



ENFORCEMENT OF COURT ORDERS BILL 2007

As initiated

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[No. 1 of 2007]



AN BILLE UM FHORFHEIDHMIÚ ORDUITHE CÚIRTE 2007

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[Uimh. 1 de 2007]

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ACTS REFERRED TO

Criminal Justice (Community Service) Act 1983	1983, No. 23
Enforcement of Court Orders Act 1940	1940, No. 23
Harbors Act 1946	1946, No. 9
Health Act 2004	2004, No. 42
Local Government Act 2001	2001, No. 37
Agriculture (Research, Training and Advice) Act 1988	1988, No. 18
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NA hAHTANNA DÁ DTAGRÁITEAR

An tAcht um Cheartas Coiriúil (Seirbhís Pobail) 1983	1983, Uimh. 23
An tAcht um Fheidhmiú Orduithe Cúirte 1940	1940, Uimh. 23
An tAcht Cuanta 1946	1946, Uimh. 9
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ENFORCEMENT OF COURT ORDERS BILL 2007

BILL

entitled

AN ACT TO PROVIDE FOR THE MAKING OF ATTACH-
MENT OF EARNINGS ORDERS, ATTACHMENT OF 5
WELFARE ORDERS AND INSTALMENT ORDERS BY
THE COURTS TO FACILITATE THE ENFORCEMENT OF
UNDISCHARGED COURT ORDERS, FINES AND
OTHER DEBTS AND TO PROVIDE FOR RELATED 10
MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

Short title and
commencement.

1.—(1) This Act may be cited as the Enforcement of Court
Orders Act 2007. 15

(2) This Act comes into operation on such day or days as the
Minister may appoint by order or orders either generally or with
reference to any particular purpose or provision and different days
may be so appointed for different purposes or provisions.

Interpretation.

2.—(1) In this Act— 20

“Act of 1940” means the Enforcement of Court Orders Act 1940;

“Act of 1983” means the Criminal Justice (Community Service)
Act 1983;

“court order” means a judgment, decree, administrative fine, or
order made by a court declaring a sum to be due and owing; 25

“creditor” means a person in whose favour an undischarged court
order exists;

“debtor” means a person who has not fully discharged the amount
due on foot of a court order;



AN BILLE UM FHORFHEIDHMIÚ ORDUITHE CÚIRTE 2007

BILLE

dá ngairtear

5 ACHT DO DHÉANAMH SOCRÚ MAIDIR LEIS NA
CÚIRTEANNA DO DHÉANAMH ORDUITHE ASTAITHE
TUILLIMH, ORDUITHE ASTAITHE LEASA AGUS
10 ORDUITHE TRÁTHCHODA CHUN FORFHEIDHMIÚ
ORDUITHE CÚIRTE, FÍNEÁLACHA AGUS FIACH EILE
NEAMHURSCAOILTE A ÉASCÚ AGUS DO
DHÉANAMH SOCRÚ I dTAOBH NITHE GAOLMHARA.

ACHTAÍTEAR AG AN OIREACHTAS MAR A LEANAS:

CUID 1

RÉAMHRÁITEACH AGUS GINEARÁLTA

15 **1.—(1)** Féadfar an tAcht um Fhorfheidhmiú Orduithe Cúirte 2007 Gearrtheideal agus
a ghairm den Acht seo. tosach feidhme.

(2) Tagann an tAcht seo i ngníomh cibé lá nó laethanta a
cheapfaidh an tAire le hordú nó le horduithe i gcoitinne nó faoi
threoir aon chríche nó forála áirithe, agus féadfar laethanta éagsúla
a cheapadh amhlaidh chun críoch éagsúil agus le haghaidh
20 forálacha éagsúla.

2.—(1) San Acht seo—

Léiriú.

ciallaíonn “Acht 1940” an tAcht um Fheidhmiú Orduithe Cúirte
1940;

25 ciallaíonn “Acht 1983” an tAcht um Cheartas Coiriúil (Seirbhís
Pobail) 1983;

ciallaíonn “ordú cúirte” breithiúnas, foraithe, fíneáil riaracháin, nó
ordú arna dhéanamh ag cúirt á dhearbhu go bhfuil suim dlite agus
le híoc;

30 ciallaíonn “creidiúnaí” duine a bhfuil ordú cúirte neamhurscaoilte
ann ina fhabhar nó ina fabhar;

ciallaíonn “féichiúnaí” duine nach bhfuil an méid atá dlite ar scór
ordaithe cúirte urscaoilte go hiomlán aige nó aici;

“employer” means any employer against whom an attachment of earnings order is directed;

“Minister” means the Minister for Justice, Equality and Law Reform;

“relevant court” means the court which made the antecedent order which it is sought to enforce. 5

(2) In this Act—

(a) a reference to a Part or section is a reference to a Part or section of this Act, unless it is indicated that a reference to some other enactment is intended,

(b) a reference to a subsection, paragraph or subparagraph is a reference to the subsection, paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that a reference to some other provision is intended, and 10

(c) a reference to any enactment or regulations shall be construed as a reference to that enactment or those regulations, as the case may be, as amended, adapted or extended whether before or after the commencement of this subsection, by or under any subsequent enactment. 15

Persons to whom Act applies.

3.—This Act applies to a person who has defaulted on payment of a sum due on foot of a court order. 20

PART 2

ATTACHMENT OF EARNINGS ORDERS

Attachment of Earnings Orders.

4.—(1) On application to the relevant court, by a creditor named in a court order, the court may make an attachment of earnings order. 25

(2) An attachment of earnings order—

(a) shall be an order directed to a person who (at the time of the making of the order or at any time thereafter) has the debtor in his or her employment, and 30

(b) shall operate as a direction to that person to make, at such intervals as may be specified in the order, deductions of specified amounts.

(3) An attachment of earnings order shall not be made without the consent of the debtor unless the court is satisfied that the debtor has, without reasonable excuse, defaulted in the making of any payment under the court order. 35

(4) An attachment of earnings order shall—

(a) specify the normal deduction rate, that is to say, the amount of the debtor’s earnings which the court considers reasonable to be applied in satisfying the court order, but such rate should be no greater than is necessary for the purpose of— 40

ciallaíonn “fostóir” aon fhostóir ar ina choinne nó ina coinne atá ordú astaithe tuillimh dírithe;

ciallaíonn “Aire” an tAire Dlí agus Cirt, Comhionannais agus Athchóirithe Dlí;

5 ciallaíonn “cúirt iomchuí” an chúirt a rinne an réamh-ordú a iarrtar a fhorfheidhmiú.

(2) San Acht seo—

10 (a) aon tagairt do Chuid nó d’alt is tagairt í do Chuid nó d’alt den Acht seo mura gcuirtear in iúl gur tagairt d’achtachán éigin eile atá beartaithe,

(b) aon tagairt d’fho-alt, do mhír nó d’fhomhír, is tagairt í don fho-alt, don mhír nó don fhomhír den fhoráil ina bhfuil an tagairt mura gcuirtear in iúl gur tagairt d’fhoráil éigin eile atá beartaithe, agus

15 (c) déanfar tagairt d’aon achtachán nó rialacháin a fhorléiriú mar thagairt don achtachán sin nó do na rialacháin sin, de réir mar a bheidh, arna leasú, arna oiriúnú nó arna n-oiriúnú, nó arna leathnú le haon achtachán nó faoi aon achtachán dá éis sin, cibé acu roimh thosach feidhme an fho-ailt seo nó dá éis sin.

3.—Baineann an tAcht seo le duine a mhainnigh suim atá dlite ar scór ordaithe cúirte a íoc. Daoine lena mbaineann an tAcht.

CUID 2

ORDUITHE ASTAITHE TUILLIMH

25 4.—(1) Tar éis do chreidiúnaí atá ainmnithe in ordú cúirte iarratas a dhéanamh chuig an gcúirt iomchuí, féadfaidh an chúirt ordú astaithe tuillimh a dhéanamh. Orduithe Astaithe Tuillimh

(2) Is é a bheidh in ordú astaithe tuillimh—

30 (a) ordú atá dírithe ar dhuine a bhfuil (tráth déanta an ordaithe nó aon tráth dá éis sin) an féichiúnaí ar fostú aige nó aici, agus

(b) ordú a oibreoidh mar ordachán don duine sin asbhaintí de mhéideanna sonraithe a dhéanamh ag cibé eatraimh a shonrófar san ordú.

35 (3) Ní dhéanfar ordú astaithe tuillimh gan toiliú an fhéichiúnaí mura rud é gur deimhin leis an gcúirt gur mhainnigh an féichiúnaí, gan leithscéal réasúnach, aon íocaíocht a dhéanamh faoin ordú cúirte.

(4) Maidir le hordú astaithe tuillimh—

40 (a) sonrófar ann an gnáthrata asbhainte, is é sin le rá, an méid de thuillimh an fhéichiúnaí a mheasann an chúirt a bheith réasúnach a fheidhmiú i dtaca leis an ordú cúirte a chomhlíonadh, ach ní ceart an ráta sin a bheith níos mó ná mar is gá chun na gcríoch seo a leanas—

- (i) securing payment of the sums falling due from time to time under the court order, and
- (ii) securing payment within a reasonable period of any sums already due and unpaid under the court order and any costs incurred in proceedings relating to the order which are payable by the debtor, 5

(b) specify the protected earnings rate, that is to say, the rate below which, having regard to the resources and the needs of the debtor, the court considers it proper that the debtor's earnings should not be reduced by a payment made in pursuance of the attachment of earnings order, 10

(c) contain such particulars as the court considers appropriate for the purpose of enabling the debtor to be identified by the person to whom the order is directed, and

(d) specify the total sum due and owing at the time of the order. 15

(5) Payments under an attachment of earnings order shall be *in lieu* of payments of the like total amount under the court order that have not been made and that, but for the attachment of earnings order, would fall to be made under the court order. 20

Compliance with Attachment of Earnings Orders.

5.—(1) A court registrar or court clerk as may be specified by an attachment of earnings order shall serve or cause to be served, the order on the employer to whom it is directed and on any subsequent employer of the debtor and such service may be effected by leaving the order at, or sending the order or a copy of the order by prepaid registered post to his or her place of business or residence in the State. 25

(2) Where an attachment of earnings order or an order varying it is made, the employer for the time being affected by it shall comply with it within 10 days of it being served on him or her. 30

(3) On any occasion where a person makes, in compliance with an attachment of earnings order, a deduction from a debtor's earnings, he or she shall give to the debtor a statement in writing of—

- (a) the total amount of the deduction, and
- (b) the remaining sum due and owing. 35

(4) Where an attachment of earnings order is served on any person and—

- (a) the debtor is not in his or her employment, or
- (b) the debtor subsequently ceases to be in his or her employment, 40

that person shall, within 10 days from the date of service or the date of cesser, give notice of that fact to the court.

- (i) a áirithiú go n-íocfar na suimeanna a thiocfaidh chun bheith dlite ó am go ham faoin ordú cúirte, agus
- 5 (ii) a áirithiú go ndéanfar aon suimeanna a bheidh dlite cheana féin agus gan íoc faoin ordú cúirte agus aon chostais a thabhaítear in imeachtaí a bhaineann leis an ordú agus is infoctha ag an bhféichiúnaí a íoc laistigh de thréimhse réasúnach,
- 10 (b) sonrúfáir ann an ráta tuillimh chosanta, is é sin le rá, an ráta ar faoi nach cuí, i dtuairim na cúirte, ag féachaint d'acmhainní agus do riachtanais an fhéichiúnaí, tuilleamh an fhéichiúnaí a laghdú de bhíthin íocaíochta a dhéanfar de bhun an ordaithe astaithe tuillimh,
- 15 (c) beidh cibé sonraí ann is cuí leis an gcúirt chun a chumasú don duine a mbeidh an t-ordú dírithe chuige nó chuici an féichiúnaí a shaináithint, agus
- (d) sonrúfáir ann an tsuim iomlán a bheidh dlite agus gan íoc tráth an ordaithe.

(5) Maidir leis na híocaíochtaí a dhéantar faoi ordú astaithe tuillimh, beidh siad in ionad íocaíochtaí ar cóimhéid iomlán leo faoin ordú cúirte, ar íocaíochtaí iad nár íocadh agus a bheadh, murach an t-ordú astaithe tuillimh, le híoc faoin ordú cúirte.

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5.—(1) Déanfaidh cláraitheoir cúirte nó cléireach cúirte, de réir mar a bheidh sonraíthe le hordú astaithe tuillimh, an t-ordú a sheirbheáil, nó cuirfidh sé nó sí faoi deara é a sheirbheáil, ar an bhfostóir a bhfuil sé dírithe chuige nó chuici agus ar aon fhostóir iardain de chuid an fhéichiúnaí agus féadfar an tseirbheáil sin a dhéanamh tríd an ordú a fhágáil ag a áit ghnó nó ag a áit chónaithe nó ag a háit ghnó nó ag a háit chónaithe sa Stát nó tríd an ordú nó cóip den ordú a chur leis an bpost cláraithe réamhíochta go dtí an áit ghnó nó an áit chónaithe sin.

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Orduithe Astaithe Tuillimh a chomhlíonadh.

(2) I gcás ina ndéantar ordú astaithe tuillimh, nó ina ndéantar ordú lena n-athraítear ordú astaithe tuillimh, déanfaidh an fostóir dá ndéanann an t-ordú sin difear de thuras na huairé é a chomhlíonadh laistigh de 10 lá ón tráth a sheirbheáiltear air nó uirthi é.

35 (3) Aon tráth a dhéanann duine asbhaint as tuilleamh féichiúnaí, i gcomhlíonadh ordaithe astaithe tuillimh, tabharfaidh sé nó sí ráiteas i scríbhinn don fhéichiúnaí—

(a) maidir le méid iomlán na hasbhainte, agus

(b) maidir leis an tsuim atá dlite agus gan íoc.

40 (4) Más rud é go seirbheáiltear ordú astaithe tuillimh ar aon duine agus—

(a) nach bhfuil an fhéichiúnaí ar fostú ag an duine sin, nó

(b) go scoireann an fhéichiúnaí dá éis sin de bheith ar fostú ag an duine sin,

45 déanfaidh an duine sin, laistigh de 10 lá ón dáta seirbheála nó ón dáta scoir, fógra ina thaobh sin a thabhairt don chúirt.

Statement as to Earnings.

6.—Upon application to the court for an attachment of earnings order, or at any subsequent time which the court deems fit, the court may—

- (a) order the debtor to give to the court, within a specified period, a statement in writing signed by him or her of— 5
 - (i) the name and address of any person by whom earnings are paid to him or her,
 - (ii) specified particulars as to his or her earnings and projected earnings and as to his or her resources and needs, and 10
 - (iii) specified particulars for enabling the debtor to be identified by any other employer, including any future employer,
- (b) order any person appearing to the court who has the debtor in his or her employment to give to the court, 15 within a specified period, a statement signed by that person, or on his or her behalf, of specified particulars of the debtor's earnings and projected earnings.

Notifications of changes of employment and earnings.

7.—Where an attachment of earnings order is in force—

- (a) the debtor shall notify the court in writing, within 10 days 20 of every occasion, in which he or she leaves any employment, or becomes employed or re-employed,
- (b) the notice referred to in *paragraph (a)* shall include particulars of his or her earnings and projected earnings from the relevant employment, 25
- (c) any person who becomes an employer of the debtor and has knowledge that an order is in force shall, within 10 days of acquiring that knowledge, notify that court in writing that he or she is the debtor's employer, and shall include in the notification a statement of the debtor's 30 earnings and projected earnings.

Power to determine whether particular payments are earnings.

8.—(1) Where an attachment of earnings order is in force, the relevant court shall, on the application of—

- (a) the employer concerned,
- (b) the debtor, or 35
- (c) the person to whom payments are being made under the order,

6.—Ar iarratas a bheith déanta chun na cúirte ar ordú astaithe tuillimh, nó aon tráth dá éis sin is cuí leis an gcúirt, féadfaidh an chúirt—

Ráiteas maidir le Tuilleamh.

5 (a) a ordú don fhéichiúnaí ráiteas i scríbhinn arna shíniú aige nó aici a thabhairt don chúirt laistigh de thréimhse shonraithe, ar ráiteas é—

(i) ina bhfuil ainm agus seoladh aon duine a íocann tuilleamh leis nó léi,

10 (ii) ina bhfuil sonraí sonraithe maidir lena thuilleamh nó maidir lena tuilleamh agus maidir lena thuilleamh réamh-mheasta nó maidir lena tuilleamh réamh-mheasta agus maidir lena acmhainní agus riachtanais nó maidir lena hacmhainní agus riachtanais, agus

15 (iii) ina bhfuil sonraí sonraithe chun a chumasú d'aon fhostóir eile, lena n-áirítear aon fhostóir todhchaí, an féichiúnaí a shainaithe,

20 (b) a ordú d'aon duine a láithrionn os comhair na cúirte agus a bhfuil an féichiúnaí ar fostú aige nó aici ráiteas arna shíniú ag an duine sin, nó ráiteas thar a cheann nó thar a ceann, a thabhairt don chúirt laistigh de thréimhse shonraithe, ar ráiteas é ina bhfuil sonraí sonraithe maidir le tuilleamh agus tuilleamh réamh-mheasta an fhéichiúnaí.

7.—I gcás ina bhfuil ordú astaithe tuillimh i bhfeidhm—

Fógraí faoi athruithe ar fhostaíocht agus ar thuilleamh.

25 (a) tabharfaidh an féichiúnaí fógra i scríbhinn don chúirt laistigh de 10 lá ó gach ócáid a fhágann sé nó sí aon fhostaíocht, nó a thagann sé nó sí chun bheidh fostaithe nó ar athfhostaithe,

30 (b) beidh san áireamh san fhógra dá dtagraítear i *mír (a)* sonraí maidir lena thuilleamh nó maidir lena tuilleamh agus maidir lena thuilleamh réamh-mheasta nó maidir lena tuilleamh réamh-mheasta ón bhfostaíocht iomchuí,

35 (c) aon duine a thiofadh chun bheith ina fhostóir nó ina fhostóir ag an bhféichiúnaí, agus arb eol dó nó di go bhfuil ordú i bhfeidhm, déanfaidh sé nó sí, laistigh de 10 lá ón eolas sin a fháil, fógra i scríbhinn a thabhairt don chúirt sin á rá gurb é nó gurb í fhostóir an fhéichiúnaí é nó í, agus cuirfidh sé nó sí ráiteas san áireamh san fhógra ar ráiteas é maidir le tuilleamh agus tuilleamh réamh-mheasta an fhéichiúnaí.

8.—(1) I gcás ordú astaithe tuillimh a bheith i bhfeidhm, déanfaidh an chúirt iomchuí, ar iarratas a fháil—

Cumhacht chun cinneadh a dhéanamh i dtaobh an tuilleamh íocaíochtaí áirithe.

(a) ón bhfostóir lena mbaineann,

(b) ón bhféichiúnaí, nó

45 (c) ón duine a bhfuil íocaíochtaí á ndéanamh leis nó léi faoin ordú,

determine whether payments (or any portion thereof) to the debtor of a particular class or description specified by the application are earnings for the purpose of the order, and the employer shall give effect to any determination for the time being in force under this section. 5

(2) Where an application under this section is made by the employer, he or she shall not incur any liability for non-compliance with the order as respects any payments (or any portion thereof) of the class or description specified by the application which are made by him or her to the debtor while— 10

- (a) the application,
- (b) any appeal in consequence of the application,
- (c) any decision in relation to the application, or
- (d) any appeal in relation to the application,

is pending, but this shall not, unless the court otherwise orders, apply 15 as respects such payments (or any portion thereof) if the employer subsequently withdraws the application or abandons the appeal.

Persons in service of State, local authority, etc.

9.—(1) This section applies where a debtor is—

- (a) in the service of—
 - (i) the State, 20
 - (ii) a local authority,
 - (iii) a harbour authority,
 - (iv) the Health Service Executive,
 - (v) a vocational education committee, or
 - (vi) Teagasc, 25
- (b) is a member of either House of the Oireachtas, or
- (c) is President of Ireland.

(2) (a) Where a debtor is—

- (i) in the service of the State and is employed in a department, office, organisation, service, undertaking, or 30 other body, its chief officer (or such other officer as the Minister of State, by whom the department, office, organisation, service, undertaking or other body is administered, may from time to time designate) shall, for the purposes of this Act, be 35 regarded as having the debtor in his or her employment,

cinneadh a dhéanamh i dtaobh an tuilleamh chun críche an ordaithe íocaíochtaí (nó aon chuid d'íocaíochtaí) a dhéantar leis an bhféichiúnaí ar íocaíochtaí (nó cuid d'íocaíochtaí) d'aicme nó de thuairisc áirithe iad a shonraítear leis an iarratas, agus tabharfaidh an fostóir éifeacht d'aon chinneadh atá i bhfeidhm de thuras na huaire faoin alt seo.

(2) I gcás ina ndéanann an fostóir iarratas faoin alt seo, ní thabhoídís sé nó sí aon dliteanas mar gheall ar neamhchomhlíonadh an ordaithe maidir le haon íocaíochtaí (nó aon chuid d'íocaíochtaí) den aicme nó den tuairisc a shonraítear leis an iarratas agus ar íocaíochtaí (nó cuid d'íocaíochtaí) iad a dhéanann sé nó sí leis an bhféichiúnaí le linn aon cheann díobh seo a leanas a bheith ar feitheamh—

(a) an t-iarratas,

(b) aon achomharc de dhroim an iarratais,

(c) aon chinneadh i ndáil leis an iarratas, nó

(d) aon achomharc i ndáil leis an iarratas,

ach, mura rud é go n-ordóidís an chúirt a mhalairt, ní bheidís feidhm aige sin maidir leis na híocaíochtaí sin (nó aon chuid díobh) má dhéanann an fostóir, ina dhiaidís sin, an t-iarratas a tharraingt siar nó an t-achomharc a thréigean.

9.—(1) Tá feidhm ag an alt seo más rud é, maidir le féichiúnaí—

Daoine i seirbhís an Stáit, údaráis áitiúil, etc.

(a) go bhfuil sé nó sí i seirbhís aon cheann díobh seo a leanas—

(i) an Stát,

(ii) údarás áitiúil,

(iii) údarás cuain,

(iv) Feidhmeannacht na Seirbhíse Sláinte,

(v) coiste gairmoideachais, nó

(vi) Teagasc,

(b) gur comhalta de cheachtar Teach den Oireachtas é nó í, nó

(c) gurb é nó í Uachtarán na hÉireann é nó í.

(2) (a) Más rud é, maidir le féichiúnaí—

(i) go bhfuil sé nó sí i seirbhís an Stáit agus go bhfuil sé nó sí ar fostú i roinn, in oifig, in eagraíocht, i seirbhís, i ngnóthas nó i gcomhlacht eile, measfar, chun críocha an Achta seo, an féichiúnaí a bheith ar fostú ag an bpríomhoifigeach lena mbaineann (nó ag cibé oifigeach eile a dhéanfaidís an tAire Stáit a bheidís ag riaradh na roinne, na hoifige, na heagraíochta, na seirbhíse, an ghnóthais nó an chomhlachta eile a ainmniú ó am go ham),

- (ii) in the service of an authority, board or committee under *subsection (1)*, its chief officer shall, for the purposes of this Act, be regarded as having the debtor in his or her employment, or
- (iii) paid out of the Central Fund or out of monies provided by the Oireachtas, the Secretary General of the Department of Finance (or such other officer of the Minister for Finance as that Minister may from time to time designate) shall, for the purposes of this Act, be regarded as having the debtor in his or her employment.

(b) Any earnings of a debtor paid out of the Central Fund or out of monies provided by the Oireachtas shall be regarded as paid by a chief officer referred to in this subsection, the Secretary General of the Department of Finance or such other officer as may be designated under this subsection, as may be appropriate.

(3) If any question arises in proceedings for, or arising out of, an attachment of earnings order as to what department, office, organisation, service, undertaking or other body a debtor in the service of the State is employed in for the purposes of this section, the question may be referred to and determined by the Minister for Finance, but that Minister shall not be under any obligation to consider a reference under this subsection unless it is made by the court.

(4) A document purporting to contain a determination of the Minister for Finance under *subsection (2)* and to be signed by an officer of the Minister for Finance shall, in any such proceedings as are mentioned in that subsection, be admissible in evidence and be deemed, unless the contrary is shown, to contain an accurate statement of that determination.

(5) In this section references to a debtor in the service of the State include references to a debtor to whom earnings are paid directly out of monies provided by the Oireachtas.

(6) In this section—

“harbour authority” has the meaning assigned to it by section 2 of the Harbours Act 1946;

“Health Service Executive” means the body established by section 6 of the Health Act 2004;

“local authority” has the meaning assigned to it by section 11(7) of the Local Government Act 2001;

“Teagasc” means the body established by section 3 of the Agriculture (Research, Training and Advice) Act 1988;

“vocational education committee” means a vocational education committee established under section 7 of the Vocational Education Act 1930.

(ii) go bhfuil sé nó sí i seirbhís údaráis, boird nó coiste faoi *fho-alt (1)*, measfar, chun críocha an Achta seo, an féichiúnaí a bheith ar fostú ag an bpríomhoifigeach lena mbaineann, nó

5 (iii) go n-íoctar é nó í as an bPríomh-Chiste nó as airgead a sholáthraíonn an tOireachtas, measfar, chun críocha an Achta seo, an féichiúnaí a bheith ar fostú ag Ard-Rúnaí na Roinne Airgeadais (nó ag cibé oifigeach eile don Aire Airgeadais a ainmneoidh an tAire sin ó am go ham).

10 (b) Aon tuilleamh de chuid féichiúnaí a íoctar as an bPríomh-Chiste nó as airgead a sholáthraíonn an tOireachtas, measfar é a bheith íoctha ag príomhoifigeach dá dtagraítear san *fho-alt seo*, ag Ard-Rúnaí na Roinne Airgeadais nó ag cibé oifigeach eile a ainmneofar faoin bhfo-alt seo, de réir mar is cuí.

(3) Má éiríonn aon cheist in imeachtaí mar gheall ar ordú astaithe tuillimh, nó má éiríonn aon cheist as ordú astaithe tuillimh, ar ceist í i dtaobh cén roinn, cén oifig, cén eagraíocht, cén tseirbhís, cén gnóthas nó cén comhlacht eile ina bhfuil féichiúnaí atá i seirbhís an Stáit ar fostú ann nó inti chun críocha an ailt seo, féadfar an cheist a tharchur chuig an Aire Airgeadais agus féadfaidh seisean nó sise í a chinneadh, ach ní bheidh aon oibleagáid ar an Aire sin ceist a tharchuirtear chuige nó chuici faoin bhfo-alt seo a bhreithniú mura rud é gurb í an Chúirt a dhéanann an tarchur sin.

(4) Aon doiciméad a airbheartaíonn cinneadh ón Aire Airgeadais faoi *fho-alt (2)* a bheith ann agus a airbheartaíonn a bheith sínithe ag oifigeach don Aire Airgeadais, beidh sé, in aon imeachtaí den chineál a luaitear san *fho-alt sin*, inghlactha i bhfianaise agus measfar, mura suítear a mhalairt, ráiteas cruinn ar an gcinneadh sin a bheith ann.

(5) San alt seo, foláíonn tagairtí d'fhéichiúnaí atá i seirbhís an Stáit tagairtí d'fhéichiúnaí lena n-íoctar tuilleamh go díreach amach as airgead arna sholáthar ag an Oireachtas.

35 (6) San alt seo—

tá le “údarás cuain” an bhrí a shanntar dó le halt 2 den Acht Cuanta 1946;

ciallaíonn “Feidhmeannacht na Seirbhíse Sláinte” an comhlacht arna bhunú le halt 6 den Acht Sláinte 2004;

40 tá le “údarás áitiúil” an bhrí a shanntar dó le halt 11(7) den Acht Rialtais Áitiúil 2001;

ciallaíonn “Teagasc” an comhlacht arna bhunú le halt 3 den Acht Talmhaíochta (Taighde, Oilíúint agus Comhairle) 1988;

45 ciallaíonn “coiste gairmoideachais” coiste gairmoideachais arna bhunú faoi alt 7 den Acht Oideachais Ghairme Beatha 1930.

10.—(1) The relevant court may, if it thinks fit, on the application of the creditor or the debtor, make an order discharging or varying the antecedent order.

(2) Where an order varying an attachment of earnings order is made under this section, the employer shall, within 10 days of it having been served upon him or her, comply with its terms. 5

(3) Where an employer ceases to have the debtor in his or her employment, the order shall, in so far as that employer is concerned, lapse (except as respects deductions from earnings paid after the cesser by that employer and payment to the person in whose favour the order was made of deductions from earnings made at any time by the employer). 10

(4) The lapse of an order under *subsection (3)* shall not prevent its remaining in force for other purposes.

(5) Where an employer against whom an attachment of earnings order is directed becomes aware that the full sum, referred to in *section 4(4)(d)* has almost been repaid, he or she shall, where practicable, at least 28 days before the final deduction— 15

(a) inform—

(i) the court, and 20

(ii) the debtor

that the order will soon be discharged and that he or she intends to cease to make deductions, and

(b) provide—

(i) the court, and 25

(ii) the debtor

with a complete schedule of all deductions made, including the scheduled final deduction, even where it has not yet been made.

(6) Where an employer against whom an attachment of earnings order is directed, becomes aware that the full sum, referred to in *section 4(4)(d)* has been repaid, he or she shall— 30

(a) inform—

(i) the court, and

(ii) the debtor 35

that the order has been discharged and that he or she has ceased to make deductions, and

(b) cease to make deductions in accordance with his or her duty under *section 11*.

10.—(1) Féadfaidh an chúirt iomchuí, más cuí léi é, ar iarratas ón gcreidiúnaí nó ón bhféichiúnaí, ordú a dhéanamh lena n-urscaoilfear nó lena n-athrófar an réamh-ordú.

Urscaoileadh, athrú agus dul as feidhm Orduithe Astaithe Tuillimh.

5 (2) I gcás ina ndéantar ordú faoin alt seo ar ordú é lena n-athraítear ordú astaithe tuillimh, déanfaidh an fostóir, laistigh de 10 lá ón tráth a sheirbheáiltear ordú den sórt sin air nó uirthi, a théarmaí a chomhlíonadh.

10 (3) I gcás ina scoireann fostóir den fhéichiúnaí a bheith ar fostú aige nó aici, rachaidh an t-ordú as feidhm a mhéid a bhaineann leis an bhfostóir sin (ach amháin maidir le hasbhaintí as tuilleamh a íocfaidh an fostóir sin tar éis an scoir agus suimeanna a bhain an fostóir aon tráth as tuilleamh a íoc leis an duine ar ina fhabhar nó ina fabhar a rinneadh an t-ordú).

15 (4) Ní choiscfidh dul as feidhm ordaithe faoi *fho-alt (3)* é do leanúint i bhfeidhm chun críoch eile.

20 (5) Más rud é, maidir le fostóir a bhfuil ordú astaithe tuillimh dírithe ina aghaidh nó ina haghaidh, go dtiocfaidh sé nó sí ar an eolas go bhfuil an tsuim iomlán, dá dtagraítear in *alt 4(4)(d)*, beagnach aisíoctha, déanfaidh sé nó sí, más indéanta, 28 lá ar a laghad roimh an asbhaint deiridh—

(a) a chur in in iúl—

(i) don chúirt, agus

(ii) don fhéichiúnaí

25 go mbeidh an t-ordú arna urscaoileadh go gairid agus go bhfuil ar intinn aige nó aici scor d'asbhaintí a dhéanamh, agus

(b) sceideal iomlán de na hasbhaintí go léir a bheidh déanta a sholáthar—

(i) don chúirt, agus

30 (ii) don fhéichiúnaí

lena n-áirítear an asbhaint deiridh sceidealta, fiú mura mbeidh sí déanta fós.

35 (6) Más rud é, maidir le fostóir a bhfuil ordú astaithe tuillimh dírithe ina aghaidh nó ina haghaidh, go dtiocfaidh sé nó sí ar an eolas go bhfuil an tsuim iomlán, dá dtagraítear in *alt 4(4)(d)*, aisíoctha—

(a) cuirfidh sé nó sí in iúl—

(i) don chúirt, agus

(ii) don fhéichiúnaí

40 go bhfuil an t-ordú arna urscaoileadh agus gur scoir sé nó sí d'asbhaintí a dhéanamh, agus

(b) scoirfidh sé nó sí d'asbhaintí a dhéanamh de réir a dhualgais nó a dualgais faoi *alt 11*.

11.—(1) An attachment of earnings order shall cease to have effect upon the discharge of the court order.

(2) There shall be a duty on a person to whom an attachment of earnings order is in force under *section 4*, to maintain a record of the total amount deducted from payments to the debtor, and he or she shall cease or cause to cease, any deductions once the sum referred to in *section 4(4)(d)* has been paid in full. 5

(3) Upon payment in full, by the debtor, of the sum or sums referred to in *section 4(4)(d)*, he or she may apply to the court for an order— 10

(a) for the cessation of the relevant deductions where such deductions have not been ceased under *subsection (2)*, and

(b) for the reimbursement of any monies deducted after the sum referred to in *section 4(4)(d)* has been paid in full. 15

(4) In considering the matter of costs in respect of an application under *subsection (3)*, the court shall have regard to any duty under *subsection (2)*.

(5) The Minister may, by order, make provision for free legal aid for a debtor who makes an application under *subsection (3)*. 20

12.—(1) Where an attachment of earnings order has been made, any proceedings commenced under section 8(1) of the Act of 1940 (as amended), for the enforcement of the court order against the debtor shall lapse and any warrant or order issued or made under that section in any such proceedings shall cease to have effect. 25

(2) An attachment of earnings order shall cease to have effect upon the making of an order under section 8(1) of the Act of 1940, for the enforcement of the court order against the debtor.

13.—(1) Where, without reasonable excuse, a person—

(a) fails to comply with an order made under *section 4*, or an order made under *section 6*, or *section 7* or *section 10(2)*, or 30

(b) gives to a court a statement pursuant to *section 6(a)*, or a notification under *section 7*, that is false or misleading,

he or she is guilty of an offence and is liable on summary conviction to a fine not exceeding €1,000 or, to imprisonment for a term not exceeding 6 months or to both. 35

(2) A person who contravenes *section 5(3)* is guilty of an offence and shall be liable on summary conviction to a fine not exceeding €1,000. 40

11.—(1) Scoirfidh ordú astaithe tuillimh d'éifeacht a bheith leis ar an ordú cúirte a urscaoileadh. Orduithe Astaithe Tuillimh do scor.

5 (2) Beidh sé de dhualgas ar dhuine a bhfuil ordú astaithe tuillimh i bhfeidhm ina leith faoi *alt 4*, taifead a choimeád ar an méid iomlán a bheidh bainte as íocaíochtaí arna ndéanamh leis an bhféichiúnaí, agus scoirfidh sé nó sí, nó cuirfidh sé nó sí faoi deara go scoirfear, d'aon asbhaintí a dhéanamh a luaithe atá an tsuim dá dtagraítear in *alt 4(4)(d)* íoctha go hiomlán.

10 (3) Tar éis don fhéichiúnaí an tsuim nó na suimeanna dá dtagraítear in *alt 4(4)(d)* a íoc go hiomlán, féadfaidh sé nó sí iarratas a dhéanamh chun na cúirte ar ordú—

(a) chun scor de na hasbhaintí iomchuí i gcás nach mbeidh scortha de na hasbhaintí sin a dhéanamh faoi *fho-alt (2)*, agus

15 (b) chun aon airgead a asbhaintear tar éis an tsuim dá dtagraítear in *alt 4(4)(d)* a bheith íoctha go hiomlán a aisíoc.

20 (4) Le linn don chúirt breithniú a dhéanamh ar chostais i leith iarratais faoi *fho-alt (3)*, beidh aird ag an gcúirt ar aon dualgas faoi *fho-alt (2)*.

(5) Féadfaidh an tAire, le hordú, foráil a dhéanamh maidir le cúnamh dlíthiúil in aisce d'fhéichiúnaí a dhéanann iarratas faoi *fho-alt (3)*.

25 12.—(1) I gcás ordú astaithe tuillimh a bheith déanta, rachaidh aon imeachtaí as feidhm a tionscnaíodh faoi *alt 8(1)* d'Acht 1940 (arna leasú) chun an t-ordú cúirte a fhorfheidhmiú i gcoinne an fhéichiúnaí agus scoirfidh aon bharántas nó ordú arna eisiúint nó arna dhéanamh faoin *alt* sin in aon imeachtaí den sórt sin d'éifeacht a bheith leis. Forálacha i ndáil le malairt leigheasanna.

30 (2) Scoirfidh ordú astaithe tuillimh d'éifeacht a bheith leis ar ordú a dhéanamh faoi *alt 8(1)* d'Acht 1940 chun an t-ordú cúirte a fhorfheidhmiú in aghaidh an fhéichiúnaí.

13.—(1) Más rud é, gan leithscéal réasúnach— Forfheidhmiú.

35 (a) go mainníonn duine ordú arna dhéanamh faoi *alt 4*, nó ordú arna dhéanamh faoi *alt 6*, nó *alt 7* nó *alt 10(2)*, a chomhlíonadh, nó

(b) go ndéanann duine ráiteas de bhun *alt 6(a)*, nó fógra faoi *alt 7*, a thabhairt do chúirt ar ráiteas nó fógra é atá bréagach nó míthreorach,

40 tá sé nó sí ciontach i gcion agus dlitear, ar é nó í a chiontú go hachomair, fineáil nach mó ná €1,000 nó príosúnacht ar feadh téarma nach faide ná 6 mhí, nó iad araon, a chur air nó uirthi.

45 (2) Tá duine a sháraíonn *alt 5(3)* ciontach i gcion agus dlífear, ar é nó í a chiontú go hachomair, fineáil nach mó ná €1,000 a chur air nó uirthi.

14.—(1) The Minister for Social and Family Affairs shall make regulations to enable the court to make an order directing him or her to deduct sums from any amounts, not below the protected welfare rate, payable to the debtor by way of income support, in order to secure the payment of any sum which is or forms part of the court order, where such a debtor has defaulted on payment of such sum. 5

(2) The regulations shall specify the protected welfare rate, that is to say, the rate below which, having regard to the resources and the needs of the debtor, the Minister for Social and Family Affairs considers it proper that the debtor's income support should not be reduced by a payment made in pursuance of the attachment of earnings order and for the purpose of this section the protected welfare rate shall be prescribed by the Minister, to be reviewed annually. 10

(3) The regulations may include provision—

(a) that, before making an application, the court shall make an enquiry as to the debtor's means, 15

(b) allowing or requiring adjudication as regards an application, and provision as to appeals and reviews,

(c) as to the circumstances and manner in which and the times at which sums are to be deducted and paid, 20

(d) as to the calculation of such sums (which may include provision to secure that amount payable to the debtor by way of income support do not fall below prescribed figures),

(e) as to the circumstances in which the Minister is to cease making deductions, 25

(f) requiring the Minister to notify the debtor, in a prescribed manner and at any prescribed time, of the total amount of sums deducted up to the time of notification,

(g) that, where the whole amount to which the application relates has been paid, the court shall give notice of that fact to the Minister. 30

(4) In this section, "Minister" means Minister for Social and Family Affairs.

PART 3

35

MISCELLANEOUS

15.—The Act of 1983 is amended by substituting the following for section 2:

"Persons to
whom Act
applies.

2.—This Act applies to a person (in this Act referred to as an 'offender') who—

40

(a) is of or over the age of 16 years,

14.—(1) Déanfaidh an tAire Gnóthaí Sóisialacha agus Teaghlaigh rialacháin chun a chumasú don chúirt ordú a dhéanamh á ordú dó nó di suimeanna a asbhaint as aon mhéideanna, nach ísle ná an ráta leasa cosanta, is iníoctha leis an bhféichiúnaí ar mhodh tacaíochta ioncaim, d'fhonn a áirithiú go n-íoctar aon suim arb é an t-ordú cúirte é nó ar cuid den ordú cúirte é, i gcás ina mbeidh féichiúnaí den sórt sin tar éis mainneachtain a dhéanamh i leith íoc na suime sin.

Orduithe Astaithe
Leasa.

(2) Sonrófar leis na rialacháin an ráta leasa cosanta, is é sin le rá, an ráta ar faoi nach cuí, i dtuairim an Aire Gnóthaí Sóisialacha agus Teaghlaigh, ag féachaint d'acmhainní agus do riachtanais an fhéichiúnaí, tacaíocht ioncaim an fhéichiúnaí a laghdú trí íocaíocht arna déanamh de bhun an ordaithe astaithe tuillimh agus, chun críche an ailt seo, forordóidh an tAire an ráta leasa cosanta ar ráta é a bheidh le hathbhreithniú in aghaidh na bliana.

(3) Féadfaidh foráil a bheith sna rialacháin—

(a) go ndéanfaidh an chúirt, roimh iarratas a dhéanamh, fiosrú i dtaobh acmhainní an fhéichiúnaí,

(b) chun breithniú a cheadú nó a éileamh maidir le hiarratas, mar aon le foráil maidir le hachomhairc agus athbhreithnithe,

(c) i dtaobh na n-imthosca agus an mhodha ina bhfuil suimeanna le hasbhaint agus le híoc agus na dtráthanna a ndéanfar iad a asbhaint agus a íoc,

(d) i dtaobh na suimeanna sin a ríomh (ar foráil í a bhféadfaidh socrú a bheith inti chun a áirithiú nach dtitfidh an méid sin atá iníoctha leis an bhféichiúnaí ar mhodh tacaíochta ioncaim faoi bhun figiúirí forordaithe),

(e) i dtaobh na n-imthosca ina scoirfidh an tAire d'asbhaintí a dhéanamh,

(f) lena gceanglófar ar an Aire fógra a thabhairt don fhéichiúnaí, ar mhodh forordaithe agus aon tráth forordaithe, maidir le méid iomlán na suimeanna a bheidh asbhainte go dtí an tráth a thugtar an fógra,

(g) á rá go ndéanfaidh an chúirt, i gcás ina mbeidh an méid iomlán lena mbaineann an t-iarratas íoctha, fógra ina thaobh sin a thabhairt don Aire.

(4) San alt seo, ciallaíonn “Aire” an tAire Gnóthaí Sóisialacha agus Teaghlaigh.

CUID 3

ILGHNÉITHEACH

15.—Leasaítear Acht 1983 tríd an méid seo a leanas a chur in ionad alt 2:

Leasú ar an Acht
um Cheartas
Coiriúil (Seirbhís
Pobail) 1983.

“Daoine lena mbaineann an tAcht. 2.—Baineann an tAcht seo le duine (dá ngairtear ‘ciontóir’ san Acht seo)—

(a) atá 16 bliana d’aois nó os a chionn

(b) is convicted of an offence for which, in the opinion of the court, the appropriate sentence would be—

(i) but for this Act, penal servitude,

(ii) imprisonment, or 5

(iii) detention in Saint Patrick's Institution,

other than where any such sentence is fixed by law,

(c) has defaulted on payment of a penalty imposed by the District Court, or 10

(d) has defaulted on payment of a debt.”.

Extension of time for repayment.

16.—(1) Upon application by the debtor, the relevant court may allow further time within which the debt must be discharged.

(2) A court to which an application is made under *subsection (1)* 15 may not allow further time for payment where it is satisfied that—

(a) the failure of the debtor to make payment has been wilful, or

(b) the debtor has no reasonable prospect of being able to pay if further time is allowed. 20

Repayment by instalment.

17.—(1) Where a court of summary jurisdiction has made an order requiring the payment of a monetary sum, the court may on the application of the debtor, order payment of that fine by instalment of such amounts and at such time and intervals as it may think fit, and it shall be the duty of the court to inform the debtor of his or her right to make an application as aforesaid. 25

(2) Where any instalment is not paid within the time permitted, the debtor shall be deemed to be in default of payment.

Money Payment Supervision Orders.

18.—(1) Where a person has been allowed time to discharge an order requiring the payment of a monetary sum, the court may, either on the occasion of the imposition of that order or on a subsequent occasion, order that the debtor be placed under the supervision of a probation and welfare officer for the purpose of assisting and advising such person in regard to payment of the fine. 30

(2) An order made under *subsection (1)* shall remain in force— 35

(a) so long as the person to whom it relates remains liable to pay the fine, or

(b) until the order ceases to have effect under *subsection (3)*.

(b) a chiontaítear i gcion arbh é a bheadh sa phianbhreith chuí ina leith, i dtuairim na Cúirte, ná—

(i) murach an tAcht seo, pianseirbhís,

(ii) príosúnacht, nó

(iii) coinneáil i bhForas Naomh Pádraig,

ach amháin i gcás aon phianbhreith den sórt sin a bheith socraithe le dlí,

(c) a mhainnigh pionós arna fhorchur ag an gCúirt Dúiche a íoc, nó

(d) a mhainnigh fiach a íoc.”.

15 **16.—(1)** Tar éis don fhéichiúnaí iarratas a dhéanamh, féadfaidh an chúirt iomchuí tuilleadh ama a cheadú ar laistigh di nach mór an fiach a urscaoileadh. Fadú ar an tréimhse ama le haghaidh aisíoca.

(2) Ní fhéadfaidh cúirt a ndéanfar iarratas chuici faoi *fho-alt (1)* am breise a lamháil le haghaidh íocaíochta i gcás inar deimhin léi—

(a) gur go toiliúil a mhainnigh an féichiúnaí íocaíocht a dhéanamh, nó

20 (b) nach bhfuil aon ionchas réasúnach ann go mbeidh an féichiúnaí in ann íocaíocht a dhéanamh, má lamháiltear am breise.

25 **17.—(1)** I gcás ina mbeidh ordú déanta ag cúirt dlínse a choimre á cheangal suim airgeadaíochta a íoc, féadfaidh an chúirt, tar éis iarratas a fháil ón bhféichiúnaí, a ordú go n-íocfar an fhíneáil sin trí thráthchuid de cibé méideanna agus ag cibé tráth agus eatraimh is cuí léi, agus beidh sé de dhualgas ar an gcúirt a cheart nó a ceart chun iarratas a dhéanamh mar a dúradh a chur in iúl don fhéichiúnaí. Aisíoc trí thráthchuid.

30 (2) I gcás nach n-íoctar aon tráthchuid áirithe laistigh den tréimhse ama a lamháiltear, measfar gur mhainnigh an féichiúnaí an íocaíocht a dhéanamh.

35 **18.—(1)** I gcás ina lamháiltear tréimhse ama do dhuine chun ordú a urscaoileadh lena gceanglaítear suim airgeadaíochta a íoc, féadfaidh an chúirt, tráth forchurtha an ordaithe sin nó tráth ina dhiaidh sin, a ordú go gcuirfean an féichiúnaí faoi mhaoirseacht oifigigh promhaidh agus leasa d’fhonn cabhrú leis an duine sin agus comhairle a thabhairt dó nó di maidir leis an bhfíneáil a íoc. Orduithe Maoirsithe Íocaíochta Airgid.

(2) Leanfaidh ordú arna dhéanamh faoi *fho-alt (1)* i bhfeidhm—

40 (a) fad a dhlíonn an duine lena mbaineann sé an fhíneáil a íoc, nó

(b) go dtí go scoireann an t-ordú d’éifeacht a bheith leis faoi *fho-alt (3)*.

(3) Where an order under this section is in force, the court shall not impose further sanction in default of the payment of the fine unless the court has obtained a report from the probation and welfare officer on the debtor's conduct and means, and shall consider any report so obtained.

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(4) Where a court has made an order under *subsection (1)*, the debtor shall be notified in writing by the clerk of the court.

(5) The probation and welfare officer appointed under this section shall communicate with the debtor with a view to assisting and advising him or her in regard to payment of the fine, and where the debt remains undischarged after the expiry of the time allowed by the court for payment, the probation and welfare officer shall report to the court as to the conduct and means of the debtor.

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5 (3) I gcás ordú faoin alt seo a bheith i bhfeidhm, ní dhéanfaidh an chúirt aon smachtbhanna breise a fhorchur i gcás ina mainnítear an fhíneáil a íoc mura rud é go mbeidh tuarascáil faighte ag an gcúirt ón oifigeach promhaidh agus leasa ar iompar agus acmhainní an fhéichiúnaí, agus breithneoidh an chúirt aon tuarascáil arna fáil amhlaidh.

(4) I gcás ina mbeidh ordú déanta ag cúirt faoi *fho-alt (1)*, déanfaidh cléireach na cúirte fógra i scríbhinn ina thaobh sin a thabhairt don fhéichiúnaí.

10 (5) Rachaidh an t-oifigeach promhaidh agus leasa a cheaptar faoin alt seo i dteagmháil leis an bhféichiúnaí d'fhonn cabhrú leis nó léi agus comhairle a thabhairt dó nó di maidir leis an bhfíneáil a íoc agus, i gcás ina mbeidh an fiach gan urscaoileadh tar éis na tréimhse ama a lamhálann an chúirt chun íocaíocht a dhéanamh, tabharfaidh
15 an t-oifigeach promhaidh agus leasa tuarascáil don chúirt ar iompar agus acmhainní an fhéichiúnaí.