
STATUTORY INSTRUMENTS

2010 No. 948

The Community Infrastructure Levy Regulations 2010

PART 9

ENFORCEMENT

CHAPTER 3

RECOVERY OF CIL

Commitment to prison

100.—(1) A collecting authority may apply to a magistrates' court for the issue of a warrant committing a debtor to prison where—

- (a) the debtor is an individual;
- (b) the authority has sought to levy an amount by distress under regulation 98 and the person making the distress reports that they were unable (for whatever reason) to find any or sufficient goods of the debtor on which to levy the amount; and
- (c) the authority is able to demonstrate to the court that it is unable to recover the amount payable by the debtor by means of a charging order under regulation 103.

(2) On such an application being made the court must (in the debtor's presence) inquire as to the debtor's means and inquire whether the failure to pay the debt which led to the liability order being made against the debtor was due to the debtor's wilful refusal or culpable neglect.

(3) If (and only if) the court is of the opinion that the failure to pay the debt was due to the debtor's wilful refusal or culpable neglect it may if it thinks fit—

- (a) issue a warrant of commitment against the debtor; or
- (b) fix a term of imprisonment and postpone the issue of the warrant until such time and on such conditions (if any) as the court thinks just.

(4) The warrant must be made in respect of the relevant amount; and the relevant amount for this purpose is the aggregate of—

- (a) the appropriate amount mentioned in regulation 98(3), or (as the case may be) so much of it as remains outstanding; and
- (b) a sum of an amount equal to the costs reasonably incurred by the collecting authority in respect of the application.

(5) The warrant—

- (a) must state the relevant amount mentioned in paragraph (4);
- (b) may be directed to the authority making the application and to such other persons as the court issuing it thinks fit; and
- (c) may be executed anywhere in England and Wales by any person to whom it is directed.

(6) If—

(a) before a warrant has been issued, or a term of imprisonment fixed and the issue of a warrant postponed, an amount determined in accordance with paragraph (7) is paid or tendered to the authority;

(b) after a term of imprisonment has been fixed and the issue of a warrant postponed, any amount the court has ordered the debtor to pay is paid or tendered to the authority; or

(c) after a warrant has been issued, the amount stated in it is paid or tendered to the authority, the authority must accept the amount concerned, take no further steps as regards its recovery, and the debtor, if committed to prison, must be released.

(7) The amount referred to in paragraph (6)(a) is the aggregate of—

- (a) the appropriate amount mentioned in regulation 98(3) (or so much of it as remains outstanding); and
- (b) the authority's reasonable costs incurred up to the time of payment or tender.

(8) Subject to paragraphs (9) and (10) the warrant must order that the debtor be imprisoned for a time specified in the warrant (which must not exceed three months) unless the amount stated in the warrant is paid sooner.

(9) Where—

- (a) a warrant is issued after a postponement under paragraph (3)(b); and
- (b) since the term of imprisonment was fixed but before the issue of the warrant, the amount mentioned in paragraph (4)(a) with respect to which the warrant would (but for the postponement) have been made has been reduced by a part payment,

the period of imprisonment ordered under the warrant must be the term fixed under paragraph (3) reduced by such numbers of days as bears to the total number of days in that term less one day the same proportion as the part paid bears to that amount.

(10) Where, after the issue of a warrant, a part payment of the amount stated in it is made, the period of imprisonment must be reduced by such number of days as bears to the total number of days in the term of imprisonment specified in the warrant less one day the same proportion as the part paid bears to the amount so stated.

(11) In calculating a reduction required under paragraphs (9) and (10)—

- (a) any fraction of a day must be left out of account; and
- (b) rule 55(1), (2) and (3) of the Magistrates' Courts Rules 1981(1) (payment after imprisonment imposed) applies (so far as is relevant) to a part payment as if the imprisonment concerned were imposed for want of sufficient distress to satisfy a sum adjudged to be paid by a magistrates' court.