
STATUTORY RULES OF NORTHERN IRELAND

1981 No. 225

County Court Rules (Northern Ireland) 1981

ORDER 40

Enforcement of decrees

PART I

GENERAL

Examination of any party

1. Where any difficulty arises in or about the execution or enforcement of any decree for some relief other than the payment of money, the court may, except where under Article 11 of the Judgments Enforcement (Northern Ireland) Order 1981 jurisdiction to grant such relief is vested in the Enforcement of Judgments Office, on the application of any party interested, make such order for the attendance and examination of any party or otherwise as may be just.

Application on change of parties after decree

2.—(1) Where any change has taken place after decree, by death, assignment, or otherwise, in the parties entitled to enforce a decree or in the parties liable under a decree, the party claiming to be entitled to enforce the decree may apply on affidavit to the court for leave to issue an amended decree on surrender of the original decree and the court may, if satisfied that the party so applying is so entitled, order accordingly.

(2) The judge may, before making an order under paragraph (1), require such notice of the application to be served as he thinks fit.

(3) Notwithstanding anything contained in Order 1, the application referred to in paragraph (1) may be made to the court in which the order was made.

PART II

ENFORCEMENT BY COMMITTAL

Enforcement by committal

3. Decrees which under Article 55(4) of the Order and Order 57, Rule 5; are enforceable by committal may be enforced in the manner provided by Order 57, Rule 7.

PART III

PROCEDURE UNDER ARTICLES 106 TO 110 OF THE JUDGMENTS ENFORCEMENT (NORTHERN IRELAND) ORDER 1981

Enforcement civil bill

4.—(1) Proceedings under Article 107 of the Judgments Enforcement (Northern Ireland) Order 1981 where no instalment order has been made by the Enforcement of Judgments Office under Article 30 of that Order shall be commenced by a civil bill in Form 172 (in this Order referred to as an “enforcement civil bill”) requiring the debtor to appear personally before the court on the date therein specified.

(2) On the hearing of an enforcement civil bill the judge may make—

- (a) an order in Form 173 (in this Order referred to as an “enforcement order”) requiring the debtor to pay the amount due in such manner or by such instalments as the judge thinks fit; or
- (b) such an order committing the debtor to prison as may be made under Rule 5(2).

Committal civil bill

5.—(1) If the debtor makes default in paying the amount, or any instalment ordered under Rule 4 to be paid or due under an instalment order made by the Enforcement of Judgments Office under Article 30 of the Judgments Enforcement (Northern Ireland) Order 1981, the creditor may serve on the debtor a civil bill (in this Order referred to as a “committal civil bill”).

(2) A committal civil bill shall be in Form 174 and shall set out—

- (a) full particulars of the enforcement order which has not been complied with or of the order made under the said Article 30; and
- (b) the amount or instalment (or instalments) in the payment of which default has been made; and shall require the debtor to appear personally on the date therein specified before the court sitting in the division wherein the enforcement order was made or, in the case of an order under the said Article 30, in the division in which he resides or carries on business, to show cause why he should not be committed to prison for his default in complying with that order. An order made under this Rule is in this Order referred to as a “committal order”.

Service of civil bills and hearing of proceedings under Rules 4 and 5

6.—(1) Enforcement civil bills and committal civil bills shall be served personally on the debtor.

(2) Proceedings under Rules 4 and 5 shall be entered and conducted as if they had been commenced by ordinary civil bill, and county court rules and orders regulating procedure in relation to ordinary civil bills shall apply accordingly in so far as they are not inconsistent.

(3) Where proceedings under Rule 4 or Rule 5 are taken to enforce—

- (a) a decree of a county court, the decree shall be produced in court at the hearing of the proceedings;
- (b) a judgment or decree of any court other than a county court, a certified copy, or other sufficient evidence of such judgment or decree shall be so produced;

and where proceedings are taken under Rule 5 to enforce an order made by the Enforcement of Judgments Office under Article 30 of the Judgments Enforcement (Northern Ireland) Order 1981, a duly authenticated copy of the order shall be produced in court at the hearing.

(4) Upon the hearing of every enforcement civil bill and committal civil bill the judge may require evidence of any proceedings theretofore taken for the enforcement of the judgment or decree.

Committal order

7.—(1) A committal order—

- (a) shall be in Form 175;
- (b) shall bear the date on which it was made; and
- (c) shall continue in force for one year and no longer.

(2) A committal order shall be addressed to the Chief Superintendent or, as the case may be, Superintendent for the Constabulary Division in which the debtor resides or is to be found.

Discharge from custody

8.—(1) A debtor taken into custody under a committal order shall not be released from custody unless he pays to the constable or the governor of the prison to which he is committed the full amount of the debt or instalment in respect of which such order was made and the costs of the order or upon receipt by the governor of the certificate of discharge prescribed under paragraph (5).

(2) A constable or prison governor to whom a sum of money is paid by a debtor in accordance with paragraph (1) shall issue to the debtor a receipt therefor and shall endorse on the committal order a certificate of the amount he has received and the date thereof and the constable or prison governor shall sign his name at the foot of the certificate.

(3) Such sum shall be transmitted forthwith together with the committal order certified in accordance with paragraph (2) to the chief clerk of the court which issued the order and the amount of such sum shall be entered into a record book kept for the purposes of this Rule and then transmitted to the creditor or his solicitor forthwith.

(4) The creditor or his solicitor on receiving the sum transmitted to him by the chief clerk under paragraph (3) shall send him a receipt therefor.

(5) The certificate prescribed for the purposes of Article 10⁹ of the Judgments Enforcement (Northern Ireland) Order 1981 shall be in Form 176 signed by the solicitor for the creditor, or signed by the creditor and attested before a justice of the peace or a commissioner for oaths, that there has been paid to or on account of the creditor by or on behalf of the debtor—

- (a) the debt or instalment in respect of which he was imprisoned;
- (b) the costs of the committal order;

and the creditor or his solicitor shall, if the debtor so requires, furnish to the debtor a copy of such certificate.

PART IV

CHARGES UNDER ARTICLE 46 OF THE JUDGMENTS ENFORCEMENT (NORTHERN IRELAND) ORDER 1981

Proceedings under Article 14(c) of the County Courts (Northern Ireland) Order 1980 respecting land charged under Article 46 of the Judgments Enforcement (Northern Ireland) Order 1981

9. Where a charge has been imposed on land by the Enforcement of Judgments Office under Article 46 of the Judgments Enforcement (Northern Ireland) Order 1981 and proceedings for enforcement of such charge are taken in a county court under Article 14(c) of the County Courts (Northern Ireland) Order 1980, such of Forms 24 and 27 and of Forms 73 and 75 as the circumstances

require shall apply with any necessary modifications in the references to the date, nature and method of creation of the charge.

Applications for possession of land charged under Article 46 of the Judgment Enforcement (Northern Ireland) Order 1981

10. Where a charge has been imposed on land under Article 46 of the Judgments Enforcement (Northern Ireland) Order 1981 an application to the court for an order for possession thereof under Article 52(1)(b) of the said Order may be made by civil bill in Form 11, with any necessary modifications in such Form including the insertion therein of a reference to the date, nature and method of creation of the charge.

PART V

INFERIOR COURTS JUDGMENTS EXTENSION ACT 1882

Proof that judgment is not satisfied

11. Where under section 3 of the Inferior Courts Judgments Extension Act 1882 application is made for the grant of a certificate of a decree, proof that the decree has not been satisfied, and of the amount remaining unsatisfied where application for the enforcement of the decree has previously been made to the Enforcement of Judgments Office, shall be given by production to the chief clerk of a certificate signed by the Master for the enforcement of judgments or his deputy and, in any other case, shall be given to the satisfaction of the chief clerk, whether by certificate of the solicitor or by affidavit or otherwise as the chief clerk thinks fit.

Where certificate not to be granted

12. If the decree is for payment within a period therein mentioned, or by instalments, and that period has not expired or default has not been made in payment of some instalment, the certificate shall not be granted.

Names, etc., in certificate

13. The certificate shall be in Form 177 and the name, business or occupation and address of the parties shall be set out in the certificate and shall be those appearing in the decree and the party applying for a certificate shall produce to the chief clerk either the original decree or a duplicate thereof.

Entry on certificates

14. The chief clerk shall endorse on the certificate the number of the civil bill, the court at which the same was entered and the amount remaining due on the decree according to the books of the court and, where appropriate, the certificate of the Master or deputy Master referred to in Rule 11, and, after his signature, shall add to the certificate the date on which it was granted.

Record and effect of granting a certificate

15. Where a certificate of a decree is granted by a chief clerk; he shall make on the minute of the decree a memorandum of having granted such certificate, and thenceforth no further proceeding shall be taken or had upon such decree in the court granting the certificate until the judge of chief clerk, upon being satisfied by affidavit or otherwise that no further proceedings are pending or can be taken on the certificate in any other court and that the decree is still unsatisfied in whole or in part, orders that the decree may be acted on as if the certificate had not been granted.

Endorsement of costs on certificate

16. The chief clerk shall make and sign on the certificate a note of the costs, if any, allowed and the fee paid for the granting of the certificate.

Production of certificate

17. A person presenting a certificate of a decree for registration in a county court shall produce to the chief clerk—

- (a) a note of presentation in Form 178 containing a description of the place within the jurisdiction of the court at which the goods and chattels of the person against whom the decree has been obtained are, or at which such person resides or carries on business, and such note shall be appended to the certificate;
- (b) a copy of the certificate with the endorsement thereon and note thereon.

Registration of certificate

18. On the production of the documents required by Rule 17, the chief clerk shall, if the place described in the note of presentation is within the division of the court of which he is chief clerk, sign the certificate and register it by inserting it into the then current minute book of the court and shall sign and date the copy of the certificate and return it to the person presenting the certificate.

Costs of registering certificate

19. The sum allowed to a solicitor as the costs of registration of a certificate, together with the fee for registry and costs, if any, allowed for granting the certificate, as shown by the endorsement thereof, shall be added to the amount to be recovered.

Authenticated copy of the certificate for application to Enforcement of Judgments Office

20. For the purposes of Rule 7(2)(e) of the Judgment Enforcement Rules (Northern Ireland) 1981(1), the copy of the certificate referred to in Rule 18 of this Order returned to the person who presented it, duly endorsed as to registration and signed by the chief clerk, shall be authenticated by the seal of the court of registration.

Payment out of court

21. No money shall be paid out of court unless on production of the signed copy of the certificate.

Issue of another copy of certificate

22. Where the certificate of a decree is lost or destroyed, another copy may be signed and issued to the proper person upon proof, by affidavit or otherwise to the satisfaction of the chief clerk, that the person applying is the proper person and that he is entitled to moneys recovered on a decree.