**Changes to Legislation:** as of 3 November 2026, this Act is up to date with all changes known to be in force.

*Number* 23 *of* 1940

# ENFORCEMENT OF COURT ORDERS ACT 1940

**REVISED**

**Updated to 1 July 2026**

This Revised Act is an administrative consolidation of the *Enforcement of Court Orders Act 1940*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including the *Údarás na Gaeltachta (Amendment) Act 2026* (18/2026), enacted 1 July 2026, and all statutory instruments up to and including the *European Union (Transparency and Integrity of Environmental, Social and Governance (ESG) Rating Activities) Regulations 2026* (S.I. No. 317 of 2026), made 1 July 2026, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

*Number* 23 *of* 1940.

# ENFORCEMENT OF COURT ORDERS ACT 1940

**REVISED**

**Updated to 1 July 2026**

ARRANGEMENT OF SECTIONS


PART I

AMENDMENT OF THE ENFORCEMENT OF COURT ORDERS ACT, 1926

Section

1. The Principal Act.
2. Construction of this Part of this Act.
3. Time within which application for examination order may be made.
4. Duration of instalment orders.
5. Variation of instalment orders.
6. Failure to comply with instalment order.
6A. Entitlement to legal aid.

PART II

MISCELLANEOUS AND GENERAL

7. Amendment of section 1 of the Married Women (Maintenance in case of Desertion) Act, 1886. *(Repealed)*
8. Enforcement of certain orders for periodical payments.
9. Release of persons imprisoned for non-payment of money.
10. Short title and citation.


ACTS REFERRED TO

| | |
|---|---|
| Enforcement of Court Orders Act, 1926 | No. 18 of 1926 |
| Illegitimate Children (Affiliation Orders) Act, 1930 | No. 17 of 1930 |

*Number* 23 *of* 1940.

**ENFORCEMENT OF COURT ORDERS ACT 1940**

**REVISED**

**Updated to 1 July 2026**

AN ACT TO AMEND AND EXTEND THE LAW IN RELATION TO THE ENFORCEMENT OF CERTAIN COURT ORDERS AND TO MAKE PROVISION FOR THE RELEASE IN PROPER CASES OF PERSONS IMPRISONED FOR NON-PAYMENT OF MONEY. [10*th July,* 1940.]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:—

## PART I.

### Amendment of the Enforcement of Court Orders Act, 1926.

The Principal Act.

**1.** — In this Part of this Act the expression " the Principal Act " means the Enforcement of Court Orders Act, 1926 (No. 18 of 1926).

Construction of this Part of this Act.

**2.** — (1) This Part of this Act shall be read as one with Part II of the Principal Act, and accordingly every word and expression to which a particular meaning is given in or by the said Part II for the purposes of the said Part II shall have in this Part of this Act the meaning so given to it.

(2) In this Part of this Act, the expression " instalment order " means an order made under section 17 of the Principal Act, whether such order requires the debt and costs to be paid in one payment or by instalments, and, where such order has been varied under this Part of this Act, includes such order as so varied.

Time within which application for examination order may be made.

**3.** — An application for an examination order may be made at any time not more than six years after the date of the judgment in relation to which such order is sought.

Duration of instalment orders.

**4.** — F2**[**(1) An instalment order shall continue in force until the expiration of twelve years from the date of the relevant judgment, order or decree.**]**

(2) No instalment which accrues due under an instalment order after such order ceases to be in force shall be payable or recoverable.

(3) Nothing in this section shall be construed as requiring that an instalment order shall provide for payment of the whole of the debt and costs within the period during which such order continues in force.

Variation of instalment orders.

**5.** — (1) A Justice of the District Court may, if he so thinks proper on the application of the creditor or of the debtor, do in respect of any instalment order (whether made before or after the passing of this Act) whichever of the following things is applicable, that is to say:—

(*a*) where such instalment order requires the debt and costs to be paid in one payment, vary such order so as to provide (in lieu of such payment in one sum) for payment of the debt and costs by such instalments and at such times as such Justice shall in all the circumstances think reasonable;

(*b*) where such instalment order requires the debt and costs to be paid by instalments, vary such order in such manner as such Justice may think proper in respect of the number of instalments, the amount of the instalments, or the times at which the instalments are to be paid or all or any two of those matters.

(2) Whenever a Justice of the District Court makes under this section, whether on the application of the creditor or the application of the debtor, an order varying an instalment order, such Justice may, if he so thinks proper, do either or both of the following things, that is to say:—

(*a*) direct that the costs of the creditor in respect of the application for such variation order shall be part of the costs of the proceedings in the District Court within the meaning of section 17 of the Principal Act;

(*b*) direct that such variation order shall apply and have effect as from a specified date prior to the date thereof.

(3) Save as provided by the preceding sub-sections of this section, an order under this section shall have effect from the date thereof.

F3**[**(4) An order under this section varying an instalment order shall not so operate as to make the instalment order enforceable after the expiration of twelve years from the date of the relevant judgment, order or decree.**]**

F4**[**Failure to comply with instalment order.

**6.**— (1) Where a debtor is liable, by virtue of an instalment order, to pay a debt and costs either in one payment or by instalments and the debtor fails to make the payment or fails to pay any one or more of the instalments due while that order is in force at the time or times appointed by it, the creditor may, at any time while it is in force or within 12 months after it has ceased to be in force, apply to a District Court clerk for the District Court area where the debtor resides for a summons directing the debtor to appear before the District Court.

(2) A summons referred to in subsection (1) shall—

(*a*) be issued by the District Court clerk concerned,

(*b*) contain details of the consequences, under this section, of a failure to comply with an instalment order and in particular the possibility of imprisonment,

(*c*) provide information in ordinary language of the options available to the judge of the District Court under subsection (7) at the hearing of the summons,

(*d*) state that the debtor may be arrested if he or she fails to appear before the District Court as directed, and

(*e*) be served on the debtor by personal service, unless the judge of the District Court directs otherwise.

(3) If a debtor fails, without reasonable excuse, to appear before the court in answer to the summons, on the application of the creditor, the judge of the District Court, if satisfied that the debtor was served in accordance with subsection (2), shall—

(*a*) issue a warrant for the arrest of the debtor, or

(*b*) if the judge thinks it appropriate in all the circumstances, fix a new date for the hearing at which the debtor will be required to attend and direct that he or she be notified of that date.

(4) A debtor arrested under subsection (3)(a) shall be brought as soon as practicable before the District Court.

(5) Where a debtor is arrested and brought before the District Court under subsection (3)(a), the judge shall fix a new date for the hearing of the summons and direct that the creditor be informed by the District Court clerk by notice in writing of the date so fixed, and shall explain to the debtor in ordinary language—

(*a*) that he or she—

(i) is entitled to apply to the court for a certificate of legal aid under section 6A, and

(ii) must attend before the court at the date next fixed for the hearing of the summons,

and

(*b*) the consequences, under this section, which may follow a failure—

(i) to comply with an instalment order and in particular the possibility of imprisonment, or

(ii) to attend before the court as required under paragraph (a)(ii).

(6) At the hearing of the summons, where both the creditor and the debtor are present in court, before hearing their evidence, the judge shall explain to the debtor in ordinary language—

(*a*) that he or she is entitled to apply to the court for a certificate of legal aid under section 6A, and

(*b*) the consequences, under this section, which may follow a failure to comply with an instalment order, and in particular the possibility of imprisonment.

(7) On hearing the creditor and the debtor and such evidence, if any, as they may respectively adduce, a judge may, if he or she is satisfied that the debtor has failed to comply with the instalment order—

(*a*) treat the proceedings on the summons as an application under section 5 for a variation of the instalment order, in which case section 5 applies as if the proceedings were such an application,

(*b*) if he or she considers it appropriate, request the creditor and the debtor to seek resolution by mediation, within such period as the judge may specify and, if not resolved by that method and within the period so specified, the creditor may apply to the District Court clerk concerned to re-enter the proceedings,

(*c*) if he or she considers it appropriate, and subject to subsection (8), make an order fixing a term of imprisonment for any period not exceeding 3 months (which order shall specify the amount of the outstanding debt and costs, including the costs of that order), and postpone the execution of that order until such time and on such conditions, if any, as to the payment of the outstanding debt and costs as he or she thinks just, or

(*d*) if he or she considers it appropriate, and subject to subsection (8), order the arrest and imprisonment of the debtor for any period not exceeding 3 months (which order shall specify the amount of the outstanding debt and costs, including the costs of that order), and the debtor shall be arrested and imprisoned accordingly.

(8) A judge shall not make an order under subsection (7)(c) or (d) unless he or she is satisfied, beyond reasonable doubt, on the evidence presented, that the creditor has established that—

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

(*b*) the debtor has no goods which could be taken in execution under any process of the court by which the judgment, order or decree for the debt was given.

(9) Where an order fixing and postponing a term of imprisonment has been made under subsection (7)(c) with a condition as to payment of the debt and costs by the debtor, he or she may, if his or her ability to comply with the terms of the order has changed, apply to the District Court clerk concerned to re-enter the matter and the District Court judge, on notice to the creditor, shall deal with the matter as if it was an application under section 5 for a variation of an instalment order.

(10) Where a debtor is imprisoned on foot of an order made under subsection (7)(c) or (d), he or she—

(*a*) may, if his or her ability to re-pay the outstanding debt and costs as specified in that order has changed, apply to the District Court clerk concerned to re-enter the matter and the District Court judge, on notice to the creditor, shall deal with the matter as if it was a re-hearing of the summons referred to in subsection (1), and

(*b*) is entitled to be released immediately upon payment by him or her or on his or her behalf to the District Court clerk concerned or to the Governor of the Prison for the District Court clerk, of the sum of money consisting of the amount of all instalments of the debt and costs which have accrued before, and are unpaid at the date of such order.

(11) All moneys paid under this section to the District Court clerk (whether directly or through the Governor of the Prison) by or on behalf of a debtor shall be paid by the clerk to the creditor on request.

(12) Failure by a debtor to comply with subsection (5)(a)(ii), without reasonable excuse, constitutes contempt of court, and the District Court judge may deal with the matter accordingly.**]**

F14**[**Entitlement to legal aid.

**6A.**— (1) If it appears to a judge of the District Court in proceedings on a summons under section 6 that the means of a debtor are insufficient to enable him or her to obtain legal aid, the judge shall, on application being made by the debtor in that behalf, grant to the debtor—

(*a*) a certificate for free legal aid (in this section referred to as a "debtor's legal aid certificate"),

(*b*) where the debtor appeals an order for his or her imprisonment made under section (7)(c) or (d) and applies to the judge for legal aid in connection with the appeal, a certificate for free legal aid in respect of the appeal (in this section referred to as a "debtor's legal aid (appeal) certificate"), or

(*c*) where the judge refers a question of law arising in the proceedings to the High Court by way of case stated or states a case in relation to the proceedings for the opinion of the High Court and the debtor applies to the judge for legal aid in connection with that reference or case stated, a certificate for free legal aid in respect of the reference or case stated (in this section referred to as a "debtor's legal aid (case stated) certificate").

(2) (*a*) Where a certificate has been granted under subsection (1) the debtor concerned shall be entitled to legal aid and to have legal representation assigned to him or her for that purpose.

(*b*) Where a debtor, in respect of whom an order for imprisonment is made, is refused a debtor's legal aid (appeal) certificate, he or she may apply for the certificate to the court to which an appeal from imprisonment lies either—

(i) by letter addressed to the registrar of that court setting out the facts of the case and the grounds of the application, or

(ii) to the court itself.

(3) The Criminal Justice (Legal Aid) Act 1962 and regulations made under section 10 of that Act shall, where appropriate and with such modifications as may be necessary, apply to a certificate granted under subsection (1) and to such legal aid.

(4) The Minister may make regulations as are necessary for the purpose of this section to prescribe all or any of the following:

(*a*) the form of debtor's legal aid certificates,

(*b*) the rate of payment of any fee, costs or other expenses payable,

(*c*) the manner in which legal representatives may be assigned pursuant to such certificates, or

(*d*) anything that by this Act is required or permitted to be prescribed.**]**

## PART II.

### MISCELLANEOUS AND GENERAL.

Amendment of section 1 of the Married Women (Maintenance in case of Desertion) Act, 1886.

**7.** — F16**[**...**]**

F17**[**Enforcement of certain orders for periodical payments.

**8.**— (1) Where a monetary amount payable by virtue of an antecedent order within the meaning of the Family Law (Maintenance of Spouses and Children) Act 1976 is not duly paid, the person entitled to the payments (in this section referred to as the applicant) may apply to the relevant District Court clerk for the issue of a summons directed to the person by whom such amounts are payable (in this section referred to as the defaulter) requiring the defaulter to attend before the District Court at a time and date specified in the summons for the purpose of giving evidence to the court as to his or her means and assets and on the hearing of such summons such person may be examined on oath by or on behalf of the applicant.

(2) Having heard evidence as to the amount outstanding on foot of such order and having heard evidence as to the means and assets of the defaulter, the District Court Judge may make such order as to the payment, collection or recovery of the amounts outstanding under such order as to the Judge seems fair and reasonable including one or more than one of the following:

(*a*) where the Judge is satisfied that there are monies due and owing by any other person to the defaulter, an order directing such other person to pay the monies concerned to the relevant District Court clerk to the extent of the amount outstanding to the applicant on foot of the order referred to in subsection (1) and which is specified in the order together with the costs of the application under this section,

(*b*) where the Judge is satisfied that there are monies which will become due or may become due by any other person to the defaulter, an order directing such other person to pay any such monies to the relevant District Court clerk to the extent of the amount outstanding to the applicant on foot of the order referred to in subsection (1) and which is specified in the order together with the costs of the application under this section,

(*c*) where the Judge is satisfied that it would be effective to do so, an order that the amounts outstanding to the applicant referred to in subsection (1) be levied by distress against the goods of the defaulter and the sale of such goods and for the transmission to the relevant District Court clerk of the proceeds of sale after payment of all costs and expenses properly arising in connection with the levying of distress and the sale of the goods.

(3) Every distress and sale made in pursuance of an order of the District Court Judge under this section shall be carried out by the appropriate under-sheriff.

(4) All moneys received by the relevant District Court clerk shall be paid as soon as practicable after receipt to the applicant.

(5) In this section "relevant District Court clerk" means the District Court clerk for the District Court area in which the defaulter resides or carries on any profession, business or occupation, unless by virtue of any other enactment relating to the antecedent order concerned any other District Court clerk is the relevant District Court clerk as respects that antecedent order.**]**

F19**[**Release of person imprisoned for non-payment of money.

**9.**— (1) Where a person is in prison under an order of a court made on account of the failure of the person to pay a sum of money, the Minister may, at any time and for any reason which appears to him or her sufficient, direct that the person be released either (as the Minister thinks proper) immediately or after payment of a specified part of that sum of money.

(2) The Minister may, before releasing a person under this section, if he or she considers it appropriate and proper in all the circumstances consult with the judge who made the order for imprisonment of the person.

(3) Where the Minister directs that a person be released from prison, the person shall be released in accordance with the direction.

(4) In this section "Minister" means Minister for Justice, Equality and Law Reform.**]**

Short title and citation.

**10.** — (1) This Act may be cited as the Enforcement of Court Orders Act, 1940.

(2) The Enforcement of Court Orders Act, 1926 (No. 18 of 1926), and this Act may be cited together as the Enforcement of Court Orders Acts, 1926 and 1940.



*Number* 23 *of* 1940

# ENFORCEMENT OF COURT ORDERS ACT 1940

**REVISED**

**Updated to 1 July 2026**

## About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

## Related legislation

***Enforcement of Court Orders Acts 1926 to 2009***: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Enforcement of Court Orders (Amendment) Act 2009* (21/2009), s. 3(2)). The Acts in this group are:

- *Enforcement of Court Orders Act 1926* (18/1926)
- *Enforcement of Court Orders Act 1940* (23/1940)
- *Enforcement of Court Orders (Amendment) Act 2009* (21/2009)

## Annotations

This Revised Act is not annotated and only shows textual amendments. An annotated version of this revision is also available which shows textual and non-textual amendments and their sources. It also shows editorial notes including statutory instruments made pursuant to the Act and previous affecting provisions.

## Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 1972, may be found linked from the page of the Act or statutory instrument at
www.irishstatutebook.ie.