STATUTORY RULES OF NORTHERN IRELAND

2018 No. 102

JUSTICE

PROCEDURE

The Enforcement of Fines and Other Penalties Regulations (Northern Ireland) 2018

Made - - - -	*23rd April 2018*
Coming into operation	*1st June 2018*

The Department of Justice makes the following Regulations in exercise of the powers conferred by sections 6(12), 15(2), 18(4) and (6), 19(2) and (3), 20(5) and (6), 21(3), 22(4) and (7), 23(1), (7) and (8) and 60 of, and paragraphs 4, 7(5) and (6) and 10 of Schedule 1 to the Justice Act (Northern Ireland) 2016(**1**).

PART 1

INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the Enforcement of Fines and Other Penalties Regulations (Northern Ireland) 2018 and shall come into operation on the 1st June 2018.

Interpretation

2. In these Regulations—

"the Act" means the Justice Act (Northern Ireland) 2016;

"the Department" means the Department of Justice;

"proper officer" means—

(a) if the responsible court is the Crown Court, the chief clerk; or

(b) if the responsible court is a magistrates' court, the clerk of petty sessions.

(**1**) 2016 c.21 (N.I.)

PART 2

APPLICATIONS FOR DEDUCTION FROM BENEFITS

Content of application for deduction from benefits

3. An application for deduction from benefits made under section 6(3)(a) or in accordance with an order made under section 4(1)(a) or 9(1)(c) of the Act shall specify—

(a) the unique case reference number;

(b) the debtor's full name;

(c) the debtor's address;

(d) the debtor's national insurance number;

(e) the debtor's date of birth; and

(f) the amount to which the application relates.

Notification of payment

4. Where the amount to which the application relates has been paid in full, the court shall notify the Department for Communities(**2**) and the debtor accordingly, in writing, as soon as is practicable.

PART 3

ATTACHMENT OF EARNINGS ORDERS

Interpretation of this Part

5. In this Part—

"appropriate authority" means the responsible court or the collection officer as the case may be;

"earnings" has the meaning given in regulation 6;

"net earnings" means the residue of earnings after deduction of—

(a) income tax;

(b) primary Class 1 contributions under Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(**3**);

(c) amounts deductible by way of contributions to a superannuation scheme which provides for the payment of annuities or lump sums—

(i) to the debtor on retirement at a specified age or on becoming incapacitated at some earlier age; or

(ii) on the debtor's death or otherwise, to the debtor's personal representative, widow, widower, surviving civil partner, relatives or dependants;

"pay-day" means an occasion on which earnings are paid to the debtor or the day on which such earnings would normally fall to be paid;

"protected earnings proportion" is 60 per cent of the debtor's net earnings during the period to which a deduction from the debtor's earnings under the Act relates, as calculated by the employer on the applicable pay-day.

(**2**) 2016 c.5 (N.I.), section 1(7); the Department for Communities was formerly known as the Department for Social Development
(**3**) 1992 c.7

Meaning of "earnings"

6.—(1) In sections 6(12) and 18 of the Act and in this Part, subject to paragraph (2), "earnings" are any sums payable to a person by way of—

(a) 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) pension (including any 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); or

(c) statutory sick pay.

(2) None of the following shall 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 other than pay or allowances payable by an employer to that person as a special member of a reserve force (within the meaning of the Reserve Forces Act 1996(**4**));

(c) pensions, allowances or benefits payable under any statutory provision relating to social security;

(d) pensions or allowances payable in respect of disablement or disability;

(e) guaranteed minimum pension within the meaning of the Pension Schemes (Northern Ireland) Act 1993(**5**);

(f) working tax credit payable under section 10 of the Tax Credits Act 2002(**6**);

(g) sums paid to reimburse expenses wholly and necessarily incurred in the course of the employment.

Statement of earnings

7.—(1) A direction given under section 19(2) of the Act shall require the debtor to provide, in addition to the information required under section 19(2)(a), the following information—

(a) the debtor's national insurance number;

(b) the debtor's payroll number, if any;

(c) details of the debtor's current and expected net earnings;

(d) details of any other income received by the debtor;

(e) details of any savings held by the debtor;

(f) details of the debtor's housing costs, if any, including, in particular, payments made in respect of rent or mortgage, rates, electricity and heating;

(g) details of the debtor's expenditure on groceries;

(h) details of any loan repayments made by the debtor;

(i) the number of the debtor's dependants, and details of any special financial needs they may have;

(j) details of any childcare costs incurred by the debtor; and

(k) details of any existing attachment of earnings order, direct earnings attachment or deduction from benefits in respect of the debtor.

(**4**) 1996 c.14
(**5**) 1993 c.49
(**6**) 2002 c.21

(2) A direction given under section 19(3) of the Act shall require the employer to provide details of—

(a) the debtor's current and expected net earnings; and

(b) any existing attachment of earnings order or direct earnings attachment being paid by the employer in respect of the debtor.

(3) For the purposes of section 19(2) and 19(3) of the Act, the specified period is 14 days from the date of the direction.

Content of attachment of earnings order

8. An attachment of earnings order shall be in Form 1 as set out in Schedule 1 and shall specify—

(a) the unique case reference number;

(b) the debtor's full name;

(c) the debtor's address;

(d) the debtor's national insurance number;

(e) the name and address of the employer to whom the order is directed;

(f) if known, the debtor's payroll number;

(g) the full amount to be recovered from the debtor's earnings;

(h) the rate at which amounts are to be deducted from the debtor's earnings, in accordance with regulation 9;

(i) the protected earnings proportion; and

(j) how to make payments.

Rate of deductions

9. The rate at which amounts are to be deducted from the debtor's earnings under an attachment of earnings order, or any variation of it, is—

(a) where the earnings are payable weekly, the percentage of the debtor's earnings specified in column 2 of Table A in Schedule 2 opposite the band in column 1 of that Table within which the net earnings payable on the pay-day fall;

(b) where the earnings are payable monthly, the percentage of the debtor's earnings specified in column 2 of Table B in Schedule 2 opposite the band in column 1 of that Table within which the net earnings payable on the pay-day fall; or

(c) a higher weekly or monthly rate than that which would be payable under paragraph (a) or (b), as agreed between the appropriate authority and the debtor.

Service of attachment of earnings order

10. The collection officer shall serve an attachment of earnings order on the employer and a copy on the debtor as soon as is practicable.

Applications to determine whether payments are earnings

11.—(1) An application under paragraph 3 of Schedule 1 to the Act to determine whether payments are earnings shall be made in writing and a copy shall be served by the applicant on the employer or the debtor as the case may be.

(2) The responsible court may—

(a) determine the application without a hearing; or

(b) direct a hearing at which the employer and the debtor may be present and be heard.

(3) Where the responsible court directs a hearing under paragraph (2), the proper officer shall notify the employer and the debtor of the time, date and place of the hearing.

(4) The proper officer shall, as soon as is practicable, notify the employer and the debtor of the court's decision.

Compliance with attachment of earnings order

12.—(1) Subject to the following provisions of this regulation, where the employer has received an attachment of earnings order from the appropriate authority, the employer shall, each pay-day, make a deduction in accordance with the order from the net earnings which the employer would otherwise pay to the debtor on that pay-day.

(2) Where any amount calculated under the order results in a fraction of a penny, that fraction is to be disregarded.

(3) Subject to paragraphs (4) to (6), where on any pay-day the employer fails to deduct an amount in accordance with the order or deducts an amount less than the amount there specified, the employer shall—

(a) contact the collection officer to give reasons; and

(b) on the next pay-day, first deduct the amount required to be deducted under the order for that pay-day, and then the amount which should have been deducted on the previous pay-day or the difference between that amount and the amount which was deducted.

(4) If deductions under paragraph (3)(b) would result in the employer paying the debtor an amount below the protected earnings proportion, then the employer shall deduct only such amount as will result in the debtor being paid an amount equal to the protected earnings proportion.

(5) Where paragraph (4) applies, the employer shall make further deductions which may not result in the debtor being paid an amount below the protected earnings proportion on the next following pay-days until the full amount which should have been deducted on the relevant pay-day has been deducted.

(6) Paragraph (3)(b) shall not apply on any pay-day where the amount paid to the debtor is below the protected earnings proportion by virtue of an agreement under regulation 9(c).

(7) Where, on any pay-day, the employer deducts more than the amount required to be deducted under the order, the employer shall, on the next pay-day—

(a) deduct only the amount required to be deducted under the order for that pay-day less the difference between the amount which was previously deducted and the amount which should have been deducted; and

(b) advise the collection officer accordingly.

(8) The employer shall continue to make deductions in accordance with the order, or any variation of it, until—

(a) the employer is notified by the appropriate authority that the order has been discharged; or

(b) as a result of deductions made under the order, the balance of the full amount to be recovered from the debtor's earnings is nil.

(9) Amounts deducted by an employer shall be paid in accordance with the order by the 19th day of the month following the month in which the deduction is made.

(10) Such payment may be made by—

(a) direct credit transfer;