



STATUTORY INSTRUMENTS.

S.I. No. 129 of 2010



DISTRICT COURT (ENFORCEMENT OF COURT ORDERS) RULES
2010

(Prn. A10/0447)

S.I. No. 129 of 2010

DISTRICT COURT (ENFORCEMENT OF COURT ORDERS) RULES
2010

The District Court Rules Committee, in exercise of the powers conferred on them by section 91 of the Courts of Justice Act 1924, section 72 of the Courts of Justice Act 1936, section 34 of the Courts (Supplemental Provisions) Act 1961 and section 24 of the Interpretation Act 2005, do hereby, with the concurrence of the Minister for Justice, Equality and Law Reform, make the following rules of court.

Dated this 14th day of December 2009.

Miriam Malone Chairperson

Uinsin Mac Gruairc

Mary C Devins

Thomas E O'Donnell

Brian Sheridan

Shalom Binchy

Roy Pearson

Noel A Doherty

Michelle Johnston

I concur in the making of the following rules of court.

Dated this 25th day of March 2010.

DERMOT AHERN,

Minister for Justice, Equality and Law Reform.

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 30th March, 2010.*

S.I. No. 129 of 2010

DISTRICT COURT (ENFORCEMENT OF COURT ORDERS) RULES
2010

1. These rules may be cited as the District Court (Enforcement of Court Orders) Rules 2010.
2. These rules shall come into operation on the 8th day of April 2010 and shall be construed together with the District Court Rules 1997 to 2010.
3. The District Court Rules 1997 (S.I. No. 93 of 1997) are amended by the substitution for Order 53 of the Order set out in Schedule 1.
4. The Forms numbered 53.1 to 53.18 in Schedule 2 are substituted for the Forms numbered 53.1 to 53.12 in Schedule C of the District Court Rules 1997 (S.I. No. 93 of 1997).

SCHEDULE 1

“Order 53

ENFORCEMENT OF JUDGMENTS

Definitions.

1. In this Order:

“the Act of 1926” means the Enforcement of Court Orders Act 1926 (No. 18 of 1926);

“the Act of 1940” means the Enforcement of Court Orders Act 1940 (No. 23 of 1940);

“the Act of 1986” means the Courts (No. 2) Act 1986 (No. 26 of 1986);

“the Act of 2009” means the Enforcement of Court Orders (Amendment) Act 2009 (No. 21 of 2009);

“debt” includes any balance of a debt remaining due after payment or recovery of part thereof;

“judgment” includes any order or decree of a competent court.

Venue.

2. Proceedings for the enforcement of a judgment under the Enforcement of Court Orders Acts 1926 to 2009 may be brought, heard and determined at any sitting of the Court for the court area wherein the debtor is ordinarily resident.

Summons for attendance of debtor and statutory declaration.

3. (1) Whenever a debt is due on foot of a judgment of a competent court and the creditor wishes to enforce that judgment, that creditor or the solicitor for that creditor shall, if he or she requires the attendance of the debtor before the Court for examination as to the debtor’s means pursuant to section 15 (as substituted by section 1(1) of the Act of 1986) of the Act of 1926, prepare and lodge with the Clerk a summons in duplicate in the Form 53.1 Schedule C together with the statutory declaration (in the Form 53.2 Schedule C) required by subsection (2) of section 15 of the Act of 1926. The Clerk shall list the matter for hearing and, having completed and signed the original and copy summons, shall issue same to the creditor or solicitor for the creditor for service upon the debtor.

(2) The summons shall be served upon the debtor in a manner prescribed in Order 10 at least fourteen days or, if service is effected by registered post, at least twenty-one days before the date of sitting of the Court at which the examination of the debtor is to take place.

(3) When service has been effected, the original of the summons, together with a statutory declaration as to service thereof, shall be lodged with the Clerk at least four days before the said date of sitting of the Court.

Statement of means.

4. (1) A summons referred to in rule 3 shall, in addition to requiring the attendance of the debtor at a sitting of the Court for examination as to his or her means, also require the debtor to complete, detach and lodge with the Clerk not less than one week before the date of the said sitting the statement of means (Form 53.3 Schedule C) attached to the summons.

(2) The creditor or solicitor for the creditor shall be entitled, on payment of the prescribed fee, to inspect and take or obtain copies of the statement of means at any time after it is lodged.

Creditor's proofs.

5. (1) At the examination pursuant to a summons served under rule 3(2) of this Order the creditor or solicitor for the creditor shall produce to the Court:

- (a) the judgment on which he or she relies or other evidence of the original debt due to the creditor thereunder,
- (b) a certificate in the Form 53.4 Schedule C signed by the creditor or solicitor for the creditor setting out the amount outstanding at the date of the certificate, and
- (c) evidence that the debtor is ordinarily resident in the court area wherein the examination is taking place.

(2) A copy of the certificate (Form 53.4 Schedule C) shall be furnished to the debtor or solicitor for the debtor prior to the date on which the examination is due to take place.

Instalment Order.

6. (1) An order for the payment of debt and costs made pursuant to section 17 of the Act of 1926 at the examination proceedings shall be in accordance with Form 53.5 Schedule C. The order may be served upon the debtor in accordance with the provisions of Order 10.

(2) An instalment order made pursuant to that section shall, unless the debt and costs payable thereunder have been duly paid in full, continue in force until the expiration of twelve years from the date of the judgment to which it relates, and no instalment which accrues due under such order after the order ceases to be in force shall be payable or recoverable.

Variation of instalment order.

7. (1) Where a person wishes to apply to the Court pursuant to section 5 of the Act of 1940 to vary the terms of an instalment order, that person shall apply to the Clerk for the issue of a summons in the Form 53.6 Schedule C. The summons shall be served upon the creditor or the debtor, as the case may be, in accordance with the provisions of Order 10.

(2) When service has been effected, the original summons, together with a statutory declaration as to service thereof, shall be lodged with the Clerk at least four days before the date fixed for the hearing of the application.

(3) An order of the Court granting the application shall be in the Form 53.7 Schedule C. The applicant shall cause that order to be served upon the other party in accordance with the provisions of Order 10.

(4) An order varying an instalment order shall not so operate as to make the instalment order enforceable after the expiration of twelve years from the date of the relevant judgment.

Failure to comply with instalment order.

8. (1) Whenever a creditor wishes to apply for a summons pursuant to section 6(1) of the Act of 1940 (as substituted by section 2 of the Act of 2009), that creditor or the solicitor for that creditor shall prepare and lodge with the Clerk a summons in duplicate in the Form 53.8 Schedule C and a statutory declaration in the Form 53.9 Schedule C. The Clerk shall list the matter for hearing and, having completed and signed the original and copy summons, shall issue that summons to the creditor or solicitor for the creditor for service upon the debtor.

(2) A summons issued pursuant to section 6(1) of the Act of 1940 shall be served personally upon the debtor (unless the Judge of the District Court directs service otherwise) at least fourteen days before the date of sitting of the Court at which the debtor is directed to appear.

(3) An application for a direction pursuant to section 6(2)(e) of the Act of 1940 that a summons issued pursuant to section 6(1) of the Act of 1940 be served on the debtor otherwise than by personal service may be made *ex parte* to the Judge at any sitting of the Court, and where such a direction is given, that summons may, notwithstanding sub-rule (2), be served in accordance with that direction.

(4) When service has been effected, the original of the summons, together with a statutory declaration as to service thereof, shall be lodged with the Clerk at least four days before the said date of sitting of the Court.

(5) A warrant issued for the arrest of a debtor who has failed to appear before the District Court without reasonable excuse, pursuant to section 6(3)(a) of the Act of 1940 shall be in the Form 53.10 Schedule C.

(6) Unless otherwise directed by the Judge, a notification pursuant to section 6(3)(b) of the Act of 1940 to the debtor of a new date fixed for a hearing at which the debtor is required to attend shall be by notice in writing served personally on the debtor and a copy of that notice, together with a statutory declaration as to service thereof, shall be lodged with the Clerk at least four days before the new date fixed for the hearing.

(7) Where the Judge, in accordance with section 6(7)(a) of the Act of 1940, treats the hearing of summons issued pursuant to section 6(1) of the Act of 1940

as an application under section 5 of that Act, an order of the Court for a variation of the instalment order shall be in the Form 53.7 Schedule C.

(8) Where the Judge, in accordance with section 6(7)(b) of the Act of 1940, requests the creditor and the debtor to seek resolution by mediation within such period as the Judge may specify, the Judge shall adjourn the proceedings generally with liberty to re-enter them. Where the creditor wishes to re-enter the proceedings, he shall apply in writing to the Clerk for re-entry, certifying in that application that mediation has failed to achieve a resolution. The Clerk shall re-list the proceedings for hearing and shall send notice of the re-listing in the Form 53.11 Schedule C to the debtor, to any solicitor who appeared for debtor on the initial hearing of the summons, and to the creditor, by ordinary post. The creditor is at liberty to effect further service of a copy of the notice on the debtor in accordance with sub-rule (2).

(9) Where the Judge, being satisfied of the due service upon the debtor of the instalment order, and that the debtor has failed to comply with such order, is also satisfied, beyond reasonable doubt, on the evidence presented, that the creditor has established that—

- (a) the failure to pay the sum in respect of which the debtor has made default is not due to the debtor's mere inability to pay but is due to his or her wilful refusal or culpable neglect, and
- (b) the debtor has no goods which could be taken in execution under any process of the court by which the judgment, order or decree for the debt was given,

and makes an order under section 6(7)(c) or section 6(7)(d) of the Act of 1940, that order shall be in the Form 53.12 or 53.13 Schedule C, as appropriate.

(10) Where an order is made under section 6(7)(c) of the Act of 1940 any failure by the debtor to comply with a condition of postponement may be proved by statutory declaration of the creditor lodged with the Clerk, and a warrant may issue on lodgment of such proof but the Clerk may, in any case, re-enter the matter before the Court.

(11) A warrant to enforce an order for arrest and imprisonment pursuant to section 6(7) of the Act of 1940 shall be in the Form 53.14 Schedule C and may be added to the form of an order under section 6(7)(c) or section 6(7)(d) of that Act.

(12) Where a debtor wishes to apply to the Court under section 6(9) of the Act of 1940, he or she shall apply to the Clerk for re-entry of the matter. The Clerk shall re-list the matter for hearing and shall send notice of the re-listing in the Form 53.15 Schedule C to the creditor and to the debtor, by ordinary post. An order of the Court on the hearing of the matter as re-listed for a variation of the instalment order shall be in the Form 53.7 Schedule C.

(13) Where a debtor wishes to apply to the Court under section 6(10) of the Act of 1940, he or she shall apply to the Clerk for re-entry of the matter. The

Clerk shall re-list the matter for hearing and shall notify the creditor, the debtor and the Governor of the prison in which the debtor is imprisoned of the re-listing of the matter in the Form 53.16 Schedule C by ordinary post and such other means as he considers appropriate.

(14) No order under sub-rule (9) shall be made against a debtor who is a member of the permanent Defence Forces or a reservist for the time being called out on permanent service.

Where appeal is lodged, warrant not to issue.

9. (1) Where a notice of appeal against an order for arrest and imprisonment pursuant to section 6(7) of the Act of 1940 has been lodged and a recognisance (if required) has been entered into and the warrant to enforce the order has not been issued, such warrant shall not be issued until the appeal has been decided or the appellant has failed to perform the conditions of the recognisance, as the case may be.

Where issued, Clerk to secure its return.

(2) Where such warrant has been issued but not executed when a notice of appeal is lodged, the Clerk shall forthwith notify the Superintendent of the Garda Síochána to whom the warrant was addressed that a notice of appeal has been lodged (and that a recognisance has been entered into, if that be the case) and shall request the Superintendent to return the warrant for cancellation by the Court.

Where amount due is paid to him or her, Clerk to secure return of warrant.

10. Where a warrant to enforce an order for arrest and imprisonment pursuant to section 6(7) of the Act of 1940 has been issued but not executed and the amount of the arrears of instalments and costs specified in the said order is paid to the Clerk, he or she shall forthwith notify the Superintendent of the Garda Síochána to whom the warrant was addressed that such payment has been made and shall request the Superintendent to return the warrant for cancellation by the Court.

Notice by Governor to Clerk.

11. The Governor of the prison in which the debtor is imprisoned by virtue of a warrant under rule 8(11) of this Order shall forthwith, upon the reception in the prison of the debtor, give notice in writing of such reception to the Clerk specified in the warrant.

Where debtor is in custody and Clerk receives payment, Clerk to notify the Governor, etc.

12. Where, subsequent to the arrest and imprisonment of a debtor under section 6(7) of the Act of 1940, the amount of the arrears of instalments and costs specified in the order for arrest and imprisonment is paid to the Clerk, he or she shall give a certificate of payment in the Form 53.17 Schedule C to the person making the payment on behalf of the debtor and shall forthwith forward a similar certificate to the Governor of the prison in which the debtor is imprisoned and to the creditor or solicitor for the creditor.

Where statement of means is false.

13. An order for arrest and imprisonment made pursuant to section 16(2) of the Act of 1926 shall be in accordance with Form 53.18 Schedule C.

Warrants — provisions of O.26 to apply.

14. The provisions contained in Order 26 of these Rules (relating to warrants in criminal proceedings) shall apply to warrants issued under this Order.

Registration of decrees in the Central Office.

15. (1) Any decree of the District Court may be registered in the Central Office of the High Court in like manner as a similar judgment of the High Court may be registered in that Office.

(2) The practice and procedure in use in the said Central Office in relation to the registration of judgments of the High Court shall apply to and be followed in relation to the registration (under section 25 of the Courts Act 1981) of decrees of the District Court.

Application of this Order to PIAB orders to pay and other orders.

16. (1) The provisions of these Rules which relate to the enforcement of any judgment of a court shall apply, with any necessary modifications, to any order to pay issued by the Personal Injuries Assessment Board pursuant to section 38(1) of the Personal Injuries Assessment Board Act 2003 and any Form in Schedule C to these Rules which contains a reference to a judgment may be adapted to refer to such an order to pay.

(2) The provisions of this Order which relate to the enforcement of any judgment of a court shall apply, where and to the extent so provided by these Rules, to a judgment or other instrument issued by a court in a Member State of the European Union other than the State.”

SCHEDULE 2

53.1

Record Number.....

ENFORCEMENT OF COURT ORDERS ACT 1926, SECTION 15(1)

SUMMONS FOR ATTENDANCE OF DEBTOR

District Court Area of District No.

To: Debtor
of.....

Application by Creditor
of.....

If you fail to attend in the District Court at the place and on the date given below at the time stated, an instalment order may be made in your absence. If you fail to deliver your completed Statement of Means as required below, an instalment order may be made. Failure to make a payment due under an instalment order may result in a further summons being issued against you, which may lead to your being arrested and imprisoned for a period of up to three months.

YOU ARE REQUIRED BY THIS SUMMONS to attend at the District Court at..... on the... day of.... 20.. at.. a.m./p.m. to be examined as to your means.

YOU ARE ALSO REQUIRED BY THIS SUMMONS at least one week before that date to complete the Statement of Means attached to this summons, detach it and lodge the completed Statement of Means, by delivering or sending it to the Clerk of the District Court at the address shown on the Statement of Means.

The creditor claims that by an Order of the..... Court dated the day of.....20....., it was ordered that the creditor recover against you, the debtor, the total sum of €.....,(debt) and the sum of €..... for costs and expenses, together with interest at the rate of.....% per annum on the *(debt) *(debt and costs and expenses) until satisfied.

The creditor also claims that the Order has not been complied with and that there is now due and owing by you the debtor to the creditor on foot of that Order the total sum of €.....

Dated this day of.....20....

Signed.....
Clerk of the District Court

* Delete where inapplicable

..... detach here
(Statement of Means in Form No. 53.3 to be added)

ENFORCEMENT OF COURT ORDERS ACT 1926, SECTION 15(2)

STATUTORY DECLARATION TO ACCOMPANY APPLICATION FOR
SUMMONS

District Court Area of

District No.

.....Creditor

of.....

and

.....Debtor

of.....

I,..... of.....
do solemnly and sincerely declare

1. *(that I am the creditor in the above-named proceedings); *(that I have been authorised by the creditor in the above-named proceedings to make this statutory declaration on his/her behalf);

2. that the judgment debt sought to be enforced in the accompanying application is a debt due under a judgment, order or decree of a court of competent jurisdiction, namely, a judgment/order/decree of the.....Court dated the.... day of 20.....;

3. that the debtor in these proceedings is ordinarily resident at..... in the said court district;

and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed.....

Declared before me.....[name in capitals] a *(commissioner for oaths/practising solicitor) *(peace commissioner) *(notary public) by the said

*[who is personally known to me],

*[who is identified to me by who is personally known to me]

*[whose identity has been established to me before the taking of this Declaration by the production to me of

†passport no. issued on theday of..... by the authorities of, which is an authority recognised by the Irish Government,

†national identity card no. issued on theday of.....by the authorities ofwhich is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement,

†Aliens Passport no. issued on theday of..... by the authorities of which is an authority recognised by the Irish Government,

†refugee travel document no. issued on theday of..... by the Minister for Justice, Equality and Law Reform,

† travel document (other than refugee travel document) issued on theday of.....by the Minister for Justice, Equality and Law Reform,]

at.....this.....day of.....20.....

Signed.....

*Commissioner for Oaths/*Practising Solicitor/*Peace Commissioner/*Notary Public.

*Delete where applicable.

†Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

Record Number.....

ENFORCEMENT OF COURT ORDERS ACT 1926, SECTION 15(1)

STATEMENT OF MEANS

.....Creditor

.....Debtor

Please note:

- 1. Please complete this Statement of Means carefully and accurately. If you need assistance in completing this Statement of Means, you may wish to contact your solicitor (if you have one), the Money Advice and Budgeting Service or a Citizen’s Advice Centre.**
- 2. If you deliver a statement of means which is false to your knowledge in a material particular, you may be arrested and imprisoned for a period not exceeding three months.**
- 3. If you are in receipt of any social welfare payments it is most important in your own interests that you bring with you your social services card and produce it to the Court.**
- 4. If any of your details do not fit in the space provided, please attach a separate sheet giving those details.**
- 5. You are advised to keep a copy of this Statement of Means and bring it with you to Court.**

To the District Court Clerk

at.....

As required by the summons served on me in the above-named proceedings, I now lodge the following statement of my means.

	€ per week (gross)	€ per week (net)
1. Income: Please set out in this section each means by which your income is earned (e.g. employment) or the source of your income (e.g. social welfare benefits) and the amount per week you receive from each means or source.		
a.		€
b.		€
c.		€
2. Outgoings: Please set out below in this section details of your outgoings (e.g. rent, household expenses, gas/electricity, loan repayments) and the amount per week you pay for each.		

	€ per week (gross)	€ per week (net)
a.		€
b.		€
c.		€
3. Other court orders: Please set out in this section if you are at present making payments on foot of any other court orders (e.g. other instalment orders, maintenance etc). If you are, please give details of the amounts and the reference numbers and bring with you to court copies of any relevant documents. If you are not, strike through this section.		
a.	Reference no.:	€
b.	Reference no.:	€
c.	Reference no.:	€
4. Assets: Please give in this section a description of any assets which you own (e.g. money in bank, car etc) and the approximate value of each. If you have no relevant assets, strike through this section.		
a.		€
b.		€
c.		€
5. Other liabilities: Please give in this section a description of any other liabilities you have which you are not currently repaying and the approximate value of each. If you have no relevant liabilities, strike through this section.		
a.		€
b.		€
c.		€
6. Persons for whose support I am legally or morally liable: Please give details in this section of other people who you are legally or morally liable to support, for example your children or any relative who relies on you. If there is no relevant person, strike through this section.		
Name:	Address:	Age:
Name:	Address:	Age:
Name:	Address:	Age:

I say that, to the best of my knowledge and belief, the particulars given above and on any attached sheet are accurate and true. I understand that if I deliver a statement of means which is false to my knowledge in a material particular, I may be arrested and imprisoned for a period not exceeding three months.

Dated this day of.....20...

Signed.....
(the above-named Debtor)

of.....

Record Number.....

ENFORCEMENT OF COURT ORDERS ACT 1926, SECTION 15(6)

CERTIFICATE OF AMOUNT DUE

District Court Area of

District No.

.....Creditor

.....Debtor

I hereby certify that, as set out below, *no sum whatever/*the total sum of €.....
has been paid on foot of the claim herein since the service of the summons herein,
and that the sum of €..... is now due by the Debtor to the Creditor.

Amount due (for debt, costs, expenses, interest if any)

at the date of the service of the summons €_____

Payments made since the date of the service of the summons:—

Date	Amount
	€_____
	€_____
	€_____
	€_____

Deduct total payments €_____

€_____

Add accrued interest (if any) from date
of service of summons to date of this
certificate €_____

Amount now due €_____

Dated this..... day of.....20....

Signed.....
Creditor/Solicitor for Creditor

*Delete where inapplicable.

Record Number.....

ENFORCEMENT OF COURT ORDERS ACTS 1926 to 2009

INSTALMENT ORDER

District Court Area of District No.
 Creditor
 Debtor

This document is an instalment order made by the District Court. If you fail to make a payment due under this instalment order, a further summons may be issued against you to attend before the District Court, which may lead to your being arrested and imprisoned for a period of up to three months.

WHEREAS:

1. The Court is satisfied that the Debtor was duly served with a summons dated theday of.....20... to attend before a sitting of the District Court today for examination as to means;

2. The Debtor

*(failed to lodge a Statement of Means in accordance with the said summons)

*(failed to attend for examination today in accordance with the said summons)

*(refused to submit himself/herself for cross-examination by or on behalf of the Creditor)

*(attended for examination today in accordance with the said summons and failed to satisfy the Court that he/she is not able to pay the debt of €..... in one sum or by instalments).

3. Having heard what was said today on behalf of the Creditor and the Debtor, and having been so requested by the Creditor, the Court hereby orders that the Debtor..... of (in the above court district) must pay the Creditor the balance due for debt, costs, expenses and interest under a judgment of theCourt dated the..... day of20... together with the costs of these proceedings:

Balance due under the judgment in favour of the Creditor:	€.....
Amount awarded for the costs of these proceedings:	€.....
Total due by the Debtor:	€.....

the total due to be paid by the Debtor in the following manner, that is to say:—

*(by..... instalments of €..... each, the first such instalment to be paid before or on the..... day of20... and each subsequent instalment to be paidthereafter)

*(in one payment to be paid before or on the..... day of20....)

Dated this day of20....

Signed.....
Judge of the District Court

NOTE:- The District Court can vary the terms of this instalment order, by altering the number of instalments, the amount of each instalment or the times at which instalments are to be paid or by substituting payment in such instalments at such times as the Judge in all the circumstances thinks reasonable for a single payment. If you the Debtor are concerned that you may not be able to comply with the terms of this instalment order and would like to apply for a variation, you should consult a solicitor or contact the District Court Clerk at.....

*Delete where inapplicable

†a “judgment” includes a decree or order.

Record Number.....

ENFORCEMENT OF COURT ORDERS ACTS 1926 TO 2009

SUMMONS TO VARY AN INSTALMENT ORDER

District Court Area of

District No.

.....Creditor

.....Debtor

You are hereby required to attend at the sitting of the District Court to be held at on the..... day of.....20..., ata.m./p.m. upon the hearing of an application on behalf of the*Creditor/*Debtor to have an instalment order dated theday of.....20..., made in this matter by the District Court sitting in the said court area, varied as provided by section 5 of the Enforcement of Court Orders Act 1940, or for such other relief as to the Court in the circumstances may seem meet, and for the costs of this application.

Dated thisday of.....20...

Signed.....

District Court Clerk

To.....

of.....

the above-named *Creditor/*Debtor

*Delete whichever inapplicable

Record Number.....

ENFORCEMENT OF COURT ORDERS ACTS 1926 TO 2009

ORDER VARYING INSTALMENT ORDER

District Court Area of

District No.

.....Creditor

.....Debtor

This document is an order varying an instalment order made by the District Court. If you fail to make a payment due under the terms of this order, a further summons may be issued against you to attend before the District Court, which may lead to your being arrested and imprisoned for a period of up to three months.

WHEREAS by an Order dated the.....day of.....20...made by the Court sitting at..... for the District Court Area of....., District No....., the above named Debtor was ordered to pay the sum of €.....

*(by..... instalments of €..... each, the first such instalment to be paid before or on the..... day of20.... and each subsequent instalment to be paidthereafter)

*(in one payment to be paid before or on the..... day of20....)

AND WHEREAS proof has been given of the due service upon the Debtor of the said instalment order and the said instalment order is still in force,

NOW upon application made this day by the *Debtor/*Creditor in respect of the said instalment order and upon proof of due service of the summons herein dated the.....day of.....20...,

THE COURT hereby varies the said Order dated the.....day of.....20..., and directs that on and from the.....day of.....20..., the sum of €....., being the balance of the said debt and costs remaining unpaid, (together with the sum of €..... being the amount for interest which has accrued thereon to the date hereof) and €....., the costs of this application,

be paid by the Debtor to the Creditor in instalments of €..... each the first of such instalments to be paid before or on the..... day of20....

Dated this..... day of20...

Signed.....
Judge of the District Court

*Delete whichever inapplicable

Record Number.....

ENFORCEMENT OF COURT ORDERS ACT 1940, SECTION 6
(as amended by Enforcement of Court Orders (Amendment) Act 2009,
section 2)

SUMMONS ON FAILURE TO COMPLY WITH AN INSTALMENT
ORDER

District Court Area of

District No.

.....Creditor

.....Debtor

If you fail, without reasonable excuse, to attend in the District Court at the place and on the date given below at the time stated, a warrant may be issued, without further warning, for you to be arrested and brought before the District Court.

Failure to make a payment due under an instalment order may result in your being arrested and imprisoned for a period of up to three months.

WHEREAS:

1. An instalment order was made on the day of20... by the District Court sitting at..... for the District Court Area of..... District No....., under which you, the above named Debtor were ordered to pay the sum of €..... and the sum €..... for costs,

*(by..... instalments of €..... each, the first such instalment to be paid before or on the..... day of20... and each subsequent instalment to be paidthereafter)

*(in one payment to be paid before or on the..... day of20....);

2. Proof has been given that the instalment order was duly served on you the Debtor of..... and that the instalment order is still in force;

3. The Creditor claims that you the Debtor have not complied with the instalment order and that there is now due and owing by you the Debtor to the Creditor on foot of the instalment order the total sum of €.....;

YOU ARE REQUIRED to attend at the sitting of the District Court to be held at..... on the day of20... at..... a.m./p.m. on the hearing of this summons.

At that hearing, having listened to the Creditor and to you, the Court may:

- (a) treat the case as one asking the Court to vary the instalment order and if it does, it may change the number of the instalments, or the amount of each instalment, or the times at which instalments are to be paid or change a single payment to payment by such instalments at such times as the Judge thinks is reasonable in all the circumstances;
- (b) request that the Creditor and you seek to resolve the dispute by mediation, which is a process which involves a neutral party attempting to help the Creditor and you to reach a settlement or compromise;
- (c) make an order for your imprisonment for a period not exceeding 3 months, but with the imprisonment postponed provided you comply with conditions set out by the Court, or
- (d) make an order for your imprisonment for a period not exceeding 3 months, to take effect immediately.

Dated this day of 20....

Signed.....
District Court Clerk

To.....
of.....
the above-named Debtor.

*Delete where inapplicable

Record number.....

ENFORCEMENT OF COURT ORDERS ACT 1940, SECTION 6
STATUTORY DECLARATION TO ACCOMPANY APPLICATION FOR
SUMMONS ON FAILURE TO COMPLY WITH AN INSTALMENT
ORDER

District Court Area of District No.

.....Creditor

of.....

and

.....Debtor

of.....

I,..... of.....
do solemnly and sincerely declare

1. *(that I am the Creditor in the above-named proceedings);

*(that I have been authorised by the Creditor in the above-named proceedings
to make this statutory declaration on his/her behalf);

2. that an instalment order was made on the day of20.... by
the District Court sitting at..... for the District Court Area
of..... District No....., under which the above named Debtor was
ordered to pay the sum of €..... and the sum €..... for costs,

*(by..... instalments of €..... each, the first such instalment to be paid
before or on the..... day of20.... and each subsequent instalment to be
paidthereafter)

*(in one payment to be paid before or on the..... day of20....);

3. that the instalment order was duly served by.....on the said
Debtor at on theday of20...;

4. that the instalment order is still in force;

5. that the Debtor has not complied with the instalment order by:

*(failing to pay an instalment of €....., due on the..... day of
.....20.... *(and an instalment of €....., due on the..... day of
.....20....);

*(failing to make the payment to be paid before or on the..... day of
.....20....);

6. that that there is now due and owing by the Debtor to the Creditor on foot of the instalment order the total sum of €.....;

7. that the Debtor is ordinarily resident at..... in the said court district;

and I make this solemn declaration conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1938.

Signed.....

Declared before me.....[name in capitals] a *(commissioner for oaths/practising solicitor) *(peace commissioner) *(notary public) by the said

*[who is personally known to me],

*[who is identified to me by who is personally known to me]

*[whose identity has been established to me before the taking of this Declaration by the production to me of

†passport no. issued on theday of..... by the authorities of, which is an authority recognised by the Irish Government,

†national identity card no. issued on theday of.....by the authorities ofwhich is an EU Member State, the Swiss Confederation or a Contracting Party to the EEA Agreement,

†Aliens Passport no. issued on theday of..... by the authorities of which is an authority recognised by the Irish Government,

†refugee travel document no. issued on theday of..... by the Minister for Justice, Equality and Law Reform,

† travel document (other than refugee travel document) issued on theday of.....by the Minister for Justice, Equality and Law Reform,]

at.....this.....day of.....20.....

Signed.....

*Commissioner for Oaths/*Practising Solicitor/*Peace Commissioner/*Notary Public.

*Delete where inapplicable

†Where relevant, provide details of the document by which identity has been established, and delete the remaining alternatives.

Record Number.....

ENFORCEMENT OF COURT ORDERS ACT 1940, SECTION 6(3)(a)

WARRANT FOR ARREST OF DEBTOR
(non-appearance on summons)

District Court Area of

District No.

.....Creditor

.....Debtor

WHEREAS:

1. By an instalment order (the “original order”) dated the..... day of20.... made by the Court sitting at..... for the District Court Area of..... District No....., the above named Debtor (the “Debtor”) was ordered to pay sum of €..... and the sum €..... for costs,

*(by..... instalments of €..... each, the first such instalment to be paid before or on the..... day of20.... and each subsequent instalment to be paidthereafter)

*(in one payment to be paid before or on the..... day of20....);

2. Proof has been given of the due service upon the Debtor of the said original order and the said original order is still in force,

3. The Creditor claims that the said original order has not been complied with and that there is now due and owing by the Debtor to the Creditor on foot of the said original order the total sum of €.....,

4. On the..... day of20...., a summons was issued pursuant to section 6(2) of the Act of 1940 directing the Debtor ofto appear at a sitting of the District Court to be held at *(today), *(on the..... day of20....) ata.m./p.m.,

5. The Debtor has failed without reasonable excuse to appear at:

* (the said time and place)

* (the hearing of the said summons fixed for the sitting of the District Court held at on the..... day of20.... ata.m./p.m);

6. The Court is satisfied that the summons was duly served upon the Debtor *(and the Court is satisfied that the Debtor was duly notified of the new date fixed for the said hearing in accordance with the Court’s direction);

THIS IS TO COMMAND YOU to whom this warrant is addressed to arrest
the Debtor
of
and to bring him/her before the District Court as soon as practicable.

Dated this ... day of 20....

Signed
Judge of the District Court

To the Superintendent of the Garda Síochána
at.....

*Delete where inapplicable

Record Number.....

ENFORCEMENT OF COURT ORDERS ACT 1940, SECTION 6(7)(b)

NOTICE OF RE-ENTRY

District Court Area of

District No.

.....Creditor

.....Debtor

The creditor named above has applied for re-entry of the above proceedings resolution by mediation not having been achieved within the period previously specified by the Judge.

YOU ARE REQUIRED to attend at the sitting of the District Court to be held at..... on the day of20.... at..... a.m./p.m. on the re-entry of these proceedings.

If you fail, without reasonable excuse, to attend in the District Court at that place, on that date at the time stated, a warrant may be issued, without further warning, for you to be arrested and brought before the District Court.

Dated this day of.....20....

Signed.....
District Court Clerk

To.....

of.....
the above-named Debtor

*To.....

of.....
Solicitor for the above-named Debtor

To.....

of.....
the above-named Creditor

*Delete where inapplicable

Record Number.....

ENFORCEMENT OF COURT ORDERS ACT 1940, SECTION 6(7)(c)

ORDER FOR ARREST AND IMPRISONMENT — POSTPONED
CONDITIONALLY

District Court Area of

District No.

.....Creditor

.....Debtor

The District Court has made an order for your imprisonment for your failure to comply with an instalment order referred to below as the “original order”. The order for imprisonment is postponed provided that you comply with the conditions of this order.

If you fail to comply with this order, you may be arrested and imprisoned for the period specified in this order.

If your ability to comply with the terms of this order changes, you should immediately contact the District Court Clerk at..... and (if the original order was made by this Court) ask to have the matter re-entered to apply to the Judge to vary the original order.

WHEREAS:

1. By an instalment order (the “original order”) dated the day of.....20... made by the District Court sitting at..... for the District Court Area of....., District No., the above-named Debtor was ordered to pay the sum of €..... and the sum €..... for costs,

*(by..... instalments of €..... each, the first such instalment to be paid before or on the..... day of20.... and each subsequent instalment to be paidthereafter)

*(in one payment to be paid before or on the..... day of20....);

2. Application was made for the issue of a summons under section 6(1) of the Enforcement of Court Orders Act 1940 and such summons was issued and *came on *was re-listed for hearing today when both the Creditor and Debtor were present in court,

3. Both the Creditor and the Debtor being present in Court, before hearing their evidence, the Judge explained to the Debtor

(a) that the Debtor is entitled to apply to the Court for a certificate of legal aid under section 6A of the said Act of 1940, and

(b) the consequences, under section 6 of the said Act of 1940, which may follow a failure to comply with an instalment order, and in particular the possibility of imprisonment,

4. The Court was satisfied that the original order was duly served upon the Debtor on the day of20.... and that the *summons *(notice of re-listing) was duly served upon the Debtor on the..... day of20....,

5. The Court was satisfied that the Debtor has failed to comply with said original order,

6. The Court was satisfied that there is now due and owing on foot of the original order the sum of €..... being the amount ofinstalments which have accrued due and are unpaid at the date of this order, together with the further sum of €....., being the costs of the application under section 6 of the Enforcement of Court Orders Act 1940, making in all the sum of €.....,

7. The Judge was satisfied, beyond reasonable doubt, on the evidence presented, that it had been established on behalf of the Creditor that—

(a) the failure to pay the sum in respect of which the Debtor has made default is not due to the Debtor’s mere inability to pay but is due to his or her wilful refusal or culpable neglect, and

(b) the Debtor has no goods which could be taken in execution under any process of the Court by which the original order was given,

NOW IT IS HEREBY ORDERED under section 6(7)(c) of the said Act of 1940:

(A) that the said Debtor for his/her said default and failure to pay the said instalments be arrested and committed to prison at to be imprisoned for the period of the date of his/her arrest unless he/she, or someone on his/her behalf, shall sooner pay to the District Court Clerk at, or to the Governor of the said prison for the said Clerk, or to the under-mentioned Superintendent of the Garda Síochána for said Clerk, the above-mentioned sum of €....., being the total amount of all instalments of the said debt and costs which have accrued before, and are unpaid at, the date of this order, and the costs of this application, but

(B) that execution of this order of imprisonment be postponed until theday of.....20.... *(on condition that

*the said Debtor makes payments of €..... each to the said Creditor, the first such payment to be made before or on the..... day of20.... and each subsequent payment to be made thereafter)

*(insert any further conditions);

Dated this day of20...

Signed.....
Judge of the District Court

Warrant in Form 53.14 to be added where debtor fails to comply with conditions

*Delete where inapplicable

Record Number.....

ENFORCEMENT OF COURT ORDERS ACT 1940, SECTION 6(7)(d)

ORDER FOR ARREST AND IMPRISONMENT

District Court Area of

District No.

.....Creditor

.....Debtor

WHEREAS:

1. By an order for payment (the “instalment order”) dated the day of.....20... made by the District Court sitting at..... for the District Court Area of....., District No., the above-named Debtor was ordered to pay the sum of €..... and the sum €..... for costs,

*(by..... instalments of €..... each, the first such instalment to be paid before or on the..... day of20.... and each subsequent instalment to be paidthereafter)

*(in one payment to be paid before or on the..... day of20....);

2. Application was made by or on behalf of the Creditor for the issue of a summons under section 6(1) of the Enforcement of Court Orders Act 1940 and such summons was issued and *came on *was re-listed for hearing today when both the Creditor and Debtor were present in court,

3. Both the Creditor and the Debtor being present in Court, before hearing their evidence, the Judge explained to the Debtor

(a) that the Debtor is entitled to apply to the Court for a certificate of legal aid under section 6A of the said Act of 1940, and

(b) the consequences, under section 6 of the said Act of 1940, which may follow a failure to comply with an instalment order or other order to which that section applies, and in particular the possibility of imprisonment,

4. The Court was satisfied that the original order was duly served upon the Debtor on the day of20.... and that the *summons *(notice of re-listing) was duly served upon the Debtor on the..... day of20....,

5. The Court was satisfied that the Debtor has failed to comply with said original order,

6. The Court was satisfied that there is now due and owing on foot of the original order the sum of €..... being the amount of instalments which have accrued due and are unpaid at the date of this order, together with the further sum of €....., being the costs of the application under section 6 of the Enforcement of Court Orders Act 1940, making in all the sum of €.....,

7. The Judge was satisfied, beyond reasonable doubt, on the evidence presented, that it had been established on behalf of the Creditor that—

- (a) the failure to pay the sum in respect of which the Debtor has made default is not due to the Debtor’s mere inability to pay but is due to his or her wilful refusal or culpable neglect, and
- (b) the Debtor has no goods which could be taken in execution under any process of the court by which the original order was made,

NOW IT IS HEREBY ORDERED under section 6(7)(d) of the said Act of 1940 that the said Debtor for his/her said default and failure to pay the said instalments be arrested and committed to prison at to be imprisoned for the period of the date of his/her arrest unless he/she, or someone on his/her behalf, shall sooner pay to the District Court Clerk at to the Governor of the said prison for the said Clerk, or to the under-mentioned Superintendent of the Garda Síochána for said Clerk the above-mentioned sum of €....., being the total amount of all instalments of the said debt and costs which have accrued before, and are unpaid at, the date of this Order, and the costs of this application.

Dated this day of20...

Signed.....
Judge of the District Court

Warrant in Form 53.14 to be added

*Delete where inapplicable

53.14

Schedule C
O.53, r.8 (11)

Record number

ENFORCEMENT OF COURT ORDERS ACT 1940, SECTION 6

†WARRANT TO ENFORCE ORDER FOR ARREST AND
IMPRISONMENT

THIS IS TO COMMAND YOU to whom this warrant is addressed to arrest the
Debtor, the said

of.....

and to lodge him/her in the prison at.....

there to be imprisoned for a period of.....

pursuant to the above Order unless the said Debtor or someone on his/her
behalf shall sooner pay to the District Court Clerk at
or to you for the said Clerk or to the Governor of the said prison for the said
Clerk the sum of €....., being the amount of all instalments of the said debt and
costs which have accrued before and are unpaid at the date of the above Order
and a further sum of €....., being the costs of the above application, making in
all the sum of €..... .

Dated this..... day of20...

Signed.....
Judge of the District Court

To the Superintendent of the Garda Síochána,

at.....

and his/her assistants

†To be added to Form 53.12 in every case

*Delete where inapplicable

Record Number.....

ENFORCEMENT OF COURT ORDERS ACT 1940, SECTION 6(9)

NOTICE OF RE-ENTRY

District Court Area of

District No.

.....Creditor

.....Debtor

You are required to attend at the sitting of the District Court to be held at..... on the.....day of.....20..., ata.m./p.m. on the re-entry of these proceedings.

The Debtor (in respect of whom an order has been made under section 6(7)(c) of the said Act fixing and postponing a term of imprisonment with a condition as to payment of the debt and costs by the Debtor) has applied pursuant to section 6(9) of the above-mentioned Act for such re-entry as he/she says his/her ability to comply with the terms of the said order has changed.

On the hearing, the Court may deal with the matter as if it was an application to have the instalment order made on theday of.....20..., in this matter by the District Court sitting in the said court area, varied as provided by section 5 of the said Act.

Dated thisday of.....20...

Signed.....

District Court Clerk

To.....

of.....
the above-named Creditor

And.....

of.....
the above-named Debtor

*Delete where inapplicable

Record Number.....

ENFORCEMENT OF COURT ORDERS ACT 1940, SECTION 6(10)

NOTICE OF RE-ENTRY

District Court Area of

District No.

.....Creditor

.....Debtor

You, the above-named Creditor, are required to attend at the sitting of the District Court to be held at..... on the.....day of.....20..., ata.m./p.m. on the re-entry of these proceedings.

The Debtor (who has been imprisoned on foot of an order made under section 6(7) of the above-mentioned Act) has applied pursuant to section 6(10) of the above-mentioned Act for such re-entry as he/she says his/her ability to repay the outstanding debt and costs as specified in that order has changed. On the hearing, the Court shall deal with the matter as if it was a re-hearing of the summons issued under section 6(1) of the said Act on the non-compliance by the said Debtor with the instalment order made in this matter on theday of.....20..., by the District Court sitting in said court area, varied as provided by section 5 of the said Act.

Dated thisday of.....20...

Signed.....

District Court Clerk

To.....

of.....
the above-named Creditor

And.....

of.....
the above-named Debtor

And to Governor of the prison

at.....

*Delete where inapplicable

Record Number.....

ENFORCEMENT OF COURT ORDERS ACTS 1926 TO 2009

CERTIFICATE OF PAYMENT

District Court Area of

District No.

.....Creditor

.....Debtor

I hereby certify that there has been paid to me on behalf of.....now imprisoned in the prison at..... upon order of the District Court dated the..... day of20... the sum of €....., being the full amount specified in the said Order.

Dated this day of 20...

Signed.....
District Court Clerk

To the Governor of Prison

and to

*Creditor/*Solicitor for Creditor

*Delete where inapplicable

Record Number.....

ENFORCEMENT OF COURT ORDERS ACT 1926, SECTION 16(2)

ORDER FOR ARREST AND IMPRISONMENT

District Court Area of

District No.

.....Creditor

.....Debtor

The Debtor having been duly served with summons dated day of20..., and having, in compliance with the said summons, lodged with the Clerk of the District Court at a statement of his/her means.

AND the Court being satisfied, upon evidence produced before it this day, that the said statement of means so lodged, is false to the knowledge of the Debtor in certain material particulars, namely:

has ordered that the said Debtor of..... be arrested and imprisoned in the prison at.....for a period of.....

THIS IS TO COMMAND you, to whom this warrant is addressed, to arrest the said Debtor and lodge him/her in prison at.....there to be imprisoned for a period of .

Dated this day of20...

Signed.....
Judge of the District Court

To the Superintendent of the Garda Síochána

at.....
and his/her assistants.

EXPLANATORY NOTE

(This does not form part of the instrument and does not purport to be a legal interpretation.)

These rules amend Order 53 prescribing forms and procedure in respect of section 6 of the Enforcement of Court Orders Act 1940 as amended by the Enforcement of Court Orders Act (Amendment) 2009.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
OIFIG DHÍOLTA FOILSEACHÁN RIALTAIS,
TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
nó tríd an bpost ó
FOILSEACHÁIN RIALTAIS, AN RANNÓG POST-TRÁCHTA,
AONAD 20 PÁIRC MIONDÍOLA COIS LOCHA, CLÁR CHLAINNE MHUIRIS,
CONTAE MHAIGH EO,
(Teil: 01 - 6476834 nó 1890 213434; Fax: 094 - 9378964 nó 01 - 6476843)
nó trí aon díoltóir leabhar.

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