

Guidance for the Collection and Enforcement of Fines and Other Penalties under the Justice Act (Northern Ireland) 2016

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Guidance on Collection and Enforcement of Fines and Other Penalties under the Justice Act (Northern Ireland) 2016

Introduction

1.1 This guidance is produced in accordance with section 26 of the Justice Act (NI) 2016. This guidance will explain the collection order and its operation, the role of the collection officer, what penalties are included, the collection and enforcement orders, court powers, offences and appeals.

1.2 The Act is supported by the Enforcement of Fines and Other Penalties Regulations (NI) 2018 and the Social Security (Fines) (Deduction from Benefits) Regulations (NI) 2018, made in exercise of the powers conferred by sections 6(12), 15, 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 (NI) 2016, and amendments to the Magistrates' Courts Rules (NI) 1984.

1.3 It is a statutory requirement under the Act for the Department of Justice to issue guidance about the operation of Chapter 1 of the Act and the Department may from time to time revise this guidance as necessary.

Justice Act (NI) 2016, section 26(1)-(2)

1.4 It is also a statutory requirement that a collection officer must have regard to this guidance when carrying out his duties.

Justice Act (NI) 2016, section 26(3)

Fines and Penalties included in the Justice Act (NI) 2016

2.1 Enforcement of fines and other penalties is dealt with under Part 1 of the Act and applies to fines or “other sums adjudged to be paid” on conviction where they have either been imposed in Northern Ireland or a court in Northern Ireland has responsibility for enforcing them.

Justice Act (NI) 2016, section 1(1)

2.2 The provisions apply to fines, compensation orders, the offender levy, costs imposed by court, fixed penalties and penalty notices and any other sums that are subsequently registered or treated as court fines for the purpose of enforcement. The provisions apply to any such sums due when imposed by courts in Northern Ireland, or where a court in Northern Ireland is responsible for their enforcement, for example, sums due as a result of their being transferred to Northern Ireland from Great Britain or by an EU Member State.

2.3 The court may not make a collection order in so far as the sum due consists of an amount payable under a confiscation order under Part 4 of the Proceeds of Crime Act 2002.

Justice Act (NI) 2016, section 3(2))

Definitions of terms used within the Justice Act (NI) 2016 and this guidance document

2.4 “the Act” means the Justice Act (NI) 2016

“the Regulations” mean the Enforcement of Fines and Other Penalties Regulations (NI) 2018

2.5 “the sum due” means the sum adjudged to be paid.

“the debtor” means the person liable to pay the sum due.

“the outstanding amount” means the amount of the sum due which remains to be paid (after any part payments made by the debtor).

Justice Act (NI) 2016, section 1(2)

2.6 A debtor may be an individual or a company.

2.7 All references to “him” or “he” shall also be taken to include “her” and “she” unless expressly stated otherwise.

2.8 Any reference within this guidance to a fine should also be construed to include the financial penalties outlined at paragraph 2.2, unless expressly stated otherwise.

2.9 “Proper officer” means, if the responsible court is the Crown Court the chief clerk or if the responsible court is a magistrates’ court the clerk of petty sessions.

Justice Act (NI) 2016, section 3(8), 8(5) and 22(6)

The Enforcement of Fines and Other Penalties Regulations (NI) 2018 Regulation 2

2.10 A “referral hearing” means a hearing under Section 9 of the Act following a referral under section 6(1) or 8(2) of the Act.

Collection Orders

Introduction

3.1 Collection orders have been created to allow for the payment of fines through various collection and enforcement options, administered by a collection officer. This section explains when this order may be made and by whom, and what it must include.

Definitions and Requirements

3.2 A collection order directs how the sum due may be paid. It sets out the terms of how the payment is to be collected as well as the time period according to the option chosen and enables collection officers to undertake certain collection and enforcement action if default occurs.

3.3 A collection order must be made by the court, at the point of sentence or registration unless the court deems it inappropriate or impracticable to do so, and may be made at a referral hearing.

Justice Act (NI) 2016, section 3(1) and 9(2)
Road Traffic Offenders (NI) Order 1996, Article 76(3A)
Criminal Justice and Immigration Act 2008, section 88(3)(b)
Justice Act (NI) 2011, section 67(3A)
Justice Act (NI) 2015, section 24(3A)

3.4 A collection order may be made in respect of those penalties as outlined at paragraphs 2.1 and 2.2 of this guidance, but not in respect of confiscation orders.

Justice Act (NI) 2016, section 3(2)

3.5 In cases that were initiated before the commencement of the Act, a collection order may be made against a debtor who has defaulted on a fine but the court has yet to deal with the debtor for his default. The proper officer may refer these cases to the court responsible for enforcing the payment of the sum due to consider making a collection order.

Justice Act (NI) 2016, section 3(7)(a)

3.6 If a court has already dealt with the default, then no collection order may be made.

Justice Act (NI) 2016, section 3(7)(b)

Form and Contents

3.7 The form of a collection order is prescribed at Form 60 of the Magistrates' Courts Rules (NI) 1984 as amended by the Magistrates' Courts (Amendment No.2) Rules (NI) 2018.

3.8 A collection order must include the following information:

- The amount of the sum due,
- Each separate amount which may make up the total sum due,
- If any portion has been paid by the debtor, the amount of that portion and the outstanding amount to be collected,
- Information about how payment may be made under the terms of the order,
- Information about contacting the collection officer responsible for enforcing the order,
- Information to the debtor which explains the effect of the order and any consequences for non-compliance,
- If the court orders an application for deductions from benefits or makes an attachment of earnings order, the terms of those orders.

Justice Act (NI) 2016, section 3(4)

3.9 Where the court makes a collection order it must be served upon the debtor and a copy must be sent to the collection officer assigned to the case.

Justice Act (NI) 2016, section 3(5)

3.10 If the debtor appeals against either his conviction or sentence in a case where a collection order has been imposed, then the collection order is suspended from operation until the appeal is determined or withdrawn.

Justice Act (NI) 2016, section 3(6)

Cases Where No Collection Order Has Been Made

3.11 There will be cases where no collection order has been imposed at the point of sentencing, and the debtor subsequently defaults on payment. In these cases, the proper officer may refer the case to the responsible court for it to consider whether a collection order should be made.

Justice Act (NI) 2016, section 8(1) and (2)

3.12 The proper officer may at any time apply on complaint to a magistrates' court for a summons compelling the debtor to attend at the responsible court.

Justice Act (NI) 2016, section 8(3)

Collection Officers

Introduction

4.1 Collection officers administrate the collection orders and enforce the payment orders contained therein. The collection officer can provide advice to and can seek information from the debtor in order to assess which enforcement method will be most effective in each individual case. This section explains the powers of a collection officer, how they are designated, the sequencing of enforcement options that the officer must follow, and referrals the officer may make at each point.

Definitions and Requirements

4.2 A collection officer is a civil servant designated by the Department of Justice.

Justice Act (NI) 2016, section 2(1)

4.3 A collection officer's functions are as follows:

- Provide debtors with advice and information about payment
- Secure compliance with the collection order
- Such further function as may be specified by regulations

Justice Act (NI) 2016, section 2(2) and (3)

Collection Officer Powers on Default

4.4 The collection officer's powers under the collection order come into effect when the debtor fails to pay the sum due within the time appointed by the court at the point of its making. The court has power to make enforcement orders under the collection order at the time of sentencing and when the collection officer refers the matter back to court. Section 5 of this guide gives more details of court powers under the collection order.

Information-Requiring Powers

4.5 Where the debtor is an individual, the collection officer must take reasonable steps to contact the debtor in order to verify or obtain the following pertinent information-

- Debtor's full name, address, date of birth and National Insurance number;
- Earnings or income the debtor receives or expects to receive;
- Employer details;
- Details of any welfare benefits¹ the debtor is in receipt of;
- Details of any bank accounts held in the debtor's sole name; and
- Details of any vehicle registered to the debtor.

Justice Act (NI) 2016, section 5(2) and 5(7)

4.6 Where the debtor is a company, the collection officer will endeavour to contact an officer of that company to verify or obtain the following information-

- The company's name and registered address;
- Details of any bank account the company holds; and
- Details of any vehicle registered to that company.

Justice Act (NI) 2016, section 5(3)

4.7 If a debtor refuses to provide information or discloses false information then he is guilty of an offence. See section 7 of this guide for further information on offences.

Justice Act (NI) 2016, section 5(5) and (6)

Summons Powers

4.8 If the collection officer cannot secure compliance with his information requests, he may apply to a magistrates' court for a summons to require the debtor to attend on the collection officer at a time and place specified in the summons.

Justice Act (NI) 2016, section 5(4)

Referral Power

4.9 The collection officer may at any point he sees fit refer the matter back to the responsible court.

Justice Act (NI) 2016, section 6(1)

¹ This is a benefit to which section 5 of the Social Security Administration (Northern Ireland) Act 1992 applies.

Variation Powers

4.10 The collection officer may vary the terms of the collection order upon the oral or written request of the debtor. The collection officer may vary the order by allowing an extension of time to pay the sum due or payments by instalments or he may vary the instalment amounts or periods if instalments were already in place.

Justice Act (NI) 2016, section 6(2)

Enforcement Orders and their Sequencing

4.11 The collection officer must first consider extension of time and payment by instalments (where applied for by the debtor) when dealing with the payment of the sum due.

Justice Act (NI) 2016, section 6(4)

4.12 The collection officer may then consider either an attachment of earnings order or an application for deductions from benefits. These may be considered whether the debtor has applied to the collection officer for such orders or not and whether the debtor consents or not.

Justice Act (NI) 2016, section 6(3)

4.13 If the debtor is in receipt of a relevant benefit, the collection officer may make an application to the Department for Communities for deductions from benefits. See section 6A of this guide for more details on the deduction from benefits requirements.

Justice Act (NI) 2016, section 6(3)(a)

4.14 Where the debtor is receiving or expecting to receive earnings from employment then the collection officer may make an attachment of earnings order. See section 6B of this guide for more details on the attachment of earnings order requirements.

Justice Act (NI) 2016, section 6(3)(b)

4.15 In a case where the debtor is both in receipt of a relevant benefit and is in employment, the collection officer may use his discretion to choose which option to apply for or impose.

Justice Act (NI) 2016, section 6(3)(c)

4.16 Where the above options have not secured payment of the outstanding amount then the collection officer may choose to make an interim bank account order and refer the debtor's case to the responsible court. See section 6C of this guide for more details on interim bank account order requirements.

Justice Act (NI) 2016, section 6(5)

4.17 Should an interim bank account order fail or be considered inappropriate, the collection officer may consider a vehicle seizure order. Only the responsible court may make a vehicle seizure order, and the collection officer may only request such an order if he is satisfied of the debtor's eligibility for that order. See section 6D of this guide for more details on the vehicle seizure order requirements.

Justice Act (NI) 2016, section 6(6) and (7)

4.18 Before taking action the collection officer must notify the debtor of the action he has decided to take; but, where the collection officer decides to make an interim bank account order, he should not notify the debtor of that decision until the order is made and the arrangements required for its implementation are in place.

Justice Act (NI) 2016, section 6(8)

4.19 Where the collection officer refers a debtor's case back to the responsible court he may not use any of his other enforcement powers whilst the responsible court is dealing with the matter.

Justice Act (NI) 2016, section 6(9)

Collection Officer Report

4.20 When a collection officer refers the debtor's case to the court he must provide a report detailing-

- All actions the collection officer has taken to date;
- Any contact with the debtor or steps taken to make contact;
- Information the collection officer has obtained or verified regarding the debtor;
and
- Any steps the debtor has taken to provide payment towards the sum due.

Justice Act (NI) 2016, section 7(1)

4.21 In the case of a referral for a vehicle seizure order, the report must also state that the collection officer is satisfied of the debtor's eligibility for the order and that the vehicle does not fall within the list of exemptions. See section 6D for more detail on these.

Justice Act (NI) 2016, section 7(2)

4.22 The collection officer's report is admissible in proceedings before a court as evidence of the fact stated in it; and a court may, for example, take the report into account in deciding whether to issue an arrest warrant where a debtor fails to attend a referral hearing.

Justice Act (NI) 2016, section 7(3)

Court Powers

Introduction

5.1 The court has a range of powers under the collection order at different points in the collection process. The court has powers to make an attachment order or apply for deductions upon the debtor's request at the time of sentencing, and the court has the full suite of enforcement orders at its disposal when a collection officer refers the matter back to the court. This section explains what powers the court has at different points in the process, the sequencing of these powers and when consent must be given to certain orders.

Court Powers at the Point of Sentencing

5.2 A collection order must be made by the court at the point of sentencing (or registration), unless the court deems it inappropriate or impracticable to do so.

Justice Act (NI) 2016, section 3(1)

Road Traffic Offenders (NI) Order 1996, Article 76(3A)

Criminal Justice and Immigration Act 2008, section 88(3)(b)

Justice Act (NI) 2011, section 67(3A)

Justice Act (NI) 2015, section 24(3A)

5.3 When the court makes a collection order, it may also make an attachment of earnings order or direct the collection officer to make an application for a deduction from benefits where appropriate to the debtor's circumstances.

Justice Act (NI) 2016, section 4(1) and 4(5)

5.4 The court may only make such a direction where the debtor consents to the making of such an order.

Justice Act (NI) 2016, section 4(2)(b)

5.5 Furthermore, the court may only consider these options if they are more appropriate than offering payment by way of instalments or setting a specified period to pay the sum due.

Justice Act (NI) 2016, section 4(2)(a)

5.6 Where the court directs an application for deductions or an attachment order at this stage, this must be noted on the collection order itself.

Justice Act (NI) 2016, section 4(3)

5.7 If the court does not order attachments or an application for deductions at this stage, the collection order must include a term which states the period in which the sum due is to be paid or a term stating how the payment should be made by way of instalments.

Justice Act (NI) 2016, section 4(4)

5.8 A debtor aged 18 or over may apply to the court for a supervised activity order to be made against him at the point of sentencing for the offence.

Justice Act (NI) 2016, section 29(1) – see new Article 45(1)(b) as inserted into the Criminal Justice (NI) Order 2008

Court Powers on referral of a debtor's case

5.9 Where a default case is referred back to court, the court has a full suite of powers under the Act to deal with the debtor and recoup the outstanding amount where a collection order has been made.

5.10 The following options are open to the court regardless of whether the collection officer has already tried them or not-

- (a) extension of time;
- (b) allow payment by instalment;
- (c) where applicable, require the collection officer to make an application for deduction from benefits or make an attachment of earnings order;
- (d) make a Bank Account Order (regardless of whether the collection officer has made an interim order);
- (e) make a Vehicle Seizure Order (regardless of whether Collection Officer has applied for it);
- (f) issue a warrant of distress;
- (g) if debtor is aged over 18 make a Supervised Activity Order;
- (h) if the debtor is aged 16 or 17 make an Attendance Centre Order;
- (i) issue a warrant of committal to prison;
- (j) remit the fine wholly or in part having regard to any change in the debtor's circumstances since the conviction concerned.

Justice Act (NI) 2016, section 9(1)

5.11 The court may not make a supervised activity order or an attendance centre order without having considered and dismissed each of the options at 5.10 (a) – (f).

Justice Act (NI) 2016, section 9(3)

5.12 The court may not issue a warrant of committal or remit the fine in whole or in part without having considered and dismissed either a supervised activity order or attendance centre order and accordingly, each of the options under 5.10 (a) – (f).

Justice Act (NI) 2016, section 9(4)

5.13 Where a supervised activity order or a warrant of committal to prison is chosen and imposed, the court must outline its reasons for doing so.

Justice Act (NI) 2016, section 9(5)

5.14 The court must also outline its reasons for any action taken in respect of a debtor aged under 18.

Justice Act (NI) 2016, section 9(5)

5.15 Where the court issues a warrant of committal, the length of the period of committal as pronounced by the court is to be reduced by the length of any period during which the debtor has, in the case to which the hearing under this section relates, been remanded or committed to custody under section 12 (but not subsection (7) of that section).

Justice Act (NI) 2016 section 9(9)

5.16 In a case where the sum due was not imposed on conviction by the court, but is to be treated as though it was, for example a fixed penalty notice registered for enforcement, the date of the conviction concerned shall be treated as the date of registration and for fines transferred to Northern Ireland it shall be the date of the imposition of the fine.

Justice Act (NI) 2016, section 9(10)

Where a Collection Order has not been made

5.17 When a collection order has not been made and the proper officer refers the case to the responsible court, that court will decide whether to make a collection order in the case or not. If the court decides to make a collection order then the options and sequence laid out at 5.10 is followed.

Justice Act (NI) 2016, section 9(2)(a)

5.18 If the court does not make a collection order it has the full suite of powers as at 5.10 with the exception that it may not order the collection officer to make an application for a deduction from benefits or make an attachment or earnings order.

Justice Act (NI) 2016, section 9(2)(b)

Court Summons Powers

5.19 Where a collection officer cannot secure compliance from the debtor with his information requests, he may apply to a magistrates' court for a summons to require the debtor to attend on the collection officer at a time and place specified in the summons.

Justice Act (NI) 2016, section 5(4)

5.20 A debtor may be required by summons to attend the responsible court for a referral hearing. Where a collection order has been made, the summons will be issued by a magistrates' court upon the complaint of a collection officer.

Justice Act (NI) 2016, section 6(10)

5.21 In a case where no collection order has been made, the proper officer may apply, on complaint, to a magistrates' court for a summons compelling the debtor to attend a referral hearing at the responsible court.

Justice Act (NI) 2016, section 8(3)

5.22 If the responsible court is the Crown Court, then the hearing is before that court. If the responsible court is a magistrates' court, then the hearing is before a court of summary jurisdiction.

Justice Act (NI) 2016, sections 6(10)(a) and (b), and 8(4)

Court power to issue arrest warrant where the debtor fails to attend hearing

5.23 Where a debtor fails to attend a referral hearing on foot of a summons, the court may issue a warrant for his arrest. This warrant can only be issued where the court:

- is not satisfied that the summons was served on the debtor or that the debtor is evading service, but is satisfied that a reasonable attempt has been made to serve the summons on the debtor;
- is satisfied that the debtor is aware of the liability to pay the sum due and of the possible consequences of defaulting on the payment;
- is considering issuing a warrant to commit the debtor to prison; and
- is satisfied that issuing a warrant for the debtor's arrest (instead of re-issuing the summons) is proportionate to the objective of securing the debtor's appearance before the court.

Justice Act (NI) 2016, section 10(1) and (2)

5.24 The arrest warrant must be endorsed for bail, and the debtor must be released upon entering into the recognizance.

Justice Act (NI) 2016, section 10(3)

5.25 A warrant under section 10 may be executed only by a constable.

Justice Act (NI) 2016, section 10(4)

5.26 A warrant under section 10 is not to be regarded for the purposes of Article 19(1)(a)(i) of the Police and Criminal Evidence (Northern Ireland) Order 1989 as a warrant issued in connection with or arising out of criminal proceedings. This means that no power of entry is attached to this warrant.

Justice Act (NI) 2016, section 10(5)

Arrest under warrant

5.27 If a debtor is arrested and, upon arrest enters into the recognizance specified in the endorsement to the warrant, it will not be necessary to take him to the police station. Where the debtor is taken to a police station he must be released on entering into the recognizance.

Justice Act (NI) 2016, section 11(2)

5.28 If the debtor enters into the recognizance, his case will be heard at the time and place specified in the recognizance. Police will enter court details onto the recognizance.

Justice Act (NI) 2016, section 11(3)

5.29 If the debtor does not enter into the recognizance, the debtor must as soon as is practicable be brought before either a magistrates' court or the Crown Court, whichever is next sitting; and, pending that, the debtor may be kept in custody at a police station.

Justice Act (NI) 2016, section 11(4)

5.30 If the debtor is brought before a magistrates' court but the Crown Court is responsible for the debtor's case, it must commit the debtor to the Crown Court. If a magistrates' court is the responsible court-

- the court must hear the debtor's case; and
- if it is not possible to do so at that sitting, the court must adjourn the hearing on the referral to such a time and place as it specifies and must remand the debtor.

Justice Act (NI) 2016, section 11(5) and (6)

5.31 If the debtor is brought before the Crown Court but it is not the responsible court, it must remit the debtor's case to a magistrates' court.

If the Crown Court is the responsible court-

- it must hear the debtor's case; and
- if it is not possible to do so at that sitting, the court must adjourn the hearing on the referral to such a time and place as it specifies and must remand the debtor.

Justice Act (NI) 2016, section 11(7) and (8)

5.32 Where a debtor has entered into a recognizance, payment of the outstanding amount may be made to the police or the court. On payment the warrant for arrest ceases to have effect.

Justice Act (NI) 2016, section 11(9),

5.33 Where the debtor has not entered into the recognizance, the outstanding amount may, before the debtor is brought before the court under this section, be paid to the police or the court; and on the payment being made, the warrant ceases to have effect.

Justice Act (NI) 2016, section 11(10)

5.34 Where the debtor has been dealt with as mentioned in paragraphs 5.30 – 5.31 pending the hearing on the referral of the debtors case, the outstanding amount may, before the hearing on the referral, be paid to the court.

Justice Act (NI) 2016, section 11(11)

5.35 The police, on receiving a payment must send it to the court.

Justice Act (NI) 2016, section 11(12)

Remand or committal

5.36 Remand (or committal in the Crown Court) in custody or on bail of the debtor pending his appearance at a referral hearing is set out at section 12 of the Act, which mirrors the procedure of the Magistrates' Courts (NI) Order 1981.

5.37 The court must either-

- remand (or commit) the debtor in custody, by committing the debtor to custody to be brought before the responsible court at the end of the period specified by the court; or
- remand (or commit) the debtor on bail, by remanding the debtor on bail subject to such conditions as the court may specify for the debtor's subsequent appearance before the responsible court.

Justice Act (NI) 2016, sections 12(1) and 12(2)

5.38 If the debtor is remanded (or committed) in custody, the court may give its consent to the debtor being remanded (or committed) on bail.

Justice Act (NI) 2016, section 12(3)

5.39 The period for which the debtor may be remanded (or committed) in custody must not exceed-

- in a case where the debtor consents, 28 days;
- in any other case, 8 days.

Justice Act (NI) 2016, section 12(4)

5.40 The period for which the debtor may remanded (or committed) on bail must not exceed 28 days.

Justice Act (NI) 2016, section 12(5)

5.41 If the debtor is aged under 18, he may not be remanded (or committed) in custody.

Justice Act (NI) 2016, section 12(6)

5.42 If the debtor is aged 21 or over, the remand (or committal) of the debtor in custody may, on an application by a police officer not below the rank of inspector, be made by—

- committing the debtor to detention at a police station; or
- committing the debtor to the custody of a constable (otherwise than at a police station).

Justice Act (NI) 2016, section 12(7)

5.43 The period for which the debtor may be committed to detention at a police station must not exceed 3 days beginning with the day following that on which he was committed.

Justice Act (NI) 2016, section 12(8)

5.44 The debtor may not be committed to detention at a police station unless there is a need for him to be so detained for the purposes of inquiries into a criminal offence. If the debtor is committed to such detention-

- he must, as soon as that need ends, be brought back before the court;
- he is to be treated as a person in police detention; and
- his detention is to be subject to periodic review.

Justice Act (NI) 2016, section 12(9)

5.45 The debtor may not be committed to the custody of a police officer unless there is a need for him to be kept in such custody for the purposes of inquiries into a criminal offence; and if he is committed to such custody, he must, as soon as that need ceases, be brought back before the court.

Justice Act (NI) 2016, section 12(10)

5.46 The court may order the debtor to be brought before it at any time before the expiration of the period for which he has been remanded or committed.

Justice Act (NI) 2016, section 12(11)

Costs relating to referral of debtor's case

5.47 The costs of hearing a debtor's case in relation to a referral hearing (including any costs incurred in connection with any matter preliminary or incidental to the hearing, but not including any costs incurred by the debtor) are to be defrayed by the Department of Justice in the first instance at such rates or amounts provided by the Department of Finance.

Justice Act (NI) 2016, section 13(1) and 13(2)

5.48 The court may order the debtor to pay the whole or any part of the costs of hearing his case. Where the debtor is under 18 the costs ordered cannot exceed the outstanding amount.

Justice Act (NI) 2016, section 13(3)

5.49 The payment of an amount imposed by an order is enforceable in the same manner as a fine.

Justice Act (NI) 2016, section 13(4)

Enforcement Orders under the Justice Act (NI) 2016

6.1 There are a number of enforcement orders available to both the collection officer and the court under the Act. These are laid out in detail in sections A to D below.

A: Deductions From Benefits

Introduction

A.1 Deductions from benefits have been created in order to allow for the payment of fines to be recouped by the court through benefits payments. This section explains when deductions from benefit may be applied for and by whom, what benefits are eligible, when deductions should and should not be made, the relevant amounts and periods over which deductions should be made, the priority of deductions for fines, notification requirements, the cessation of deductions and appeals. The Social Security (Fines) (Deduction from Benefits) Regulations (NI) 2018 have been made by the Department for Communities enabling deductions from benefits to be made to satisfy a debtors outstanding fine.

Justice Act (NI) 2016, section 15(1)(b) and (d)

A.2 An application for deductions from benefits is an application to the Department for Communities for it to deduct sums from amounts payable to the debtor by way of a relevant benefit for the purpose of securing payment of the outstanding amount.

Justice Act (NI) 2016, section 14(1)

Eligibility

A.3 Deductions may be taken from the following eligible benefits-

- Income Support;
- Jobseeker's Allowance;
- State Pension Credit;
- Employment and Support Allowance.

Justice Act (NI) 2016, section 14(3)

NOTE: It is intended that the Act will be amended to include Universal Credit as an eligible benefit for the purposes of deduction from benefit applications for fine default on the return of the NI Executive / Assembly.

A.4 Deductions from benefits may only be made in the case of a debtor who is aged 18 or over at the time of the application.

Justice Act (NI) 2016, section 14(2)

When an Application May be Directed or Made and by Whom

A.5 A deduction from benefits application may only be made where a collection order has been made. An application may then be made at three different stages in the collection order process-

- the court may direct the collection officer to make an application at the time of sentencing where the debtor consents;
- the collection officer may make an application at any time when the debtor has defaulted on paying his fine (debtor's consent not required); and
- the court may direct the collection officer to make an application at a referral hearing (debtors consent not required).

Justice Act (NI) 2016, sections 4(1)(a),4(5), 6 (3)(a), 8, 9(1)(c) and 9(2)(b)

Application at Time of Sentencing

A.6 A court may, at the point of sentencing alongside the imposition of a collection order on a debtor, consider ordering the collection officer to make an application for deductions from benefits.

Justice Act (NI) 2016, section 4(1)(a)

A.7 The court may only direct a deductions from benefits application to be made at this stage if the debtor provides his consent and if this is more appropriate than ordering an extension of time within which to pay the fine or allowing payment by way of instalments.

Justice Act (NI) 2016, section 4(2)

A.8 The court will as a matter of routine enquire into the debtor's broad financial circumstances when setting the fine amount.

The Magistrates' Courts (Northern Ireland) Order 1981, Article 53

A.9 However it may only direct a deductions application after enquiring into the debtor's means and benefits status, including the debtor's full name and address, date of birth, national insurance number and benefits he is in receipt of.

Justice Act (NI) 2016, section 16(1)

A.10 Where the court directs a collection officer to make a deductions application at this point, the direction must be recorded on the collection order.

Justice Act (NI) 2016, section 4(3) and (5)

Application by the Collection Officer when Debtor has entered Default

A.11 Where a collection order has been imposed, the court did not direct an application for deduction from benefits at the time of sentencing and the debtor has subsequently failed to make his payment within the court specified period, the collection officer may apply for deductions against the debtor. This step could be taken if extension of time and/or instalments had failed or were inappropriate. At this stage, the debtor's consent is not required to make such an application, although the debtor may also apply to the collection officer either orally or in writing for such an application to be made.

Justice Act (NI) 2016, sections 6(3)& (4)

A.12 Where a debtor is in receipt of both benefits and employment income, the collection officer has discretion whether to make a deduction from benefits application or impose an attachment of earnings order.

Justice Act (NI) 2016, section 6(3)(c)

A.13 Before making an application for deductions, the collection officer must take reasonable steps to contact the debtor and verify or obtain the following information-

- the debtor's name, address, date of birth and National Insurance number;
- particulars of any relevant benefits.

Justice Act (NI) 2016, section 5 (2) & 16(1)

Offence of failing to provide information

A.14 A person commits an offence if he fails without reasonable excuse, to provide the information requested or provides information which the person knows to be false in a material particular or recklessly provides information which is false or knowingly fails to disclose a material fact.

Justice Act (NI) 2016, section 16(2) & (3)

Application by the Court when Matter Returned for Hearing

A.15 The collection officer may, at any time he feels appropriate, refer the matter to court for a hearing. This may be due to the debtor's non-compliance or non-attendance with collection officer or as a result of the collection officer's enforcement options failing or being inappropriate. The collection officer will provide the court with a report on the action taken for the purpose of securing compliance with the collection order (see paragraphs 4.20 and 4.22).

Justice Act (NI) 2016, section 6(1) and 7

A.16 At the court hearing, the court will have the full suite of enforcement options detailed at paragraph 5.10 above, including the power to direct an application for deductions from benefits, regardless of the debtor's consent, if a collection order has been imposed. If the court sees fit, it can direct such an application at this point even if this has been attempted by the collection officer previously.

Justice Act (NI) 2016, section 9(1)(c)

A.17 Before directing an application for deductions the court must inquire into the debtor's means, benefits status and personal details.

Justice Act (NI) 2016, section 16

Disclosure of Information

A.18 The Department for Communities, or a person providing services to that Department, may disclose social security information to a court or a collection officer for the purpose of-

- facilitating a decision by the court or collection officer whether or not to make an application for deduction from benefits; or
- facilitating the making of the application by the court or collection officer.

Justice Act (NI) 2016, section 17(1)

A.19 Social security information means -

- information which is held by the Department of Communities for the purposes of functions relating to social security;
- information which is held by a person providing services to that Department in connection with the provision of those services; or
- information which is held with information of the description given in paragraph (a) or (b).

Justice Act (NI) 2016, section 17(2)

Offences under the disclosure of information

A.20 A person to whom information is disclosed under section 17 commits an offence if the he:

- discloses the information to another person; or
- uses the information for another purpose other than that described at paragraph A.18 .

Justice Act (NI) 2016, section 17(3)

A.21 It is a defence for a person charged with an offence under section 17(3) of the Justice Act (NI) 2016 to prove that the person reasonably believed that the disclosure or use was lawful.

Justice Act (NI) 2016, section 17(5)

A.22 It is not an offence:

- to disclose any information in accordance with a statutory provision or with an order of a court or a tribunal established by or under a statutory provision or for the purposes of any proceedings before a court;
- to disclose or use any information which is in the form of a summary, or is provided in such a way that individual persons can be identified;
- to disclose or use any information which has previously been lawfully disclosed to the public.

Justice Act (NI) 2016, section 17(4)

A.23 Nothing in section 17 authorises the making of a disclosure which contravenes the Data Protection Act 1998.

Justice Act (NI) 2016, section 17(7)

A.24 In section 17 “information” means information held in any form.

Justice Act (NI) 2016, section 17(8)

The Application: Form and Contents

A.25 An application for deductions from benefits is made to the Department for Communities.

Justice Act (NI) 2016, section 14 (1)

A.26 The application must contain the following information-

- the unique case reference number;
- the debtor’s full name;
- debtor’s address;
- debtor’s national insurance number
- the debtor’s date of birth; and
- the amount to which the application relates.

Justice Act (NI) 2016, section 15(2)(a)

The Enforcement of Fines and Other Penalties Regulations (NI) 2018 Regulation 3

Payment of deductions

A.27 The Department for Communities will take the decision on whether the application will be granted or not.

A.28 The Department for Communities may make deductions only if:

- the debtor is entitled to an eligible benefit throughout any benefit week; and
- no deductions are being made in respect of the debtor under any other application brought under the Act.

The Social Security (Fines) (Deduction from Benefits) Regulations (NI) 2018 Regulation 4(1)

A.29 The Department for Communities shall make the deductions by reference to the times at which payment of the relevant benefit is made to the debtor.

The Social Security (Fines) (Deduction from Benefits) Regulations (NI) 2018 Regulation 4(2)

A.30 The Department for Communities will calculate the amount of deduction to be applied in line with their regulations

The Social Security (Fines)(Deduction from Benefits) Regulations (NI) 2018.

A.31 If Department for Communities grants the application, it must calculate and deduct the relevant payable sum and pay this to the Court.

Justice Act (NI) 2016, section 14(4)

Priority

A.32 The collection of fines is placed sixth in the list of priority payments that can be taken by way of a deduction order. Deduction orders for payments which rank above fines in that list will be dealt with first. The priority is as follows-

- (a) housing costs and hostel payments;
- (b) service charges for fuel and rent;
- (c) fuel costs;
- (cc) water charges;
- (d) rates;
- (dd) fines etc.;
- (e) payments in place of payments of child support maintenance;
- (f) integration loans.

Justice Act (NI) 2016, section 15(1)(c)

The Social Security (Fines) (Deduction from Benefits) Regulations (NI) 2018 Regulation 5 amending Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 Schedule 8A Paragraph 9(1)(b)

Notification Requirements

A.33 Where an application is granted, the Department for Communities must notify the debtor in writing of its decision to make a deductions so far as is practical within 14 days from the date on which it made the decision and at the same time shall notify the debtor of the right of appeal.

Justice Act (NI) 2016, section 15(1)(a) and (e)

The Social Security (Fines) (Deduction from Benefits) Regulations (NI) 2018 Regulation 3(4)

A.34 The Department for Communities shall notify the debtor in writing of the total sums deducted under any application –

- on receipt of a written request for such information from the debtor;
- on the termination of deductions made under any such application.

The Social Security (Fines) (Deduction from Benefits) Regulations (NI) 2018 Regulation 4(5)

A.35 The Court must notify the debtor and Department for Communities in writing as soon as practicable where the amount to which the application relates has been paid in full, and that the order has ceased.

Justice Act (NI) 2016, section 15(2)(b)

The Enforcement of Fines and Other Penalties Regulations (NI) 2018 Regulation 4

When an Application Fails

A.36 The application fails if:

- the Department for Communities rejects the application;
- the application is withdrawn;
- an appeal against the application succeeds²; or
- the Department for Communities ceases to comply with it.

Justice Act (NI) 2016, section 14(5)

Cessation of deductions

A.37 The Department for Communities shall cease making deductions from the debtor's benefits if –

- there is no longer sufficient entitlement to income support, state pension credit, jobseeker's allowance or employment and support allowance to enable it to make the deduction;
- entitlement to income support, state pension credit, jobseeker's allowance or employment and support allowance ceases;
- the collection officer withdraws the application for deductions to be made; or
- the ability to make payment of the outstanding amount has ceased.

The Social Security (Fines) (Deduction from Benefits) Regulations (NI) 2018 Regulation 4(3)

A.38 Should the application fail the collection officer shall consider the other enforcement options available to him, or he may refer the matter back to court.

Justice Act (NI) 2016, section 6(1)

² The Department for Communities decision on the application is subject to appeal to that Department under Article 13 of the Social Security (Northern Ireland) Order 1998.

Justice Act (NI) 2016, section 14(6)

Offences

A.39 For offences relating to the failure to disclose information, please see paragraphs 7.6, 7.7, 7.8 and 7.20 of this guide.

Appeals

A.40 For appeals against a court or collection officer's decision to make a deductions from benefit application or appeals against the decision of Department for Communities please see para A.36 above and section 8 of this guide.

B: Attachment of Earnings Orders

Introduction

B.1 Attachment of earnings orders have been created in order to allow for the payment of fines to be recouped by the court through regular deductions taken from an employee's wage. This section explains when this order may be applied for and by whom, what earnings are eligible, when an order should and should not be made, the relevant amounts and periods over which payments should be made, notification requirements, the cessation of the order and appeals.

Definitions and Requirements

B.2 An attachment of earnings order may be made against a person who owes a fine and is currently in employment. The order is directed to the person who appears to the court or collection officer (according to which of them is making the order) to employ the debtor, who will ensure that the correct amount of deductions is taken from the employee's wages in order to satisfy the outstanding amount.

Justice Act (NI) 2016, section 18(1) and (3)

B.3 A person is to be regarded as an employer if that person pays another person sums defined as earnings within the meaning of the Justice Act (NI) 2016 and its associated regulations.

Justice Act (NI) 2016, section 18(5) and (6)

The Enforcement of Fines and Other Penalties Regulations (NI) 2018 Regulation 6

B.4 "Appropriate authority" means the responsible court or the collection officer as the case may be.

The Enforcement of Fines and Other Penalties Regulations (NI) 2018 Regulation 5

B.5 "Payday" means an occasion on which earnings are paid to the debtor or the day on which such earnings would normally fall to be paid.

The Enforcement of Fines and Other Penalties Regulations (NI) 2018 Regulation 5

B.6 "Earnings" include:

- 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);

- 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
- statutory sick pay.

None of the following shall be treated as earnings—

- sums payable by any public department of a territory outside the United Kingdom;
- 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(3));
- pensions, allowances or benefits payable under any statutory provision relating to social security;
- pensions or allowances payable in respect of disablement or disability;
- guaranteed minimum pension within the meaning of the Pension Schemes (Northern Ireland) Act 1993(4);
- working tax credit payable under section 10 of the Tax Credits Act 2002(5);
- sums paid to reimburse expenses wholly and necessarily incurred in the course of the employment.

Justice Act (NI) 2016, section 6(12) and 18(6)

The Enforcement of Fines and Other penalties Regulations (NI) 2018 Regulation 6

B.7 “Net earnings” means the residue of earnings after the deduction of-

- income tax;
- primary Class 1 contributions under Part 1 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (a)
- amounts deductible by way of contributions to a superannuation scheme which provides for the payment of annuities or lump sums –

⁽³⁾ 1996 c.14

⁽⁴⁾ 1993 c.49

⁽⁵⁾ 2002 c.21

- to the debtor on retirement at a specified age or on becoming incapacitated at some earlier stage;
- on the debtors death or otherwise, to the debtors personal representative, widow, widower, surviving civil partner, relatives or dependants.

The Enforcement of Fines and Other Penalties Regulations (NI) 2018 Regulation 5

B.8 The “protected earnings proportion” is 60 per cent of the debtor’s net earnings (ensuring that an employee is left with at least 60 per cent of their net wage) 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.

The Enforcement of Fines and Other penalties Regulations (NI) 2018 Regulation 5

B.9 An attachment of earnings order may only be made in the case of a debtor who is aged 18 or over at the time the order is made.

Justice Act (NI) 2016, section 18(2)

When an Order May be Made and by Whom

B.10 An attachment of earnings order may only be made where a collection order is made. An order may be made at three different stages in the collection order process:

- the court may make the order at the time of sentencing, when making a collection order;
- the collection officer may make an order at any time when the offender has defaulted on paying his fine; and
- the court may make an order if the matter is referred back to court by the collection officer.

Justice Act (NI) 2016, sections 4(1)(b), 6 (3)and 9(1)(c)and 2(b)

Order Imposed at Time of Sentencing by the Court

B.11 A court may, at the point of sentencing alongside the imposition of a collection order on a debtor, consider making an attachment of earnings order.

Justice Act (NI) 2016, section 4(1)(b)

B.12 The court may only make an attachment of earnings order at this stage if the debtor provides his consent to such an order and if this order is more appropriate than ordering an extension of time within which to pay the fine or allowing payment by way of instalments.

Justice Act (NI) 2016, section 4(2)

B.13 The court will as a matter of routine enquire into the debtor's financial circumstances not only when setting the fine but also when assessing how the fine should be paid.

The Magistrates' Courts (Northern Ireland) Order 1981, Article 53

B.14 Where the court imposes an attachment or earnings order at this point, the attachment order must be recorded on the collection order.

Justice Act (NI) 2016, section 4(3)

Order Imposed by the Collection Officer when Debtor has entered Default

B.15 Where a collection order has been imposed, the court did not make an attachment of earnings order at the time of sentencing and the debtor has subsequently failed to make his payment within the court specified period, the collection officer may make an attachment of earnings order against the debtor. This step would be taken if extension of time and/or instalments had failed or were inappropriate and it appears the debtor is in receipt of earnings. At this stage, the debtor's consent is not required to make such an application, although the debtor may also apply to the collection officer either orally or in writing for such an order to be made.

Justice Act (NI) 2016, sections 6(3)& (4)

B.16 Where a debtor is in receipt of both benefits and employment income, the collection officer has discretion whether to make a deduction from benefits application or impose an attachment of earnings order.

Justice Act (NI) 2016, section 6(3)(c)

B.17 Before imposing the order, the collection officer must take reasonable steps to contact the debtor and verify or obtain the following information-

- The debtor's name, address, date of birth and National Insurance number;

- particulars of any earnings or other income the debtor receives or expects to receive.

Justice Act (NI) 2016, section 5 (2)

Order Imposed by the Court when Matter Returned for Referral Hearing

B.18 The collection officer may, at any time he feels appropriate, return the matter to court for a referral hearing. This may be due to the offender's non-compliance or non-attendance with the collection officer or as a result of the collection officer's enforcement options failing. The collection officer will provide the court with a report on the action taken for the purpose of securing compliance with the collection order (see paragraphs 4.20 and 4.22).

Justice Act (NI) 2016, section 6(1) and 7

B.19 At the court hearing, the court will have the full suite of enforcement options detailed in para 5.10 above, including the power to make an attachment of earnings order, regardless of the debtor's consent. If the court sees fit, it can make such an order at this point, even if this order has been attempted by the collection officer previously.

Justice Act (NI) 2016, section 9(1)(c)

Statement of Earnings

B.20 Where the court or the collection officer is proposing to make an attachment of earnings order, either may request that the debtor provides a statement of earnings within 14 days from the date of the direction.

Justice Act (NI) 2016, section 19(1) and (2)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 7(1) and (3)

B.21 A statement of earnings shall require the debtor to provide the following information-

- The name and address of any employer the debtor has;
- Particulars which are relevant to the rate of deduction-
 - (a) details of the debtor's current and expected net earnings;
 - (b) details of any other income received by the debtor;
 - (c) details of any savings held by the debtor;

- (d) details of the debtor's housing costs, if any, including, in particular, payments made in respect of rent or mortgage, rates, electricity and heating;
- (e) details of the debtor's expenditure on groceries;
- (f) details of loan repayments made by the debtor;
- (g) the number of the debtor's dependants, and details of any special financial needs they may have;
- (h) details of any childcare costs incurred; and
- (i) details of any existing attachment of earnings order, direct earnings attachment or deduction from benefits in respect of the debtor; and
- Particulars which enable the debtor to be identified by his employer-
 - (a) the debtor's National Insurance number;
 - (b) the debtor's payroll number, if any.

Justice Act (NI) 2016, section 19(2)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 7(1)

B.22 Alternatively the court or collection officer may request that the employer provides the statement of earnings, signed by or on behalf of that person, in relation to his employee within 14 days from the date of the direction. This statement of earnings must provide details of—

- the debtor's current and expected net earnings; and
- any existing attachment of earnings order or direct earnings attachments being paid by the employer in respect of the debtor.

Justice Act (NI) 2016, section 19(1) and (3)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 7(2) and (3)

B.23 A request by either the collection officer or the court for a statement of earnings to be produced may be made at any time whilst an attachment of earnings order is in force.

Justice Act (NI) 2016, section 19(4)

B.24 For offences relating to the failure to disclose information (and to attachment of earnings orders generally), please see paragraphs 7.6, 7.7, 7.9, 7.11 – 7.16 and 7.20 of this guide.

B.25 A statement of earnings is receivable in evidence in proceedings relating to the attachment of earnings order without need for any further proof, unless the contrary is shown.

Justice Act (NI) 2016, section 19(5)

Determination of Earnings

B.26 Either the debtor or the employer may apply in writing to the responsible court to have a determination as to whether payments to the debtor are earnings for the purposes of the order. A copy shall be served by the applicant on the employer or debtor as the case may be. Where an application seeking a determination of earnings is brought by an employer, no fee will be charged.

*Justice Act (NI) 2016, Paragraph 3(1) Schedule 1
The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 11(1)
The Magistrates' Courts Fees Order (Northern Ireland) 1996, as amended*

B.27 The responsible court may determine the application without a hearing or may direct a hearing at which the employer and the debtor may be present and be heard. Where the responsible court directs a hearing the proper officer shall notify the employer and debtor of the time, date and place of the hearing.

*Justice Act (NI) 2016, Paragraph 3(1) Schedule 1
The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 11(2) and (3)*

B.28 Such a determination will decide whether income is to be treated as earnings and therefore fall within the remit of the attachment of earnings order. The proper officer shall, as soon as practicable, notify the employer and the debtor of the court's decision.

*Justice Act (NI) 2016, Paragraph 3(1) Schedule 1
The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 11(4)*

B.29 An employer must abide by any determination in force.

Justice Act (NI) 2016, Paragraph 3(2) Schedule 1

B.30 Where an employer applies for a determination to be made, that employer will not be liable for failure to comply with the order before the determination is actually made.

Justice Act (NI) 2016, Paragraph 3(3) Schedule 1

Debtors in Crown Employment

B.31 If a debtor is in Crown employment (or if not directly employed by the Crown but is paid as an agent of the Crown); the chief officer of his department, office or body shall be treated as his employer.

Justice Act (NI) 2016, Paragraph 9(1)(a) and (2) Schedule 1

B.32 If a dispute were to arise as to which department etc. employs the debtor, such dispute will be resolved by the Minister for Finance or the Department of Finance as necessary. An application to have the matter resolved will be sent by the collection officer or the court making or proposing to make an attachment of earnings order.

Justice Act (NI) 2016, Paragraph 9(3) and (4) Schedule 1

B.33 A signed document which sets out the determination of the Minister of Finance or of that Department is admissible in evidence in proceedings relating to the attachment order and is deemed to be an accurate statement of the determination unless the contrary is shown.

Justice Act (NI) 2016, Paragraph 9(5) Schedule 1

B.34 A debtor employed by any department of the government of the United Kingdom will be deemed to be in Crown employment.

Justice Act (NI) 2016, Paragraph 9(6) Schedule 1

B.35 Should the debtor move into another department, this shall be treated the same as a change in employment.

Justice Act (NI) 2016, Paragraph 9(1)(a) Schedule 1

B.36 Any earnings paid to the debtor shall be treated as being paid by the chief officer.

Justice Act (NI) 2016, Paragraph 9(1)(b) Schedule 1

Attachment of Earnings Order – Form and Contents

B.37 An attachment of earnings order shall be in Form 1 as set out in Schedule 1 to the Regulations and must include the following information-

- the unique case reference number;

- the debtor's full name;
- the debtor's address;
- the debtor's national insurance number;
- the name and address of the employer to whom the order is directed;
- if known, the debtor's payroll number;
- details of the full amount to be recovered from the debtor's earnings;
- the rate at which amounts are to be deducted from the debtor's earnings (see below);
- the protected earnings proportion;
- details of how to make payments;
- specify to whom payments are to be made and
- information on how to contact a collection officer.

Justice Act (NI) 2016, section 18(4)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 8 and Schedule 1 Form 1

Rates of Deductions

B.38 The rate at which amounts are to be deducted from the debtor's earnings under an attachment of earning order, subject to any variation under paragraph 6 of Schedule 1 to the Act, is-

- where the earnings are payable weekly, the per centage of the debtor's earnings specified in column 2 of Table A in Schedule 2 to the 2018 Regulations (copied below) opposite the band in column 1 of that table within which the net earnings payable on the pay-day fall;
- where the earnings are payable monthly, the per centage of the debtor's earnings specified in column 2 of Table B in Schedule 2 to the 2018 Regulations (copied below) opposite the band in column 1 of that table within which the net earnings payable on the pay-day fall; or
- a higher weekly or monthly rate than that which would be payable under paragraph (a) to (b), as agreed between the appropriate authority and the debtor.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 9

Table A Deductions from Weekly Earnings	
Net Earnings	Deduction Rate (per centage of net earnings)
Not exceeding £100	0
Exceeding £100 but not exceeding £160	3
Exceeding £160 but not exceeding £220	5
Exceeding £220 but not exceeding £270	7
Exceeding £270 but not exceeding £375	11
Exceeding £375 but not exceeding £520	15
Exceeding £520	20

Table B Deductions from Monthly Earnings	
Net Earnings	Deduction Rate (per centage of net earnings)
Not exceeding £430	0
Exceeding £430 but not exceeding £690	3
Exceeding £690 but not exceeding £950	5
Exceeding £950 but not exceeding £1,160	7
Exceeding £1,160 but not exceeding £1,615	11
Exceeding £1,615 but not exceeding £2,240	15
Exceeding £2,240	20

The Enforcement of Fines and Other Penalties Regulations 2018 Schedule 1 Form 1 and Schedule 2

Service and Notification Requirements

B.39 The collection officer shall serve an attachment of earnings order on the debtor's employer and a copy on the debtor as soon as is practicable.

Justice Act (NI) 2016, Paragraph 1(1) Schedule 1

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 10

B.40 If the employer does not employ the debtor or subsequently ceases to employ the debtor, the employer must within 7 days of service or within 7 days of the debtor ceasing to be employed, inform the collection officer in writing.

Justice Act (NI) 2016, Paragraph 1(2) Schedule 1

Compliance

B.41 An employer once served with an order must comply with it. The employer shall, each pay-day, make a deduction in accordance with the order from the net earnings which the employer would otherwise pay the debtor on that pay-day.

Justice Act (NI) 2016 Paragraph 2(1) Schedule 1

The Enforcement of Fines and Other Penalties Regulations 2018 regulation 12 (1)

B.42 Where the amount calculated under the order results in a fraction of a penny, that fraction is to be disregarded.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 12 (2)

B.43 Subject to B.47, on any pay-day the employer fails to deduct an amount in accordance with the order or deducts an amount less than the amount 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.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 12(3)

B.44 This 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 of a higher rate between the appropriate authority and the debtor.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 9 (c) and 12(6)

B.45 If the deductions under B.38 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. Where this 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.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 12(4) and 12(5)

B.46 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, 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 shall advise the collection officer accordingly.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 12(7)

B.47 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.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 12(8)

B.48 The amounts deducted by the employer shall be paid in accordance with the attachment of earnings order by the 19th day of the month following the month in which the deduction is made. Such payments may be made by direct credit transfer, debit or credit card, cheque or cash. The employer shall keep a record of every payment made under an attachment of earnings order and of the debtor in respect of whom each such payment is made.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 12(9), (10) & (11)

B.49 An employer commits an offence where non-compliance with the order is not supported by a reasonable excuse. For offences relating to the failure to disclose information (and to attachment of earnings orders generally), please see paragraphs 7.11- 16 and 7.20 of this guide.

Justice Act (NI) 2016, Paragraph 2 (2) Schedule 1, section 24(1)

B.50 Non-compliance within 7 days of service of the order will not attract a penalty.

Justice Act (NI) 2016, Paragraph 2(3) Schedule 1

Priority of Collection

Order Attachment of Earnings Orders

B.51 Where a debtor has other attachment orders against him (for example in order to pay civil debts or maintenance payments), the collection order and any maintenance orders take equal first priority over all other debt orders in existence. Where a collection order and a maintenance order are both in operation, the order which came into existence first shall take priority over the other.

Justice Act (NI) 2016, Paragraph 8 Schedule 1

Judgments Enforcement (Northern Ireland) Order 1981, Paragraphs 9, 10 and 11, Part 2 Schedule 1

Administrative Costs of Employer

B.52 An employer may deduct an additional amount not exceeding £1.00 in respect of administrative costs and such deduction may reduce the amount which the employer pays to the debtor on that pay-day below the protected earnings rate.

Justice Act (NI) 2016, Paragraph 4(a) Schedule 1

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 13(1)

B.53 Where the employer deducts such administrative costs, the employer shall, as soon as is practicable, notify the debtor in writing of the total amount of deductions made and of how the total amount was calculated.

Justice Act (NI) 2016, Paragraph 4(b) Schedule 1

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 13 (2)

Change of Circumstances and Notification Requirements

B.54 If the debtor leaves employment, he must notify the collection officer in writing within 7 days of his departure.

Justice Act (NI) 2016, Paragraph 5(1) Schedule 1

B.55 If the debtor becomes employed or re-employed he must notify the collection officer in writing within 7 days and specify what his earnings or expected earnings will be.

Justice Act (NI) 2016, Paragraph 5(2) Schedule 1

B.56 Where an employer employs the debtor and knows that he has an attachment of earnings order in force against him, the employer must notify the collection officer in writing within 7 days that he is now employing the debtor and specify what the debtor's earnings are or will be.

Justice Act (NI) 2016, Paragraph 5(3) and (4) Schedule 1

Variation of the Order

B.57 A variation may only be allowed if there has been a change in the debtor's circumstances which the court or collection officer considers relevant and the court or collection officer thinks a variation is appropriate. An attachment of earnings order may be varied where the debtor requests a higher deduction amount than would be payable under the tables set out at B.38 or where he already pays a higher amount (under paragraph B.38) and wishes to reduce that amount, subject to the minimum amount set out in tables at B.38. An application for the variation of an attachment of earnings order shall be made in Form 2 as set out in the Regulations.

Justice Act (NI) 2016, Paragraph 6(3) Schedule 1

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 14 and Schedule 1 (Form 2)

B.58 When an attachment of earnings order is varied, the new order shall be in Form 3 as set out in the Regulations and must be served on the employer as soon as practicable. The employer must comply with it or within 7 days from the date of service inform the collection officer in writing the reasons as to why he cannot comply.

Justice Act (NI) 2016, Paragraphs 2(1), 6(4), 6(5) Schedule 1

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 14(6) and Schedule 1 (Form 3)

Variation of attachment of earnings order by court

B.59 A court may vary a court imposed attachment of earnings order on the application of the debtor or the collection officer or of its own motion.

Justice Act (NI) 2016, Paragraph 6(2) Schedule 1

B.60 Where a debtor applies for the variation of an attachment of earnings order made by a responsible court he shall serve a copy of the application on the proper officer and the collection officer.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 14(2)

B.61 Where a responsible court makes an attachment of earnings order and the collection officer applies for the variation he shall serve a copy of the application on the proper officer and the debtor.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 14(3)

B.62 An application to the responsible court may be determined with or without a hearing. Where there is a hearing the proper officer shall notify the debtor and the collection officer of the time, date and place of the hearing.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 14(4) & 14(5)

B.63 Where the responsible court varies an attachment of earnings order, the proper officer shall, in addition to serving the order as varied on the employer, as soon as practicable, notify the debtor and the collection officer of the court's decision.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 14(7)

Variation of attachment of earnings order by collection officer

B.64 A collection officer may vary an attachment of earnings order at any point once the order has been made.

Justice Act (NI) 2016, Paragraph 6(1) Schedule 1

B.65 Where a debtor applies for a variation of an attachment of earnings order made by a collection officer the debtor shall serve a copy of the application on the collection officer.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 14(2)

B.66 Where a collection officer varies an attachment of earnings order the officer shall, in addition to serving the order as varied on the employer, as soon as practicable, notify the debtor of the officer's decision.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 14(8)

Discharge of the Order

B.67 The appropriate authority may discharge an attachment of earnings order on its own motion where the order fails (see B.74) or it considers that an attachment of earnings order is no longer appropriate.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 15(2)

B.68 A collection officer imposed attachment of earnings order may be discharged by the collection officer either on the debtor's application or by the collection officer's own motion. An application to discharge an attachment of earnings order shall be made in Form 2, as set out in Schedule 1 of the Regulations and shall specify the grounds on which the application is made. Where the debtor applies for the discharge, he shall serve a copy of the application on the collection officer.

Justice Act (NI) 2016, Paragraph 7(1) Schedule 1

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 15(3) 15(4)(a)

B.69 A court imposed attachment of earnings order may be discharged by the responsible court on the application of the collection officer or the debtor, or of the court's own motion. An application to discharge an attachment of earnings order shall be made in Form 2, as set out in Schedule 1 of the Regulations and shall specify the grounds on which the application is made. Where the debtor applies for the discharge, he shall serve a copy of the application on the proper officer and on the collection officer. Where a collection officer applies for the discharge he shall serve a copy of the application on the proper officer and the debtor.

Justice Act (NI) 2016, Paragraph 7(2) Schedule 1

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 15(3), 15(4)(b).

B.70 Where the responsible court made the attachment of earnings order and the collection officer applies for its discharge, he shall serve a copy of the application on the proper officer and the debtor.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 15(5))

B.71 An application to the responsible court may be determined with or without a hearing.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 15(6)

B.72 Where there is a hearing, the proper officer shall notify the debtor and the collection officer of the date, time and place of the hearing.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 15(7)

B.73 An attachment of earnings order is discharged once the outstanding sum has been repaid in full.

Justice Act (NI) 2016, Paragraph 7(3) Schedule 1

B.74 An attachment of earnings order is to be regarded as failing if-

- the employer cannot be found;
- the employer fails to comply with the order;
- it appears that the debtor is not in the employment of the person to whom the order is directed; and
- the debtor's employment with the person to whom the order is directed ceases before the outstanding amount is paid in full.

Justice Act (NI) 2016, Paragraph 7(4) – (6) Schedule 1

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 15 (1) and Schedule 1 (Form 3)

B.75 Where the responsible court discharges an attachment of earnings order, the proper officer shall, in addition to serving notice of the discharge on the employer, as soon as practicable, notify the debtor and the collection officer of the court's decision.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 15(8)

B.76 Where a collection officer discharges an attachment of earnings order, the collection officer shall, in addition to serving notice of the discharge on the employer in Form 3 of the Regulations, notify the debtor of the decision.

Justice Act (NI) 2016, Paragraph 7(7) Schedule 1

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 15 (9) and Schedule 1 (Form 3)

B.77 Where an order is discharged by virtue of the debtor's employment with the person to whom the order is directed ceasing before the outstanding amount is paid in full or if it is considered that an attachment of earnings order is no longer appropriate, amounts already deducted by the employer in accordance to the

attachment of earnings order shall be paid by the 19th day of the month following the month in which the deduction is made.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 15(10)

Offences

B.78 For offences relating to failure to comply and to attachment of earnings orders generally, please see section 7 of this guide.

Appeals

B.79 For appeals against a collection officer's decision to make an attachment order or appeals against the order itself please see section 8 of this guide.

C: Bank Account Orders

Introduction

C.1 Bank account orders have been created in order to allow for the payment of fines to be recouped by the court from wilful defaulters who have the money to pay but refuse to do so. An interim bank account order is made by the collection officer to “freeze” money in the debtor’s account (see C.4 below). A court hearing is held to determine if a bank account order should be made, ordering the sum to be removed from the account and paid to the court (see C.6 below). This section explains when an interim order may be made and by whom, which debtors are eligible, the hardship application, the voluntary mandate, notification requirements, the court hearing and bank account order, the discharge of the orders and appeals.

Definitions and Requirements

C.2 A “deposit-taker” includes any deposit taking institution which is defined as a person who in the course of business may lawfully accept deposits in the United Kingdom. For the purposes of this guidance the word “deposit-taker” will be used but will encompass those institutions.

Justice Act (NI) 2016, section 27(1) and (2)
Financial Services and Markets Act 2000, section 22 and Schedule 2

C.3 “Specified amount” means the amount specified –

- in the interim bank account order, being the amount below which the deposit-taker shall not reduce the account, or if the account is already below that amount, shall not reduce it further; or
- in the bank account order,

as the case may be.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 16

C.4 An interim bank account order is an order which the collection officer can make on his own authority and without the consent of the court. It orders the deposit-taker not to do anything which-

- (a) would reduce the credit balance of the debtor’s account below the specified amount; or

(b) if the credit balance is already below the specified amount, would reduce it further.

Justice Act (NI) 2016 section 20(1)

C.5 Such an order is made without the debtor's consent or knowledge. The collection officer should not advise the debtor of the decision to make an interim bank account order until the order is made and any arrangements required for its implementation are in place. This is to prevent the debtor from removing money from his account before the order can be secured. An interim bank account order must be as per Form 4 as set out in the Regulations.

Justice Act (NI) 2016, section 6(8)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation Schedule 1 (Form 4)

C.6 A bank account order orders the deposit-taker to pay the specified amount from the debtor's account to the court. This order can only be made at a court hearing on the matter.

Justice Act (NI) 2016, sections 22(1) and 6(5)(b)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation Schedule 1 (Form 8)

C.7 An interim bank account order and a bank account order may be made against a debtor who has been convicted of an offence but not sentenced before the commencement of section 15 of the Act as well as in the case of a person convicted after commencement of the Act.

Justice Act (NI) 2016, section 20(9)

C.8 An interim bank account order may only be made when the collection officer is satisfied that-

- the account is held in the debtor's sole name;
- there are funds in the account.

Justice Act (NI) 2016, section 6(5)

When an Interim Bank Account Order May be Made and by Whom

C.9 An interim bank account order may be made by the collection officer when a collection order has been imposed and the debtor has defaulted on paying his fine and initial methods of enforcement such as time to pay, instalments, deductions from benefits and attachment of earnings orders have failed or are inappropriate.

C.10 This order must be reviewed by the court at the referral hearing who will have all enforcement options available including making a bank account order. In addition the court may make a bank account order of its own motion if the matter is referred back to court by the collection officer for a referral hearing.

Justice Act (NI) 2016, sections 6(5) and 9(1)(d)

Information Requests

C.11 The collection officer must take reasonable steps to contact the debtor and verify or obtain the following information-

- the debtor's name, address, date of birth and National Insurance number;
- details of any bank accounts held.

Justice Act (NI) 2016, section 5(2)

C.12 Where the collection officer is considering making an interim bank account order, the collection officer may require the deposit-taker to provide the following information in relation to the debtor's account:

- the debtor's current address and telephone number, if known;
- the number and type of any account held with the deposit-taker in the debtor's sole name;
- a statement of the account for the previous 3 months;
- the current balance of the account; and
- whether the deposit-taker asserts a right to any money in the account, whether pursuant to a right of set-off or otherwise, and if so giving details and the grounds for that assertion.

Justice Act (NI) 2016, section 20(6)(a)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 17

C.13 For offences relating to non-compliance with these requests please see paragraphs 7.6, 7.7, 7.10 and 7.20 of this guide.

Contents of an interim bank account order

C.14 An interim bank account order shall be in Form 4 as set out in the Regulations and shall include-

- (a) the debtor's name and address;

- (b) the name and address of the deposit-taker;
- (c) the date the interim bank account order was made;
- (d) details of the debtor's account with the deposit-taker which is subject to the interim bank account order; and
- (e) details of the specified amount.

Justice Act (NI) 2016 section 20(6)(b)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 18 and Schedule 1 (Form 4)

Service of the Interim Order

C.15 The collection officer once satisfied of the appropriateness of making the interim bank account order, will serve an interim bank account order on the deposit taker as soon as practicable and on the debtor as soon as practicable after its implementation. At the same time as serving the order on the debtor the collection officer will provide the debtor with information on how the order may be discharged and hardship payments.

Justice Act (NI) 2016, section 6(8) and section 20(6)(c)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 19

Obligations of deposit-taker served with interim bank account order

C.16 The interim bank account order will direct the deposit-taker not to allow the balance of the account to fall below the sum specified in the order. If the balance is already below the sum specified, the deposit-taker should not allow the balance to decrease any further.

Justice Act (NI) 2016, section 20(1)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 20

C.17 A deposit-taker served with an interim bank account order must contact the collection officer immediately upon receipt of the order to confirm its implementation or to advise that the order cannot be implemented. Where the credit balance in the account in respect of which an interim bank account order is made is already below the specified amount, the deposit-taker must inform the collection officer of the amount of the balance.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 20(1) and (2)

C.18 A notice advising the deposit-taker of its obligations under this regulation, as set out in Form 5 in Schedule 1 of the Regulations must be served on the deposit-taker by the collection officer at the same time as the interim bank account order.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 20(3)

C.19 The deposit-taker must complete Annex A of Form 5 and return it to the collection officer within 5 working days of service of the order. For the purposes of this paragraph “working days” means any days other than a Saturday, a Sunday or a public holiday.

*The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 20(4) and (5)
and Schedule 1 Form 5*

Debtor’s request for release of specified amount

C.20 Once the interim bank account order has been made and effected, the collection officer must refer the matter to the responsible court, unless the court receives payment of the specified amount either through a request to the deposit-taker from the debtor for release or by some other means and therefore discharges the order. A request to the deposit-taker to release to the court the whole of the specified amount shall be made in Form 6, as set out in Schedule 1 of the Regulations and shall be given by the debtor to the deposit-taker. Where such a request is made the debtor shall inform the collection officer. If the debtor decides to avail of this voluntary mandate option, the deposit-taker must comply with a request from the debtor to pay the specified amount to the responsible court. The collection officer must discharge the interim bank account order and notify the court and the deposit-taker.

Justice Act (NI) 2016, section 20(2) and (3)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 21 and Schedule 1 Form 6

C.21 If an interim order has been made and the debtor does not request release of the specified amount or pay the outstanding amount by other means, the matter proceeds to a court hearing, whereby the court will decide if a bank account order, which removes the specified amount from the account, should be made.

Justice Act (NI) 2016, section 6(5)(b)

C.22 Where a debtor pays a sum under a voluntary mandate but this is not the full outstanding amount, the collection officer must refer the matter to the court for a hearing, at which the court can decide from its suite of enforcement options on how to recoup the balance.

Justice Act (NI) 2016, section 20(4)(b)

Hardship Application

C.23 Where an interim order has been made, the debtor may apply to the collection officer for a hardship payment if the order has caused the debtor or his dependents undue hardship. The application to the collection officer must be made in writing and payments will only be made out of the account by the collection officer if he is satisfied of the reasons for the application.

Justice Act (NI) 2016, section 21(1)

C.24 An application for a hardship payment order shall be made in writing and shall include-

- (a) details of the amount requested to be paid under the hardship payment order;
- (b) details of the person to whom the amount is to be paid;
- (c) the date on or by which the amount is to be paid; and
- (d) evidence of the hardship the debtor or his or her family is suffering in meeting ordinary living expenses.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 22(1)

C.25 An application for a hardship payment order shall be served by the debtor on the collection officer.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 22(2)

C.26 An application for a hardship payment order shall be determined by the collection officer as soon as is practicable – bearing in mind this is likely to be an emergency for the debtor. The collection officer, in determining an application for a hardship payment order, shall take into account the evidence provided under paragraph C.24 (d).

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 22(3) and (4)

Hardship payment order

C.27 A hardship payment order is an order requiring the deposit-taker to make to the person specified in the order such payments as are specified in the order out of the amount specified in the interim bank account order.

Justice Act (NI) 2016 section 21(3)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 21(2)

C.28 A hardship payment order shall be in Form 7, as set out in Schedule 1 of the Regulations and shall include—

- (a) the debtor's name and address;
- (b) the deposit-taker's name and address;
- (c) the account number or reference number of the account from which payment is to be made;
- (d) the amount to be paid, subject to there being sufficient funds in the account;
- (e) details of the person to whom the amount is to be paid; and
- (f) the date on or by which the amount must be paid.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 23 and Schedule 1 Form 7

C.29 A hardship payment order shall be served by the collection officer on the debtor and the deposit-taker.

Justice Act (NI) 2016, section 21(3)(f)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 23 (2)

Notice of and arrangements for referral hearing where an interim bank account order has been made

C.30 Where an interim bank account order has been made, the collection officer shall notify the deposit-taker of the date, time and place of the referral hearing, and that it is entitled to attend and be heard and the debtor in accordance with Magistrates' Courts Rules. Because of the potentially urgent nature of this application, the referral hearing shall be listed within 28 days of the implementation of the interim bank account order.

Justice Act (NI) 2016, section 20(6)(c)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 19 and 24

C.31 When the matter is referred to the court by the collection officer at this stage, the collection officer should provide the court with a report on the action taken for the purpose of securing compliance with the collection order (see paragraphs 4.20 and 4.22).

Justice Act (NI) 2016, section 7

Making of a Bank Account Order

C.32 A bank account order may only be made by the responsible court. The court may make a bank account order after an interim bank account order has been made by the collection officer, or it may make an order of its own motion at a referral hearing.

C.33 Where the court is considering making a bank account order, whether an interim bank account order has been made or not, it may require a deposit-taker to provide any of the following information-

- whether it has any accounts in the debtor's sole name;
- in respect of any such account –
 - (i) the debtor's current address and telephone number, if known;
 - (ii) the number and type of account;
 - (iii) a statement of the account for the previous 3 months;
 - (iv) the current balance of the account; and
 - (v) whether the deposit taker asserts a right to any money in the account, whether pursuant to a right of set-off or otherwise, and if so giving details and the grounds for that assertion.

Justice Act (NI) 2016, section 22(7)(a)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 25

C.34 At the hearing, the debtor and the deposit-taker may make representations as to why a bank account order should not be made.

Justice Act (NI) 2016, sections 9(6)(b)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 24(1)

C.35 The collection officer is required to attend at the court hearing and to give such evidence as the court may require (such as his reasons for imposing an interim bank order).

C.36 A bank account order shall be made in Form 8, as set out in Schedule 1 to the Regulations and must contain the following information-

- the name and address of the debtor;
- details of the debtor's account which is subject to the bank account order;
- details of the interim bank account order (if applicable);
- notice that payment of the specified amount will discharge the bank account order and any related interim bank account order;
- the name and address of the deposit-taker;
- the amount to be paid by the deposit-taker from the debtor's account;
- requirements for implementation of the order in accordance with regulation 28; and
- details of how the specified amount is to be paid.

Justice Act (NI) 2016, section 22(7)(b)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 26 and Schedule 1 Form 8

C.37 The amount specified on a bank account order to be deducted from the debtor's account is either the amount stated on the interim order where one has been made, or an amount the court may determine where no interim order has preceded the decision to make a bank account order.

Justice Act (NI) 2016, section 22(2)

C.38 When a bank account order is made by the court, this discharges the deposit-taker's liability to the debtor for the amount removed from the debtor's account.

Justice Act (NI) 2016, section 22(3)

C.39 A bank account order shall be served as soon as practicable, by the proper officer on –

- (a) the debtor;
- (b) the deposit-taker; and, where a collection order was made,
- (c) the collection officer.

Justice Act (NI) 2016, section 22(7)(c)

The Enforcement of Fines and Other Penalties regulations 2018 Regulation 27

C.40 Where a bank account order will only recover a portion of the outstanding amount, the court may also use any of its other enforcement options in addition in order to recoup the outstanding amount.

Justice Act (NI) 2016, section 9(7)

C.41 Where the court decides not to make a bank account order at the hearing, it may use any of its other enforcement options in order to recoup the outstanding sum and the interim bank account order is discharged.

Justice Act (NI) 2016, section 9(8)

Implementation of Bank Account Order

C.42 A bank account order shall be implemented within 10 working days of its service on the deposit-taker.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 28(1)

C.43 Where the specified amount exceeds the credit balance in the account to which the bank account order relates, the deposit-taker shall make payment in the amount of the credit balance (subject to the minimum amount of £5.00 remaining in the account), if any, and advise the collection officer accordingly.

C.44 The deposit-taker shall make further payments, as soon as practicable, after further funds, if any, are deposited to the credit of the account until the specified amount is paid in full.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 28(2)

C.45 A bank account order may not operate to require the making of a payment which would reduce the credit balance of the account to which the order relates below £5.00.

Justice Act (NI) 2016, section 22(4)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 28(3)

Administrative Costs of Interim Bank Account Order and/or Bank Account Order

C.46 A deposit-taker may impose an administrative charge on the debtor of equivalent value to the costs incurred in complying with an interim bank account order or a bank account order.

Justice Act (NI) 2016, section 20(6)(d) and 22(7)(d)
The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 29

Discharge

C.47 Where an interim bank account order has been made and the court receives payment of the specified amount either through a request to the deposit-taker from the debtor or by some other means, the interim order is discharged and any referral already made to the court for a hearing is dismissed.

Justice Act (NI) 2016, section 20 (3)

C.48 Having received notification that the specified amount has been paid the court must-

- if the outstanding amount has been paid, dismiss the referral under section 6(5); or
- if the outstanding amount has (in spite of payment of the specified amount) yet to be paid, decide at the referral hearing what action to take in relation to the outstanding amount.

Justice Act (NI) 2016 section 20 (4)(a) and (b)

C.49 Where the debtor has paid the outstanding amount in its entirety then the bank account order and any interim bank account order must be discharged either by the collection officer, or where no collection order was made, the proper officer of the court and must notify the responsible court and the deposit taker accordingly

Justice Act (NI) 2016, section 22(5)

C.50 Where a court takes action otherwise than making a bank account order at the hearing, the interim bank account order is automatically discharged.

Justice Act (NI) 2016, section 9(8)

Offences

C.51 For offences relating to the failure to disclose information and to Bank Account Orders generally please see section 7 of this guide.

Appeals

C.52 It is anticipated that, as an interim bank account order will lead to a court hearing within 28 days of the making of the order, appeals against them will rarely be made in practice. For appeals against a collection officer's decision or appeals against an order of the court please see section 8 of this guide.

D: Vehicle Seizure Orders

Introduction

D.1 Vehicle Seizure orders have been created in order to allow for the payment of fines to be recouped by the court through the seizure of vehicles from wilful defaulters who have the money to pay. These orders are a method of last resort and can only be imposed by a court. This guide explains when this order may be made and by whom, which debtors are eligible, notification requirements, the court hearing and order, the discharge of the order and appeals.

Definitions and Requirements

D.2 A vehicle seizure order directs that the vehicle in question is seized, and if payment of the outstanding amount is not made, is sold or otherwise disposed of and that the proceeds of sale are used to pay the outstanding amount owed by the debtor. This order can only be made at a court hearing on the matter.

Justice Act (NI) 2016, section 23(1)

D.3 A vehicle seizure order may be made against a debtor who has been convicted of an offence but not yet sentenced before the commencement of section 23 of the Justice Act (NI) 2016, as well as those convicted after commencement.

Justice Act (NI) 2016, section 23(9)

D.4 The collection officer may, at any time he feels appropriate, refer the matter to court for a hearing with a request that a vehicle seizure order is made. This may be due to the offender's non-compliance or non-attendance with the collection officer or as a result of the collection officer's enforcement options failing. Before requesting a vehicle seizure order the collection officer must be satisfied that -

- the debtor is the sole owner of the vehicle and that it is registered in the debtor's name;
- the debtor has sufficient means to actually pay the outstanding amount;
- the value of the vehicle is sufficient to pay the outstanding amount and the amount of any charges likely to be imposed and costs likely to be incurred in connection with executing a vehicle seizure order in relation to the vehicle.

Justice Act (NI) 2016, section 6(7)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 31

D.5 A vehicle seizure order may not be made in respect of the following vehicles:

- A vehicle which displays a disabled person's badge or recognised badge,
- A vehicle which it is reasonable to believe is used for the carriage of a disabled person,
- A vehicle used for police, fire and rescue or ambulance purposes,
- A vehicle used by a medical practitioner on call with a badge on display confirming his status.

Justice Act (NI) 2016, section 23(5)

D.6 A "vehicle" means a mechanically propelled vehicle intended or adapted for use on roads. This does not include mechanical vehicles which are controlled by pedestrians e.g. lawnmowers.

*Justice Act (NI) 2016, section 27(1) and (3)
Road Traffic (Northern Ireland) Order 1995, Article 6*

D.7 "Registered" means registered under the Vehicle Excise and Registration Act 1994.

Justice Act (NI) 2016, section 27(4)

D.8 "Disabled person's badge" means a badge issued under section 14 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978, a badge issued under section 21 of the Chronically Sick and Disabled Persons Act 1970 or any other badge issued under provisions of the law of any jurisdiction outside the United Kingdom that are specified in regulations made by the Department. A "recognised badge" has the meaning given in Section 14A of that Act.

Justice Act (NI) 2016, section 23(6)

Chronically Sick and Disabled Persons (Northern Ireland) Act 1978, Article 14A

D.9 A "medical practitioner" means a person registered within the meaning of the Medical Act 1983 and licenced to practice under that Act.

Justice Act (NI) 2016, section 23(6)

D.10 The "appropriate officer" means—

- if a collection order was made, the collection officer; or
- if no collection order was made, the proper officer;

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 30

When a Vehicle Seizure Order May be Made and by Whom

D.11 A vehicle seizure order may be made by the responsible court at a referral hearing either following a request by the collection officer or of its own motion if the matter is referred back to court by the collection officer without a request.

Justice Act (NI) 2016, sections 6(6) and 9(1)(e)

Collection Officer referral to responsible court requesting a Vehicle Seizure Order when the Debtor has entered Default

D.12 Where a collection order has been imposed and the debtor has subsequently failed to make his payment within the court specified period, the collection officer may refer the matter to the responsible court with a request for a vehicle seizure order to be made against the debtor. This step could be taken if payment could not be secured via extension of time, instalments, deductions from benefits or attachment of earnings or an interim bank account order. The collection officer would only consider such an application where all the requirements at paragraph D.4 are met.

Justice Act (NI) 2016, sections 6(6) and 6(7)

D.13 The collection officer will provide the court with a report on the action taken for the purpose of securing compliance with the collection order (see paragraphs 4.20 – 4.22).

Justice Act (NI) 2016, section 6(1) and 7

D.14 Where a collection officer decides to refer the matter to court requesting a vehicle seizure order, he must inform the debtor that he is about to make the request.

Justice Act (NI) 2016, section 6(8)

Making of Vehicle Seizure Order

D.15 A vehicle seizure order may only be made by the responsible court. The court may consider a vehicle seizure order when a request has been made by the collection officer or the court may make an order of its own motion.

D.16 Before making a vehicle seizure order, the responsible court must, in satisfying itself that the order would be justified, reasonable and proportionate in all

the circumstances of the case, have particular regard to the likely effect of the order on the debtor's ability to earn a living.

Justice Act (NI) 2016, section 23(4)

D.17 The collection officer is required to attend at the court hearing to give such evidence as the responsible court may require.

Justice Act (NI) 2016, section 23(3)

D.18 The vehicle seizure order shall be in Form 9 as set out in Schedule 1 to the Regulations and must contain the following information-

- the debtor's full name, address and date of birth;
- the amount of the sum due;
- the date on which the collection order was made;
- the outstanding amount for which the debtor is liable;
- the date on which the vehicle seizure order was made;
- the make, model and registration mark of the vehicle to be seized;
- details of how the outstanding amount may be paid;
- notice that the vehicle shall be seized and removed to storage if the outstanding amount is not paid in full within 28 days;
- the charges payable by the debtor, if the vehicle is seized, as prescribed in Schedule 3 to the Regulations;
- notice that the vehicle may be sold or otherwise disposed of if payment of the outstanding amount and any charges due is not made in full within 28 days of its seizure; and
- the contact details of the appropriate officer.

Justice Act (NI) 2016, section 23(7)(b)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 32

Procedure on making a vehicle seizure order

D.19 A vehicle seizure order, once made, entitles a police officer or person authorised by the Department of Justice to seize, remove, secure and store the vehicle specified in the order. Where a vehicle seizure order is made, the appropriate officer shall send a copy, as soon as practicable, to the debtor. If

payment of the outstanding amount is not made within 28 days of service of the order on the debtor, the appropriate officer shall send a copy of the order to the Police Service of Northern Ireland who may then seize the vehicle and arrange its removal to storage by an authorised person.

Justice Act (NI) 2016, section 23(2)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 30 and 33

Places a vehicle may be seized

D.20 A police officer or authorised person may seize a vehicle in respect of which a vehicle seizure order has been made at any place to which the public has access, including any highway or road.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 34(1)

D.21 In addition, for the purposes of seizing a vehicle in respect of which a vehicle seizure order has been made, a police officer may seize a vehicle from any private premises or property other than a dwelling house.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 34(1)

D.22 For the purpose of seizing the vehicle, the police officer may –

- a) enter any premises or property on which the officer has reasonable grounds for believing the vehicle to be; and
- b) use reasonable force if necessary in the exercise of the power conferred by sub-paragraph (a).

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 34(2)

Defect in vehicle seizure order or irregularity in its execution

D.23 A vehicle seizure order shall not be held void by reason of any defect in the order. Any person acting in the execution of a vehicle seizure order shall not be deemed to be a trespasser by reason only of any irregularity in the execution of the order. However these provisions shall not prejudice the claim of any person for special damages in respect of any loss caused by a defect in the vehicle seizure order or irregularity in its execution.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 35

Removal of vehicle to storage

D.24 Where a vehicle is seized and removed to storage the appropriate officer shall serve written notice on the debtor a specifying —

- the registration mark of the seized vehicle;
- the date the vehicle seizure order was made;
- that since the outstanding amount has not been paid in full within the time specified on the vehicle seizure order, the vehicle has been seized and removed to storage;
- the date, time and place of seizure;
- the address, telephone number and opening hours of the storage premises;
- how to apply for the release of a vehicle wrongly seized;
- details of charges payable for the removal, storage and disposal of the vehicle;
- how to pay the outstanding amount and charges due;
- that unless the outstanding amount and charges due are paid in full within 28 days from the date of seizure, the vehicle may be sold or otherwise disposed of;
- that if the vehicle is sold, the charges due and the outstanding amount will be deducted from the proceeds of sale before any balance is sent to the debtor; and
- the contact details of the appropriate officer.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 36

Storage of vehicle

D.25 Premises used for the storage of seized vehicles shall be secure and such as to protect them from damage or unreasonable deterioration. A vehicle removed to storage shall remain in storage until it is—

- released pursuant to a court order under regulation 38;
- released in accordance with regulation 39; or
- sold or otherwise disposed of in accordance with regulation 40.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 37

Release of vehicle wrongly seized

D.26 Where a vehicle is seized, removed or stored in breach of any provision in the Regulations, a person may apply to the responsible court for the release of the vehicle. Such an application shall be made, giving details in writing, within 14 days of the alleged breach (or such further time as the court may allow) and a copy shall be served on the Police Service for Northern Ireland and the appropriate officer.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 38 (1) & (2)

D.27 The proper officer shall notify—

- the applicant, the Police Service for Northern Ireland, and, where a collection order was made, the collection officer of the date, time and place of the hearing; and
- the applicant that he may attend and be represented at the hearing.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 38(3)

D.28 The appropriate officer, an officer of the Police Service for Northern Ireland or the authorised person, as the case may require, shall attend the hearing for the purpose of answering the court's questions and providing relevant information.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 38(4)

D.29 On an application the responsible court may —

- order the release of the vehicle, with or without payment of any charges due; or
- dismiss the application and allow such further time for payment of the outstanding amount and charges due as the court may determine.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 38(5)

D.30 Where the responsible court orders the release of the vehicle the appropriate officer shall notify the authorised person who shall release the vehicle without delay in accordance with the order, and shall issue a receipt which shall detail –

- the registration mark of the vehicle;
- the amount of payment made in respect of any charges due;
- the date of payment; and
- the name of the person issuing the receipt.

Release of vehicle on payment of outstanding amount and charges

D.31 A vehicle which has been seized and removed to storage may be released upon payment of the outstanding amount and the charges due. Charges due are the charges payable in accordance with Schedule 3 to the Regulations in respect of the removal, storage or disposal of the vehicle. Payment of the outstanding amount must be made to the responsible court and upon receipt of this payment, the appropriate officer shall advise the Police Service for Northern Ireland that the outstanding amount has been paid and, subject to the payment of any charges due, the vehicle may be released.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 31 and 39 (1) – (3) and Schedule 3

D.32 Payment of charges due may be made to the authorised person during office opening hours following payment of the outstanding amount. The authorised person shall release the vehicle without delay upon payment of the charges due, and shall issue a receipt which shall detail —

- a) the registration mark of vehicle;
- b) the amount of payment made in respect of the charges due;
- c) the date of payment; and
- d) the name of person issuing the receipt.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 39(4) – (5)

Sale or disposal of seized vehicles

D.33 A vehicle which has been seized and removed to storage shall not be sold or otherwise disposed of —

- before the expiry of the period of 28 days from the date of its seizure and removal to storage; or
- where an application for release under paragraphs D.26 – D.30 above has been made, until such application has been determined and any further time allowed has expired,

whichever is later. A vehicle which is to be sold or disposed of may be sold or disposed of in such manner as the authorised person thinks fit.

Justice Act (NI) 2016, section 23(7)(c)

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 40

Ownership of the vehicle on sale

D.34 On the sale of a vehicle which is subject to a vehicle seizure order, the ownership of it shall vest solely in the purchaser.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 41

Treatment of proceeds of sale of a seized vehicle

D.35 Where a seized vehicle has been sold, the authorised person shall first deduct from the proceeds of sale the amount of the charges due and shall then send the remaining balance to the Police Service for Northern Ireland as soon as is practicable.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 42(1)

D.36 The Police Service for Northern Ireland shall send the balance received to the appropriate officer who shall deduct an amount sufficient to discharge the debtor's liability in respect of the outstanding amount.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 42(2)

D.37 The appropriate officer shall send payment of any remaining balance to the debtor, accompanied by a written statement of account, within 10 days of receipt of funds from the Police Service for Northern Ireland.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 42(3)

D.38 If a seized vehicle is sold and the proceeds of sale are not sufficient to meet the outstanding amount and any charges due, the proceeds of sale shall first be applied towards meeting the charges due and then, if a balance remains, towards discharging the debtor's liability in respect of the outstanding amount.

The Enforcement of Fines and Other Penalties Regulations 2018 Regulation 42(4)

D.39 Where the sale of a vehicle only raises a portion of the outstanding amount, the appropriate officer may refer the matter back to the responsible court which may then use any of its other enforcement options in order to recoup the outstanding amount.

Justice Act (NI) 2016, section 6(1)

Offences

D.40 It is an offence for a debtor to conceal or dispose of the vehicle (or attempt to).

Justice Act (NI) 2016, section 6(11)

D.41 For offences relating to the failure to disclose information please see section 7 of this guide.

Appeals

D.42 It is anticipated that as the matter will be proceeding to a court hearing, appeals against a collection officer referral with a request that a vehicle seizure order be made will rarely be made in practice. For appeals against a collection officer's decision or appeals against an order of the court please see section 8 of this guide.

Offences

Introduction

7.1 The fine collection and enforcement arrangements have a number of offences built in, in order to ensure compliance with and the effectiveness of the arrangements. This section explains what the offences are, who may commit the offences, and the penalty of said offences.

7.2 References to order specific offences should be cross referenced with the sections outlining those orders in this guide.

Perpetrators of these Offences

7.3 A “debtor” encompasses not only an individual but companies as well. Where a company’s affairs are managed by its members and the default of a member is in connection with a function of management, then that member is to be treated as though he were a director of that company.

Justice Act (NI) 2016, section 24(2)

Interpretation Act (Northern Ireland) 1954 as amended by the Justice Act (NI) 2016

7.4 If an offence is committed by a member of a partnership, was carried out in connivance with a partner or occurred through a partner’s neglect, then both the partner and the partnership are guilty of the offence.

Justice Act (NI) 2016, section 24(3) and (4)

7.5 Where an offence relates to the non-provision of information etc., in the case of a company, the person who should be complying with that request is an officer of the company.

Justice Act (NI) 2016, section 5(3)

Offences Relating to Information Requests

7.6 A debtor commits an offence by failing, without reasonable excuse, to provide information to the collection officer when requested, or provides information which the debtor knows to be false in a material particular or recklessly provides

information which is false in a material particular or knowingly fails to disclose a material fact.

Justice Act (NI) 2016, section 5(5) and (6)

7.7 It is an offence for the debtor to fail without reasonable excuse to provide information requested by the court, provides information which the person knows to be false in a material particular, recklessly provides information which is false in a material particular or knowingly fails to disclose a material fact.

Justice Act (NI) 2016, section 16(2) and (3)

7.8 It is an offence for a person to whom social security information is disclosed discloses that information to another person or uses the information for a purpose other than for the purpose of facilitating a decision by the court or collection officer whether or not to make an application for deduction from benefits or to facilitate the making of an application.

Justice Act (NI) 2016, section 17 (3)

7.9 A debtor or employer's failure, without reasonable excuse, to comply with a request for a statement of earnings to be produced, failure to provide information which the person knows to be false in a material particular or recklessly provides information which is false in a material particular or knowingly fails to disclose a material fact is an offence.

Justice Act (NI) 2016, section 19(6) and (7)

7.10 It is an offence for a deposit-taker to fail to provide any of the following information-

- Whether it has any accounts held in the debtor's sole name;
- In respect of any such account –
 - i. The debtors current address and telephone number;
 - ii. The number and type of account;
 - iii. A statement of the account for the previous 3 months;
 - iv. The current balance in the account; and
 - v. Whether the deposit-taker asserts any right to the money in the account, whether pursuant to a right of set-off or otherwise, and if so the grounds for that assertion.

Justice Act (NI) 2016, section 20(7)

Offences of Non-Compliance

Attachment of Earnings Orders

7.11 If an employer fails, without reasonable excuse, to provide a notification in writing to the collection officer that the debtor is not in his employ or that he subsequently ceases to employ the debtor, within 7 days of service of the attachment of earnings order or of the cessation of employment, provides information which the person knows to be false in a material particular or recklessly provides information which is false in a material particular or knowingly fails to disclose a material fact, the employer has committed an offence.

Justice Act (NI) 2016, Paragraph 1(3)-(4) Schedule 1

7.12 An employer once served with an order must comply with it. The employer commits an offence where non-compliance with the order is not supported by a reasonable excuse, however, non-compliance within 7 days of service of the order will not attract a penalty

Justice Act (NI) 2016, Paragraph 2(1) and (2) Schedule 1

7.13 Where the debtor fails, without reasonable excuse, to notify the collection officer that he has left employment or taken up new employment within 7 days of doing so, or in providing information provides information which the debtor knows to be false in a material particular or recklessly provides information which is false in a material particular or knowingly fails to disclose a material fact, he commits an offence.

Justice Act (NI) 2016, Paragraph 5(1), (5) and (6) Schedule 1

7.14 Where a debtor leaves employment and takes up new employment, the new employer, if aware of the attachment of earnings order against the debtor, must inform the collection officer within 7 days of employing the debtor or finding out about the attachment order (whichever is the later).

Justice Act (NI) 2016, Paragraph 5(3), (5) and (6) Schedule 1

7.15 A person commits an offence if he fails to comply with an order that has been varied and served on him; however no liability will be attracted within 7 days of service of the order.

Justice Act (NI) 2016, Paragraph 6(6) and (7) Schedule, 1

7.16 If, after 7 days have elapsed since service of a discharge notice upon the employer, the employer continues to administrate the order without providing a reason in writing to the collection officer, the employer has committed an offence.

Justice Act (NI) 2016, Paragraphs 7(7)-(9) Schedule 1

Bank Account Orders (including interim bank account orders)

7.17 If the deposit-taker fails, without reasonable excuse, to provide information as requested by either the court or the collection officer, or provides information which he knows to be false in a material particular or recklessly provides information which is false in a material particular or knowingly fails to disclose a material fact, he commits an offence.

Justice Act (NI) 2016, sections 20(7)-(8)

7.18 The deposit-taker commits an offence if it fails, without reasonable excuse, to provide information to the court when requested, or provides information which it knows to be false in a material particular, recklessly provides information which is false in a material particular or knowingly fails to disclose a material fact.

Justice Act (NI) 2016, section 22(8) and (9)

Vehicle Seizure Order Offence of Concealment

7.19 Where a debtor has been informed of the collection officer's intention to apply for a vehicle seizure order and the debtor hides or disposes of the vehicle, or attempts to do so, he commits an offence.

Justice Act (NI) 2016, section 6(11)

Penalties for Offences Under the Justice Act (NI) 2016

7.20 The penalty for all offences under Chapter 1 of the Act is a fine not exceeding level 2 on the standard scale.

Justice Act (NI) 2016 section 24(1)

The Fines and Penalties (Northern Ireland) Order 1984, Article 5

Appeals

Introduction

8.1 This section explains what decisions may be appealed and where the appeal should be brought.

Appeal Against Original Conviction and/or Sentence

8.2 A debtor may appeal his original conviction and/or sentence for which he was fined. This appeal will operate under normal procedures whereby an appeal from the magistrates' court is heard in the county court and an appeal from the Crown Court is heard in the Court of Appeal with the leave of that Court. Should the debtor pursue an appeal of this type, the collection order is suspended until the appeal is determined or abandoned.

Justice Act (NI) 2016 section 3(6)

Appeal Against the Decision of a Collection Officer

8.3 Any decisions that the collection officer takes in relation to the debtor including which enforcement options to impose are appealable to the court responsible for enforcing the original fine within 14 days, beginning with the day on which the decision being appealed was made.

Justice Act (NI) 2016 section 25(5)

8.4 Where the responsible court is a magistrates' court, then the appeal is made to a court of summary jurisdiction and where the responsible court is the Crown Court, the appeal is made to that Court.

Justice Act (NI) 2016 section 25(1)(a) and (b)

8.5 At the appeal of a collection officer's decision, the court may either uphold his decision or quash it.

Justice Act (NI) 2016 section 25(2)

Appeal Against the Decision of the Department for Communities

8.6 An appeal against the Department for Communities decision to make the order is appealed through the Department for Communities procedures.

Social Security (Northern Ireland) Order 1998, Article 13

Appeal Against an Order of the Court

8.7 Appeal against the imposition of a supervised activity order, attachment of earnings order, bank account order, vehicle seizure order, distress or committal is made to the next highest court level from the responsible court i.e. magistrates' court to county court and Crown Court to Court of Appeal. An appeal from the Crown Court requires leave from the Court of Appeal.

Justice Act (NI) 2016 section 25(3) and (4)

8.8 The appeal must be brought within 14 days of the court's decision to impose the order.

Justice Act (NI) 2016 section 25(5)

8.9 Whilst an appeal is pending, the collection order is suspended and the collection officer may not exercise any of his enforcement powers.

Justice Act (NI) 2016 section 25(6)