



**An Bille um Fhiachas Sibhialta (Nósanna Imeachta), 2015**  
**Civil Debt (Procedures) Bill 2015**

*Mar a ritheadh ag Dáil Éireann*

*As passed by Dáil Éireann*





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ACTS REFERRED TO

Companies Act 2014 (No. 38)

Companies Acts

Consumer Credit Act 1995 (No. 24)

Debtors Act (Ireland) 1872 (35 & 36 Vict. c. 57)

Employment Agency Act 1971 (No. 27)

Enforcement of Court Orders (Amendment) Act 2009 (No. 21)

Enforcement of Court Orders Act 1926 (No. 18)

Enforcement of Court Orders Act 1940 (No. 23)

Finance (Local Property Tax) Act 2012 (No. 52)

Harbours Acts 1946 to 2005

Housing (Miscellaneous Provisions) Act 2014 (No. 21)

Local Government Act 2001 (No. 37)

Personal Insolvency Act 2012 (No. 44)

Social Welfare Consolidation Act 2005 (No. 26)

Taxes Consolidation Act 1997 (No. 39)





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AN BILLE UM FHIACHAS SIBHIALTA (NÓSANNA IMEACHTA), 2015  
CIVIL DEBT (PROCEDURES) BILL 2015

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# Bill

*entitled*

An Act to provide for the enforcement of court judgments in relation to certain debts; to provide for the making by the District Court of attachment of earnings orders and deduction from payments orders in certain circumstances; to amend the Debtors Act (Ireland) 1872 and section 6 of the Enforcement of Court Orders Act 1940 to remove references to the imprisonment of debtors for non-payment of debt; and to provide for related matters. 5 10

**Be it enacted by the Oireachtas as follows:**

## Definitions

1. In this Act—

“Act of 1926” means the Enforcement of Court Orders Act 1926;

“Act of 1940” means the Enforcement of Court Orders Act 1940; 15

“Act of 2005” means the Social Welfare Consolidation Act 2005;

“Act of 2009” means the Enforcement of Court Orders (Amendment) Act 2009;

“attachment of earnings order” means an order under *section 10(1)*;

“contract of employment” means—

(a) a contract of service or apprenticeship, or 20

(b) any other contract whereby an individual agrees with another person, who is carrying on the business of an employment agency within the meaning of the Employment Agency Act 1971 and is acting in the course of that business, to do or perform personally any work or service for a third person (whether or not the third person is a party to the contract); 25

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

“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 30

- (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;
- “deduction from payments order” means an order under *section 16(1)*;
- “earnings” means any sums payable to a person— 5
- (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); 10
- “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; 15
- “EEA country” means a state that is a contracting party to the EEA Agreement;
- “employer”, in relation to a judgment debtor, means a person who employs the judgment debtor under a contract of employment, subject to the qualification that the person who under a contract of employment referred to in *paragraph (b)* of the definition of “contract of employment” is liable to pay the earnings of the judgment debtor in respect of the work or service concerned shall be deemed to be the judgment debtor’s employer, and includes a trustee of a pension scheme under which the judgment debtor is receiving periodical pension benefits; 20
- “judgment” includes an order or decree of any court of competent jurisdiction;
- “judgment creditor” means a person who has obtained judgment against another person in respect of a debt; 25
- “judgment debt” means, in relation to a judgment creditor, the amount payable under the judgment obtained by the judgment creditor and includes any amount remaining due after payment or recovery of part thereof;
- “judgment debtor” means, in relation to a judgment creditor, the person against whom judgment has been obtained by the judgment creditor; 30
- “Minister” means the Minister for Justice and Equality;
- “net scheme payments”, in relation to a judgment debtor, means the amount, other than any amount specified in columns (3) to (8) of Part 1 of Schedule 2 to the Act of 2005 or columns (3) to (8) of Part 1 of Schedule 4 to that Act, payable weekly under a scheme to the judgment debtor by the Minister for Social Protection after the making of— 35
- (a) any deductions for the purposes referred to in section 341(7) of the Act of 2005,
- (b) any deductions for the purposes of section 84 of the Finance (Local Property Tax) Act 2012,
- (c) any deductions for the purposes of section 53 of the Housing (Miscellaneous Provisions) Act 2014, and 40



(d) any deduction of any amounts required to be deducted by an order of a court;

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

“relevant order” means an attachment of earnings order or a deduction from payments order, as appropriate; 5

“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;

“scheme” means a scheme that is prescribed under *section 24*;

“statement of means” means a statement of means furnished by a judgment debtor under *section 7* or, in relation to a relevant order that has been varied under *section 20*, the statement of means furnished by the judgment debtor under *subsection (2) or (4)* of that section; 10

“verifying certificate” means a certificate of the Minister for Social Protection under *section 7(3)* or, as the case may be, *section 19*.

## **Regulations**

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2. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed.
- (2) Without prejudice to any provision of this Act, regulations under this Act may contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations. 20
- (3) Every regulation made by the Minister or the Minister for Social Protection under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House sits after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder. 25

## **Expenses**

3. The expenses incurred by the Minister or the Minister for Social Protection in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas. 30

## **Jurisdiction**

4. The jurisdiction conferred on the court by this Act shall be exercised by a judge of the District Court assigned to the District Court district in which the judgment debtor concerned ordinarily resides or carries on any profession, business or occupation.

## **Service of documents**

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5. (1) A notice required to be served on or given to a person under this Act shall be addressed to the person by name, and may be so served or given to the person in one of the following ways:

- (a) by delivering it to the person;
  - (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
  - (c) by sending it by post to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to the address. 5
- (2) The service of an attachment of earnings order may be effected by leaving the order or a copy of it at the address at which the employer ordinarily resides or the employer's place of business in the State or by sending the order or a copy of it, by registered pre-paid post, to that residence or place of business.
- (3) For the purpose of this section, a company within the meaning of the Companies Acts or the Companies Act 2014 shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business. 10

**Power of judgment creditor to apply to court**

6. (1) A judgment creditor may make an application to the court under this section where the judgment debt concerned— 15
- (a) is for a liquidated sum, and
  - (b) an amount, being not less than €500 but not exceeding €4,000, of the sum referred to in *paragraph (a)* remains due.
- (2) An application under this section shall be on notice to the judgment debtor concerned and in such form as may be prescribed by rules of court, and shall be accompanied by— 20
- (a) a copy of the judgment concerned or other evidence of the granting of the judgment, and
  - (b) a statutory declaration made by the judgment creditor stating the amount of the judgment debt that remains due. 25
- (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.

**Statement of means** 30

7. (1) A judgment debtor, on receipt of a notice of an application under *section 6*, shall, within such period as may be prescribed by rules of court and in accordance with this section, complete and furnish to the court a statement of means.
- (2) A statement of means referred to in *subsection (1)* shall be in such form as may be prescribed by rules of court, and shall specify the following: 35
- (a) whether the judgment debtor is a person to whom earnings fall to be paid and, if so—
    - (i) particulars as to the judgment debtor's earnings and expected earnings,

- (ii) the name and address of each employer of the judgment debtor,
- (iii) particulars to enable the employers referred to in *subparagraph (ii)* to identify the judgment debtor, and
- (iv) whether any deductions are currently being made from the judgment debtor's earnings in accordance with— 5
  - (I) section 1002 of the Taxes Consolidation Act 1997,
  - (II) Part 11A of the Act of 2005, or
  - (III) Chapter 1 of Part 10 of the Finance (Local Property Tax) Act 2012;
- (b) whether the judgment debtor is a person to whom net scheme payments are payable and, if so— 10
  - (i) particulars as to the net scheme payments concerned, and
  - (ii) whether any of the deductions specified in *paragraphs (a) to (d)* of the definition of “net scheme payments” in *section 1* are being made from the amount paid weekly under the scheme concerned and, if so, particulars as to the amount of such deductions; 15
- (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; 20
  - (iv) back to work family dividend under Part 7A of the Act of 2005;
  - (v) any allowance payable to a person participating in a scheme or programme under section 359A of the Act of 2005;
- (d) the aggregate amount of all liabilities of the judgment debtor including any duty (moral or legal) to provide financially for members of his or her family or other persons; 25
- (e) whether the judgment debtor is obliged to make payments under a court order in force against him or her and, if so, particulars as to the payments concerned;
- (f) whether the judgment debtor is the subject of an insolvency arrangement within the meaning of the Personal Insolvency Act 2012 and, if so, particulars as to the amount of the weekly or monthly payments to be made to the Insolvency Service of Ireland or, as the case may be, creditors under the arrangement; 30
- (g) such other information relating to the financial circumstances of the debtor as may be prescribed by rules of court.
- (3) Where a judgment debtor who receives a notice of an application under *section 6* is a person to whom net scheme payments are payable, he or she shall— 35
  - (a) apply to the Minister for Social Protection for a verifying certificate, verifying the information referred to in *subsection (2)(b)* to be specified by the judgment debtor in his or her statement of means, and

- (b) attach such verifying certificate to his or her statement of means.
- (4) The Minister for Social Protection may by regulations prescribe—
  - (a) the information, being information required by him or her for the purpose of providing a verifying certificate, to be furnished by a judgment debtor in his or her application under *subsection (3)(a)*, and 5
  - (b) the form of a verifying certificate.
- (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. 10
- (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.
- (6) The court may, for the purposes of making a relevant order, require— 15
  - (a) the judgment debtor to provide to the court, within a specified period, any necessary supporting documentation in relation to the information (other than the information referred to in *subsection (2)(b)*) specified in his or her statement of means, and
  - (b) a person appearing to the court to be an employer of the judgment debtor to give to the court, within a specified period, a statement signed by the person, or on his or her behalf, of specified particulars of the judgment debtor's earnings and expected earnings. 20
- (7) In any proceedings in relation to a relevant order, the following is admissible as evidence of the facts stated in it and a document purporting to be such a statement or certificate is deemed, unless the contrary is shown, to be a statement or certificate so given— 25
  - (a) a statement of means furnished to the court under this section,
  - (b) a verifying certificate attached to a statement of means referred to in *paragraph (a)*, and 30
  - (c) a statement given to the court under *subsection (6)(b)*.

**Adjournment etc. of application under *section 6***

- 8. (1) Where, on an application under *section 6*, it appears to the court that the judgment debtor is likely to be able within a reasonable period to pay the judgment debt concerned, the court may adjourn the proceedings for such period or periods as it considers reasonable. 35
- (2) An adjournment under *subsection (1)* may be made subject to such terms and conditions with regard to payment by the judgment debtor of the judgment debt as the court considers appropriate.
- (3) The court may vary or revoke any term or condition imposed under *subsection (2)*. 40

**Court may not make concurrent attachment of earnings order and deduction from payments order**

9. The court, on an application under *section 6*, shall not make, in respect of the same judgment debt, an attachment of earnings order and a deduction from payments order where such orders are to have effect at the same time. 5

**Attachment of earnings order**

10. (1) The court may, on an application under *section 6* and in accordance with this section, make an order directing an employer of the judgment debtor to—
- (a) deduct from the judgment debtor’s earnings, at such times as are specified in the order, periodical deductions of such amounts (specified in the order) as may be appropriate, having regard to the normal deduction rate and the protected earnings rate specified in the order, and 10
  - (b) pay the amounts so deducted, at such times as are specified in the order, to the judgment creditor.
- (2) Before deciding whether to make or refuse to make an attachment of earnings order, the court shall give the judgment debtor concerned an opportunity to make representations, including representations relating to whether the judgment debtor is a person to whom earnings fall to be paid. 15
- (3) For the purposes of making an order under this section, the court shall assess, having regard to the statement of means furnished by the judgment debtor— 20
- (a) the rate, not exceeding the rate that appears to the court to be necessary for securing payment within a reasonable period of the judgment debt and any costs of an application under *section 6* in respect of the judgment debt concerned, at which the court considers it reasonable that the earnings to which the order relates should be applied in satisfying the judgment debt (in this section referred to as the “normal deduction rate”), and 25
  - (b) the rate below which, having regard to the needs of the judgment debtor and his or her particular circumstances, the court considers it proper that the relevant earnings should not be reduced by a payment made in compliance with the order (in this section referred to as the “protected earnings rate”). 30
- (4) The court shall not make an attachment of earnings order unless it is satisfied that—
- (a) the judgment debtor is a person to whom earnings fall to be paid, and
  - (b) having regard to the normal deduction rate and the protected earnings rate to be specified in the order, compliance with the order will leave a sufficient amount to the judgment debtor to maintain himself or herself and anyone dependant on him or her. 35
- (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.
- (6) An attachment of earnings order shall specify the following particulars: 40

- (a) such information as the court has in its possession as would assist the employer in identifying the judgment debtor;
  - (b) the amount of the judgment debt that remains due;
  - (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; 5
  - (e) the normal deduction rate and the protected earnings rate;
  - (f) the frequency at which the amount referred to in *paragraph (c)* is to be deducted;
  - (g) the name and address of the judgment creditor to whom the amounts are to be paid; 10
  - (h) the date on which the order shall cease to have effect.
- (7) 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. 15

**Service of attachment of earnings order**

11. (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: 20
- (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 25
    - (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. 30

**Compliance with attachment of earnings order**

12. (1) A person to whom an attachment of earnings order is directed shall comply with its terms if it has been served upon him or her but is not liable for non-compliance before 10 days have elapsed since the service of the order.
- (2) If a person to whom an attachment of earnings order is directed is not the judgment debtor's employer or ceases to be the judgment debtor's employer, the person shall, within 10 days from the date of service or the date of cesser, give notice of that fact to the judgment creditor concerned. 35

- (3) The person to whom an attachment of earnings order is directed shall give to the judgment debtor a statement in writing of the total amount of every deduction made from a judgment debtor's earnings in compliance with an attachment of earnings order.
- (4) If an employer affected by an attachment of earnings order ceases to be the judgment debtor's employer, the order lapses insofar as that employer is concerned, except as respects deductions from earnings paid by the employer after the cesser and payment to the judgment creditor of deductions from earnings made at any time by that employer. 5
- (5) The lapse of an order under *subsection (4)* does not prevent its remaining in force for other purposes. 10

**Attachment of earnings order: notification of changes**

- 13. (1) Where an attachment of earnings order is in force, the judgment debtor concerned shall notify the judgment creditor, within 10 days of the occurrence of the event concerned, where the— 15
  - (a) earnings that fall to be paid to the judgment debtor increase by not less than €50 relative to the amount of earnings specified by the judgment debtor in his or her statement of means, or
  - (b) judgment debtor leaves any employment, or becomes employed or re-employed.
- (2) A notice under *subsection (1)(b)* shall, where the judgment debtor has become employed or re-employed, be accompanied by particulars of his or her earnings and expected earnings from the relevant employment. 20
- (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. 25

**Power to determine whether particular payments are earnings**

- 14. (1) Where an attachment of earnings order is in force, the court shall, on the application of the employer, the judgment debtor or the judgment creditor concerned, determine whether payments (or any portions thereof) to the judgment 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. 30 35
- (2) Where an application under *subsection (1)* is made by the employer concerned, the employer shall not incur any liability for non-compliance with the order as respects any payments (or any portions thereof) of the class or description specified by the application which are made by the employer to the judgment debtor while the application or any appeal in consequence thereof or any decision in relation to the application or appeal is pending, but this shall not, unless the court otherwise orders, 40

apply as respects such payments (or any portions thereof) if the employer subsequently withdraws the application or as the case may be, abandons the appeal.

#### **Persons in service of State, local authority, etc.**

15. (1) This section applies when a judgment debtor is in the service of the State, a local authority within the meaning of the Local Government Act 2001, a harbour authority within the meaning of the Harbours Acts 1946 to 2005, the Health Service Executive, an education and training board, or another body if his or her earnings are paid directly out of moneys paid by the Oireachtas or from the Central Fund, or is a member of either House of the Oireachtas. 5
- (2) For the purposes of this Act, the following officers are regarded as being the employers of the judgment debtor and the earnings paid to the judgment debtor out of the Central Fund or out of moneys provided by the Oireachtas are regarded as having been paid by them: 10
- (a) in the case where the judgment debtor is employed in a department, office, organisation, service, undertaking or other body, its chief officer, or any other officer that may be designated from time to time by the Minister of the Government by whom that body is administered; 15
- (b) in the case where the judgment debtor is in the service of an authority or body, its chief officer;
- (c) in any other case, where the judgment debtor is paid out of the Central Fund or out of moneys provided by the Oireachtas, the Secretary General of the Department of Public Expenditure and Reform or any other officer that may be designated from time to time by the Minister for Public Expenditure and Reform. 20
- (3) A question that arises in proceedings for or arising out of an attachment of earnings order as to which body employs a debtor may be referred to and determined by the Minister for Public Expenditure and Reform, but that Minister is not obliged to consider the reference unless it is made by the court. 25
- (4) A document purporting to contain a determination by the Minister for Public Expenditure and Reform under *subsection (3)* and to be signed by an officer of that Minister shall, in any proceedings mentioned in that subsection, be admissible in evidence and be deemed, unless the contrary is shown, to contain an accurate statement of that determination. 30

#### **Deduction from payments order**

16. (1) The court may, on an application under *section 6* and in accordance with this section, make an order directing the Minister for Social Protection to— 35
- (a) deduct, subject to *section 18*, from the net scheme payments paid to the judgment debtor, at such times as are specified in the order, such amounts as are specified in the order, and
- (b) pay the amounts so deducted at such times as are specified in the order, to the judgment creditor. 40



- (2) Before deciding whether to make or refuse to make a deduction from payments order, the court shall give the judgment debtor concerned an opportunity to make representations, including representations relating to whether the judgment debtor is a person to whom net scheme payments fall to be paid.
- (3) The court shall not make a deduction from payments order unless it is satisfied that— 5
- (a) the judgment debtor is a person to whom net scheme payments fall to be paid, and
  - (b) having regard to the particular circumstances of the judgment debtor, compliance with the order will leave a sufficient amount to the debtor to maintain himself or herself and anyone dependant on him or her. 10
- (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.
- (5) A deduction from payments order shall specify the following particulars: 15
- (a) the name and address of the judgment debtor;
  - (b) the amount of the judgment debt that remains due;
  - (c) the relevant total amount;
  - (d) the amounts to be deducted, subject to *section 18*, on a weekly basis from the net scheme payments paid to the judgment debtor;
  - (e) the number of weeks (which shall not exceed 50 in any calendar year) during which the deductions referred to in *paragraph (d)* are to be made; 20
  - (f) the name and address of the judgment creditor to whom the amounts are to be paid;
  - (g) the period, commencing on the date on which the order takes effect under *subsection (7)*, for which the order shall have effect. 25
- (6) The court, on making a deduction from payments order under this section, shall make an order directing the judgment debtor, within the period specified in the order, to furnish his or her personal public service number, together with a copy of the order, to the Minister for Social Protection.
- (7) A deduction from payments order shall take effect on the date on which the first deduction from the net scheme payments paid to the judgment debtor is made by the Minister for Social Protection in compliance with the order. 30
- (8) 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. 35

### **Service of deduction from payments order**

17. Where a deduction from payments order is made under *section 16*, the judgment creditor concerned shall cause it to be served on the Minister for Social Protection.

### **Compliance with deduction from payments order**

18. (1) Where a deduction from payments order is served upon him or her, the Minister for Social Protection shall, as soon as practicable thereafter and subject to *subsection (2)*, make deductions of the amount specified in the order by the court from the net scheme payments paid to the judgment debtor and pay the amounts so deducted to the judgment creditor. 5
- (2) Notwithstanding *subsection (1)* or the terms of a deduction from payments order, the Minister for Social Protection shall not, in compliance with such an order, make deductions to the extent that the deduction has the effect of reducing the payment to the judgment debtor of the net scheme payments concerned below the amount specified in column (2) of Part 1 of Schedule 4 to the Act of 2005 that corresponds to item 10(a) of column (1) of that Part of that Schedule. 10
- (3) Where the Minister for Social Protection complies with *subsection (1)*, the judgment debtor concerned may, where the order ceases to have effect, request from the Minister for Social Protection a statement showing the total amount deducted in compliance with the order concerned, and the Minister for Social Protection shall comply with such a request. 15

### **Deduction from payments order: notification of changes**

19. (1) Where a deduction from payments order is in force, the judgment debtor concerned shall notify the judgment creditor, within 10 days of the occurrence of the event concerned, where— 20
- (a) the net scheme payments that are payable to the judgment debtor increase by not less than €50 relative to the amount of net scheme payments specified by the judgment debtor in his or her statement of means, or
- (b) he or she becomes employed. 25
- (2) A notice under *subsection (1)(b)* shall be accompanied by particulars of his or her earnings and expected earnings from the relevant employment.

### **Variation of relevant order**

20. (1) A judgment debtor, while a relevant order is in force, may, on notice to the judgment creditor concerned, apply to the court for the variation of the order where the judgment debtor considers that compliance with the order will not leave a sufficient amount to him or her to maintain himself or herself and anyone dependant on him or her, as a result of— 30
- (a) the earnings that fall to be paid or, as the case may be, the net scheme payments that are payable to him or her, having decreased, or 35
- (b) his or her circumstances having otherwise changed.
- (2) An application under *subsection (1)* shall be accompanied by a statement of means completed by the judgment debtor.
- (3) A judgment creditor, while a relevant order is in force, may, on notice to the judgment debtor concerned, apply to the court for the variation of the order where the earnings that fall to be paid or, as the case may be, net scheme payments that are payable to the 40

judgment debtor have increased in the manner referred to in *section 13(1)(a)* or, as the case may be, *section 19(1)(a)*.

- (4) The judgment debtor concerned, on receipt of a notice under *subsection (3)*, shall within such period as may be prescribed by rules of court, complete and furnish to the court a statement of means. 5
- (5) An application under *subsection (1)* or *(3)* shall, where the relevant order is a deduction from payments order, be on notice to the Minister for Social Protection.
- (6) The court may, on an application under this section, if it thinks fit, make an order varying a relevant order, and a reference in this Act to an attachment of earnings order, a deduction from payments order or a relevant order shall include a reference to such an order as varied under this section. 10
- (7) The court may, on an application under *subsection (1)*, make an order discharging a relevant order where it is satisfied that compliance with the order, or with the order as varied under this section, would not leave a sufficient amount to the judgment debtor to maintain himself or herself and anyone dependant on him or her. 15
- (8) Where the court makes an order under *subsection (6)* or *(7)*, the judgment creditor concerned shall cause it to be served on the employer concerned or, as the case may be, the Minister for Social Protection.
- (9) *Section 7* shall apply to a statement of means furnished under this section, as if the reference in *section 7(6)* to the making of a relevant order was a reference to the making of an order under this section, and subject to all other necessary modifications. 20

#### **Cesser of relevant order**

- 21. (1) At any time while a relevant order is in force, the judgment debtor may elect to pay the amount of the relevant total amount that remains to be paid in compliance with the order and, on so doing— 25
  - (a) the order shall cease to have effect, and
  - (b) the judgment creditor shall give notice in writing to the employer concerned or, as the case may be, the Minister for Social Protection, of such cesser.
- (2) A relevant order shall cease to have effect on the earlier of the following: 30
  - (a) when the terms of the order have been complied with by the person to whom it is directed and the relevant total amount has been paid to the judgment creditor in accordance with the order; or
  - (b) on the date specified in the order as the date on which it ceases to have effect.
- (3) Where— 35
  - (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— 5
- (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. 10

### **Other remedies**

22. (1) Where a relevant order has been made, any proceedings commenced by a judgment creditor for an order under section 17 of the Act of 1926 in respect of the judgment debt concerned lapses and any order made under that section ceases to have effect.
- (2) A relevant order ceases to have effect on the making of an order under section 17 of the Act of 1926 in respect of the judgment debt concerned. 15

### **Enforcement**

23. (1) A person who gives to the court a statement pursuant to *section 7(1), 7(6), 20(2) or 20(4)* that he or she 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. 20
- (2) A person who, without reasonable excuse, contravenes *section 7(1), 20(4) or 20(8)* shall be guilty of an offence and shall be liable on summary conviction to a class C fine.
- (3) A person who—
- (a) without reasonable excuse, contravenes an order under *section 16(5)*, or 25
  - (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. 30
- (4) A person who, without reasonable excuse, contravenes *section 12(3)* shall be guilty of an offence and shall be liable on summary conviction to a class E fine.
- (5) 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 35
  - (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.

**Minister for Social Protection may prescribe scheme for purposes of Act**

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24. (1) The Minister for Social Protection, with the consent of the Minister, may by regulation prescribe any of the following to be a scheme for the purposes of this Act:

- (a) a benefit described in section 39(1) of the Act of 2005;
- (b) an assistance described in section 139(1) of the Act of 2005.

(2) In prescribing a scheme under *subsection (1)*, the Minister for Social Protection shall have regard to—

- (a) the nature of the scheme,
- (b) the frequency of payment under the scheme, and
- (c) the likely duration of the period in which a payment under the scheme would be payable to a person.

15

**Repeals**

25. Parts I and IV of the Debtors Act (Ireland) 1872 are repealed.

**Amendment of Act of 1940**

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

20

- (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”,

25

and

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

(c) in subsection (6)—

30

- (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,” 5
    - (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 10 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 15 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 20 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— 25
    - (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 30 which this section comes into operation, has been granted to a debtor under that section.

**Short title and commencement**

27. (1) This Act may be cited as the Civil Debt (Procedures) Act 2015.
- (2) This Act shall come into operation on such day or days as may be fixed by order or 35 orders made by the Minister, either generally or by reference to any particular purpose or provision, and different days may be so fixed for different purposes and different provisions.



An Bille um Fhiachas Sibhialta (Nósanna  
Imeachta), 2015

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# BILLE

*(mar a ritheadh ag Dáil Éireann)*

*dá ngairtear*

Acht do dhéanamh socrú maidir le forghníomhú breithiúnas cúirte i ndáil le fiacha áirithe; do dhéanamh socrú maidir leis an gCúirt Dúiche do dhéanamh orduithe astaithe tuillimh agus orduithe um asbhaint as íocaíochtaí in imthosca áirithe; do leasú an *Debtors Act (Ireland) 1872* agus alt 6 den Acht um Fheidhmiú Orduithe Cúirte, 1940 chun tagairtí d'fhéichiúnaithe a chur i bpríosún mar gheall ar neamhíoc fiach a bhaint díobh; agus do dhéanamh socrú i dtaobh nithe gaolmhara.

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*Ritheadh ag Dáil Éireann,  
16 Iúil, 2015*

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Civil Debt (Procedures) Bill 2015

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# BILL

*(as passed by Dáil Éireann)*

*entitled*

An Act to provide for the enforcement of court judgments in relation to certain debts; to provide for the making by the District Court of attachment of earnings orders and deduction from payments orders in certain circumstances; to amend the Debtors Act (Ireland) 1872 and section 6 of the Enforcement of Court Orders Act 1940 to remove references to the imprisonment of debtors for non-payment of debt; and to provide for related matters.

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*Passed by Dáil Éireann,  
16th July, 2015*

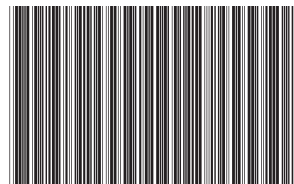
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