be made by the debtor to the creditor by such method of payment falling within paragraph (7) as may be specified;
- (d) the power to make an attachment of earnings order under Part IX to secure payments under the order.

(4) The collecting officer shall be the clerk of petty sessions or such other person as may be appointed by the Lord Chancellor as collecting officer ^{F2}....

(5) In any case where—

- (a) the court proposes to exercise its power under sub-paragraph (c) of paragraph (3), and
- (b) having given the debtor an opportunity of opening an account from which payments under the order may be made in accordance with the method of payment proposed to be ordered under that paragraph, the court is satisfied that the debtor has failed, without reasonable excuse, to open such an account,

the court in exercising its power under that paragraph may order that the debtor open such an account.

(6) In deciding, in the case of a maintenance order, which of the powers under sub-paragraphs (a) to (d) of paragraph (3) it is to exercise, the court having (if practicable) given them an opportunity to make representations shall have regard to any representations made—

- (a) by the debtor,

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- (b) by the creditor, and
 - (c) if the person who applied for the maintenance order is a person other than the creditor, by that other person.
- (7) The methods of payment referred to in paragraph (3)(c) are the following, this is to say—
- (a) payment by standing order; or
 - (b) payment by any other method which requires one person to give his authority for payments of a specific amount to be made from an account of his to an account of another's on specific dates during the period for which the authority is in force and without the need for any further authority from him.
- (8) Where—
- (a) in the case of an order which is a qualifying maintenance order under—
 - Head (i) rep. by 1995 NI 2*
 - (ii) the Domestic Proceedings (Northern Ireland) Order 1980^[F3], the Civil Partnership Act 2004^[F4]; or under, or having effect as if made under, Schedule 1 to the Children (Northern Ireland) Order 1995],the court does not propose to exercise its power under sub-paragraph (c) or (d) of paragraph (3); or
 - (b) in the case of an order which is not a maintenance order under that Act or^[F4] those Orders], the court does not propose to exercise its powers under sub-paragraph (a) of that paragraph,
- the court shall, unless upon representations expressly made in that behalf by the person who applied for the order that it is satisfied that it is undesirable to do so, exercise its power under sub-paragraph (b) of that paragraph.
- (9) The Lord Chancellor may by regulations confer on courts of summary jurisdiction, in addition to their powers under sub-paragraphs (a) to (d) of paragraph (3), the power (the “additional power”) to order that payments under a qualifying maintenance order be made by the debtor to the creditor or the collecting officer (as the regulations may provide) by such method of payment as may be specified in the regulations.
- (10) Any reference in any statutory provision to sub-paragraphs (a) to (d) of paragraph (3) (but not a reference to any specific sub-paragraph of that paragraph) shall be taken to include a reference to the additional power, and the reference in paragraph (11) to the additional power shall be construed accordingly.
- (11) Regulations under paragraph (9) may make provision for any statutory provision concerning, or connected with, payments under maintenance orders to apply, with or without modifications, in relation to the additional power.
- (12) Regulations under paragraph (9) made by the Lord Chancellor shall be subject to ^[F5]negative resolution].
- (13) Where a court of summary jurisdiction makes an order under paragraph (3)(b) there may be paid to the collecting officer (other than ^[F6]a civil servant in the Department of Justice]) by the Lord Chancellor a sum in respect of his remuneration and expenses not exceeding such percentage of the money actually paid through him as may be fixed by the Lord Chancellor.
- (14) The person against whom an order referred to in paragraph (3)(b) has been made shall give notice to the collecting officer of any change of his address; and any person who fails to give such notice without reasonable excuse shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.
- (15) For the purposes of this Article—
- “debtor” and “creditor” shall be construed in accordance with paragraph (1);

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“maintenance order” means any order specified in Article 98(11) and includes any such order which has been rescinded, revoked or discharged if any arrears are recoverable under it; and the reference in paragraph (1) to money paid periodically by one person to another includes, in the case of a maintenance order, a reference to a lump sum paid by instalments by one person to another.]

- F1** 1993 NI 6
- F2** Words in art. 85(4) repealed (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), Sch. 1 para. 86(17), **Sch. 9 Pt. 1** (with Sch. 8 para. 1); S.R. 2016/387, art. 2(k)(m) (with art. 3)
- F3** 2004 c. 33
- F4** 1995 NI 2
- F5** Words in art. 85(12) 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. 135** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**
- F6** Words in art. 85(13) 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. 15(3)** (with arts. 5-7)

Changes to legislation:

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Changes and effects yet to be applied to :

- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) arts.3\(4\)25](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.3\(5\)Sch.1](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.5\(2\)](#)
- Instrument mod (prosp) by [1994 c. 33 s. 91\(3\)](#)
- Instrument revoked by [1998 c. 41 s.74\(1\)\(3\)Sch.12 para.5Sch.14 Pt.I](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Order applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to [legislation.gov.uk](#). [S.I. 2018/1125](#), reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))
- Order power to modify conferred by [2015 c. 9 \(N.I.\) s. 24\(5\)\(a\)](#) (see [s 24\(6\)](#))

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- [Sch.6 Pt.I paras.1819](#) revoked by [1995 c. 21 s. 314\(1\)Sch.12](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch.6 Pt.I para.5](#) revoked by [S.I. 1995/756 art.15Sch.](#)
- [Sch. 6 para. 128-130](#) repealed by [2011 c. 15 \(N.I.\) Sch. 3 Pt. 2](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 125](#) repealed by [2011 c. 16 \(N.I.\) Sch. 5](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 Pt. 3 para. 170](#) repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 1](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 144](#) repealed by [2006 c. 48 Sch. 15 Pt. 4](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 21](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [Sch. 6 para. 25](#) repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on [legislation.gov](#))
- [art. 29A](#) excluded by [1975 c. 59, s. 4\(3\)](#) (as substituted) by [2015 c. 9 \(N.I.\) s. 7\(6\)](#)
- [art. 29A](#) inserted by [2015 c. 9 \(N.I.\) s. 7\(2\)](#)
- [art. 34\(1A\)-\(1E\)](#) inserted by [2015 c. 9 \(N.I.\) s. 8\(2\)](#)
- [art. 140\(2ZA\)](#) inserted by [2016 c. 18 \(N.I.\) Sch. 10 para. 16](#)