

1971. No. 325

[NC]

MASTER FOR THE ENFORCEMENT OF JUDGMENTS

PROCEDURE

Payments for Debt (Emergency Provisions) Rules 1971

We, the Northern Ireland Supreme Court Rules Committee, being the authority having for the time being power under section 13(1) of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971(a) to make rules (in like manner as rules of court are made) for the purpose of regulating the exercise of the jurisdiction conferred on the Master by that Act, hereby exercise those powers and all other powers enabling us in that behalf as follows:—

Citation and commencement

1. These rules may be cited as the Payments for Debt (Emergency Provisions) Rules 1971 and shall come into force on 18th October 1971.

Interpretation

2.—(1) In these rules—

“the Act” means the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971,

“the applicant” means a person entitled to apply for emergency enforcement under section 3 of the Act,

“the Office” means the Enforcement of Judgments Office,

“the Master” includes a designated officer to whom any of the functions under the Act have been assigned,

“the respondent” means a person against whom an application has been made under section 3 of the Act,

“sealed” means sealed with the official seal of the Enforcement of Judgments Office.

(2) The expressions used in these rules shall, unless the contrary intention appears, have the same respective meanings as in the Act.

(3) Any reference to the means of a respondent in these rules includes a reference to the assets and liabilities of a limited company or other corporate body who is a respondent.

Forms

3. Without prejudice to section 25 of the Interpretation Act (Northern Ireland) 1954(b), the forms in Schedule 1 must be used where applicable with such variations as the circumstances of the particular case require.

Application for emergency enforcement

4.—(1) An application under section 3 of the Act must be in Form 1 and must be made ex parte grounded on an affidavit in Form 2—

(a) stating particulars of the amount lawfully due by the respondent and of the tax, service, rent or other obligation in respect of which the amount due was incurred,

(a) 1971. c. 30 (N.I.).

(b) 1954. c. 33 (N.I.).

- (b) stating that at least one application for payment has been made and the mode and date of such application,
- (c) specifying the grounds on which the applicant relies to show that the respondent is wilfully withholding payment,
- (d) stating that no part of the amount lawfully due accrued or became payable prior to 1st April 1971,
- (e) stating what inquiries have been made as to the means of the respondent,
- (f) stating to the best of the information and belief of the deponent—
 - (i) the status of the respondent and particulars of his means,
 - (ii) any other information required to enable the emergency enforcement order or orders applied for to be made.

(2) Where after inquiry an applicant is unable to obtain any or sufficient information to enable him to make the averments referred to in sub-paragraph (f) of paragraph (1), the applicant must so aver in the affidavit grounding his application and must give particulars of the inquiries made.

(3) An application under this rule is made by the applicant lodging in the Office the application and the affidavit grounding it together with one copy of each document.

Attendance orders

5. An attendance order must be in Form 3 or 4 as the circumstances of the case require.

Examination as to means

6.—(1) Where a respondent or other person attends pursuant to an attendance order he may be examined under oath as to the means of the respondent.

(2) An examination as to means must be conducted in private under the control and direction of the Master who must take down or cause to be taken down a note of any evidence given by the respondent or other person during the examination.

(3) The applicant shall be entitled to be present or represented and to give evidence at an examination under this rule and may, with the leave of the Master, put any question to the respondent or other person as to the means of the respondent.

Order to show cause

7.—(1) An order to show cause under section 3 of the Act must be in Form 5.

(2) A sufficient number of sealed copies of the order must be sent by the Office to the applicant by ordinary post or by delivery.

(3) An order to show cause together with a copy of the affidavit grounding the application must be served by the applicant in accordance with the Act and there must not be less than seven days between the date on which service of the order and affidavit is effected and the date on which cause is to be shown.

Emergency enforcement orders

8.—(1) An emergency enforcement order must be entitled "In the Matter of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971" and with the necessary modifications must be in the like form as

a corresponding enforcement order made under the Judgments (Enforcement) Act (Northern Ireland) 1969(c).

(2) An emergency enforcement order may be set aside, discharged or varied either upon the application of a party to the proceedings or by the Master of his own motion.

Power to amend certain orders

9. Where under the Act or these rules any order is required to be served personally and it is for any reason impracticable to serve it within the time required by these rules the Master may (whether or not an order for substituted service is made) direct that the date named in such order in which any person is required to attend for examination or to show cause shall be amended so as to allow additional time for the service of the order in accordance with these rules.

Swearing of affidavits

10. Affidavits must be sworn in Northern Ireland for the purpose of proceedings under the Act before the Master, a commissioner to administer oaths, or a justice of the peace.

Substituted service

11.—(1) An application for substituted service under section 10(3) of the Act may be made by affidavit stating the facts relied on.

(2) Substituted service of a document, in relation to which an order is made under this rule, is effected by taking such steps as the Master may direct to bring the document to the notice of the person to be served.

Application of Judgment Enforcement Rules 1971(d)

12. Subject to the Act and to these rules, the provisions of the Judgment Enforcement Rules 1971 specified in column 1 of Schedule 2 shall, with the necessary modifications and to the extent set out in column 2 of that Schedule, apply to proceedings under the Act as if those provisions were incorporated in these rules.

Date: 18th October 1971.

(Signed) *Robert Lowry*
L. E. Curran
A. McGonigal
Basil Kelly
W. J. Jefferson

SCHEDULE 1

RULE 3

FORM 1

(No. 197 /)

MASTER FOR THE ENFORCEMENT OF JUDGMENTS

IN THE MATTER OF THE PAYMENTS FOR DEBT (EMERGENCY PROVISIONS) ACT (NORTHERN IRELAND) 1971

AND IN THE MATTER of an application for an emergency enforcement order

By:

A. B.

Applicant

against

C. D.

Respondent

1. I of the applicant [or an officer duly authorised by the applicant to make this application] hereby make application for an order that the respondent do show cause why the following emergency enforcement order(s) should not be made [or for an order for the attendance of the respondent to be examined as to his means and consequent upon such examination for an order that the respondent do show cause why such emergency enforcement order(s) as may be appropriate should not be made.]

2. This application is grounded on the affidavit of lodged on 19 .

Dated

..... Applicant/authorised officer of applicant.

FORM 2

(No. 197 /)

MASTER FOR THE ENFORCEMENT OF JUDGMENTS

Affidavit under section 3

(Title as in Form 1)

I [Here insert full name, residence, occupation or description of deponent] aged _____ of _____ in the County of _____ make oath and say as follows:—

1. [Here insert full name and address of respondent] (hereinafter called “the respondent”) is indebted to [Here insert full name and address of applicant] (hereinafter called “the applicant”) in the sum of £ _____ for [Here insert particulars of the debt in full specifying the nature and date of each transaction or dealing from which the debt arose].

2. At least one application for payment has been made on behalf of the applicant since the debt was incurred. The last application for payment was made on the _____ day of _____ 19 _____.

3. The respondent is wilfully withholding payment contrary to the provisions of section 3 of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971 in that [Here state facts relied on in support of this averment].

4. The full sum referred to in paragraph 1 of this affidavit is now due and payable by the respondent to the applicant over and above all just credits and allowances, and no part thereof has been in any manner paid, satisfied or discharged.

5. No part of the debt referred to in paragraph 1 of this affidavit accrued or became payable prior to 1st April 1971 and no part of the debt has been recovered under section 1 of the Act, [except _____].

6. I have caused inquiries to be made concerning the means of the respondent and to the best of my knowledge and belief they are as follows:—*

or

6. I have caused inquiries to be made concerning the means of the respondent by [Here state the nature of the inquiries made] but I have been unable to obtain any [or sufficient] information to enable the applicant to apply for a particular emergency enforcement order or orders.

7. I am duly authorised by the applicant to make this affidavit and except where otherwise stated it is within my own knowledge that all the facts above deposed to are true.

SWORN before me at
in the County of _____
day of _____

_____ this
19 _____

Commissioner for Oaths/Justice of the Peace.

NOTE:—Where the debtor is a limited company the form should be adapted accordingly.

*Insert all relevant information including such of the following as may be applicable—

- (a) the status of the respondent (e.g. whether he is self-employed, employed or retired), the number of children (if any) and their ages and any other information concerning the respondent's family or dependants;
- (b) where the application is for, or includes an application for, an emergency order of seizure, particulars of any seizable goods of the respondent known to the deponent;
- (c) where the application is for, or includes an application for, an emergency order charging land, particulars of the land sought to be charged;
- (d) where the application is for, or includes an application for, an emergency order charging funds, stock or shares, particulars of the funds, stock or shares sought to be charged;
- (e) where the application is for, or includes an application for, an emergency debenture order, particulars of the relevant debentures or mortgage;
- (f) where the application is for, or includes an application for, an emergency order appointing a receiver or an emergency attachment of debts order, particulars of the relevant payments or debts;
- (g) where the application is for, or includes an application for, an emergency attachment of earnings order—
 - (i) the name(s) and address(es) of the employer(s);
 - (ii) the earnings of the respondent (if known) and, if the respondent's spouse is employed, the earnings of the spouse (if known);
 - (iii) where it is impracticable to give the information referred to in (ii) and the sum due is in respect of rates or rent, whether the rates or rent were regularly paid prior to the date when the rates or rent were first wilfully withheld;
- (h) where the application is for, or includes an application for, an emergency restraining order the name and registered address of the limited company, the name of its secretary, the number of shares held by the respondent and whether or not the respondent is a director of the company.

MASTER FOR THE ENFORCEMENT OF JUDGMENTS

Attendance Order: Respondent*(Title as in Form 1)*

BECAUSE it appears upon the application of the applicant that you are wilfully withholding from the applicant the sum of £
for

YOU ARE HEREBY ORDERED to attend in person before the Master at
on day the day of 19 at a.m./p.m.
to be examined as to your means:

YOU ARE REQUIRED to bring with you all books, documents and things in your possession and under your control which will help to explain or which are relevant to your financial position and in particular you must bring with you any—

- (a) rent books;
- (b) mortgage payment books;
- (c) ground rent receipts, rates receipts;
- (d) savings books and bank statements;
- (e) pay slips;
- (f) hire purchase agreements and receipts;
- (g) particulars of any debts owed to you;
- and
- (h) any writs or other legal process which have been served on you in relation to unpaid debts.

IF YOU FAIL TO OBEY THIS ORDER by not attending for examination as to your means, the applicant may apply for a warrant for your arrest to bring you before the Master or for an order committing you to prison for contempt of court.

Dated

.....
Master.

To

E. F.

[address]

MASTER FOR THE ENFORCEMENT OF JUDGMENTS

Attendance Order: Witness

(Title as in Form 1)

BECAUSE it appears upon the application of the applicant that the respondent, is wilfully withholding from the applicant the sum of £ for

AND IT APPEARS that you are able to give evidence [as to the means of the respondent] [or as to the assets and liabilities of the respondent]

YOU ARE HEREBY ORDERED to attend in person before the Master at on day the day of 19 at a.m./p.m. to give evidence [as to the means of C.D. of the respondent] [or as to the assets and liabilities of C.D. Limited, the respondent] [and to bring with you].

IF YOU FAIL TO ATTEND AS REQUIRED BY THIS ORDER the applicant A.B. may apply for a warrant for your arrest to bring you before the Master or for an order committing you to prison for contempt of court.

Dated

.....
Master.

To

E. F.

[address]

MASTER FOR THE ENFORCEMENT OF JUDGMENTS

Order to show cause

(Title as in Form 1)

WHEREAS upon the application of the applicant it appears that C.D. of _____, the respondent, is wilfully withholding the sum of £ _____ in respect of _____ which is lawfully due to the applicant

IT IS ORDERED that unless sufficient cause to the contrary be shown before the Master at _____ on _____ day the _____ day of _____ 19 _____ at _____ a.m./p.m the following emergency enforcement order(s) will be made:—

Dated

.....

Master.

SCHEDULE 2

RULE 12

Application of Judgment Enforcement Rules 1971 for the purposes of these rules

<i>Column I</i> Rule No.	<i>Column II</i> Extent of application
14	Paragraphs (2), (3), (4), (5) and (6)
15	The whole rule
19	The whole rule
25	The whole rule
26	The whole rule
27	The whole rule
28	The whole rule
29	The whole rule
30	Paragraph (5)
37	Paragraph (2)
38	The whole rule
39	The whole rule
40	The whole rule
41	The whole rule
42	The whole rule
43	Paragraphs (1), (2) and (5)
44	The whole rule
45	Paragraph (2)
46	The whole rule
47	The whole rule
48	The whole rule
49	The whole rule
50	The whole rule
51	The whole rule
52	The whole rule
53	The whole rule
54	The whole rule
55	The whole rule
56	The whole rule
57	The whole rule
59	The whole rule
60	The whole rule
61	The whole rule
63	The whole rule
64	The whole rule
65	The whole rule

<i>Column I</i> Rule No.	<i>Column II</i> Extent of application
66	The whole rule
67	The whole rule
69	The whole rule
70	The whole rule
71	The whole rule
72	The whole rule
73	The whole rule
74	The whole rule
75	The whole rule
76	The whole rule
77	The whole rule
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81	The whole rule
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85	The whole rule
86	The whole rule
87	The whole rule
88	The whole rule
89	The whole rule
90	The whole rule
91	The whole rule
92	Paragraphs (2) and (3)
93	The whole rule
94	Paragraph (1)
95	The whole rule
96	The whole rule
97	The whole rule
98	The whole rule
99	The whole rule
100	The whole rule
102	The whole rule
103	The whole rule
104	The whole rule
105	Paragraphs (1), (2), (4) and (5)
Schedule 2	Items 2, 3, 4, 5, 7, 8, 9, 11, 12 and 13

EXPLANATORY NOTE

(This note is not part of the rules, but is intended to indicate their general purport.)

The object of these rules, which are made under section 13(1) of the Payments for Debt (Emergency Provisions) Act (Northern Ireland) 1971, is to regulate the exercise of the jurisdiction conferred on the Master for the Enforcement of Judgments by the Act.

The rules prescribe the procedure and practice to be followed in an application to the Master for enforcement in respect of monies lawfully due and wilfully withheld in relation to certain kinds of taxes, public services, and rent due in respect of housing accommodation.

1971. No. 326

As this Order has been classified as local it is not printed at length in this volume. A summary is given in the List of Statutory Rules and Orders of a Local Character under the heading LOCAL GOVERNMENT.