

1985 No. 78

JUDGMENTS (ENFORCEMENT)

Judgment Enforcement (Recovery of Admitted Debts) Rules (Northern Ireland) 1985

<i>Made</i>	<i>2nd April 1985</i>
<i>Coming into operation</i>	<i>1st May 1985</i>
<i>To be laid before Parliament</i>	

ARRANGEMENT OF RULES

PART 1

PRELIMINARY

1. Citation and commencement
2. Interpretation
3. Forms
4. Non-compliance with rules
5. Application of principal rules
6. Referral by Chief Enforcement Officer to the Master.
7. Limitations on recovery of admitted debts.

PART 2

RECOVERY OF ADMITTED DEBTS

8. Notice of intention to apply for recovery of debt.
9. Written communication from debtor.
10. Application for recovery of debt.
11. Summons for examination under Article 95(1).
12. Conduct of examination under Article 95(1).
13. Examination under Article 95(1).
14. Admission of lesser debt.
15. Non-compliance by debtor.
16. Recovery of admitted debts.
17. Costs.

PART 3

ENFORCEMENT OF CORRESPONDING DEBT

18. Certificate of corresponding debt.
19. Hearing.
20. Direction for enforcement of corresponding debt.

The Lord Chancellor, in exercise of the powers conferred on him by Article 141(1) of the Judgments Enforcement (Northern Ireland) Order 1981(a) and of all other powers enabling him in that behalf, hereby makes the following Rules—

PRELIMINARY

Citation and commencement

1. These Rules may be cited as the Judgement Enforcement (Recovery of Admitted Debts) Rules (Northern Ireland) 1985 and shall come into operation on 1st May 1985.

Interpretation

2.—(1) In these rules, unless the context otherwise requires—

“admitted debt” means a sum certain in money which a creditor claims is owed to him by a debtor and which indebtedness the debtor either admits or is taken to admit by virtue of Article 95(5) or (6);

“creditor” means a person who makes application to the Office in accordance with Article 95(1) for the recovery of a debt;

“debt” means a sum certain in money which is the subject of an application under Article 95(1);

“debtor” means a person against whom a creditor makes application to the Office in accordance with Article 95(1) for the recovery of a debt;

“nominated officer” means an officer nominated by the Chief Enforcement Officer under rule 23(1) of the principal Rules;

“the Order” means the Judgments Enforcement (Northern Ireland) Order 1981 and an Article referred to by number means the relevant Article of the Order;

“the principal Rules” means the Judgment Enforcement (Northern Ireland) Rules 1981(b).

(2) Without prejudice to paragraph (1) the expressions used in these rules shall, unless the contrary intention appears, have the same meaning as in the Order.

Forms

3.—(1) The forms in the Schedule shall be used where applicable with such variations as the circumstances of the particular case require.

(2) References in these rules to numbered forms are references to the numbered forms in the Schedule.

Non-compliance with rules

4.—(1) Where, in beginning or purporting to begin any proceedings under Part VII of the Order or at any stage in the course of or in connection with such proceedings, there has, by reason of anything done or left undone, been a failure to comply with the requirements of these rules, whether in respect of time, place, manner, form or content or in any other respect, the failure shall be treated as an irregularity and shall not nullify the proceedings, any step taken in the proceedings or any document, judgment or order therein.

(2) The Master may, on the ground that there has been such a failure as is mentioned in paragraph (1) and on such terms as to costs or otherwise as he thinks just, set aside either wholly or in part the proceedings or any document or order therein or exercise his powers under the principal Rules to allow such amendments to

(a) S.I. 1981/226 (N.I. 6)

(b) S.R. 1981 No. 147

be made, and to make such order dealing with the proceedings generally as he thinks fit.

Application of principal Rules

5. Subject to the provisions of these rules, the principal Rules shall apply, with any necessary modifications, to proceedings under Part VII of the Order.

Referral by Chief Enforcement Officer to the Master

6. The Chief Enforcement Officer may at any time refer an application under Article 95(1) to the Master.

Limitation on recovery of admitted debts

7. An application under Article 95(1) shall not be accepted by the Office if—

- (a) the debt exceeds £3,000; or
- (b) the debt is due otherwise than to—
 - (i) a Minister of the Crown or a government department (which for the purposes of this rule includes a department of the Government of the United Kingdom);
 - (ii) a local or public authority, that is to say—
 - (A) a district council or a joint committee appointed by two or more district councils,
 - (B) a body or person exercising functions under a statutory provision,
 - (C) 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),
 - (D) 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;
 - (iii) the Consolidated Fund;
 - (iv) any funds administered by or on behalf of any government department or local or public authority; or
- (c) the entirety of the debt is in respect of any local or public rates (including water rates, regional rate and district rate); or
- (d) it appears to the Office that the debtor is;
 - (i) an infant,
 - (ii) a patient,
 - (iii) dead, or
 - (iv) outside the jurisdiction.

PART 2

RECOVERY OF ADMITTED DEBTS

Notice on intention to apply for recovery of debt

8.—(1) Where a creditor intends to make an application under Article 95(1) he shall complete a notice in Form 1 with Form 2 attached and shall lodge the notice in the Office.

(2) Where the intended application is against two or more debtors the creditor shall lodge a notice in respect of each debtor.

(3) A notice under this rule shall be signed by the creditor's solicitor or by a person duly authorised in that behalf.

(4) The Office shall forthwith send the notice to each creditor named therein.

(5) The notice under this rule shall cease to have effect after the expiration of three months unless the Chief Enforcement Officer shall otherwise direct.

Written communication from debtor

9. When in receipt of—

- (a) Form 2, signed at Part A, B or C by a debtor or by a solicitor on his behalf; or
- (b) any other written communication signed by a debtor or by a solicitor on his behalf;

the Office shall—

- (i) make and retain a copy of that document; and
- (ii) send the original of that document to the creditor named therein.

Application for recovery of debt

10.—(1) An application under Article 95(1) for the recovery of a debt shall be in Form 3 and shall be signed by the creditor's solicitor or by a person duly authorised in that behalf.

(2) The following documents shall be lodged at the Office together with the application—

- (a) a true copy of Form 1 as lodged in the Office;
- (b) Form 2, where this has been returned by the debtor; and
- (c) any written communication sent by the debtor to the creditor or to the Office after service of Form 1.

(3) Except with the leave of the Chief Enforcement Officer an application under this rule must be lodged within one calendar month from the date on which it purports to have been signed.

Summons for examination under Article 95(1)

11.—(1) On receipt of an application made in accordance with rule 10 the Chief Enforcement Officer or such other member of the Northern Ireland Court Service as he may direct shall, subject to paragraph (4), issue a summons under Article 95(1) requiring the debtor—

- (a) to attend for examination as to whether he admits the debt and, if he does admit it, for examination 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) There shall be at least eight days between the date fixed for the hearing of the summons and the date on which service of the summons is deemed to have been effected.

(3) The Office shall notify the creditor of the date and time fixed for the hearing of the summons.

(4) A summons shall not be issued under paragraph (1) of this rule where, in a written communication sent to the Office, a debtor has admitted the debt or is taken to have done so by virtue of rule 14.

Conduct of examination under Article 95(1)

12.—(1) An examination under Article 95(1) shall, subject to paragraph (5), be conducted by a nominated officer and such officer shall have power to administer oaths for that purpose.

(2) The examination shall be conducted in private.

(3) The creditor shall be entitled to be present and may, with the leave of the person conducting the examination, give evidence or put any question to the debtor as to his means.

(4) A note shall be taken of any answer or evidence given by the debtor during the examination.

(5) The Chief Enforcement Officer may—

(a) in any particular instance; or

(b) with reference to any particular class of debtors;

direct that the conduct of the examination be referred to the Master whether or not the examination has begun before a nominated officer.

Examination under Article 95(1)

13.—(1) At an examination under Article 95(1) the nominated officer shall inquire from the debtor whether he admits the debt which is the subjectmatter of the application.

(2) The nominated officer shall record in a certificate whether the debtor admits any debt and the particulars of any debt so admitted.

(3) Where the debtor admits the debt, or is taken to do so by virtue of rule 14, he may be sworn and examined as to his means.

(4) Subject to rules 14 and 15, where the debtor does not admit the debt the nominated officer shall dismiss the application.

Admission of lesser debt

14.—(1) Where a debtor disputes the debt but admits—

(a) on attending at the Office in pursuance of a summons under rule 11; or

(b) 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, the creditor may request the Office to amend the application to show that lesser sum as the debt.

(2) Where the request referred to in paragraph (1) is made orally the creditor shall confirm that request subsequently in writing.

(3) Where the Chief Enforcement Officer is satisfied that—

(a) the admission referred to in paragraph (1) can properly be accepted; and

(b) the requested amendment can be made;

he may direct that the sum admitted by the debtor be taken to be an admitted debt.

Non-compliance by debtor

15.—(1) Where—

(a) a debtor—

(i) does not pay the debt in full before the time when he is required by a summons under rule 11 to attend for examination.

(ii) does not comply with the summons, and

(iii) does not notify the Office in writing that he disputes the debt; and

(b) The Chief Enforcement Officer is satisfied that the debtor received the summons;

the Chief Enforcement Officer may direct that the debtor be taken to admit the debt.

(2) Where the Chief Enforcement Officer makes a direction under paragraph (1) he shall cause notice of that direction to be served on the creditor and on the debtor.

(3) Where a debtor or creditor objects in writing to a direction given under paragraph (1), and such objection is received by the Office not later than 8 days from the date when notice of that direction is deemed to have been served, the Chief Enforcement Officer shall refer that objection for determination by the Master.

Recovery of admitted debts

16.—(1) Where a debtor—

- (a) admits a debt on attending in pursuance of a summons under rule 11; or
- (b) admits a debt in a written communication sent to the Office; or
- (c) is taken to admit a debt by virtue of rule 14; or
- (d) is taken to admit a debt by virtue of rule 15;

the Chief Enforcement Officer may direct that the creditor’s application under Article 95(1) be treated as if judgment had been given for the amount of the admitted debt and the application were one under Article 22 for the enforcement of that judgment.

(2) Where the Chief Enforcement Officer exercises his power under paragraph (1) he shall cause notice of that direction to be served on the creditor and on the debtor.

(3) On payment by the creditor of the appropriate fee the Office may proceed to recover the amount of the admitted debt.

Costs

17.—(1) Costs of proceedings under Part VII of the Order shall, subject to the provisions of this rule, be in the discretion of the Master and shall be allowed in accordance with the provisions of paragraph (2).

(2) A creditor who makes application under Part VII of the Order may be allowed the following costs—

- (a) for preparation of application under Article 95(1) £10·00
- (b) for certification of corresponding debt under Part 3 of these rules £4·00

(3) Any costs allowed under this rule may be added to the amount recoverable as an admitted debt.

(4) No costs or expenses shall be allowed for the recovery under Article 96 of an admitted debt which does not exceed £300.

PART 3

ENFORCEMENT OF CORRESPONDING DEBT

Certification of corresponding debt

18.—(1) Where a creditor makes application under Article 95(1), he may lodge in the Office a certificate certifying that the sums specified therein are due and payable to him by the debtor in respect of corresponding debt.

(2) The certificate referred to in paragraph (1) shall be—

- (a) in Form 4; and
- (b) signed by the creditor’s solicitor or by a person duly authorised in that behalf.

(3) When in receipt of the certificate the Chief Enforcement Officer shall cause to be sent to the debtor—

- (a) a copy of the certificate; and
- (b) notice that the debtor may request to be heard as to the matters certified in the certificate.

(4) Where a debtor requests to be heard the Chief Enforcement Officer shall cause notice of hearing to be served on the debtor and on the creditor.

(5) There shall be at least eight days between the date fixed for the hearing and the date on which service of notice of hearing on the debtor is deemed to have been effected under these Rules.

Hearing

19.—(1) The hearing referred to in rule 18 shall be before the Master and shall be conducted in private.

(2) The creditor shall be entitled to be present and may, with the leave of the Master, give evidence or put any question to the debtor.

(3) A note shall be taken of any evidence given by the debtor.

Direction for enforcement of corresponding debt

20.—(1) Where the Master is satisfied that—

(a) the procedural steps prescribed by rule 18 have been complied with; and

(b) the debtor has been given an opportunity of being heard;

he may direct that any enforcement order made in respect of the debtor in consequence of the application under Article 95(1) shall be expressed to have effect in relation to the sums which the creditor has certified to be due and payable to him by the debtor in respect of corresponding debt.

(2) On payment by the creditor of the appropriate fee the Office may provide that any enforcement order made in respect of the debtor in consequence of the application under Article 95(1) shall be expressed to have effect in relation to the sums which the creditor has certified to be due and payable to him by the debtor in respect of corresponding debt.

Dated 2nd April 1985

Hailsham of St. Marylebone, C.

SCHEDULE

Rule 8(1)

AD Form 1

Judgments Enforcement (Northern Ireland) Order 1981

Notice of Intention to Apply for Recovery of Admitted Debt

BETWEEN: [A.B] Creditor
AND [C.D] Debtor

To: [1]
of [2]

TAKE NOTICE that I/we [3] allege that you [4]
[1] of [2] , the debtor,
are indebted to me/us in the sum of £ [4] for
[5]

AND TAKE FURTHER NOTICE that unless you pay the said sum of £ [4]
within 10 days from the date of the service of this Notice, application will be made to the
Enforcement of Judgments Office for recovery of that amount.

Dated

Signed _____
Creditor's solicitor/authorised person

Address:—

NOTES

- [1] Full name of debtor.
- [2] Full postal address of debtor.
- [3] Full name of creditor.
- [4] This figure should represent the full balance of all monies due and payable at the date of signing.
- [5] Give particulars of the debt.

IMPORTANT: complete the title of Form 2 before lodging this Form (with Form 2 attached) in the Office.

JUDGMENTS ENFORCEMENT (NORTHERN IRELAND) ORDER 1981

Reply

[Title as in Form 1]

NOTE: If you intend to instruct a solicitor to act for you, give this form to him immediately. Before completing this form read carefully the Notes for Guidance below.

PART A¹

I acknowledge that I have received the Notice of Intention to Apply for Recovery of Debt (Form 1) attached to this form.

Signed _____

Dated _____

PART B^{2,3}

I admit that I owe the sum of £ the sum) claimed by the creditor in Form 1.

to the creditor, being the sum (or, part of

Signed _____

Dated _____

PART C⁴

I do not owe any sum to the creditor.

Signed _____

Dated _____

NOTES FOR GUIDANCE

- 1. If you sign Part A you are acknowledging that you have received Form 1.
- 2. If you admit that you owe the debt specified in Form 1, sign Parts A and B and send this Form (Form 2) to the Enforcement of Judgments Office at the address below.
- 3. If you do not admit that you owe the debt specified in Form 1, but do admit that you owe money to the creditor, fill in the sum which you admit owing and sign Parts A and B. Send this Form (Form 2) to the Enforcement of Judgments Office at the address shown below.
- (4) If you do not admit that you owe money to the creditor, sign Parts A and C and send this form to the Enforcement of Judgments Office at the address shown below.

NOTE:

Send this form to:— The Enforcement of Judgments Office, 7th Floor, Bedford House, 16/22 Bedford Street, Belfast BT2 7DS:

JUDGMENTS ENFORCEMENT (NORTHERN IRELAND) ORDER 1981

**Application for Recovery of Debt
(And for Enforcement Pursuant to Article 96(1))**

[Title as in Form 1]

1. Application for recovery of the sum of £ _____ (“the debt”) is hereby made
by [1] _____, which said debt is due from [2] _____
2. The debtor has/has not admitted the debt in a written communication sent to the Enforcement of Judgments Office.
3. Notice of Intention to Apply for Recovery of Debt (Form 1) was lodged in the Office on 19 _____
4. The following documents are lodged herewith [delete as applicable]—
- (a) a true copy of Notice of Intention to Apply for Recovery of Debt (Form 1) as sent to the debtor;
- (b) Form 2, as returned by the debtor;
- (c) other written communication received from the debtor after service of Form 1.
5. I enclose the fee payable on this application.
6. I certify that I have made enquiries and that to the best of my information and belief the debtor is not—
- (i) an infant;
- (ii) a patient;
- (iii) dead, or
- (iv) outside the jurisdiction.

Dated _____

Signed _____
Creditor's Solicitor/authorised person

NOTES

[1] Full name and address of creditor/applicant.

[2] Full name and address of debtor.

APPLICATION FOR ENFORCEMENT

(Article 96(1))

1. Application for enforcement in the sum of £ _____ pursuant to Article 96(1)
is hereby made by [1] _____ the person entitled to enforce in this
matter.
2. There is no restriction on the right to enforce in the said sum under any enactment or under the Judgment Enforcement Rules (Northern Ireland) 1981.
3. [Application for an attachment of earnings order is annexed hereto.]
4. In the event of the debtor failing to comply with any summons issued pursuant to Article 95(1) we request that a warrant for his arrest issues.
5. The particulars endorsed below are true and correct.

Dated _____

Signed _____

PARTICULARS

- 1. The applicant's address for service is:—
- 2. It is certified that inquiries have been made and that the present address of the debtor is believed to be:—

AD Form 4

Rule 18(2)

JUDGMENTS ENFORCEMENT (NORTHERN IRELAND) ORDER 1981

Certificate of Corresponding Debt

[Title as in Form 1]

I [1] the creditor in the above matter hereby certify as follows—

THAT in addition to the sum of £ [2] in respect of which application for recovery has been made pursuant to Article 95(1), there is also due and payable to me by the debtor in respect of corresponding debt the sum(s) of £ [3] for [4]

Dated

Signed _____
Creditor's solicitor/authorised person

NOTES

- [1] Full name and address of creditor.
- [2] Specify the debt in respect of which application has been made pursuant to Article 95(1).
- [3] This figure should represent the full balance of all monies due and payable in respect of corresponding debt at the date of signing.
- [4] Give particulars of the corresponding debt.

EXPLANATORY NOTE

(This note is not part of the Rules.)

These rules give effect to Part VII (recovery of certain debts without judgment) of the Judgments Enforcement (Northern Ireland) Order 1981.

Under Article 95(1) of that Order a creditor may apply to the Enforcement of Judgments Office ("the Office") for recovery of a sum certain in money which he claims is owed to him by a debtor. If the debtor admits his indebtedness (or is deemed to do so by virtue of Article 95(5) or (6) of the Order) the debt may be recovered by the Office as if judgment had been given for the amount of the admitted debt.

By virtue of rule 7(a) an admitted debt application may not be accepted by the Office if the debt exceeds £3,000. Rule 7(b) provides that the Office may not accept an admitted debt application if the debt is due otherwise than to certain public bodies.

The principal stages in an admitted debt application are as follows:

- (i) notice of intention to apply for recovery of debt (rule 8);
- (ii) application for recovery of debt (rule 10);
- (iii) examination of the debtor by the Office (rules 11-13);
- (iv) recovery of admitted debts (rule 16);
- (v) certificate of corresponding debt (rule 18); and
- (vi) enforcement of corresponding debt (rule 20).