

Status: Point in time view as at 01/10/2008.

Changes to legislation: The Magistrates' Courts (Northern Ireland) Order 1981, PART IX is up to date with all changes known to be in force on or before 14 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART IX

SATISFACTION AND ENFORCEMENT OF ORDERS

Modifications etc. (not altering text)

C1 Pt. IX (arts. 91-117) applied (1.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. [88\(6\)\(7\)](#), [153\(4\)\(d\)](#); S.I. 2009/2606, [art. 2\(i\)](#)

Sums adjudged to be paid by a conviction

Payment of sums adjudged to be paid by a conviction

91.—(1) Where a person has been adjudged to pay a sum by a conviction of a magistrates' court, the court may, subject to Article 93, order that person to pay that sum forthwith, allow time for payment or order payment by instalments.

(2) The court shall consider any representations made by such person as to the time to be allowed under paragraph (1) but that time shall not be less than twenty-eight days commencing with the day on which the sum is adjudged to be paid.

(3) Where the person ordered to pay the sum makes an application for permission to pay the sum by instalments the court shall allow such payment unless the court is satisfied that it would not be reasonable in all the circumstances to do so.

(4) The court may, on the application of the person ordered to pay the sum, allow further time for payment or vary an order for payment by instalments.

(5) Subject to paragraph (7), the court may in determining an application under paragraph (4) remit the whole or any part of the sum if the court thinks it just to do so having regard to any change in the circumstances of that person since the conviction, and where the court remits part of the sum after a period of imprisonment has been imposed in default of payment, the court shall also reduce that period by an amount which bears the same proportion to that period as the amount remitted bears to that sum.

(6) In calculating the reduction required under paragraph (5) any fraction of a day shall be left out of account.

(7) In considering whether to remit under paragraph (5) the whole or any part of—

(a) a sum to which section 143(3) of the Social Security (Northern Ireland) Act 1975^{F1} applies; or

(b) any compensation awarded to any person;

a magistrates' court shall take into account the representations (if any) made to it—

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(i) in the case of a sum mentioned in sub-paragraph (a), by the Department of Health and Social Services;

(ii) in the case of any compensation, by the person to whom the compensation was awarded.

(8) Where before the expiration of the time allowed or of the period during which payment by instalments is allowed the person ordered to pay the sum indicates that he prefers immediate committal to awaiting the expiration of the time allowed for payment of the sum or of the remaining instalments, a warrant may be issued committing him to prison forthwith.

F1 1975 c. 15

Enforcing payment of a sum adjudged to be paid by a conviction

92.—(1) Subject to this Article and Article 93, where default is made by a person in paying a sum adjudged to be paid by a conviction or any instalment of or part of such sum the order of the court may be enforced by the issue of—

- (a) a warrant of distress for the purpose of levying so much of the sum as remains unpaid; or
- (b) a warrant committing that person to prison; or
- (c) a warrant committing him to prison in default of sufficient distress.

(2) Where it appears on the return to a warrant of distress that the money and goods of the defaulter are insufficient to satisfy the sum together with the cost of levying the sum, the court may issue a warrant of commitment.

(3) Where the court has issued a warrant of commitment in the first instance in default of payment of the sum and it is found impossible to execute the warrant, a warrant of distress may be issued.

(4) Where a court has allowed payment of the sum by instalments and default is made in the payment of any one instalment, a warrant may be issued as if the default had been made in the payment of all the instalments then unpaid.

(5) The period for which a person may be committed to prison under this Article in default of payment or levy of any sum or part of such sum shall not exceed the period specified in Schedule 3.

Modifications etc. (not altering text)

C2 Art. 92 modified (1.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 89\(1\)-\(4\), 153\(4\)\(d\); S.I. 2009/2606, art. 2\(j\)](#)

[^{F2}Fines imposed on companies

92A.—(1) Where—

- (a) a magistrates' court has, or is treated by any statutory provision as having, adjudged a company by a conviction to pay a sum; and
- (b) the court has issued a warrant of distress under Article 92(1)(a) for the purpose of levying the sum; and
- (c) it appears on the return to the warrant that the money and goods of the company are insufficient to satisfy the sum with the costs and charges of levying the same,

the clerk of petty sessions may make an application in relation to the company under [^{F3}Article 104 of, or paragraph 13 of Schedule B1 to, the Insolvency (Northern Ireland) Order 1989 (winding up or administration)].]

F2 1994 NI 15

F3 Words in art. 92A(1) substituted (27.3.2006) by Insolvency (Northern Ireland) Order 2005 (S.I. 2005/1455 (N.I. 10)), arts. 1(3), 3(3), Sch. 2 para. 11; S.R. 2006/21, art. 2 (with S.R. 2006/22, arts. 2-7)

Modifications etc. (not altering text)

C3 Art. 92A applied (with modifications) (8.2.2011) by Investment Bank Special Administration Regulations 2011 (S.I. 2011/245), regs. 1, 8(7), 9, 15, 16-21, 24-26, Schs. 1-5

Restrictions on power to order immediate committal in default of payment of a sum adjudged to be paid by a conviction

93. A warrant committing a person to prison in respect of non-payment of a sum adjudged to be paid by a conviction of a magistrates' court shall not be issued at the time of his conviction unless—

- (a) he appears to the court to have sufficient means to pay the sum forthwith; or
- (b) on being asked by the court whether he wishes to have time for payment he does not ask for time; or
- (c) the court is satisfied that he has no fixed abode in Northern Ireland; or
- (d) there is some other special circumstance appearing to the court to justify immediate committal;

and if the court does issue a warrant of commitment, the court shall state in the warrant the reasons for not allowing the person committed time to pay.

Supervision of person under twenty-one until payment of sum adjudged to be paid by a conviction

94.—(1) Where a person is allowed time for payment of a sum adjudged to be paid by a conviction or to pay such sum by instalments, the court may order that until the sum is paid he be placed under the supervision of such person as may be appointed by the court.

(2) Before issuing a warrant to commit a person placed under supervision to prison in respect of non-payment of the sum the court shall consider any report as to his conduct and means which may be made by the person under whose supervision he has been placed.

Power to order transfer of fines

95.—(1) Where a magistrates' court has, or is treated by any statutory provision as having, adjudged a person by a conviction to pay a sum and it appears to the court that he is residing—

- (a) in any petty sessions area in England and Wales, or
- (b) within the jurisdiction of a court of summary jurisdiction in Scotland,

the court may order that payment of the sum shall be enforceable in that petty sessions area or, as the case may be, by that court of summary jurisdiction.

(2) An order under this Article shall specify the petty sessions area in which or the court by which payment of the sum in question is to be enforceable; and if—

- (a) that sum is more than £100 or is a fine originally imposed by the Crown Court or the sheriff court, and
- (b) payment is to be enforceable in Scotland,

the court to be so specified shall be the sheriff court.

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(3) Where an order is made under this Article with respect to any sum, any functions under any statutory provision relating to that sum which, if no such order had been made, would have been exercisable by the court which made the order or by the clerk of that court shall cease to be so exercisable.

Modifications etc. (not altering text)

- C4** Art. 95 modified (1.10.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 89\(1\)\(5\), 153\(4\)\(d\)](#) (as amended (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. 89** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**); S.I. 2009/2606, **art. 2(j)**

Transfer of fines elsewhere in United Kingdom

96.—(1) Where a transfer of fine order under section 403 of the Criminal Procedure (Scotland) Act 1975^{F4} or section 90 of the Magistrates' Courts Act 1980^{F5} provides that payment of a sum shall be enforceable in a petty sessions district in Northern Ireland, a court of summary jurisdiction acting for that district and the clerk of that court shall, subject to paragraph (2), have all the like functions under any statutory provision in respect of the sum (including power to make an order under Article 95) as if the sum were a sum adjudged to be paid by a conviction of that court and as if any order made under the said Act of 1975 or, as the case may be, 1980 in respect of the sum before the making of the transfer of fine order had been made by that court.

(2) Where a transfer of fine order under section 403 of the Criminal Procedure (Scotland) Act 1975 or section 90 of the Magistrates' Courts Act 1980 provides for the enforcement of a fine originally imposed by the Crown Court, the term of imprisonment which may be imposed under this Order shall be—

- (a) the term fixed in pursuance of section 31 of the Powers of Criminal Courts Act 1973 by the Crown Court, or
- (b) a term which bears the same proportion to the term so fixed as the amount of the fine remaining due bears to the amount imposed by that court,

notwithstanding that the term exceeds the period applicable to the case under Schedule 3.

F4 1975 c. 21

F5 1980 c. 43

Orders for the payment of sums made in proceedings upon complaint otherwise than on conviction

Payment of sums recovered upon complaint

97.—^[F6](1) A person ordered to pay any sum in proceedings upon complaint otherwise than on conviction may be ordered to pay that sum forthwith or may be allowed time to pay, or where necessary, further time and either in addition to or in lieu of being allowed such time, may be ordered to pay the sum by instalments.

^[F6](2) An order under this Article that a lump sum required to be paid under a maintenance order shall be paid by instalments (a “maintenance instalments order”) shall be treated for the purposes of Articles 85, 85B and 86 as a maintenance order.

(3) Paragraphs (6) and (8) of Article 85 (including those paragraphs as they apply for the purposes of Article 86) shall have effect in relation to a maintenance instalments order—

- (a) as if in paragraph (6), sub-paragraph (c) and the word “and” immediately preceding it were omitted; and
 - (b) as if in paragraph (8)—
 - (i) the reference to the qualifying maintenance order were a reference to the maintenance order in respect of which the maintenance instalments order in question is made;
 - (ii) for the words “the person who applied for the maintenance order” there were substituted “the debtor”.
- (4) Article 86 shall have effect in relation to a maintenance instalments order as if in paragraph (7) sub-paragraph (c) and the word “and” immediately preceding it were omitted.]

F6 1993 NI 6

Enforcement of orders for periodical payment of money

98.—(1) Where an order to which this Article applies is made by a court of summary jurisdiction directing the periodical payment of money and default is made in such payment or part of it or in payment of any costs awarded on the making of such order, a resident magistrate or other justice of the peace may upon complaint made to him at any time after the expiration of fourteen days from the date of such default and before the expiration of three years from that date—

- (a) issue a summons for the appearance of the person by whom such payments are to be made before a court of summary jurisdiction acting for the same petty sessions district as the court which made the order; or
 - (b) by warrant cause such person to be brought before a resident magistrate acting for the same petty sessions district as the court which made the order or for any other petty sessions district in the same county court division.
- (2) A warrant shall not be issued under paragraph (1) unless the complaint is in writing and substantiated on oath.
- (3) Where a person has been taken into custody in pursuance of a warrant issued under paragraph (1) for the purpose of causing him to be brought before a resident magistrate he shall, if it will not be practicable to bring him before a resident magistrate within twenty-four hours after he was so taken into custody, be brought, as soon as practicable, before a justice of the peace who may, if he thinks fit, discharge such person upon his entering into a recognizance for a reasonable amount to appear before a resident magistrate at the time and place named in the recognizance; but where such person is not so discharged the justice of the peace shall commit him to prison and direct that he shall be brought before a resident magistrate as soon as practicable thereafter and in any case not later than eight days from the date of such commitment.
- (4) Without prejudice to paragraph (5), upon the appearance of a person summoned before a court of summary jurisdiction or on proof that the summons was duly served on him, the court, or where a person is brought before a resident magistrate pursuant to a warrant issued under paragraph (1), the resident magistrate—

- (a) may by order direct that any sum appearing to be due by reason of such default, together with the costs attending the issue and service of the summons, or the warrant, apprehension and bringing up of such person, as the case may be, and the making of the order and all reasonable charges of the distress shall be recovered by distress; and, in addition;
- (b) may order that such person be detained and kept in custody, or, if he is not present that he be arrested and kept in custody until the day appointed for the return of the warrant of distress (not being later than a period of eight days commencing with the day after than

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on which the warrant is issued) unless he enters into a recognizance to the satisfaction of the court or magistrate for his appearance before the court or magistrate on that day.

(5) Upon the appearance of a person or proof of service of the summons on him as mentioned in paragraph (4), the court or residence magistrate may—

- (a) instead of making an order under sub-paragraph (a) of that paragraph make an order committing the person to prison until the sum and costs in question are paid; or
- (b) as well as making an order under that sub-paragraph make an order committing him to prison in default of sufficient distress until so much of the sum and costs as is not defrayed by the distress, and all reasonable charges of the distress, are paid;

and may issue a warrant to enforce the order of commitment.

(6) For the purpose of this Article—

- (a) where it appears on the return to a warrant of distress that the money and goods of the person are insufficient to satisfy the sum and costs in question together with the costs of levying the sum, the court or resident magistrate may issue a warrant of commitment;
- (b) where the court or resident magistrate has issued a warrant of commitment in the first instance in default of payment of the sum and costs in question and it is found impossible to execute the warrant, a warrant of distress may be issued.

(7) The court or a resident magistrate^[F7] shall not] make an order of commitment under paragraph (5), or issue a warrant of commitment under paragraph (6)(a), unless it or he is satisfied that the default^[F7] is due] to the wilful refusal or culpable neglect of the person who is liable to pay the sum and costs in question and the charges of distress, if any^[F7] and without prejudice to the preceding provisions of this paragraph, the court shall not make such an order or issue such a warrant—

- (a) in a case where the court has power to do so, if it is of the opinion that it is appropriate—
 - (i) to make an attachment of earnings order; or
 - (ii) to order that payments under the order be made by any method of payment falling within Article 85(7); or
- (b) where the sum in question comprises only interest which that person has been ordered to pay under Article 86A(1).]

(8) The term for which a person is committed to prison on any occasion by an order under paragraph (5), or a warrant issued under paragraph (6)(a), in default of payment of a sum (including any costs and charges) shall not exceed the period mentioned in Schedule 3 in relation to that sum and, in any event, shall not exceed six weeks.

^[F7](8A) The commitment to prison of a person under paragraph (5) or (6)(a) shall not operate to discharge him from liability to pay the sum in respect of which the order or commitment was made or the warrant of commitment was issued; but where a person has been imprisoned under an order of commitment made in respect of his failure to pay any sum, then, notwithstanding anything in this Order, no such order shall be made in respect of that sum or any part of it.]

^[F7](8B) Upon the appearance of a person or proof of service of the summons on him as mentioned in paragraph (4) for the enforcement of an order to which this Article applies, the court or resident magistrate may vary the order by exercising one of the powers under sub-paragraphs (a) to (d) of Article 85(3).

(8C) Paragraphs (5), (6) and (8) of Article 85 shall apply for the purposes of paragraph (8) as they apply for the purposes of that Article.

(8D) Paragraphs (8B) and (8C) shall not have effect in relation to an order which is not a qualifying maintenance order (within the meaning of Article 85).]

(9) Where a person is committed to prison under this Article for failure to pay a sum due under an order to which this Article applies, then, unless the court or resident magistrate who commits him otherwise directs, no arrears shall accrue under the order while he is in custody.

(10) Where on an application to enforce the payment of any sum due under an order for periodical payment to which this Article applies, no order of commitment is made, the application may be renewed at any time on the ground that the circumstances of the person from whom the payment is due have changed.

(11) This Article shall apply to the following orders for the periodical payment of money—

- (a) maintenance orders made outside the United Kingdom and registered in a court of summary jurisdiction in Northern Ireland under the Maintenance Orders (Facilities for Enforcement) Act 1920 or confirmed by such a court under that Act;
- (b) maintenance orders made outside the United Kingdom and registered in a court of summary jurisdiction in Northern Ireland under Part I of the Maintenance Orders (Reciprocal Enforcement) Act 1972^[F8] or Part I of the Civil Jurisdiction and Judgments Act 1982^[F9] or Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ^[F10], as amended from time to time and as applied by the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters];
- (c) affiliation orders under the Illegitimate Children (Affiliation Orders) Act (Northern Ireland) 1924 whether as originally enacted or as applied or extended by or for the purposes of any other enactment;
- (d) maintenance orders made in another part of the United Kingdom and registered in a court of summary jurisdiction in Northern Ireland under Part II of the Maintenance Orders Act 1950^[F8] or under section 36 of the Civil Jurisdiction and Judgments Act 1982];
- (e) orders registered in a court of summary jurisdiction under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966^{F11};
- (f) contribution orders under Part X of the Children and Young Persons Act (Northern Ireland) 1968;
- ^[F12](ff) orders registered in a court of summary jurisdiction under Part II of the Maintenance Orders (Reciprocal Enforcement) Act 1972;]
- (g) orders under Article 101 of the Health and Personal Social Services (Northern Ireland) Order 1972;
- (h) orders under Article 23 of the Supplementary Benefits (Northern Ireland) Order 1977^[F13] or section 101 of the Social Security Administration (Northern Ireland) Act 1992];
- (i) orders for the periodical payment of money under the Domestic Proceedings (Northern Ireland) Order 1980^[F14] or Schedule 16 to the Civil Partnership Act 2004].
- ^[F12](j) contribution orders under Article 41(2) of the Children (Northern Ireland) Order 1995,]
- ^[F15](k) section 113 of the Immigration and Asylum Act 1999.]

^[F7]so, however, that in the case of orders mentioned in sub-paragraph^[F12] (a), (b), (d) or (ff)], this Article shall apply subject to any modifications specified in the statutory provision mentioned in that sub-paragraph.]

(12) The provisions of this Article shall have effect in lieu of any other provision for the enforcement before a court of summary jurisdiction of orders to which this Article applies.

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F8	1982 c. 27
F9	SI 2001/3929
F10	Words in art. 98(11)(b) inserted (1.7.2007) by Civil Jurisdiction and Judgments Regulations 2007 (S.I. 2007/1655), reg. 5, Sch. para. 25
F11	1966 c. 35 (NI)
F12	1995 NI 2
F13	1992 c. 9
F14	2004 c. 33
F15	1999 c. 33

Enforcement of orders for payment of money other than periodical payments

99.—(1) Where a court of summary jurisdiction in proceedings upon complaint otherwise than on conviction has ordered the payment of a sum of money (not being a sum to which Article 98 applies) and a person defaults in paying that sum within the time specified or (if no time is so specified) forthwith a resident magistrate or other justice of the peace may upon complaint made to him at any time after the expiration of fourteen days from the date of such default and before expiration of three years from that date—

- (a) issue a summons for the appearance of the person by whom such payment is to be made before a court of summary jurisdiction acting for the same petty sessions district as the court which made the order; or
- (b) by warrant cause such person to be brought before a resident magistrate acting for the same petty sessions district as the court which made the order or for any other petty sessions district in the same county court division.

(2) A warrant shall not be issued under paragraph (1) unless the complaint is in writing and substantiated on oath.

(3) Where a person has been taken into custody in pursuance of a warrant issued under paragraph (1) for the purpose of causing him to be brought before a resident magistrate he shall, if it will not be practicable to bring him before a resident magistrate within twenty-four hours after he was so taken into custody, be brought, as soon as practicable, before a justice of the peace who may, if he thinks fit, discharge such person upon his entering into a recognizance for a reasonable amount to appear before a resident magistrate at the time and place named in the recognizance; but where such person is not so discharged the justice of the peace shall commit him to prison and direct that he shall be brought before a resident magistrate as soon as practicable thereafter and in any case not later than eight days from the date of such commitment.

(4) Without prejudice to paragraph (5), upon the appearance of a person summoned before a court of summary jurisdiction or on proof that the summons was duly served on him, the court, or where a person is brought before a resident magistrate pursuant to a warrant issued under paragraph (1), the resident magistrate—

- (a) may by order direct that any sum appearing to be due by reason of such default, together with the costs attending the issue and service of the summons, or the warrant, apprehension and bringing up of such person, as the case may be, and the making of the order and all reasonable charges of the distress shall be recovered by distress; and, in addition;
- (b) may order that such person be detained and kept in custody, or, if he is not present that he be arrested and kept in custody until the day appointed for the return of the warrant of distress (not being later than a period of eight days commencing with the day after that on which the warrant is issued) unless he enters into a recognizance to the satisfaction of the court or magistrate for his appearance before the court or magistrate on that day.

(5) Upon the appearance of a person or proof of service of the summons on him as mentioned in paragraph (4), the court or resident magistrate may—

- (a) instead of making an order under sub-paragraph (a) of that paragraph make an order committing the person to prison until the sum and costs in question are paid; or
 - (b) as well as making an order under that sub-paragraph make an order committing him to prison in default of sufficient distress until so much of the sum and costs as is not defrayed by the distress, and all reasonable charges of the distress, are paid;
- and may issue a warrant to enforce the order of commitment.

(6) For the purposes of this Article—

- (a) where it appears on the return to a warrant of distress that the money and goods of the person are insufficient to satisfy the sum and costs in question together with the costs of levying the sum, the court or resident magistrate may issue a warrant of commitment;
- (b) where the court or resident magistrate has issued a warrant of commitment in the first instance in default of payment of the sum and costs in question and it is found impossible to execute the warrant, a warrant of distress may be issued.

(7) The court or a resident magistrate^{F16} shall not] make an order of commitment under paragraph (5), or issue a warrant of commitment under paragraph (6)(a), unless it or he is satisfied that the default^{F16} is due] to the wilful refusal or culpable neglect of the person who is liable to pay the sum and costs in question and the charges of distress, if any.

(8) The term for which a person is committed to prison on any occasion by an order under paragraph (5); or a warrant issued under paragraph (6)(a), in default of payment of a sum (including any costs and charges shall not exceed the period mentioned in Schedule 3 in relation to that sum and, in any event, shall not exceed six weeks.

(9) The commitment to prison of a person under paragraph (5) or (6)(a) shall not operate to discharge him from liability to pay the sum in respect of which the order or commitment was made or the warrant of commitment was issued; but where a person has been imprisoned under an order of commitment made in respect of his failure to pay any sum, then, notwithstanding anything in this Order, no such order shall be made in respect of that sum or any part of it.

(10) Where a sum such as is mentioned in paragraph (1) has been ordered by the court to be paid by instalments and default is made in the payment of any one instalment, this Article shall apply as if the default had been made in the payment of all the instalments then unpaid.

(11) Where proceedings have been taken in the Enforcement of Judgments Office for the payment of a lump sum ordered to be paid under Article 4(1)(b) or (d), 8(5), 13(2)(b) or (3)(b) or 22(2) or (8) of the Domestic Proceedings (Northern Ireland) Order 1980^{F17} or Part 1, 2 or 6 of Schedule 16 to the Civil Partnership Act 2004], no order shall be made under this Article to enforce such payment.

F16 1993 NI 6

F17 2004 c. 33

Attachment of earnings for enforcement of orders for the periodical payment of money

Power of court to make attachment of earnings order

100.—(1) An attachment of earnings may be made by a court of summary jurisdiction in accordance with Articles 101 to 108 for the enforcement of an order for the periodical payment of money such as is mentioned in Article 98(11) or of an order which is enforceable as if it were such an order including any such order which has been rescinded, revoked or discharged, if any arrears are recoverable under it.

(2) In Articles 101 to 108—

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“collecting officer” means that officer as defined by^{F18} Article 85(4)] or, as the case requires, as described in section 15(2) of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966;

“debtor” and “creditor” include respectively, in relation to an attachment of earnings order which is, or is to be, made to secure payments under an order (the original order) such as is referred to in paragraph (1), the person liable to make the payments under the original order and the person entitled to receive those payments;

“the employer” means the person who is required by an attachment of earnings order to make deductions from earnings paid by him to the debtor;

Definition rep. by 1995 NI 2

(3) For the purposes of those Articles the relationship of employer and employee shall be treated as subsisting between two persons if one of them, as a principal and not as a servant or agent, pays to the other any sums defined as earnings by paragraphs (4) and (5).

(4) For the purposes of those Articles, subject to paragraph (5), “earnings” are any sums payable to a person—

- (a) by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service);
- (b) by way of pension (including an annuity in respect of past services, whether or not rendered to the person paying the annuity, and including periodical payments by way of compensation for the loss, abolition or relinquishment, or diminution in the emoluments, of any office or employment).

(5) The following shall not be treated as earnings—

- (a) sums payable by any public department of a territory outside the United Kingdom;
- (b) pay or allowances payable to the debtor as a member of Her Majesty's forces;

^{F19}(ba) a tax credit (within the meaning of the Tax Credits Act 2002);]

- (c) pension, allowances or benefit payable under any of the following statutory provisions relating to social security—
 - (i) the Family Income Supplements Act (Northern Ireland) 1971^{F20};
 - (ii) the Social Security (Northern Ireland) Acts 1975 to 1977^{F21};
 - (iii) the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975^{F22};
 - (iv) the Child Benefit (Northern Ireland) Order 1975^{F23};
 - (v) the Supplementary Benefits (Northern Ireland) Order 1977;
- (d) guarantees minimum pension within the meaning of the Social Security Pensions (Northern Ireland) Order 1975^{F24} provided by an occupational pension scheme;
- (e) pension or allowances payable in respect of disablement or disability.

F18 1993 NI 6

F19 2002 c. 21

F20 1971 c. 8 (NI)

F21 1975 c. 15, 1975 NI 15, 1977 NI 11

F22 1975 c. 17

F23 1975 NI 16

F24 1975 NI 15

Making of attachment of earnings order

101.—(1) Where it appears to a court of summary jurisdiction that a debtor is a person to whom earnings fall to be paid, the court may make an attachment of earnings order requiring the person to whom the order is directed to make out of those earnings, or part thereof, such payments as may be specified in the order.

(2) An attachment of earnings order may be^{F25} made^{F26} in accordance with Article 85(1)]

(3) The person to whom an attachment of earnings order is directed shall be a person who appears to the court to have the debtor in his employment; and the order shall operate as an instruction to that person—

(a) to make periodical deductions from the debtor's earnings in accordance with Article 102; and

(b) at such times as the order may require, or as the court may allow, to pay the amounts deducted to—

(i) where the attachment of earnings order is made by a court of summary jurisdiction to enforce an order for the periodical payment of money through a collecting officer, the collecting officer;

Head (ii) rep. by 1995 NI 2

(iii) in any other case, the person entitled to the payments for which the order to be enforced provides;

as specified in the order.

(4) An attachment of earnings order shall contain particulars prescribed by magistrates' courts rules enabling the debtor to be identified by the employer.

(5) The order shall specify—

(a) the normal deduction rate, that is to say, the rate (expressed as a sum of money per week, month or other period) at which the court thinks it reasonable for the debtor's earnings to be applied to meeting his liability under the relevant judgment; and

(b) the protected earnings rate, that is to say the rate (so expressed) below which, having regard to the debtor's resources and needs (including the needs of any person for which he must, or reasonably may, provide), the court thinks it reasonable that the earnings actually paid to him should not be reduced.

(6) The normal deduction rate for the purposes of paragraph (5)(a)—

(a) shall be determined after taking account of any right or liability of the debtor to deduct income tax when making the payments, and

(b) shall not exceed the rate which appears to the court necessary for the purposes of securing payment of the sums falling due from time to time under the order which is to be enforced and securing payment within a reasonable period of any sums already due and unpaid under that order.

(7) Where an attachment of earnings order has been made by a court of summary jurisdiction to secure the payment of any money no proceedings for committal or distress by reason of failure to pay that money which were begun before the making of the order shall be continued.

F25 1995 NI 2

F26 1993 NI 6

Status: Point in time view as at 01/10/2008.

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Compliance with order by employer

102.—(1) Where an attachment of earnings order has been made by a court of summary jurisdiction the employer shall, if he has been served with the order, comply with it; but he shall be under no liability for non-compliance before seven days have elapsed since the service.

(2) If on a pay-day the attachable earnings exceed the sum of—

- (a) the protected earnings; and
- (b) so much of any amount by which the attachable earnings on any previous pay-day fell short of the protected earnings as has not been made good by virtue of this paragraph on another previous pay-day,

then, in so far as the excess allows, the employer shall deduct from the attachable earnings the amount specified in paragraph (3).

(3) That amount is the sum of—

- (a) the normal deduction; and
- (b) so much of the normal deduction on any previous pay-day as was not deducted on that day and has not been paid by virtue of this paragraph on any other previous pay-day.

(4) No deduction shall be made on any pay-day when the attachable earnings are equal to, or less than, the protected earnings.

(5) Where a person is served with an attachment of earnings order directed to him and he has not the debtor in his employment, or the debtor subsequently ceases to be in his employment, he shall (in either case), within ten days from the date of service or, as the case may be, the cesser, give notice of that fact to such officer of the court as may be prescribed by magistrates' courts rules.

(6) Part II of Schedule 1 to the Judgments Enforcement (Northern Ireland) Order 1981 has effect with respect to the priority to be accorded as between two or more attachment of earnings orders directed to a person either by the Enforcement of Judgments Office and a court, or by a court, in respect of the same debtor.

(7) Any sums paid by the employer under an attachment of earnings order shall be treated as sums paid by the debtor.

(8) On any occasion when the employer makes, in compliance with the order, a deduction from the debtor's earnings—

- (a) he shall be entitled to deduct, in addition, £0.50 or such other sum as may be prescribed by judgment enforcement rules towards his clerical and administrative costs; and
- (b) he shall give to the payer a statement in writing of the total amount of the deduction.

(9) Any sum deducted by the employer from the debtor's earnings in compliance with the order, but not yet paid to the person mentioned in Article 101(3)(b), shall in the bankruptcy or winding up of the employer be treated as money held by the employer on trust for that person.

(10) In this Article—

“attachable earnings”, in relation to a pay-day, are the earnings which remain payable to the debtor on that day after deduction by the employer of—

- (a) income tax;
- (b) primary Class 1 contributions under Part I of the Social Security (Northern Ireland) Act 1975;
- (c) amounts deductible under any statutory provision, or in pursuance of a request in writing by the debtor, for the purposes of a superannuation scheme within the meaning of^{F27} paragraph 3(c) of Schedule 1 to the Judgments Enforcement (Northern Ireland) Order 1981];

“the normal deduction”, in relation to any pay-day, means the deduction arrived at by applying the normal deduction rate (as specified in the attachment of earnings order) with respect to the period since the last pay-day or, if it is the first pay-day of the debtor's employment with the employer, since the employment began;

“pay-day”, in relation to earnings paid to a debtor, means an occasion on which they are paid;

“the protected earnings”, in relation to any pay-day, means the amount arrived at by applying the protected earnings rate (as specified in the attachment of earnings order) with respect to the period since the last pay-day or, if it is the first pay-day of the debtor's employment with the employer, since the employment began.

F27 1988 NI 7

Persons employed under the Crown

103.—(1) The fact that an attachment of earnings order is made at the suit of the Crown shall not prevent its operation at any time when the debtor is in the employment of the Crown.

(2) Where a debtor is in the employment of the Crown and an attachment of earnings order is made in respect of him, then for the purposes of Articles 101, 102 and 104 to 108—

- (a) the chief officer for the time being of the government department, office or other body in which the debtor is employed shall be treated as having the debtor in his employment (any transfer of the payer from one department, office or body to another being treated as a change of employment); and
- (b) any earnings paid by the Crown, a Minister of the Crown or a government department, or out of the public revenue of the United Kingdom or Northern Ireland, shall be treated as paid by the said chief officer.

(3) In accordance with Article 100(3), the reference in paragraph (2)(a) to the department, office or other body in which the debtor is employed shall, in the case of a debtor who is not employed for the purposes of, but whose earnings are paid in the capacity of principal by, such a body, be construed as a reference to the department, office or other body by which any earnings of his are paid in that capacity.

(4) If any question arises, in proceedings for or arising out of an attachment of earnings order, as to what department, office or other body is concerned for the purposes of this Article, or as to who for those purposes is the chief officer thereof, the question shall be referred to and determined by the Department of the Civil Service or, as the case may require, the Minister for the Civil Service; but the Department or Minister shall not be under any obligation to consider a reference under this paragraph unless it is made by the court.

(5) A document purporting to set out a determination of the Department of the Civil Service under paragraph (4) and to be signed by an officer of that Department, or to set out a determination of the Minister for the Civil Service under that paragraph and to be signed on behalf of the Minister shall, in any such proceedings as are mentioned in that paragraph, be admissible in evidence and be deemed to contain an accurate statement of such a determination unless the contrary is shown.

(6) In this Article “government department” includes a department of the Government of the United Kingdom.

Variation, lapse, discharge and termination of orders

104.—(1) A court of summary jurisdiction may make an order varying (including suspending or reviving) or discharging an attachment of earnings order.

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(2) Where an order is varied, the employer shall, if he has been served with notice of the variation, comply with the order as varied; but he shall be under no liability for non-compliance before seven days have elapsed since the service.

(3) Where an order is discharged, the employer shall be under no liability in consequence of his treating the order as still in force at any time before the expiration of seven days from the date on which notice of the discharging order is served on him.

(4) Magistrates' courts rules may make provision as to circumstances in which an attachment of earnings order may be varied or discharged by a court of summary jurisdiction of its own motion.

(5) Where an attachment of earnings order has been made and the person to whom it is directed ceases to have the debtor in his employment, the order shall lapse (except as respects deduction from earnings paid after the cesser and payment to the creditor, the collecting officer or the prescribed person (as the case requires) of amounts deducted at any time) and be of no effect unless and until a court of summary jurisdiction revives it by again directing it to a person (whether the same as before or another) who appears to the court to have the debtor in his employment.

(6) The lapse of an order under paragraph (5) shall not prevent its being treated as remaining in force for other purposes.

(7) An attachment of earnings order made by a court of summary jurisdiction to secure the payment of any money shall cease to have effect upon the making of an order of committal or the issue of a warrant of distress in respect of that money.

(8) An attachment of earnings order shall cease to have effect—

- (a) upon the grant of an application for registration in the High Court under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 of the order which is to be enforced;
- (b) where the order which is to be enforced is registered under the said Part II, upon the giving of notice with respect of it under section 14 of that Act of 1966 with a view to cancellation of its registration;
- (c) upon the rescission or revocation of the order which is to be enforced or upon its being discharged while it is not registered under the said Part II, unless a court of summary jurisdiction otherwise orders with a view to recovering arrears under that order;
- (d) upon the order which is to be enforced ceasing to be registered in a court in Northern Ireland, or becoming registered in a court in another part of the United Kingdom, under Part II of the Maintenance Orders Act 1950.

(9) Where an attachment of earnings order ceases to have effect under paragraph (7) or (8), such officer of such court as may be prescribed by magistrates' courts rules shall give notice of the cesser to the employer.

(10) Where an attachment of earnings order ceases to have effect under paragraph (7) or (8), paragraph (3) shall apply as it applies in a case where such an order is discharged.

Statement of earnings, etc.

105.—(1) Where an attachment of earnings order is about to be made or revived a court of summary jurisdiction may at any time before making or reviving the order—

- (a) direct the debtor to furnish within a specified period a statement signed by him of—
 - (i) the name and address of any person by whom earnings are paid to him;
 - (ii) specified particulars of his earnings and anticipated earnings, and of his resources and needs (including the needs of any person for whom he must, or reasonably may, provide);

- (iii) specified particulars of any matters which are, or may be, relevant under Article 101(5) to the determination of the normal deduction rate and the protected earnings rate to be specified in the order;
 - (iv) specified particulars for the purposes of enabling the debtor to be identified by any employer of his;
- (b) direct any person appearing to the court to be an employer of the debtor to furnish within a specified period a statement signed by him or on his behalf of specified particulars of the debtor's earnings and anticipated earnings.
- (2) Where an attachment of earnings order has been made, a court of summary jurisdiction may at any time while the order is in force give any direction it is authorised by paragraph (1)(a) or (b) to give.
- (3) A document purporting to be a statement such as is mentioned in paragraph (1)(a) or (b) shall, in proceedings before a court of summary jurisdiction, be received in evidence and be deemed to be such a statement without further proof, unless the contrary is shown.

Obligation of debtor and his employers to notify changes of employment and earnings

- 106.**—(1) While an attachment of earnings order is in force—
- (a) the debtor shall notify the prescribed officer in writing of every occasion on which he leaves any employment, or becomes employed or re-employed, not later (in each case) than seven days from the date on which he did so;
 - (b) the debtor shall, on any occasion when he becomes employed or re-employed, include in his notification under sub-paragraph (a) particulars of his earnings and anticipated earnings from the relevant employment; and
 - (c) any person who becomes the debtor's employer and knows that the order is in force and that it was made by a court of summary jurisdiction shall, within seven days of his becoming the debtor's employer or of acquiring that knowledge (whichever is the later) notify the prescribed officer in writing that he is the debtor's employer, and include in his notification a statement of the debtor's earnings and anticipated earnings.
- (2) In paragraph (1)(a) and (c) “the prescribed officer” means such officer of the courts as may be prescribed by magistrates' courts rules.

Power of court to determine whether particular payments are earnings

- 107.**—(1) Where an attachment of earnings order is in force a court of summary jurisdiction shall, on the application of either the employer or the debtor, determine whether payments to the debtor of a particular class or description specified by the application are earnings for the purposes of the order; and the employer shall give effect to any determination for the time being in force under this Article.
- (2) Where an application under this Article is made by the employer, he shall not incur any liability for non-compliance with the order as respects any payments of the class or description specified by the application which are made by him to the debtor while the application is pending; but this paragraph shall not unless a court of summary jurisdiction otherwise orders, apply as respects such payments if the employer subsequently withdraws the application.

Offences in relation to attachment of earnings orders

- 108.**—(1) Subject to paragraphs (4) and (5), a person commits an offence if—
- (a) being required by Article 102(1) or 104(2) to comply with an attachment of earnings order, he fails to do so; or

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- (b) being required by Article 102(5) to give a notice for the purposes of that paragraph, he fails to give it, or fails to give it within the period required by that paragraph; or
 - (c) he fails to comply with a direction under Article 105(1) or (2); or
 - (d) he fails to comply with Article 106; or
 - (e) he gives a notice for the purposes of Article 102(5), or a notification for the purposes of Article 106, which he knows to be false in a material particular, or recklessly gives such a notice or notification which is false in a material particular; or
 - (f) in purported compliance with Article 102(5), or (8)(b) or 106, or with a direction under Article 105(1) or (2), he makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular.
- (2) Where a person commits an offence under paragraph (1) he shall be liable on summary conviction to a fine not exceeding^{F28} level 3 on the standard scale].
- (3) Where a person who has been convicted under paragraph (2) commits a second or subsequent offence under the same provision of paragraph (1) in relation to the same provision of this Order (and in the case of an offence under paragraph (1)(a) in relation to the same attachment of earnings order) paragraph (2) shall have effect as if the reference therein to £100 were to £400.
- (4) It shall be a defence—
- (a) for a person charged with an offence under paragraph (1)(a) to prove that he took all reasonable steps to comply with the attachment of earnings order in question;
 - (b) for a person charged with an offence under paragraph (1)(b) to prove that he did not know, and could not reasonably be expected to know,—
 - (i) that the debtor was not in his employment, or (as the case may be)
 - (ii) that the debtor had ceased to be in his employment,
 and that he gave the required notice as soon as reasonably practicable after the fact came to his knowledge.
- (5) It shall also be a defence for a person charged with an offence under paragraph (1)(b) of failing to give notice that the debtor had ceased to be in his employment to prove that he had had reasonable cause to believe that the court had knowledge of the cesser.
- (6) Where a person is convicted of an offence under paragraph (1)(a) a court of summary jurisdiction may order him to pay to the collecting officer^{F29} . . . or the creditor (as the case requires) any sums deducted by that person from debtor's earnings and not already so paid.
- (7) Any sum ordered by the court to be paid under paragraph (6) shall be recoverable as a sum adjudged to be paid by a conviction.

F28 1984 NI 3
F29 1995 NI 2

Orders made in proceedings commenced by notice

Recovery of sums awarded in proceedings commenced by notice

109. Any sum (including costs) recoverable in proceedings before a magistrates' court commenced by notice under Part VII or under any other enactment shall, except where that other enactment provides to the contrary, be recoverable in the same manner as a sum recoverable in proceedings upon complaint otherwise than on conviction.

Other matters in relation to enforcement of orders

Application of sums found upon defaulter

110.—(1) Where a person has been adjudged to pay a sum by a conviction of a magistrates' court or in proceedings under Article 98, the court may order him to be searched.

(2) Subject to paragraph (3), any money found on such person on apprehension, or on such search as aforesaid, or on his being taken to prison or other place of detention in default of payment of the sum, may, unless the court otherwise directs, be applied towards payment of the sum and the balance, if any, shall be returned to him.

(3) The money found on such person shall not be so applied if the court is satisfied that the money does not belong to him or that such application of the money would be more injurious to his family than his detention.

Release from custody and reduction of period of imprisonment on payment

111.—(1) Where imprisonment has been imposed on any person by the conviction or order of a magistrates' court in default of payment of any sum or for want of sufficient distress to satisfy such sum, then, on the payment of the sum to a person authorised to receive it, together with the costs and charges, if any, of the commitment and distress, the order shall cease to have effect; and if the person has been committed to custody he shall be released unless he is in custody for some other cause.

(2) Where, after a period of imprisonment has been imposed on any person in default of payment of any sum adjudged to be paid by the conviction or order of a magistrates' court or for want of sufficient distress to satisfy such a sum, payment of part of the sum is made to a person authorised to receive it, the period of imprisonment shall, subject to paragraph (3), be reduced by such number of days as bears to the total number of days in that period less one day the same proportion as the amount so paid bears to so much of the said sum, and the costs of any distress levied to satisfy that sum, as was due at the time the period of imprisonment was imposed.

(3) In calculating the reduction required under paragraph (2) any fraction of a day shall be left out of account.

Enforcement of orders other than for the payment of money

112.—(1) Where power is conferred under any enactment upon a magistrates' court to require any person to do or to abstain from doing anything other than the payment of money and no mode is provided for the exercise of such power, the court may, subject to the provisions of this Order, exercise such power by order.

(2) The court may annex to any order requiring any person to do or abstain from doing anything other than the payment of money any condition as to time or mode of action and may by order on complaint suspend or rescind such order on any undertaking being given or upon the condition being performed.

(3) Where a person fails to comply with an order such as is mentioned in paragraph (2) by either failing to do, within the time specified in the order or (if no time is so specified) forthwith, the thing he is required to do or, as the case may be, doing the thing he is required to abstain from doing and the enactment under which the order was made prescribes no punishment for such failure, a resident magistrate or other justice of the peace may upon complaint made to him at any time—

- (a) issue a summons for the appearance of the person by whom that thing is required to be done or not done before a court of summary jurisdiction acting for the same petty sessions district as the court which made the order; or

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(b) by warrant cause such person to be brought before a resident magistrate acting for the same petty sessions district as the court which made the order or for any other petty sessions district in the same county court division.

(4) A warrant shall not be issued under paragraph (3) unless the complaint is in writing and substantiated on oath.

(5) Where a person has been taken into custody in pursuance of a warrant issued under paragraph (3) for the purpose of causing him to be brought before a resident magistrate he shall, if it will not be practicable to bring him before a resident magistrate within twenty-four hours after he was so taken into custody, be brought, as soon as practicable, before a justice of the peace who may, if he thinks fit, discharge such person upon his entering into a recognizance for a reasonable amount to appear before a resident magistrate at the time and place named in the recognizance; but where such person is not so discharged the justice of the peace shall commit him to prison and direct that he shall be brought before a resident magistrate as soon as practicable thereafter and in any case not later than eight days from the date of such commitment.

(6) Upon the appearance of a person summoned before a court of summary jurisdiction under paragraph (3) or on proof that the summons was duly served on him the court or, where a person is brought before a resident magistrate pursuant to a warrant issued under that paragraph, the resident magistrate—

(a) may order that person to pay a sum not exceeding £50 for every day during which he fails to comply with the order or a sum not exceeding^{F30} £5000]; or

(b) may commit him to prison for a fixed period not exceeding two months or until he either complies with the order or satisfies a court of summary jurisdiction that he intends to comply with it (and the court may issue a warrant to enforce the order of commitment);

but a person who is ordered to pay a sum for every day during which he fails to comply with the order or who is committed to prison until he complies or satisfactorily indicates his intention to comply with the order shall not by virtue of this Article be ordered to pay more than £1,000 or be committed for more than two months in all for doing or abstaining from doing the same thing contrary to the order (without prejudice to the operation of this Article in relation to any subsequent failure to comply with the order).

(7) In relation to an order made by a resident magistrate or justice of the peace sitting out of petty sessions, the references in paragraph (3)(a) and (b) to the same petty sessions district as the court which made the order acted for shall be construed as references to the petty sessions district in which the order was made.

(8) Payment of any sum ordered to be paid under paragraph (7) shall be enforceable in the same manner as payment of a sum adjudged to be paid by a conviction.

F30 1994 NI 15

Review of commitment under Article 112

113.—(1) A person imprisoned under a warrant of commitment issued under Article 112 who is not detained otherwise than under that Article may make an application in the prescribed manner requesting that the warrant be cancelled and stating the grounds of the application.

(2) An application under paragraph (1) shall be made to a resident magistrate who shall, after considering the statements contained in the application,—

(a) if he is of opinion that the application should be further considered, refer it to the court; or

(b) if he is not of that opinion, refuse the application.

(3) When an application is referred to the court under paragraph (2), the clerk of the court shall serve on the person in charge of the place in which the applicant is detained and the person in whose favour the order which is being enforced under Article 112 was made notice of the time and place appointed for the consideration of the application by the court and shall also serve on the second-mentioned person a copy of the application.

(4) On considering an application referred to it under paragraph (2)(a) the court may—

- (a) refuse the application; or
- (b) if the applicant satisfies the court that he has complied with the order in question or intends to comply with it, order that the warrant shall cease to have effect when the person in charge of the place in which the applicant is detained is served by the clerk of the court with a copy of the order.

(5) Where the court makes an order under paragraph (4)(b) it may—

- (a) fix a term of imprisonment in respect of any continued or future failure to comply with the order in relation to which the warrant was issued, being a term not exceeding so much of the term of the previous warrant as remained to be served at the date of the order; and
- (b) postpone the issue of the warrant for the commitment of the applicant for that term until such time and on such conditions, if any, as the court thinks just.

(6) Where under paragraph (3) notice of the time and place appointed for the consideration of the application by the court is served by post on the person in whose favour the order which is being enforced under Article 112 was made—

- (a) the notice shall be deemed to have been served on him notwithstanding that it is returned as undelivered or is for any other reason not received by that person; and
- (b) if that person does not appear at that time and place, the court may proceed with the consideration of the application in his absence.

(7) In this Article “the court” means a court of summary jurisdiction sitting for the same petty sessions district as the court which issued the warrant of commitment or for any other petty sessions district in the same county court division.

(8) This Article does not prejudice section 44 of the Judicature (Northern Ireland) Act 1978 (appeal to Court of Appeal from order or decision of a magistrates' court under Article 112).

Issue, postponement and stay of execution of warrants

114.—(1) Subject to this Order or any other enactment, where a magistrates' court makes an order upon conviction which is to have immediate effect it shall issue the proper warrant for executing the order forthwith or, if for any reason and subject to any enactment, the order is not to have immediate effect the court may postpone the issue or stay the execution of the warrant.

(2) A magistrates' court may postpone the issue of any other warrant or stay the execution of it until such time and on such conditions as it thinks just^{F31}; but a lay magistrate sitting out of petty sessions may postpone the issue of a warrant, or stay the execution of it, only if it was issued by him or another lay magistrate.]

F31 2002 c. 26

Modifications etc. (not altering text)

C5 Art. 114(2) applied (31.10.2007) by [Sea Fishing \(Restriction on Days at Sea\) Order \(Northern Ireland\) 2007 \(S.R. 2007/407\)](#), [art. 17\(2\)](#)

C6 Art. 114(2) applied (31.12.2008) by [Sea Fishing \(Marking and Identification of Passive Fishing Gear and Beam Trawls\) Order \(Northern Ireland\) 2008 \(S.R. 2008/484\)](#), [art. 5\(3\)](#)

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Duties of Constabulary and others with respect to warrants

115.—(1) The provisions of any enactments regulating the duties of the Royal Ulster Constabulary with respect to warrants and the execution of warrants shall apply in relation to warrants issued under this Order to members of the Royal Ulster Constabulary.

(2) Without prejudice to paragraph (1), where for any reason the person to whom a warrant is addressed is unable to execute it within the time fixed by the warrant (or if no time has been so fixed, within a reasonable time), he shall return the warrant to the resident magistrate or other justice of the peace who issued it or who made the conviction or order upon which it was issued together with a certificate in the prescribed form of the reasons why the warrant has not been executed.

(3) The resident magistrate or other justice of the peace by whom a warrant has been issued or who made the conviction or order upon which it was issued may examine on oath the person to whom a warrant has been addressed concerning the reasons why it has not been executed and may re-issue the warrant or may issue any other warrant for the same purpose.

(4) Without prejudice to Articles 156 and 158, where the resident magistrate or other justice of the peace who issued the warrant or made the conviction or order upon which it was issued is unable to exercise his functions under paragraph (3) by reason of his having died, ceased to hold office or become disqualified for holding office, or is for any other reason unable to perform the functions of his office, his functions under that paragraph shall be exercisable by any resident magistrate.

Issue, postponement or stay of execution of decrees in debt and ejectment proceedings

116. Unless the court for any special reason otherwise orders, a decree in debt or ejectment proceedings shall not issue until after the expiration of fourteen days from the order under which it was issued, but the court may, subject to any terms it may see fit to impose, postpone the issue of a decree for such further period or periods as it thinks fit so, however, that (except as provided by Article 117) the court shall not postpone for more than four weeks the issue of a decree in ejectment proceedings for possession of premises which are required for the purposes of the execution of the statutory powers and duties of a local or other public authority.

Postponement of issue of warrants or decrees until appeal determined

117.—(1) Subject to paragraph (2) where a person has given notice of appeal to the county court or has applied for a case to be stated for the opinion of the Court of Appeal and where he is required to enter into a recognizance under Article 149 he has entered into that recognizance, a decree or warrant for the purpose of enforcing the order shall not be issued until—

- (a) the order has been affirmed, amended or varied on appeal; or
- (b) it appears to the court that the appellant has failed to perform the conditions of a recognizance entered into under Article 149; or
- (c) the appellant has abandoned the appeal in accordance with Article 150.

(2) Nothing in this Article shall apply to a person sentenced to imprisonment or other form of detention in custody or prejudice the operation of any enactment which expressly authorises or directs the levy of any sum notwithstanding the appeal or of Article 148 respecting persons in custody.

Status:

Point in time view as at 01/10/2008.

Changes to legislation:

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