
STATUTORY INSTRUMENTS

1981 No. 226

Judgments Enforcement (Northern Ireland) Order 1981

PART VII

RECOVERY OF CERTAIN DEBTS WITHOUT JUDGMENT

Procedure for recovery of certain admitted debts

95.—(1) Subject to paragraph (2), where a person (“the creditor”) makes application to the Office for the recovery of a sum certain in money (“the debt”) which the creditor claims is owed to him by an individual (“the debtor”), and pays the appropriate fee, the Office may summon the debtor—

- (a) to attend in person, at a time and place specified in the summons, for examination by the Office—
 - (i) as to whether he admits the debt, and
 - (ii) if he does admit it, as to his means; and
- (b) to produce all books, documents and things in his possession or under his control relevant to the debt and his means.

(2) An application under paragraph (1) shall not be accepted by the Office—

- (a) unless the creditor furnishes proof in the manner prescribed by rules that he has given the debtor the notice so prescribed of his intention to make the application; or
- (b) if the debt is for a sum exceeding £300 or such other amount as may be prescribed by rules.

(3) If the debtor pays the debt in full before the time when he is required by the summons to attend for examination, the Office may repay to the creditor so much of the fee paid on his application as may be prescribed by rules.

(4) If the debtor, on attending in pursuance of the summons, does not admit the debt, the Office shall dismiss the application, unless paragraph (5) or (6) applies.

(5) If—

- (a) the debtor disputes the debt but admits (either on attending in pursuance of a summons under paragraph (1) or in a written communication sent to the Office) that he is indebted to the creditor in a sum less than that stated in the creditor's application, and
- (b) the creditor requests the Office to amend the application to show that sum as the debt, and
- (c) the Office is satisfied that the admission can properly be accepted and the amendment made,

that sum may be taken to be the debt for the purposes of Article 96(1) to (4) and (6).

(6) If—

- (a) the debtor—
 - (i) does not pay the debt in full before the time when he is required by a summons under paragraph (1) to attend for examination, and
 - (ii) does not comply with the summons, and

(iii) does not notify the Office in writing that he disputes the debt; and
 (b) the Office is satisfied that the debtor received the summons,
 the debtor shall be taken to admit the debt, unless the Office otherwise orders.

Power to treat debt as money judgment

96.—(1) If the debtor admits the debt (either on attending in pursuance of a summons under Article 95(1) or in a written communication sent to the Office) or is taken to do so by virtue of Article 95(5) or (6), the application may, to the extent that the Office so directs, be treated as if judgment had been given for the amount of the debt and the application were one under Article 22 for the enforcement of that judgment; and, subject to paragraphs (2) and (3) and without prejudice to paragraph (6), this Order shall have effect, with any necessary modifications, in relation to the recovery of that amount as it has effect in relation to the amount recoverable on foot of a judgment (and in particular any reference to the enforcement of a judgment shall be construed as including a reference to the recovery of that amount, and the summons under Article 95(1) may for the purposes of Articles 27(2) and 114 be treated as a summons under Article 27(1), those Articles having effect as if any reference in them to an examination as to means or the production of books, documents and things relating to means or relevant to the examination included a reference to an examination as to admission of the debt and the production of books, documents and things relevant to the debt).

(2) Paragraph (1) shall not require any entry to be made in the register of judgments under Article 116 in respect of the debt until the expiration of the period of three months from the day when the debtor is required by the summons to attend for examination; and if the debtor pays the debt in full, and the Office is informed (under Article 135(2) or otherwise) of the payment, before the expiration of that period, no entry in respect of the debt shall be made in the register.

(3) Article 126 (costs and expenses) shall not apply to the recovery under this Article of a debt which does not exceed £50 or such other amount as may be prescribed by rules; and Article 127 (interest) shall not apply to such recovery of any debt.

(4) Rules may provide that where in consequence of an application under Article 95(1) the Office makes an enforcement order in respect of a debt the order may, if the Office so directs after giving the debtor an opportunity of being heard, be expressed to have effect in relation to all sums which, at the time when the order is made, are certified by the creditor to be due and payable by the debtor to the creditor in respect of any corresponding debt.

(5) Rules may modify or exclude the operation of Article 95 and paragraphs (1) to (4) in relation to debts of any specified description.

(6) Notwithstanding Article 24(3) (priority of applications to be in the order of their respective serial numbers), during the period of the present emergency (within the definition contained in section 18(3) of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971 as that definition applies in relation to section 3 of that Act) an application made under Article 95(1) shall have priority over any application under this Order in respect of which an enforcement order has not been made (except another application in connection with a debt to which this paragraph applies) if the first-mentioned application is one in respect of a debt due to—

- (a) a Minister of the Crown or a government department (which for the purposes of this paragraph includes a department of the Government of the United Kingdom);
- (b) a local or public authority, that is to say,—
 - (i) a district council or a joint committee appointed by two or more district councils,
 - (ii) a body or person exercising functions under a statutory provision,
 - (iii) a body or person appointed, wholly or partly, by a Minister of the Crown or a government department (whether upon, or partly upon, the nomination of any other person or otherwise),

- (iv) a body or person whose accounts are audited by or on behalf of, or are examined and reported on by or on behalf of, the Comptroller and Auditor-General for Northern Ireland;
 - (c) the Consolidated Fund; or
 - (d) any funds administered by or on behalf of any government department or local or public authority.
- (7) For the purposes of Article 95 and this Article a debtor shall be taken not to admit a debt if his admission is coupled with a claim to set off or a counterclaim.

Changes to legislation:

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