



# **DÁIL ÉIREANN**

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**AN BILLE UM FIACHAS SIBHIALTA (NÓSANNA  
IMEACHTA), 2015**

**CIVIL DEBT (PROCEDURES) BILL 2015**

**LEASUITHE TUARASCÁLA  
REPORT AMENDMENTS**

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# DÁIL ÉIREANN

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## AN BILLE UM FHIACHAS SIBHIALTA (NÓSANNA IMEACHTA), 2015 —AN TUARASCÁIL

### CIVIL DEBT (PROCEDURES) BILL 2015 —REPORT

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#### *Leasuithe Amendments*

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1. In page 5, lines 5 to 7, to delete all words from and including “to” where it firstly occurs in line 5 down to and including “circumstances;” in line 7.

—Pádraig Mac Lochlainn.

2. In page 5, line 8, after “1872” to insert “and section 6 of the Enforcement of Court Orders Act 1940”.

—An tAire Dlí agus Cirt agus Comhionannais.

3. In page 5, to delete lines 11 to 31, and in page 6, to delete lines 1 to 39.

—Pádraig Mac Lochlainn.

4. In page 5, between lines 24 and 25, to insert the following:

“ “credit” has the meaning it has in section 2(1) of the Consumer Credit Act 1995;”.

—An tAire Dlí agus Cirt agus Comhionannais.

5. In page 5, to delete lines 25 to 31, and in page 6, to delete lines 1 to 3 and substitute the following:

“ “debt” does not include a debt for repayment of credit provided to the debtor—

- (a) by a person pursuant to an authorisation to provide credit in the State granted by the Central Bank of Ireland or an authority that performs functions in an EEA country that are comparable to the functions performed by the Central Bank of Ireland, or
- (b) by any other person holding himself or herself out as carrying on a business of, and whose business consists wholly or partly of, providing credit in the State and who provided the credit in the ordinary course of that business;”.

—An tAire Dlí agus Cirt agus Comhionannais.

6. In page 6, between lines 3 and 4, to insert “and does not include debts to Irish Water;”.

—Ruth Coppinger, Paul Murphy, Joe Higgins.

7. In page 6, between lines 4 and 5, to insert the following:

““earnings” means any sums payable to a person—

- (a) by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service), and
- (b) by way of pension or other like benefit in respect of employment (including an annuity in respect of past services, whether or not rendered to the person paying the annuity, and including periodical payments by way of compensation for the loss, abolition or relinquishment, or diminution in the emoluments, of any office or employment);

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2 May 1992, as adjusted by all subsequent amendments to that Agreement;

“EEA country” means a state that is a contracting party to the EEA Agreement;”.

—An tAire Dlí agus Cirt agus Comhionannais.

8. In page 6, line 14, to delete “(“judgment debtor”)”.

—An tAire Dlí agus Cirt agus Comhionannais.

9. In page 6, between lines 30 and 31, to insert the following:

“ “personal public service number” has the same meaning as it has in section 262 of the Act of 2005;”.

—An tAire Dlí agus Cirt agus Comhionannais.

10. In page 6, between lines 32 and 33, to insert the following:

“ “relevant total amount” means, in relation to a relevant order, the total amount specified in the order as being payable under the order to the judgment creditor concerned;”.

—An tAire Dlí agus Cirt agus Comhionannais.

11. In page 6, line 37, to delete “in the application for the variation”.

—An tAire Dlí agus Cirt agus Comhionannais.

12. In page 6, line 39, to delete “*section 7(3)*” and substitute “*section 7(3)* or, as the case may be, *section 19*”.

—An tAire Dlí agus Cirt agus Comhionannais.

13. In page 7, to delete lines 1 to 12.

—Pádraig Mac Lochlainn.

14. In page 7, line 4, to delete “section” and substitute “Act”.

—An tAire Dlí agus Cirt agus Comhionannais.

15. In page 7, to delete lines 13 to 16.

—Pádraig Mac Lochlainn.

16. In page 7, to delete lines 17 to 20.

—Pádraig Mac Lochlainn.

17. In page 7, to delete lines 21 to 37.

—Pádraig Mac Lochlainn.

18. In page 8, to delete lines 1 to 13.

—Pádraig Mac Lochlainn.

19. In page 8, line 5, to delete “€500” and substitute “€1,000”.

—Ruth Coppinger, Paul Murphy, Joe Higgins.

20. In page 8, line 5, to delete “€500 but not exceeding €4,000” and substitute “€5,000”.

—Clare Daly, Mick Wallace.

21. In page 8, between lines 13 and 14, to insert the following:

“(3) A notice to the judgment debtor under *subsection (2)* shall be accompanied by, in addition to the documents referred to in that subsection, a statement of means to be completed by the judgment debtor.”.

—An tAire Dlí agus Cirt agus Comhionannais.

22. In page 8, between lines 13 and 14, to insert the following:

“(3) Irish Water shall not make an application under this section and shall not avail of any provisions of this Act.”.

—Ruth Coppinger, Paul Murphy, Joe Higgins.

23. In page 8, to delete lines 14 to 37, to delete page 9, and in page 10, to delete lines 1 to 3.

—Pádraig Mac Lochlainn.

24. In page 9, to delete lines 1 and 2 and substitute the following:

“(c) whether the judgment debtor is in receipt of any income other than that referred to in *paragraphs (a) and (b)*, including:

- (i) any benefit described in section 39(1) of the Act of 2005;
- (ii) any assistance described in section 139(1) of the Act of 2005;
- (iii) family income supplement under Part 6 of the Act of 2005;
- (iv) back to work family dividend under Part 7A of the Act of 2005; or
- (v) any allowance payable to a person participating in a scheme or programme under section 359A of the Act of 2005;”.

—An tAire Dlí agus Cirt agus Comhionannais.

25. In page 9, to delete line 25 and substitute the following:

“(5) (a) A judgment debtor who furnishes to the court a statement of means under this

section shall, within such period as may be prescribed by rules of court and subject to *paragraph (b)*, furnish a copy of the statement of means (and, where applicable, the verifying certificate attached to the statement of means) to the judgment creditor.

- (b) Nothing in *paragraph (a)* shall be construed as obliging a judgment debtor to whom that paragraph applies to disclose his or her personal public service number to the judgment creditor.”.

—An tAire Dlí agus Cirt agus Comhionannais.

26. In page 9, line 27, to delete “provide” and substitute “provide to the court”.

—An tAire Dlí agus Cirt agus Comhionannais.

27. In page 10, to delete lines 4 to 12.

—Pádraig Mac Lochlainn.

28. In page 10, to delete lines 13 to 17.

—Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins.

29. In page 10, to delete lines 18 to 38, and in page 11, to delete lines 1 to 22.

—Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins.

30. In page 10, line 35, to delete “incurred in proceedings relating to the judgment” and substitute “of an application under *section 6* in respect of the judgment debt concerned”.

—An tAire Dlí agus Cirt agus Comhionannais.

31. In page 11, between lines 10 and 11, to insert the following:

“(5) An attachment of earnings order may direct that the costs of an application under *section 6* in respect of the judgment debt concerned be included in the relevant total amount.”.

—An tAire Dlí agus Cirt agus Comhionannais.

32. In page 11, to delete lines 15 to 17 and substitute the following:

“(c) the relevant total amount;

(d) the appropriate amount, having regard to the normal deduction rate and the protected earnings rate, that is to be periodically deducted from the judgment debtor’s earnings;”.

—An tAire Dlí agus Cirt agus Comhionannais.

33. In page 11, between lines 22 and 23, to insert the following:

“(6) Payments under an attachment of earnings order shall be in lieu of payments of the like amount under the relevant judgment that have not been made and that, but for the attachment of earnings order, would fall to be made under the judgment.”.

—An tAire Dlí agus Cirt agus Comhionannais.

34. In page 11, to delete lines 23 to 27.

—Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins.

35. In page 11, lines 24 to 27, to delete all words from and including “Where” in line 24 down to and including line 27 and substitute the following:

- “(1) Where an attachment of earnings order is made under *section 10*, the judgment creditor concerned shall cause it to be served on the person to whom it is directed.
- (2) Where an attachment of earnings order is in force, a judgment creditor who becomes aware that a person has become the employer of the judgment debtor concerned shall cause the following to be served on the person:
- (a) a copy of the attachment of earnings order, certified by or on behalf of the court to be a true copy of the order; and
- (b) a statutory declaration made by the judgment creditor stating—
- (i) the relevant total amount, and
- (ii) the amount of the relevant total amount that remains to be paid to the judgment creditor in compliance with the order.
- (3) A reference in this Act to a person to whom an attachment of earnings order is directed shall be deemed to include a reference to a person on whom the documents referred to in *subsection (2)* are, in accordance with that subsection, served.”.

—An tAire Dlí agus Cirt agus Comhionannais.

36. In page 11, to delete lines 28 to 39, and in page 12, to delete lines 1 to 7.

—Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins.

37. In page 11, lines 34 and 35, to delete “to the court and”.

—An tAire Dlí agus Cirt agus Comhionannais.

38. In page 12, to delete lines 8 to 24.

—Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins.

39. In page 12, line 16, to delete “of the judgment debtor”.

—An tAire Dlí agus Cirt agus Comhionannais.

40. In page 12, to delete lines 19 to 24 and substitute the following:

- “(3) Where an attachment of earnings order is in force, a person who becomes an employer of the judgment debtor and knows that the order is in force shall, within 10 days of becoming the judgment debtor’s employer or of acquiring that knowledge (whichever is later), notify the judgment creditor in writing that the person is the judgment debtor’s employer, and include in such notification a statement of the judgment debtor’s earnings and expected earnings from the relevant employment.”.

—An tAire Dlí agus Cirt agus Comhionannais.

41. In page 12, to delete lines 25 to 39.

—Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins.

42. In page 13, to delete lines 1 to 31.

—Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins.

43. In page 13, lines 5 and 6, to delete “a committee of agriculture established by the Agriculture Act 1931,”.

—An tAire Dlí agus Cirt agus Comhionannais.

44. In page 13, to delete lines 32 to 41, and in page 14, to delete lines 1 to 26.

—Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins, Clare Daly, Mick Wallace.

45. In page 14, between lines 8 and 9, to insert the following:

“(4) A deduction from payments order may direct that the costs of an application under *section 6* in respect of the judgment debt concerned be included in the relevant total amount.”.

—An tAire Dlí agus Cirt agus Comhionannais.

46. In page 14, between lines 11 and 12, to insert the following:

“(c) the relevant total amount;”.

—An tAire Dlí agus Cirt agus Comhionannais.

47. In page 14, line 14, to delete “a” and substitute “any”.

—An tAire Dlí agus Cirt agus Comhionannais.

48. In page 14, between lines 26 and 27, to insert the following:

“(7) Payments under a deduction from payments order shall be in lieu of payments of the like amount under the relevant judgment that have not been made and that, but for the deduction from payments order, would fall to be made under the judgment.”.

—An tAire Dlí agus Cirt agus Comhionannais.

49. In page 14, to delete lines 27 to 29.

—Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins, Clare Daly, Mick Wallace.

50. In page 14, line 28, to delete “clerk of the court” and substitute “judgment creditor”.

—An tAire Dlí agus Cirt agus Comhionannais.

51. In page 14, to delete lines 30 to 39, and in page 15, to delete lines 1 to 7.

—Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins, Clare Daly, Mick Wallace.



52. In page 15, to delete lines 8 to 17.

—Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins.

53. In page 15, line 10, to delete “the court and”.

—An tAire Dlí agus Cirt agus Comhionannais.

54. In page 15, to delete lines 18 to 39, and in page 16, to delete lines 1 to 13.

—Pádraig Mac Lochlainn, Ruth Coppinger, Paul Murphy, Joe Higgins.

55. In page 15, line 25, to delete “her” and substitute “her.”

—An tAire Dlí agus Cirt agus Comhionannais.

56. In page 15, line 32, to delete “increased” and substitute “increased in the manner referred to in *section 13(1)(a)* or, as the case may be, *section 19(1)(a)*”.

—An tAire Dlí agus Cirt agus Comhionannais.

57. In page 16, line 7, to delete “clerk of the court” and substitute “judgment creditor”.

—An tAire Dlí agus Cirt agus Comhionannais.

58. In page 16, to delete lines 14 to 37.

—Pádraig Mac Lochlainn.

59. In page 16, line 16, to delete “the amount of the judgment debt that remains due” and substitute “the amount of the relevant total amount that remains to be paid in compliance with the order”.

—An tAire Dlí agus Cirt agus Comhionannais.

60. In page 16, line 22, to delete “all sums specified in the order have been paid over” and substitute “the relevant total amount has been paid”.

—An tAire Dlí agus Cirt agus Comhionannais.

61. In page 16, to delete lines 25 to 37 and substitute the following:

“(3) Where—

(a) a relevant order ceases under *subsection (2)(b)* to have effect, and

(b) on the date on which it ceases to have effect, an amount of the relevant total amount remains to be paid to the judgment creditor,

the judgment creditor may, in accordance with *subsection (4)*, make an application to the court in respect of the amount referred to in *paragraph (b)* that remains to be paid, and such an application shall be deemed to be an application under *section 6*.

(4) An application to which *subsection (3)* applies shall be in such form as may be prescribed by rules of court, and shall be accompanied by a—

(a) copy of the relevant order, and

(b) statutory declaration made by the judgment creditor stating—

(i) the amounts that have been paid to him or her in compliance with the

relevant order, and

- (ii) the amount of the relevant total amount that remains to be paid to him or her.”.

—An tAire Dlí agus Cirt agus Comhionannais.

62. In page 17, to delete lines 1 to 6.

—Pádraig Mac Lochlainn.

63. In page 17, to delete lines 7 to 12.

—An tAire Dlí agus Cirt agus Comhionannais, Pádraig MacLochlainn.

64. In page 17, to delete lines 13 to 28.

—Pádraig Mac Lochlainn.

65. In page 17, line 17, to delete “*section 7(1), 16(5)*” and substitute “*section 7(1), 20(4) or 20(8)*”.

—An tAire Dlí agus Cirt agus Comhionannais.

66. In page 17, line 17, to delete “or *20(4)*”.

—An tAire Dlí agus Cirt agus Comhionannais.

67. In page 17, between lines 19 and 20, to insert the following:

“(3) A person who—

- (a) without reasonable excuse, contravenes an order under *section 16(5)*, or  
(b) furnishes to the Minister for Social Protection information pursuant to an order under *section 16(5)* that the person knows to be false or misleading in any material respect,

shall be guilty of an offence and shall be liable on summary conviction to a class C fine.”.

—An tAire Dlí agus Cirt agus Comhionannais.

68. In page 17, to delete lines 22 to 28 and substitute the following:

“(4) Where, without reasonable excuse, a person—

- (a) fails to comply with *section 12(1), 12(2), 13, 19(1)*, or a requirement of the court under *section 7(6)*, or  
(b) gives a false or misleading statement under *section 7(1), 7(6), 20(2) or 20(4)* or notification under *section 13 or 19*,

and a judgment creditor as a result fails to obtain a sum of money due under a relevant order, the judgment creditor may sue for the sum as a simple contract debt in any court of competent jurisdiction, and the court may order the person to pay the judgment creditor such amount as in all the circumstances the court considers proper.”.

—An tAire Dlí agus Cirt agus Comhionannais.

69. In page 17, to delete lines 29 to 37, and in page 18, to delete lines 1 and 2.

—Pádraig Mac Lochlainn.

70. In page 18, between lines 4 and 5, to insert the following:

**“Amendment of Act of 1940**

27. (1) Section 6 (as amended by section 2(1) of the Act of 2009) of the Act of 1940 is amended—

(a) in subsection (2)(b), by the deletion of “and in particular the possibility of imprisonment”,

(b) in subsection (5)—

(i) by the substitution of the following for paragraph (a)(i):

“(i) is entitled to apply for legal advice and legal aid under the Civil Legal Aid Act 1995, and”,

and

(ii) by the deletion, in paragraph (b)(i), of “and in particular the possibility of imprisonment”,

(c) in subsection (6)—

(i) by the substitution of the following for paragraph (a):

“(a) that he or she is entitled to apply for legal advice and legal aid under the Civil Legal Aid Act 1995, and”,

and

(ii) by the substitution, in paragraph (b), of “order.” for “order, and in particular the possibility of imprisonment.”,

(d) in subsection (7)—

(i) by the substitution, in paragraph (a), of “such an application, or” for “such an application,”

(ii) by the substitution, in paragraph (b), of “proceedings.” for “proceedings,”,  
and

(iii) by the deletion of paragraphs (c) and (d),

(e) by the deletion, subject to subsection (3), of subsections (8), (9) and (10), and

(f) in subsection (11), by the deletion, subject to subsection (3), of “(whether directly or through the Governor of the Prison)”.

(2) Subject to subsection (4), section 6A (inserted by section 2(1) of the Act of 2009) of the Act of 1940 is repealed.

(3) Where, immediately before the date on which this section comes into operation, a debtor is the subject of an order under section 6(7) of the Act of 1940, for so long as

the order remains in force—

- (a) subsections (9) and (10) of that section shall continue to apply in respect of the debtor, and
  - (b) notwithstanding the amendment of subsection (11) by this section, that subsection, before such amendment, shall continue to apply in respect of the debtor as if that amendment had not been made.
- (4) Notwithstanding the repeal by this section of section 6A of the Act of 1940, that section shall continue to apply in respect of—
- (a) a debtor who, immediately before the date on which this section comes into operation, is the subject of—
    - (i) a summons under section 6(1) of the Act of 1940, or
    - (ii) an order under section 6(7) of the Act of 1940,and
  - (b) a debtor’s legal aid certificate, a debtor’s legal aid (appeal) certificate or a debtor’s legal aid (case stated) certificate) that, immediately before the date on which this section comes into operation, has been granted to a debtor under that section.”.

—An tAire Dlí agus Cirt agus Comhionannais.

71. In page 18, to delete lines 5 to 10.

—Pádraig Mac Lochlainn.