På privaträttens område kommer pågående ärenden och förfaranden som inleddes innan övergångsperioden löpte ut att fortsätta i enlighet med EU-rätten. Relevant information om Storbritannien kommer att finnas kvar på e-juridikportalen till slutet av 2022 enligt en ömsesidig överenskommelse med Storbritannien.

How to enforce a court decision

Nordirland

1 What does enforcement mean in civil and commercial matters?

Enforcement is the legal process by which compliance with a judgment, order or decree of the courts can be compelled.

Northern Ireland has a unique system for the enforcement of civil judgments. Most common law systems enforce judgments through ancillary orders of the courts. In Northern Ireland civil court judgments related to the recovery of money, goods and property are enforced by a central body called the Enforcement of Judgments Office which exercises both administrative and judicial functions.

The Enforcement of Judgments Office was established in 1971 and since 1979 has been administered by the Northern Ireland Courts and Tribunals Service. The powers and procedures of the Enforcement of Judgments Office are contained in the Judgments Enforcement (Northern Ireland) Order 1981 (“the 1981 Order”) and the Judgments Enforcement Rules (Northern Ireland) 1981 (SR 1981/147).

The different types of enforcement methods are:

Instalment Order - This is an order for payment by instalments provided the Enforcement of Judgments Office is satisfied that the debtor has or will have the means to satisfy the whole or any part of the amount owing within a reasonable time.

Attachment of Earnings Order - This is an order directed to the debtor’s employer and requires him to make periodic deductions from the debtor’s wages or salary and pay these to the Enforcement of Judgments Office. This order is different from most other enforcement orders in that the Enforcement of Judgments Office has no power to make it without a prior application from the creditor. The Enforcement of Judgments Office can also suspend service of the order on the employer if it is satisfied that the debtor will make the payments voluntarily to the office

Order of Seizure - This order enables the Enforcement of Judgments Office to remove and sell some of the debtor’s goods and other property. The property comes into the custody and possession of the Enforcement of Judgments Office and is charged in favour of the creditor for whose benefit the order is made.

Order Charging Land - This order is most frequently used for substantial debts and is generally used together with another enforcement method. This order by itself effects no practical enforcement of the debt; the creditor must take steps to exercise power of sale by making an application to enforce their charge to the court - There is also provision in the 1981 Order for the making of charging orders over other species of property.

Order Appointing Receiver and Order Under the Crown Proceedings Act - An order appointing receiver order operates with the Chief Enforcement Officer being appointed receiver over any payment that the debtor might be entitled. Examples of the kinds of payments suitable for an order appointing receiver order include the rents and profits of land, reversionary interests under a will, or sums due to a self-employed debtor in contract or payments due from a civil claim against another person or company.

Attachment of Debts (Garnishee) Order - An attachment of debts order requires a debtor (or “garnishee”) of the judgment debtor to pay the debt to or for the benefit of the creditor instead. It confers secured creditor status on any creditor obtaining it and is applicable to debts due or accruing.

Orders for Delivery of Possession of Land - A judgment for the possession of land is enforced by an order for the delivery of possession of land and entitles the Enforcement of Judgments Office to eject any person in possession, whether the defendant or not.

Order for the Delivery of Goods - A judgment for possession of goods is enforced by an order for delivery of the goods. The goods will be taken by the Enforcement of Judgments Office and handed back to the creditor. This should not be confused with an order of seizure as the goods are not sold.

2 Which authority or authorities are competent for enforcement?

Enforcement of Judgments Office
Laganside House
23-27 Oxford Street
Belfast
BT1 3LA

3 What are the conditions under which an enforceable title or decision may be issued?

3.1 The procedure

Any person entitled to enforce a judgment may, on payment of the appropriate fee, apply to the Enforcement of Judgments Office for enforcement of that judgment. An application must be preceded by a ‘notice of intent to apply for enforcement’ to the debtor. Where the debtor fails to settle the judgment within ten days of the date of the notice of intent to enforce the applicant may proceed to enforcement. A preliminary application may be made in cases where the balance of all sums due exceeds £3000. This enables the judgment creditor to obtain the issue of a custody warrant and a report as to the debtor’s means in order to make a more informed decision about whether to proceed with enforcement.

Once an application is accepted the Enforcement of Judgments Office immediately serves on the debtor a ‘custody warrant’ deeming specified goods (with a few exceptions such as domestic goods) of the debtor to be in the possession and control of the Enforcement of Judgments Office so that they cannot be disposed of. A custody warrant is only discharged upon payment of the amount stated on the judgment, or where the application for enforcement is dispensed with.

The next stage in the enforcement process is the discovery of information about the debtor’s means and is of fundamental importance to the determination of the enforcement application. A judgment debtor is required to give the enforcement officer such information as to his means as the officer may require. The judgment debtor is interviewed in his home or summoned to appear before a nominated officer for examination.

Upon receipt of a report from the enforcement officer, the Master (see below) or the Chief Enforcement Officer makes a provisional decision disposing of the enforcement application. Only the Master is able to make orders of seizure, garnishee and orders appointing receivers and order under the crown proceedings act. The financial and other relevant circumstances of the debtor are considered and a determination made of the best means of enforcing the

judgment, or indeed whether the judgment can be enforced at all. The parties are notified and given the opportunity to make objections. If no objection is made the decision is confirmed but if an objection is made the matter is listed for hearing before the Master.

The status, roles, responsibilities and powers of enforcement agents.

The Enforcement of Judgments Office is headed by a senior officer with the status and rank of a Master (a type of judicial officer) and the staff includes the Chief Enforcement Officer (and Deputy), Nominated Officers and Enforcement Officers each allocated to a district of Northern Ireland.

The powers conferred on the Enforcement of Judgments Office to enable it to exercise its jurisdiction are set out in the 1981 Order. Of particular importance is the power to make the wide range of enforcement orders listed above. The Enforcement of Judgments Office has ancillary powers to aid the enforcement process. These include the issue of custody warrants and processes for the attendance and examination of witnesses, the examination of debtors as to their means, including the examination of 3rd parties (who may have information about the means and assets of a debtor) and the receipt of moneys recovered in enforcement of judgments.

The Enforcement of Judgments Office also has the power to dismiss an application for enforcement. The grounds on which this may be done are not specified in the 1981 Order but will generally be when the applicant is not entitled to enforce the judgment. Where a judgment cannot be enforced within a reasonable time (by the issue of any order of enforcement) the Enforcement of Judgments Office may grant a notice and a certificate of unenforceability. The Enforcement of Judgments Office also has a broad power to stay the enforcement of any judgment either absolutely or subject to conditions.

Use of lawyers or other legal professionals

At a hearing before the Master any party or person affected by an order may appear in person or by counsel or solicitor.

Scale of costs for enforcement

The enforcement of judgments system in Northern Ireland is funded by fees paid by users. The fees payable are contained in Part 1 of the Schedule to the Judgments Enforcement Fees Order (Northern Ireland) 1996(as amended) (SR 1996/101) and depend on the amount recoverable under the judgment and the current fees can also be found on the Northern Ireland Courts and Tribunals Service website.

3.2 The main conditions

The jurisdiction of the Enforcement of Judgments Office is laid down in the 1981 Order and includes the following judgments:

Money judgments including judgments of any court tier in Northern Ireland, judgments made outside Northern Ireland and registered in Northern Ireland and some judgments made under European Law for debt or damages along with some tribunal and arbitration awards

Judgments under which a person is entitled to possession of any land, mainly orders for possession in favour of mortgagees, although it is also made for private and public sector landlords

Judgments under which a person is entitled to the delivery of goods

Judgments requiring a person to pay money into court or do any act within a limited time and judgments against a company

There are some restrictions on the Enforcement of Judgments Office's power to enforce a judgment including the following:

Where the judgment can only be enforced with the leave of the court that granted it, the court's leave must first be obtained

Where enforcement has been stayed or postponed an application to enforce cannot be accepted until the stay or postponement is lifted

Where six years or more have expired since the judgment became enforceable it cannot be enforced. An application may be made to the Master seeking leave to enforce after this time.

A judgment against a person in a name or style other than his own requires the leave of the court before it can be enforced.

The decision as to which enforcement order is made is for the Enforcement of Judgments Office and no applicant can require the use of any particular method.

4 Object and nature of enforcement measures

4.1 What types of assets can be subject to enforcement?

Enforcement action may be taken in respect of salaries or wages by use of the attachment of earnings procedure. The sum deducted is calculated taking into account the "normal deduction rate" and "the protected earnings rate". The former is the rate at which the Enforcement of Judgments Office thinks it is reasonable for the debtor's earnings to be applied to meet his liability under the judgment. The latter is the rate below which the Enforcement of Judgments Office considers the debtor's earnings should not be reduced having regard to his resources and needs.

There are four categories of property that can be the subject of a seizure order:

goods in which the debtor has a saleable interest;

money, bills of exchange, bonds and promissory notes and any other securities for money belonging to the debtor;

any life policy in which the debtor has a sole beneficial interest; and

goods of the debtor's spouse where the judgment debt relates to goods obtained or services rendered or the rent of or rates due in respect of the occupation of premises for the general use or enjoyment of the debtor and his family.

Property that is exempt from seizure includes clothes, furniture, bedding and other essential domestic goods; tools and implements of the debtor's trade to the value of £200; property held by the debtor in trust for another; and property in the hands of a receiver appointed by the court.

An order charging land may be made over any land or estate in land of the debtor and "estate in land" includes any legal or equitable estate or interest, easement, right, title, claim, demand, charge, lien or encumbrance in, over, to or in respect of the land. Charging orders and other similar orders may be made over other types of property in addition to land. Specifically these are over funds or stock in government bodies, public undertakings or companies; debentures; funds in court; and shares in private companies.

In addition to attaching to money owed to a judgment debtor by a client or customer for work or services rendered, an attachment of debts order may be made in respect of any money the judgment debtor has in a bank or building society.

4.2 What are the effects of enforcement measures?

Any order of enforcement made by the Enforcement of Judgments Office has the like force and effect as an order of the High Court. There are various ancillary enforcement powers that can be used in the event of non-compliance with an enforcement order including:

Committal to prison for up to six weeks for wilful failure to pay instalments due under an instalment order or other sum of money specified in Article 107 of the 1981 Order.

Sequestration orders that empower any person appointed as sequestrator to enter any lands which are the property of the person against whom the judgment was given; to receive, sequestrate and take the rents and profits of that land; and to take any other personal property of that party and keep it under sequestration until the order is complied with.

Contempts of the Enforcement of Judgments Office may be referred to the High Court which may deal with the offence as if it had been committed in that court.

4.3 What is the validity of such measures?

The satisfaction of a money judgment occurs when the amount stated on the judgment is paid or satisfied. When this occurs every enforcement order made in respect of the judgment is discharged. Where an order for possession of land or for the delivery of goods has been successfully executed no further proceedings may be taken except for the recovery of the costs and expenses of enforcement.
A creditor or a judgment debtor may apply to the Enforcement of Judgments Office for an enforcement order to be set aside, discharged or varied and a hearing may take place.

5 Is there a possibility of appeal against the decision granting such a measure?

Internal appeals are from the Chief Enforcement Officer to the Master.
External appeals lie from the Enforcement of Judgments Office to the High Court on issues of fact and law in the circumstances specified in Article 140 of the 1981 Order and otherwise to the Court of Appeal on a point of law. An attachment of earnings order is the only type of money judgment enforcement order listed in Article 140 and there is no general right of appeal against the refusal to make any particular enforcement order.

6 Are there any limitations on enforcement, in particular related to debtor protection or time limits?

A number of limitations on enforcement are set out within Article 17 of the Judgments Enforcement (Northern Ireland) Order 1981 and also Rule 5 of the Judgments Enforcement Rules (Northern Ireland) 1981. Limitations exist and relate to a number of different scenarios where enforcement of a judgment is sought. The Limitations exist in order to protect the debtor from a number of different situations, such as [but not limited to]:

a) Where leave of a court must be sought prior to the commencement of enforcement;
b) Where the court has stayed or postponed enforcement of the judgment that would prevent enforcement of a judgment being made to the EJO;
c) Where an application to enforce a judgment is made more than 6 years from which the date the judgment became enforceable. In this instance the creditor will seek leave from the office to enforce their judgment prior to making an application - this will be determined by the Master of the Enforcement of Judgments Office;
d) An application for enforcement will not be accepted where more than 12 years has passed from which the date the judgment became enforceable;
e) Where more than one application is made to enforce the same judgment. If more than one application has made, the creditor will seek leave from the Chief Enforcement Officer, prior to making a further application for enforcement of the same judgment;
f) Where a creditor has assigned a debt to a third party after judgment has been given;
g) Where the court has inserted a condition on the judgment that has not been fulfilled that would prevent enforcement of a judgment being made to the EJO;
h) Acceptance of an application of enforcement where a order staying enforcement is pending under Rule 103. Leave of the Master must be made prior to any application for enforcement being made;
i) Acceptance of an application of enforcement where an order staying enforcement on the grounds of insolvency has been made under Article 14(1);

If the EJO has certified that a judgment is unenforceable (Article 19 - 21 of the Judgments Enforcement (Northern Ireland) Order 1981) the certificate can be set aside (upon application from the creditor). This is however limited to 12 years from the date in which the certificate of unenforceability was issued).
Article 16 of the Limitations (Northern Ireland) Order 1989 sets out limitations on the enforcement of judgments (and interest) will not commence after 6 years from which the judgment became enforceable. The Master of the Enforcement of Judgments Office will take this into consideration when dealing with an application to enforce a judgment which is more than 6 years old (see Paragraph (d) above).

Related links

Northern Ireland Courts and Tribunals Service

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