STATUTORY RULES AND ORDERS OF A GENERAL CHARACTER ISSUED IN 1971

1971. No. 1 **[C]**

ENFORCEMENT OF JUDGMENTS

REGULATIONS, DATED 4TH JANUARY 1971, MADE BY THE MINISTRY OF HOME AFFAIRS UNDER SECTIONS 40, 97, 108 AND 118 OF THE JUDGMENTS (ENFORCEMENT) ACT (NORTHERN IRELAND) 1969.

The Ministry of Home Affairs, with the concurrence of the Ministry of Finance, in exercise of the powers conferred on it by sections 40, 97, 108 and 118 of the Judgments (Enforcement) Act (Northern Ireland) 1969(a) and all other powers thereunto enabling hereby makes the following Regulations:—

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Judgment Enforcement (General) Regulations (Northern Ireland) 1971 and shall come into force on 15th February 1971.

Interpretation

2.—(1) In these Regulations—

"the Act" means the Judgments (Enforcement) Act (Northern Ireland) 1969;

"the applicant" means a person entitled to enforce a judgment and includes a creditor;

"designated officer" has the meaning ascribed to it by section 5(1) of the Act;

"Judgment Enforcement Rules" means the Judgment Enforcement Rules 1971(b);

"the Master" does not include a designated officer other than the person appointed to be the master's deputy under section 5(2) of the Act;

"the Ministry" means the Ministry of Home Affairs;

"the Office" means the Enforcement of Judgments Office;

"the registration officer" means the officer appointed from time to time to keep the register of judgments under section 97 of the Act;

"the respondent" means a person against whom a judgment is enforceable under the Act and includes a debtor.

(2) Reference in these Regulations to a Form by number is to the Form as numbered in the Schedule.

Times of opening of Office

3. The Office shall be open to the public between the hours of 10 a.m. to 4.30 p.m. on all days of the year except—

(a) 1969. c. 30 (N.I.). (b) S.R. & O. (N.I.) 1971, No. 5.

(*a*) Saturdays and Sundays;

(*b*) St. Patrick's Day, Good Friday, the Monday and Tuesday of Easter Week, the 12th and 13th days of July, Christmas Day, Boxing Day and the day next following Boxing Day;

(*c*) days appointed for public thanksgiving or mourning or as public or bank holidays under the Bank Holidays Act 1871, the Holidays Extension Act 1875 or any Act for the time being in force relating to such days.

Deputy Chief Enforcement Officer

4. In the event of sickness or absence of the Chief Enforcement Officer, the Ministry may, after consultation with the Master, authorise another member of the Office to perform the functions of that officer to the extent specifically authorised and references in these Regulations to the Chief Enforcement Officer shall be construed accordingly.

Practice directions, returns, etc.

5. The Master may—

(*a*) from time to time issue practice directions—

(i) as to matters concerning the practice to be adopted by parties and others upon applications to the Office;

(ii) for any other purpose relating to the co-ordination of the duties of the designated officers with the functions of the Office;

(*b*) require the Chief Enforcement Officer to make returns and reports for the purpose of enabling the Master to exercise the functions of the Office for which the Master is responsible.

Appointment and discharge of valuers and auctioneers

6.—(1) The Chief Enforcement Officer shall, after consultation with the Master and with the approval of the Ministry, appoint a panel or panels of qualified valuers and auctioneers for the purpose of the valuation and sale of property seized under the Act.

(2) Such valuers and auctioneers may be—

(*a*) discharged from the panel at their own request or upon the direction of the Ministry;

(*b*) required to give security to such amount and in such manner whether by deposit or guarantee, as may be fixed by the Ministry of Finance for the purpose of securing the due performance of their duties under the Act and these Regulations.

Accounts

7.—(1) The Chief Enforcement Officer shall keep such accounts as the Ministry, with the approval of the Ministry of Finance, may direct, including accounts for the purpose of showing the amounts—

(*a*) received by or on behalf of the Office as enforcement fees;

(*b*) received by way of proceeds of enforcement (including money paid to avoid enforcement);

(*c*) paid out to applicants.

(2) A separate account shall be kept under its allotted serial number of every application in which money becomes due from or is paid into or recovered by the Office for the credit of the applicant or the respondent.

(3) Upon—

(*a*) receipt of the amount recoverable on foot of the judgment; or

(*b*) the withdrawal of an application for enforcement; or

(*c*) the grant of a certificate of unenforceability; or

(*d*) receipt of notice of a bankruptcy petition filed by or against the respondent or of the respondent's adjudication in bankruptcy; or

(*e*) receipt of notice of the filing of a petition of arrangement by the respondent; or

(*f*) receipt of notice of presentation of a petition for the winding up of a debtor company or the calling of a meeting at which a resolution for the voluntary winding up of such a company is to be proposed; or

(*g*) the failure of a creditor to comply with a notice given under Rule 69(3) of the Judgment Enforcement Rules,

the Chief Enforcement Officer shall render to the applicant an account of amounts so far paid into or recovered by the Office (if any).

(4) At the end of each financial year any amount then outstanding in any account kept in respect of an application for enforcement shall be carried forward as a separate entry in that account for the next financial year.

Lodgment, etc., of money received by the Office

8.—(1) Money paid to the Office under Rule 85(2) of the Judgment Enforcement Rules and which would otherwise be payable to someone outside the Scheduled Territories within the meaning of those Rules shall be paid into the High Court or, where the judgment in connection with which the application for enforcement was made was that of a county court or a magistrates' court, into the appropriate county court.

(2) The Chief Enforcement Officer shall notify the creditor of that payment.

(3) Any other moneys paid into or recovered by the Office shall for safe custody be lodged at a bank in accordance with such directions as may be given by the Ministry.

(4) Any person other than the Chief Enforcement Officer or an enforcement officer who lodges money to the credit of the Office shall first obtain from him an authority for such lodgment in Form 1 and return the counterfoil duly receipted by the bank to the Chief Enforcement Officer.

PART II

SUPPLEMENTAL PROVISIONS AS TO PROCEDURE ON APPLICATIONS FOR ENFORCEMENT

Service of custody warrant

9.—(1) An enforcement officer shall serve a custody warrant in accordance with paragraph (2).

(2) A custody warrant may be served by serving a copy thereof in the following manner:—

(*a*) by delivering it to the debtor personally; or

(*b*) by leaving it at the debtor's residence or place of business with the wife or husband of the debtor, or with some relative of the debtor or of the husband or wife of the debtor or with an employee of the debtor, the relative or employee being apparently over the age of sixteen years;

(*c*) on a debtor corporation—

(i) which is a company within the meaning of section 399(1) of the Companies Act (Northern Ireland) 1960, by leaving it at the registered office of the company;

(ii) which is a company to which Part X of the said Act of 1960 applies, by leaving it at the address delivered to the registrar of companies under the provisions of that Part as that of a person authorised to accept service of a process;

(iii) otherwise to be served, by leaving it at any place of business established by it in Northern Ireland;

(*d*) on an unincorporated body, by serving it on a member or by leaving it with any person apparently having control or management of any place of business or the office of the body;

(*e*) where service cannot be effected in accordance with sub-paragraphs (*a*) to (*d*) in such other manner as a designated officer shall direct.

(3) Each enforcement officer shall endorse on the original warrant particulars of the date on which and the manner in which he served the warrant and, where appropriate, the name or a brief description of the person to whom the warrant was delivered.

Duties of enforcement officer on service of warrant

10—(1) A custody warrant shall be in Form 2.

(2) An enforcement officer shall upon service of the warrant or as soon as practicable thereafter:—

(*a*) take a brief inventory of the goods other than those exempted by or from the warrant;

(*b*) require the debtor to give him detailed information as to his means or, where the debtor is a company, any director, officer or servant of the company detailed information as to its assets and liabilities.

(3) For the purpose of recording such information in writing the enforcement officer shall forthwith interview or, where necessary for that purpose seek to make an appointment to interview the debtor or other person referred to in paragraph (2)(*b*).

(4) The information given by the respondent or person interviewed shall be recorded in such Form as may from time to time be approved by the Ministry and the Master.

(5) The enforcement officer shall certify the Form as a correct record of the answers given by the debtor or any person interviewed as to the assets or liabilities of a debtor company and Rule 24 of the Judgment Enforcement Rules (which provides that where a debtor informs such an officer that he is willing to pay the amount recoverable on foot of the judgment by instalments, the officer must endorse the terms of the offer on his report and obtain the debtor's signature thereto) shall be drawn to his attention.

(6) A debtor or creditor may upon application to the Office and payment of the fee prescribed by the Judgment Enforcement (Fees) Regulation (Northern Ireland) 1970(c) bespeak a copy of the report made in accordance with this Regulation.

(7) The written authorisation of a designated officer under section 44 of the Act shall be in Form 3.

(c) S.R. & O. (N.I.) 1970, No. 349.

(8) The provisions of this Regulation shall have effect subject to any practice direction of the Master under Regulation 5.

Valuation of goods deemed to be in custody under custody warrant

11. Where the Chief Enforcement Officer considers it expedient to do so he may, before any order of seizure is made by a designated officer, upon consideration of the report of an enforcement officer and the inventory of the respondent's goods or any of them (including any which are the subject of a notice under Rule 28 of the Judgment Enforcement Rules or a claim under section 43 of the Act) cause the respondent's goods or any of them and, where section 33(*d*) applies those of the debtor's spouse, to be valued.

Copy of order of seizure and notice of sale to be served on respondent at time of seizure

12.—(1) A copy of the order of seizure or written authorisation under section 44 and a notice in Form 4 or Form 5, as the case may be, warning him that the goods seized may be sold shall be served upon the debtor by an enforcement officer executing an order or authorisation.

(2) Notice of the order of seizure referred to in section 36(*a*)(ii) of the Act (notice to person on land on which respondent's goods situated) shall be in Form 6.

(3) The written authorisation by the Chief Enforcement Officer or a senior enforcement officer referred to in section 38 of the Act (authority to use force for entry during continuance of order of seizure on premises occupied by respondent or spouse or dependants for certain purposes) shall be in Form 7.

(4) Service of the documents referred to in paragraph (1) may be effected in the same manner as a custody warrant may be served under Regulation 9.

Removal and storage of property seized under an order of seizure or an authorisation

13. Property seized under an order of seizure or an authorisation by a designated officer given under section 44 of the Act shall be removed for sale or, if necessary, to a place of safety as soon as possible after execution of the order or of the authorisation or, where notice of an order of seizure is required to be given under section 36 of the Act, after five days have expired from the day on which notice is served.

Sale of goods seized

14.—(1) Perishable goods seized may be sold forthwith.

(2) Goods seized shall, subject to Regulation 11, be valued as soon as practicable after the execution of the order of seizure or of the authorisation under section 44 of the Act and in any event not later than five days after seizure or, in exceptional circumstances, within such longer period as may be determined by the Chief Enforcement Officer.

(3) Such valuation shall be in writing and sent to the Chief Enforcement Officer under confidential cover.

(4) Subject to this Regulation, such goods shall be sold, not less than seven days after the prospective sale has been publicly advertised, by public auction to the highest bidder and at not less than the amount at which they have been valued.