

### 1 What does enforcement mean in civil and commercial matters?

There is no precise definition of enforcement in Ireland. In practical terms it amounts to the act of carrying into effect a judgment or order of a court. This enforcement action is usually sanctioned by the court prior to it being carried out.

The following are the more common means of enforcing judgments of a civil and commercial nature in Ireland:

#### Execution

This type of action involves the seizure of the goods of the judgment debtor. The Court issues an order at the request of the judgment creditor directing the County Registrar (or the Sheriff in the case of Dublin or Cork) to seize goods to the value of the judgment debt (including any legal costs incurred). These goods may then be sold in order to satisfy the debt.

#### Registration

The existence of a judgment can be brought into the public domain by its registration in the Register of Judgments in the High Court. The Register contains any judgment, regardless of whether it was obtained in the District, Circuit or High Court, which the creditor has requested be entered. The name and address of the debtor together with details of the judgment is published in some newspapers and in commercial publications such as *Stubbs Gazette*. In addition credit institutions record this information and an unpaid judgment may affect access by the debtor to finance.

#### Judgment Mortgage Affidavit

An affidavit may be sworn by the judgment creditor and upon certification of the judgment by the relevant court it may be registered against the debtor's property. The proceeds of the sale of the property must, having regard to the priority of other mortgages, be applied in discharge of the debt prior to being given to the debtor. A further step which can be taken is to apply to court for a well charging order and an order for the sale of the property.

#### Instalment Orders / Committal Orders

An application can be made to the District Court to have an order made for the payment of a judgment by way of instalments pursuant to the [Enforcement of Court Orders Acts 1926 to 2009](#). A Judge will decide, having regard to the means of the debtor, the amount of the instalment directed to be paid. A committal order is only available against natural persons and not against legal persons i.e. companies. Failing payment of an instalment order may give rise to an application for a committal order. This effectively means that you may be imprisoned if you can afford to pay but refuse to do so.

#### Attachment of Earnings

An order may be obtained by a judgment creditor directing that deductions be made directly from the wages / salary of the debtor. The effect of this is that the payment is made directly from the debtor's employer to the creditor.

#### Garnishee Order

Where a judgment creditor is aware of a debt due by a third party to the judgment debtor, an application may be made to court to have an order made directing the third party to pay a certain amount directly to the creditor. It is at the discretion of the Court whether or not to grant the order.

#### Receiver by Equitable Execution

This measure involves the appointment of a receiver by the court over, for example, proceeds of the sale of an asset by the debtor with a view to the satisfaction of the debt. The decision to appoint a receiver is at the Court's discretion.

It is important to note that the means of attempting to enforce a judgment is a matter for a judgment creditor and the legal advisors. The [Courts Service](#) does not suggest any particular course of action. This list is not intended to be exhaustive but merely outlines the common procedures used.

### 2 Which authority or authorities are competent for enforcement?

For a domestic judgment, it may be necessary to obtain the authorisation of the court which granted the judgment in order to enforce the judgment (see above). In certain cases, such as execution and registration of a judgment, an application to court is not required and an application for enforcement may be made to the court office concerned.

In the case of judgments from other EU jurisdictions, the competent court is the High Court. However, in the case of periodic maintenance payments certified as a European Enforcement Order in other EU jurisdictions, the competent court is the District Court.

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

#### 3.1 The procedure

Judicial and certain non-judicial decisions are enforceable. As well as orders of the court these include judgments in summary matters entered by a Registrar in the High Court or the County Registrar in the Circuit Court.

It is often necessary to obtain the authorisation of the court which granted the judgment in order to enforce the judgment. In some cases however, such as execution and registration of judgment, an application to court is not required. The authorisation can be given by the court office concerned.

In the case of judgments from other jurisdictions to be enforced under EU Regulations, the competent court is the High Court. (or in the case of periodic maintenance payments certified as a European Enforcement Order, the District Court). The functions in relation to Regulation (EC) 44/2001 (replaced by Regulation (EU) No 1215/2012 which applies to court settlements approved or concluded on or after 10 January 2015) have been delegated to the Master of the High Court and an application can be made in open court for a declaration that a judgment is enforceable in Ireland and a subsequent Order made for its enforcement.

A judgment certified as a European Enforcement Order issued under Regulation (EC) 805/2004 is recognised as and has the same effect as a High Court judgment and is enforced accordingly. The competent court for enforcing a periodic maintenance payment certified as a European Enforcement Order is the District Court. The domestic regulations governing this process can be found in S.I. 274 of 2011.

In the case of a judgment delivered on an uncontested claim to be enforced in another EU jurisdiction, the court which delivered the judgment has jurisdiction for applications in relation to its enforcement under Regulation 805/2004 relating to European Enforcement Orders.

The application for the enforcement of a judgment is usually made to the court (or court office) by a legal practitioner although there is no necessity for a creditor to be legally represented. All court applications must be made by a local practitioner and cannot be made by post. Certain applications to court offices, such as applications for execution, registration and certification of judgment for the purposes of a judgment mortgage affidavit, may be made by post. Advice on the practice and procedure involved may be obtained by contacting the Judgments Section in the High Court at [HighCourtCentralOffice@Courts.ie](mailto:HighCourtCentralOffice@Courts.ie). The costs (fees) imposed by the Courts Service are minimal and the current fees can be located in the [Fees Orders](#) on the [Courts Service](#) website. Costs which may be incurred as a result of instructing solicitors and barristers are a matter between creditors and their legal representatives. Some or all of the costs involved in the enforcement procedure may be awarded by the court.

### **3.2 The main conditions**

Section 15 of the [Enforcement of Court Orders Act 1926 \(as substituted by Section 1 of the Courts \(No. 2\) Act 1986\)](#) provides that where a debt is due on foot of a judgment order or decree, the creditor can apply to the District Court for the issue of a summons requiring the debtor to attend for examination as to his/her means by a District Court Judge. An application for an Enforcement Order must be made within six years from the date of the judgment order or decree. The creditor must produce evidence of the original debt and the debtor must complete a statement of means. Section 16 of the 1926 Act as amended by Section 9 of the 1986 Act allows evidence to be adduced and the cross examination of the debtor or creditor. An enforcement order can continue in force for a period of twelve years from the date of the relevant judgment order or decree

## **4 Object and nature of enforcement measures**

### **4.1 What types of assets can be subject to enforcement?**

All types of assets, with the exception of perishable goods or goods held by the debtor on a sale or return basis, can be the subject of enforcement.

### **4.2 What are the effects of enforcement measures?**

Non compliance with a Court Order may result in the party in default being open to sanctions for being in contempt. The penalties which can be imposed by a Court include fines or imprisonment until such time as the contempt is purged. There is therefore no limit on the length of time a person can be imprisoned. This also applies to any third party who breaches the terms of a Court Order.

It is important to note that, pursuant to Section 20 of the [Enforcement of Court Orders Act 1926](#), imprisonment of a debtor for failure to comply with an instalment order does not operate as a satisfaction or extinguishment of the debt or any part thereof and does not deprive the creditor of other remedies for the recovery of debts.

Banks and other financial institutions are under the same obligations as other parties in relation to compliance with Court Orders. In circumstances not specifically covered by a Court Order regard should be had to legislation and regulations governing personal information held by such an institution (for example the [Data Protection Act 1988](#))

### **4.3 What is the validity of such measures?**

Certain orders will always state the length of time in which the party concerned has to comply with the terms of the order although this may not always be the case. A judgment is valid for a period of twelve years although some of the enforcement measures which may be granted have time limits set out in Court Rules or in legislation. An example is a High Court execution Order which is valid for one year from its issue. After this period a new execution order is required.

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

An appeal does not usually lie against the enforcement measure itself as authorised by the court office but against the substantive judgment or order upon which it is grounded. An affected party may apply to the appellate court to have the judgment or order discharged. The time limits under which appeals must be brought vary and are as follows

District Court to Circuit Court: 14 days from the judgment or order

Circuit Court to High Court: 10 days from the date of the order

Master's Court to High Court: 6 days from the date of perfection of the order or if the order was made ex parte, from notice of the said order or if refused, from the date of such refusal (one month from service of the order in the case of enforcement of a foreign judgment pursuant to Regulation 44/2001)

High Court to Court of Appeal: either 10 days or 28 days from the date of perfection of the order, depending on the nature of the case

High Court or Court of Appeal to Supreme Court: 28 days from the date of perfection of the order.

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

A judgment is valid for a period of twelve years and no action may be brought on foot of judgment after the expiration of 12 years from the date on which it became enforceable. In addition, some of the enforcement measures which may be granted have time limits set out in Court Rules or in legislation. An example is a High Court execution Order which is valid for one year from its issue. After this period a new execution order is required. A further example is that leave of the court is required to issue a High Court execution order where more than six years have elapsed since the making of the enforceable court order.

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