



Ireland

Narrative National Report

Author: Matthew Wales, Solicitor, Dublin

“The content of this report represents the views of the author only and is his/her sole responsibility. The European Commission does not accept any responsibility for use that may be made of the information it contains.”



Table of Contents

PART I: LEGAL FRAMEWORK	4
I.1 Legislation affecting civil enforcement.....	4
I.2 Enforceable titles.....	4
I.3 Service of documents to parties and third parties	5
I.4 Legal remedies, appeal and objection.....	5
I.5 Postponement, suspension and termination of enforcement	6
I.6 Counter enforcement	6
I.7 Objects and exemptions on enforcement	7
I.8 (Court) penalties and fines	7
I.9 Access to information on the domicile and assets of the debtor	8
PART II: ORGANIZATION OF ENFORCEMENT.....	8
II.1 The status of the judicial officer.....	9
II.2 Supervision over enforcement	9
II.3 Access to the premises.....	10
II.4 Obstructing the judicial officer from carrying out enforcement	10
II.5 Time of enforcement	11
II.6 Mediation	11
PART III: ENFORCEMENT PROCEDURES	11
III.1 Initiation and end of the enforcement procedure	11
III.2 Enforcement against movable assets to settle pecuniary claims	11
III.3 Attachment on the bank account of the debtor.....	14
III.4 Enforcement against savings deposits and current accounts.....	15
III.5 Enforcement on immovable property.....	15
III.6 Enforcement against wages and other permanent pecuniary income	17
III.7 Attachment under the debtor's debtor.....	18
III.8 Enforcement against shares	18
III.9 Other attachment procedures	18
III.10 Handing over movable assets	18
III.11 Enforcement in reinstatement of employee to work	19
III.12 Eviction	19
III.13 Enforcement of obligations to act, refrain from acting or suffer action.....	19
III.14 Sequestration of goods	19





III.15 Enforcement of foreign enforceable documents from non-EU States	20
PART IV: ENFORCEMENT COSTS.....	21
IV.1 The costs of enforcement	21
PART V: LINKS, LITERATURE AND SOURCES	23



PART I: LEGAL FRAMEWORK

I.1 Legislation affecting civil enforcement

Ireland's court system consists of a District Court, a Circuit Court, a High Court, a Supreme Court and a Court of Appeal. The cases undertaken by Irish courts insofar as they relate to money are generally organised according to financial jurisdiction. The District Court's financial jurisdiction is €20,000.00, the Circuit Court's jurisdiction is €70,000.00 and the High Court's jurisdiction is unlimited. Each court has its own set of procedural rules.

In Dublin and Cork, the judicial officer is called a sheriff. Outside of Dublin and Cork the judicial officer, called a court messenger, acts under the authority of the County Registrar and is a civil servant. There are also private sheriffs, called revenue sheriffs, who collect debt for the tax authorities.

Legislation applicable to debt collection consists of the Companies Act 2014, District, Circuit and Supreme Court Rules 1986, Income Tax Act 1967, Enforcement of Court Orders Act 1926 and Court Officers Act 1926.

I.2 Enforceable titles

An enforceable document which cannot be disputed (apart from appeal/objection) is a judgment/court decision and a certificate from the Revenue Commissioners that tax is due. Enforceable titles include mediation agreements, court settlements, payment orders, notarised agreements, foreign court decisions and settlements (under certain conditions), arbitration awards, mortgages, rates, invoices, dishonoured cheques and bills of exchange.

I.2.1 Directly enforceable documents

An enforceable document becomes enforceable when a judgment of the court has been made. The judgment may be made either in contested or uncontested cases. In uncontested cases the judgment is made by filing of necessary paperwork with the court office. The court issues a judgment form, which can then be sent to judicial officer for execution. In relation to contested cases, the judge will make a judgment, which will then be made into a judgment form by the court's office. Afterwards, it can be executed by a judicial officer. There are strict requirements with regard to the information contained within the enforcement document, which are set out in the court rules.

I.2.2 Not directly enforceable documents

Documents falling under this category become enforceable when the court declares their enforceability, either by issuing a judgment or by some form of enforceability consent/recognition. They can be:

- Settlement agreements;
- Dishonoured cheques;
- Mediation agreements;

- European payment orders;
- European Enforcement Orders;
- Mortgage agreements;
- Foreign court decisions;
- Foreign arbitration awards;
- Invoices;
- Contracts.

I.3 Service of documents to parties and third parties

The original judgment form is sent to the judicial officer by the creditor, as it must be in their possession before they can execute it.

I.3.1 Legal capacity to serve documents

Judicial officers cannot serve extrajudicial or judicial documents in civil or criminal matters.

I.4 Legal remedies, appeal and objection

An objection can be presented against the enforcement process, against the enforcement decision and the enforcement activities of the judicial officer.

There are time limits to appeal against a judgment. These appeals are heard by a court, generally the court that made the judgment.

The objection should be supported by appropriate evidence.

As far as judicial officers are concerned, typically, the objection/appeal may be on the grounds that the debtor did not receive service of the legal proceedings leading to the awarding of the judgment. These appeals will generally be dealt with by the court that granted the judgment, because they are essentially administrative in nature, as opposed to judgments given on the merits of a case, where the appeal would be to a higher court than the court that made the judgment.

Where the debtor is appealing on the merits, there are time limits within which to appeal the validity of the judgment. The application by the debtor is normally supported by affidavit evidence. When a judicial officer receives a judgment for execution, if the debtor makes an application to set aside the judgment, whether that be because of administrative error or on the merits, the judicial officer will generally exercise his or her discretion not to take further enforcement steps until the court has decided whether the judgment should stand. Therefore, the judicial officer will generally proceed to a non-legal “stay” on execution even though the court has not yet either heard the application or provided an interim stay pending the hearing of the debtor’s application.

Any time limit for responses to the objections will be imposed at discretion of the court.

There is no time limit on the court to decide on the objection.

If the judicial officer attempts to seize goods, which the debtor or a third-party claim that belong to another person, the judicial officer will issue at court what is known as an “interpleader summons”. This is a process whereby the court will decide who owns the goods and whether they can be seized or not.

The objection by the third party can obstruct the commission of enforcement and the settlement of the credit of the enforcement creditor.

This decision by the court can be appealed to a higher court. This procedure is unusual and expensive. If it is alleged that the judicial officer has acted illegally themselves rather than the instrument being disputed, i.e., use of excessive force etc., then this is matter that may be reported to the Police authorities.

I.5 Postponement, suspension and termination of enforcement

Generally, unless there is legal reason for postponement of execution, then the court will not interfere with the legitimate execution of the judicial officer’s duties, but the debtor will be allowed to make *av* application to the court. If an application is made, as stated above, the judicial officer may agree to a non-legal “stay”, which can be objected by the creditor, given the fact that in reality only the court can decide on such a “stay”. In Ireland, decisions in this regard vary according to the particular sheriff’s attitude. The debtor does not have to deposit a guarantee, but any application made to the court may only be granted by the judge on the basis that the amount of the debt is paid to the court. If a third party requires postponement, this is usually based on a dispute regarding the title of the goods, which the party claims to be theirs. In that regard, the creditor is asked if they are disputing the title of the third party and, if so, the sheriff will issue the interpleader summons. If the creditor agrees that the goods belong to the third party, these goods will not be seized by the judicial officer. A list of goods must be supplied to the debtor within 24 hours and notification of sale must be provided within 48 hours.

The enforcement proceedings can be suspended *ex officio* if the debtor cannot be located, as well as if the goods cannot be located. In this case, the judgment is returned to the creditor by the judicial officer, marked “Nulla Bona” (i.e., “no goods”). There is no maximum time limit for this type of suspension.

I.5.1 Termination of enforcement proceedings

The grounds for termination of enforcement proceedings are the following:

- Payment;
- Invalidation of enforceable document;
- Expiration of judgement;
- Lack of goods;
- Formal insolvency of the debtor.

I.6 Counter enforcement

Counter enforcement could happen in an “interpleader” situation, whereby the third party’s claim to ownership of goods is disputed by the creditor, the latter loses the case and the legal costs may be awarded in favour of the third party against the creditor. Moreover, goods that are legitimately owned by the debtor may be taken and sold by the judicial officer, in which case any funds in excess of the amount owed to the creditor would be refunded to the debtor. It is generally expected that the debtor should provide evidence to the judicial officer that the goods are owned by a third party, i.e., under a hire purchase agreement; however, where possible, the judicial officer should make their own inquiries. As mentioned above, a judicial officer shall make “a stay” a postponement, in case of a claim by the debtor that the judgment is not valid etc., which avoids the complications of a situation whereby goods have been taken and then potentially have to be returned, due to the initiating instrument being found to have no legal effect, and any damages that might ensue.

I.7 Objects and exemptions on enforcement

I.7.1 Exemptions

It is not possible for a judicial officer to take the debtor’s bedding, clothes and tools of trade, which would prohibit them from earning a living. Removal of goods by a judicial officer is quite rare in Ireland, which is not the case in countries like the United Kingdom, where it is more common. The general object of the judicial officer in Ireland is to either obtain payment of full debt amicably or to enter into an instalment arrangement with the debtor. There is a fair degree of autonomy so some sheriffs/court messengers will be reluctant to effect seizures of goods, especially if a payment plan is offered, whereas others will not.

Land cannot be “seized” by a judicial officer, especially if it is not unencumbered. However, possession may be taken pursuant to a possession order. Even if the land is unencumbered, the title cannot pass to the judicial officer, so he/she cannot sell it. A judicial officer can gain possession of land where there is a court order in possession allowing for an order for sale of the property in favour of a creditor. A judicial officer can gain entry and possession of a property pursuant to a court order, for example, for breach of a tenancy. A judicial officer can take money property which he/she believes belongs to the debtor but which the debtor or their family member claims that it belongs to them. The judicial officer can return the property at a later date if it can be proven that it actually belongs to the debtor and is exempt from any legal action being taken again by the judicial officer. Particular claims arise in the case of retention of title claims, whereby the supplier of the goods relies on a retention of title clause in the contract, according to which the goods remain his/her property until paid for in full. There can be disputes in court concerning retention of title claims.

I.7.2 Enforcement on property of a foreign country

Normally the property of a foreign country is exempt from attachment and sanctioned by court order.

I.8 (Court) penalties and fines



No fines are generally incurred for any action violating the provisions of enforcement law. Walking possession may be taken of goods belonging to the debtor by the judicial officer and the purpose and effect of this is that the debtor signs a walking possession agreement listing the goods that have been seized and acknowledging that he/she no longer has title to the goods. The judicial officer may not remove the goods for a period of 14 days to give the debtor the opportunity to raise funds to pay the debt without his/her goods being sold. If the debtor were to breach the agreement and remove the goods, this action could potentially be a criminal offence; as the title to the goods would have passed to the judicial officer, such actions by the debtor would amount to the criminal offence of theft, which, if proven, would be subject to a fine and potential imprisonment.

I.9 Access to information on the domicile and assets of the debtor

A judicial officer does not have access to information on the debtor's assets apart from information that is in possession of the creditor. There are database registries which will provide details of judgments obtained against companies and individuals. These databases will provide a credit rating. There is also a centralised companies registry which provides details of company filings etc. for a fee.

There is no obligation for the assets of the debtor to be disclosed unless there is a court order providing for this to take place.

The judicial officer should not provide confidential sensitive information to any third party, apart from the creditor, beyond the remit of their duties.

It is possible for the judicial officer to reuse information in subsequent procedures.

The debtor is not under any legal obligation to provide details of their assets to the judicial officer. It is possible for the creditor to apply to the court to seek an order to cross examine the debtor as to the nature of the debtor's assets; this procedure is called oral examination or discovery in aid of execution. It should normally take place prior to any execution and is a procedure whereby the debtor has to attend the court to provide evidence under oath as to their assets and liabilities. This procedure can provide useful information to the creditor, which can be passed to the judicial officer to assist in execution. It is also possible to instruct an inquiry agent to make discrete local enquiries about the debtor, to ascertain if the latter has any assets capable of execution, such as vehicles, and to provide a life style report on the debtor. The agent is not permitted to attempt to access any government databases, police records etc., as this would be in breach of GDPR. It is possible to undertake property searches at the land registry to ascertain ownership of land. However, as explained above, recovery of land by a judicial officer is beset with problems in relation to the title, possession and encumbrances on the title.

I.9.1 Statement of assets

Please see chapter I.9 for information on the debtor's obligation to declare his/her assets.

PART II: ORGANIZATION OF ENFORCEMENT



II.1 The status of the judicial officer

Court messengers are court employees. Judicial officers and sheriffs are quasi judiciary. There is a shortage of judicial officers mainly in rural areas.

Judicial officers are allocated to one county. They cannot execute orders in other counties; that has to be dealt with by a judicial officer in that county. For example, if the debtor is located in Cork and the judicial officer in Cork has been instructed, but the debtor owns assets in Dublin, then it would be necessary for the Dublin sheriff to be instructed.

II.1 The obligations of the judicial officer

Judicial officers' obligations are provided by statute, namely the Enforcement of Court Orders Act 1926. The objects of these obligations are:

- Obligations relating to the judicial officer's professional activities;
- Obligations to debtors and third parties;
- Power to appoint court messengers;
- Removal of court messengers;
- Obligation to provide warrant to court messenger;
- Duty to provide itemised list of chattels and time limits regarding sale;
- Items excluded from execution;
- Good title to be given to the purchaser of seized goods at auction.

There is a duty to act when a sheriff receives an execution order from a creditor with the prescribed fee, unless it is not possible for a valid reason.

There are restrictions to act in a county other than the county to which the sheriff or court messenger is appointed.

II.1.2 Ethics and deontology

There are no formal ethical rules relating to disciplinary proceedings against judicial officers. However, the sheriffs in Dublin and Cork are solicitors and officers of the court. As such, they have a general duty to act correctly in their duties and to act in accordance with the proper administration of the law. The same applies to court messengers, who would also be deemed to be officers of the court. Should it be the case that a judicial officer was not complying with his/her duties as an officer of the court, in particular in relation to honesty, that matter could be brought to the attention of the President of the High Court, who could adjudicate in relation to such matters. This could involve orders being made of suspension, dismissal etc. in extreme cases. The judicial officer would be entitled to appoint a legal team to defend any allegations/claims made against him/her.

II.2 Supervision over enforcement

Judicial officers cannot simply act as they please. They must act in accordance with



their statutory obligations, limited though they are. In addition, they are officers of the court and must act in accordance with that office; namely, act honestly and administer justice. If a judicial officer acts in breach of these principles, their conduct may be adjudicated upon by the competent court. Further, there is a complaints procedure of the court's service, which would be relevant to court messengers – but not sheriffs – as court messengers are employed by the court's service. The initial complaint should be addressed before the office manager of the relevant court office. If not satisfied with the response, a written complaint can be lodged before the customer complaints coordination office. That decision can be appealed in writing to the office of the ombudsman at the office of the information commissioner. On the other hand, the sheriff and county registrar operate on a quasi-judicial basis. As such, any decision made on a quasi-judicial basis would have to be appealed before the court. Nevertheless, where the line is between a quasi-judicial decision and not acting correctly in exercise of their duties the issue is not clear. Therefore, it is likely that either a complaint be made as aforesaid to the court's service and or to the appropriate court.

Activities that can be controlled would include judicial officers' statutory professional activities, mistakes/abuses, excessive length in exercising their duties, potentially acting where there is a conflict of interest, excessive fees, unlawful practices.

II.3 Access to the premises

The judicial officer is not allowed to enter premises of the debtor when the debtor is not present because there is a requirement under section 12 of the Enforcement of Court Orders Act 1926 that prior to forcing entry they must make reasonable efforts to enter peacefully and without violence. Consequently, if the debtor is not present, the judicial officer cannot make reasonable efforts to enter peacefully. Therefore, if the judicial officer forced entry without the debtor being present, such entry would be illegal. In addition, such entry would be in breach of the Constitution of Ireland section 40.5, according to which no one can force entry to a person's dwelling house unless in accordance with the law. There is an issue of whether section 12 is in breach of the Constitution of Ireland. Under section 12, a judicial officer can force entry to premises of a third party if he/she believes that goods belonging to the debtor are present there. However, in a relevant court case, the debtor was bankrupt and the commission on bankruptcy held that a search warrant would be needed to allow the judicial officer to forcibly enter the premises of a third party. Nevertheless, it is not presently the case that a search warrant would be required to force entry to premises of a debtor. However, section 12 does not seem to apply to sheriff's servants or agents; so, if they were to force entry under any circumstances, this would likely be deemed contrary to law as they are not so authorised by the legislation and their actions would then be in breach of section 40.5 of the Constitution of Ireland.

II.4 Obstructing the judicial officer from carrying out enforcement

Any person obstructing a judicial officer in the legitimate exercise of his/her duties can be removed in practice by police officers, as per The Enforcement of Court Orders Act 1926.



II.5 Time of enforcement

There are no time restrictions for enforcement, but, generally, it would be expected that enforcement would take place during business hours and not on a weekend.

II.6 Mediation

Formal mediation is not applied. However, by the nature of their job, judicial officers would engage in some form of verbal mediation with the debtor, which may involve engaging with the debtor to obtain a payment proposal.

PART III: ENFORCEMENT PROCEDURES

III.1 Initiation and end of the enforcement procedure

III.1.1 Initiation of enforcement

The enforcement process is initiated by the creditor's legal representative or the creditor in person sending the original judgment form to the judicial officer accompanied by payment for the lodgement fee and a schedule of the debt owed and address of the creditor and debtor. In Ireland, the vast majority of enforcement actions are initiated by the creditor's legal representative. The vast majority of legal actions that are instigated to obtain a judgment are initiated by the creditor's legal representative.

The creditor can identify specific assets that could potentially be seized, such as motor vehicles, and indicate them to the judicial officer. The creditor can inform the judicial officer of specific assets by including details concerning them in the schedule of instruction, which is sent to the judicial officer. The creditor can request enforcement against the entire property of the judgment debtor. The creditor is not obliged to specify specific assets that might be able to be seized. However, it would assist the judicial officer if the creditor were to provide such information, as the judicial officer's role is not necessarily to undertake detailed enquiries of a debtor's potential assets.

III.1.2 Determination of the means and object of enforcement

Generally, the creditor requests enforcement of an enforceable document through their lawyer, who instructs the judicial officer. However, a creditor can directly contact and instruct the judicial officer themselves, if they wish to do so.

The debtor can propose to the judicial officer the preferred enforcement assets. However, it is the decision of the judicial officer as to what assets they wish to remove.

III.1.3 Withdrawal of enforcement

At the instruction of the creditor, his/her lawyer can withdraw the request for enforcement at any time.

III.1.4 Enforceability of the enforcement document

The enforcement document needs to be final in order to initiate enforcement.

III.2 Enforcement against movable assets to settle pecuniary claims

The judicial officer/court is competent to decide on the enforcement proposal for



movable items. Generally speaking, the judicial officer will take the proposals of the creditor into consideration, but he/she will ultimately make the final decision.

The creditor is not obliged to specify the movables in the request for enforcement.

III.2.1 The inventory

Prior to the inventory of movables, the enforcement decision is normally notified to the debtor. There is no strict written requirement of notification in this regard, but it is highly likely that notification of the debtor would take place.

The notification of the enforcement decision to the debtor would be left at their premises, but in such circumstances, it is likely that such a decision would be included in the actual inventory itself or that the inventory would in effect be the enforcement decision.

Non-attendance of the parties may obstruct the inventory.

If a third party claims the goods, the judicial officer has to prepare an interpleader summons which is issued by the relevant court. The court will then decide who is the beneficial owner of the goods. Prior to the issuance of the interpleader summons, the third party must give notice of their claim of ownership of the goods. Afterwards, the sheriff shall notify the debtor, providing them 4 days to dispute. If the debtor does not recognise the claim of the third party and the third party does not withdraw the claim, an interpleader summons is issued.

The issue of the time limit within which the third party shall prove their rights on the items to be seized is dealt with by the court in the context of the interpleader process. The court may indicate such a time limit.

Spouses are treated as third parties and any claim would potentially be dealt with under the interpleader procedure if the spouse/extramarital spouse cannot provide evidence of ownership that satisfies the judicial officer.

The sheriff can forcibly enter the premises of the third party who holds items belonging to the debtor, after reasonable attempts have been made to enter peacefully and without violence.

The judicial officer decides on the custody of the inventoried items.

The creditor gets right of pledge over the inventoried items through the judicial officer, who exercises walking possession over the goods. This is normally exercised to allow the debtor time to raise funds to pay the debt and avoid the goods being removed for sale. As such, it is a form of security exercised by the sheriff over the goods. Legal issues would arise in case the debtor decided to sell the goods, which are under a walking possession arrangement, to a third party and relating to the issue whether the third party – purchaser of the goods, would in this case have a good title.

III.2.2 Valuation of the movable items

Informal valuation of moveable goods is undertaken by the judicial officer.

In practice, there will be no request for a re-valuation of the items. Valuation is not

particularly important, as it is the value that is achieved by sale at public auction that is important, which is their value. The value of the goods is the amount that a third party is willing to pay for the items. The judicial officer wants to be certain that goods taken will cover the costs of removal and sale; if they do not feel that this is the case, they will not take them. It should be noted that judicial officers' approaches to enforcement generally vary; some judicial officers in certain areas are keen to seize goods while others seize goods very rarely.

III.2.3 Sale of seized goods

Sale of seized goods normally takes place through public auction whereby the items are subject to bids by the public.

The judicial officer will decide on the method of sale.

Oral public sale takes place at an auctioneer's premises. The auction is run by the auctioneer, not the judicial officer.

The auctioneer exercises the sale.

There are no time limits to take into consideration before a public sale can be effected.

The sale is not generally conducted through direct agreement, as this can raise issues of items being sold at an undervalue, which is avoided if they are sold at auction.

It would not be appropriate for a judicial officer, or anyone exercising official duty in the procedure of sale, to buy the movables.

There is an obligation to publish the sale which would be undertaken by the auctioneer. Generally, details of the auction would be published on the auctioneer's website and adverts would be placed in local newspapers.

Whether potential buyers should deposit a guarantee depends on the auctioneer's policy. However, this is unlikely.

What happens with the deposited guarantees also depends on the auctioneer's policy. However, as stated above, they are not likely to be requested.

A public auction will proceed even if only one bidder participates. There may be a reserve on the items and if that reserve is reached, then the items can be sold even if only one bidder appears.

The judicial officer is not likely to postpone the sale if there is only one bidder. However, this would depend on the auctioneer's policy and the instructions given to the auctioneer by the judicial officer.

The procedure of the public sale depends on the auctioneer's policy and the instructions/agreement of the judicial officer.

The time frame between different sessions of the auction also depends on the auctioneer and possibly on the judicial officer.

It is unlikely that goods will not be sold, as only goods capable of being sold would be seized.

The deadline for the payment of the sale price depends on the auctioneer.

If the bidder does not make the payment, the auctioneer may sue them for the sale price. If the purchase price is not paid, the goods will not be released. In addition, the goods can be resold and, if they do not reach the amount of the original bid, the original bidder may be sued for the difference between their bid and the price ultimately realised.

The auctioneer may sue, the judicial officer may decide the termination of the enforcement or there may be a new auction.

The auctioneer - and not the judicial officer - deals with the delivery of purchased items to the buyer.

The creditors' priority to be paid from the auction proceeds is as follows: the expenses of the enforcement procedure are covered first and then the creditor retains the balance.

Priority is given to the date that the execution order was received by the sheriff (on a first come first served basis), except in the case of tax authorities, which have priority over all creditors regardless of the time their warrant was lodged.

The settlement of creditors can be disputed but this would most likely involve a court application if the matter cannot be resolved amicably.

III.3 Attachment on the bank account of the debtor

Judicial officers cannot attach bank accounts. The creditor must obtain an interim order by applying to the court, which takes place without notifying the debtor. Afterwards, the lawyer can instruct the bank to attach the account by sending the interim order to the bank. The interim order of the court is served to the bank first. If there are funds in the account the bank must seal the account. If there are monies in the account and the account is sealed, the lawyer will then notify the debtor that their account has been sealed. Then the matter will return to the court. If the court is satisfied, it will issue a final order that the funds held in the account shall be paid to the creditor. The reason the matter returns to the court is to allow the debtor to dispute the application if they wish. Once the final order is made in favour of the creditor, the bank will electronically transfer the funds to the account of the client's lawyer.

A judicial officer cannot attach bank accounts but the lawyer will contact the bank to ascertain if there are funds in the bank account of the debtor.

The bank account numbers should be mentioned to the court when making the application and, if possible, notified to the bank.

The attachment order should normally specify the accounts to be sealed.

The attachment order is normally emailed to the relevant section of the bank.

After the attachment of the bank accounts, communications can take place electronically or by telephone.

The bank is obliged to inform the creditor's lawyer if the debtor has bank accounts with the bank.

The bank is only obliged to confirm if there are funds in the bank account. It does not have to supply a transaction history to the creditor's lawyer.

The bank should respond to the creditor's lawyer and act to seal the accounts immediately.

If there are funds in the account, it is automatically blocked upon receipt of the attachment order.

There is no exemption to the amount contained in the account. The whole amount is payable to the creditor minus bank expenses.

The transfer of the funds to the creditor's lawyer should take place immediately.

The transfer of funds from the bank to the creditor's lawyer should take place as soon as possible or in accordance with the time set out in the court order.

If there are no funds in the debtor's account when the interim court attachment order is served, the bank will not attach the account. It is not allowed for the attachment order to rest on the debtor's account pending funds coming into the account.

If there are more attachment orders, they are dealt with in order according to the time of delivery of the attachment order.

Once payment of funds is made under the attachment order, the creditor's lawyer should notify the bank of receipt of the funds and that the attachment order can be released.

If the bank fails to comply with the attachment order, the bank is in contempt of court and may be subject to sanctions. If there were funds in the bank account when the attachment order was served and the debtor subsequently withdrew funds, the bank could be liable to the creditor for the loss, in addition to being in contempt of court.

There are no special rules in case of enforcement of credits in other currency.

III.4 Enforcement against savings deposits and current accounts

Please see procedures set out above in III.3, which are applicable.

III.5 Enforcement on immovable property

Normally the court in whose territory the immovable item is situated will decide on the enforcement proposal.

Immovables can either be registered land or unregistered land which is held in registry of deeds or all structures integrated with or affixed to the land, such as crops machinery etc.

III.5.1 Enforcement against unregistered real estate

The judicial officer's power to seize land - whether a registered title or an unregistered title - is limited to unincumbered land. The reason for this is that when the land is

mortgaged the mortgager ceases to be the legal owner. There are limiting factors, which render seizure of land by judicial officers rare. Seizure by a judicial officer does not vest the legal ownership in them. While the judicial officer can sell the land, they can only sell whatever title the judgment debtor has; in the case of unregistered land, he/she has no way of ascertaining this. The judicial officer can enforce a court order for possession of land which is an order obtained pursuant to a charge (a judgment mortgage) which has been registered over the title of the land in question.

It is not possible for a judicial officer to seize unregistered land.

The judicial officer does not have an investigative duty with regard to real estate.

III.5.2 Enforcement against registered real estate

The creditor does not need to produce an extract as a court order is required to enforce on registered real estate. In reality, it is highly unlikely that a judicial officer will attend and seize unincumbered registered land. If nothing else, this would require a court order for possession of the land and directions would be given by the court because the land could be inhabited or could be deemed to be a family home under which an order for possession of the property could be refused by the court.

A court order, most probably a possession order, order for sale is required for enforcement on unincumbered immovable items.

If the judicial officer has been instructed to enforce on a particular object of enforcement then it is unlikely that the object of enforcement would be changed at the request of the debtor.

The judicial officer would require the creditor's consent to change the object of enforcement.

The judicial officer would also require the creditor's consent to change the means of enforcement.

It is highly unlikely that the ownership of the immovable would change during the enforcement procedure, as the creditor's claim would have been registered as a charge over the property and, therefore, sale to a new owner would not have proceeded, unless the charge of the creditor had been satisfied.

Another charge can be obtained over the property but, generally, the holder of the prior charge has priority.

Encumbrances do elapse by sale but, generally, the debtor is not liable for shortfalls on encumbrances.

Whether personal servitudes elapse by sale of the attached real estate depends. However, such issues would have been determined by the court, prior to the order for possession.

Whether an existing "lease contract" on the real estate expires upon the sale depends on the terms of the lease.

A judicial officer would not be involved in the sale of property; he/she would only



potentially be involved in obtaining possession, if necessary.

A judicial officer would not be involved with preventing damage on the real estate.

There are no exceptions with regards to the real estate being attached, unless the property is a matrimonial home. Most types of property can be attached in terms of registration of the creditor's claim over the property. However, a different matter is whether the judicial officer can seize the property. The judicial officer cannot seize unregistered land, incumbered or not or incumbered registered land. Furthermore, before the seizure of any land it is highly likely that a possession order/order for sale would be required.

III.5.3 Valuation of the real estate

Judicial officers are not tasked with valuation of the real estate, but simply with taking possession of the property.

III.5.4 Conditions for sale

In Ireland, an auctioneer or a lawyer - not a judicial officer - is involved with the preparation of the conditions of sale of the seized property.

There is no time limit for the publication of the conditions of sale.

III.5.5 Method of sale

Judicial officers do not deal with the method of sale of the property. An auctioneer or a lawyer deal with oral public sale arrangements.

An auctioneer or a lawyer exercises the sale of the property. A judicial officer would have limited, if any, involvement.

III.5.6 Sale by direct agreement

A lawyer takes the initiative; however, sale by direct agreement does not involve a judicial officer.

People who have a conflict of interest are exempted from buying attached real estate. Nevertheless, this does not involve a judicial officer.

The matter of a deposit of a guarantee is not applicable to judicial officers.

Vacant possession of the property would have been obtained prior to the sale, probably in accordance with a possession order; as such, eviction of the debtor would not feature.

III.5.7 Payment to the creditor

Payment from the sale of the real estate to the creditor is not applicable to judicial officers. However, the priority of payment would be determined by the order of priority of charges registered over the property.

Potentially settlement of the creditors can be disputed.

III.6 Enforcement against wages and other permanent pecuniary income

Applications concerning enforcement of wages cannot be obtained by a judicial officer



but, in certain circumstances, they can be obtained by a creditor. The financial limit for such an application is not less than €500 and no more than €4000. The creditor files an application before the court for an attachment of earnings order, which is served on the debtor and the employer. The debtor must provide the court with a statement of means, providing details of his/her earnings and expected earnings according to the period specified by the court. The court may then issue an order directing the employer to make periodical deductions from the debtor's earnings and to pay them to the judgment creditor. Before the issuance of the order, the debtor is entitled to make representations to the court. The court will determine a protected earnings rate; if the debtor's earnings fall below the set rate, there will be no deductions until his/her earnings exceed the protected rate.

III.7 Attachment under the debtor's debtor

Only a court – not a judicial officer – is competent to decide attachment under the debtor's debtor.

III.8 Enforcement against shares

Judicial officers are competent to decide on enforcement concerning shares.

The creditor does not have to specify the shares in the request for enforcement.

The attachment on the debtor's shares will most likely be made by physical possession of the share certificates.

The attachment on the debtor's shares is possibly effectuated by contact with the institution that keeps a register of shares.

The creditor does not gain a right of pledge on the attached shares.

It is likely that the registration of the new owner of the shares should take place.

Shares are normally sold through a broker, in accordance with the legislation regulating such shares.

The sale price of the shares depends on the value on the day of the sale.

Shares that cannot be traded at stock exchange or public market are possibly sold at public auction.

Their valuation shall be done in accordance with the provisions on valuation of moveable assets.

Shares could potentially be transferred to the creditor's ownership if they cannot be sold.

III.9 Other attachment procedures

There are no other attachments performed by judicial officers in Ireland.

III.10 Handing over movable assets

A judicial officer is responsible for handing over movable assets. However, goods are normally sold and not given to the creditor.

Judicial officers have the right of entry to take the goods.

If the goods are not at the premises of the debtor or a third party, they cannot be seized.

III.11 Enforcement in reinstatement of employee to work

The competent court, normally of the location where the employment relation has been created, would decide on the terms of reinstatement of an employee.

An attachment of earning order may be applicable in certain circumstances to attach wages.

III.12 Eviction

The court and the judicial officer will decide on the enforcement proposal for execution and handover of the real estate and for the commission of enforcement.

The eviction/possession order may only be valid for a certain period of time, depending on the terms of court order.

The judicial officer provides the necessary means of completing the enforcement, namely required workforce and transportation.

Movable items which should be removed from real estate are handed over to the debtor or their representative.

The debtor is potentially liable for costs of custody of the goods.

The items will be sold or destroyed if they cannot be handed over to the debtor.

III.13 Enforcement of obligations to act, refrain from acting or suffer action

The court will decide either to conduct physical division of items or through sale.

The judicial officer will carry out the enforcement for settlement of an obligation.

The judicial officer is entitled to ask for prepayment to cover the expenses to be incurred with the commission of an action by another person or by the creditor. He/she will assign a deadline.

The judicial officer cannot order the debtor to deposit an amount of money for compensation of damage with the enforcement body.

The judicial officer can enforce the same enforceable document if there is obstruction of possession but this may possibly require court intervention/court order.

III.14 Sequestration of goods

Sequestration requires an application to the court and a court order. It is undertaken by a sequestrator. Sequestration concerns movable tangible goods.

Sequestration cannot neither be formed on a voluntary basis nor on a contract basis; it will be formed by a court decision.

Sequestration is normally used when there is contempt if the debtor had not complied with the positive or negative obligations of a judgment.



III.15 Enforcement of foreign enforceable documents from non-EU States

An enforceable court decision from a non-EU state cannot be recognised directly. Recognition proceedings are required.

The formalities for the recognition of a court decision made in non-EU state would depend on the nature of the court decision. In any case, an application would need to be addressed to the court.

The competent court, normally the High Court, is responsible for dealing with requests relating to recognition of court decisions.

A document would need to be issued initiating the proceedings before the judge in charge of the process for the recognition of a court decision from a non-EU state.

A lawyer can be employed to achieve recognition. The litigant can also apply in person, although this would be very unusual.

The following court decisions are applicable to recognition proceedings:

- Judgment;
- Order for payment;
- Judgment of Court of Appeal/Supreme Court.

The following elements are checked with regards to the recognition of a decision from a non-EU state.

- Conformity of the court's decision with domestic law;
- Regularity of the procedure carried out abroad, including service;
- Authenticity of decision;
- The defendant was resident and submitted to the jurisdiction of the foreign court.

The judge conducting recognition proceedings cannot change the decision of the court, which was issued in a non-EU state.

Sometimes proceedings can involve confrontation of parties, as it will be necessary to serve the recognition proceedings on the party against whom recognition is sought.

The decision to recognise a decision from a non-EU state can always be contested at the time of the application for recognition and by appeal, after the recognition decision has been issued.

The decision of recognition can be enforced unless there is a stay on the proceedings and an application to contest the decision has been made.

The intervention of a lawyer is necessary if the recognition decision is contested.

Normally, a court higher than the court that issued the decision will hear the contest, if the recognition decision is contested.

The defendant against whom the recognition decision is directed would contest the

decision.

Lodging a contest could have the effect of stopping the enforcement proceedings and it may be necessary to apply for a stay on execution of the recognition decision before the contest is heard.

It is possible to contest a recognition decision, which refused the recognition of the decision issued in another non-EU state.

Normally contesting proceedings involve a lawyer and also a counsel/barrister.

The average duration of proceedings is up to three months. In case the recognition decision is contested, the average duration is six months to a year.

The proceedings are fit for purpose for considering the recognition of a court decision issued in a non-EU state, because they are detailed and the court will consider whether the defendant had the opportunity to contest the initiating proceedings, if the proceedings are contrary to Irish public policy and generally whether the non-EU decision is capable of being recognised in this state.

PART IV: ENFORCEMENT COSTS

IV.1 The costs of enforcement

The judicial officer is always entitled to remuneration for their enforcement activities.

Enforcement costs are directed by law or regulation under the Sheriffs' Fees and Expenses Order 2005.

The costs of execution are always demanded from the debtor.

Enforcement fees based on the amount of the claim successfully recovered. There is an initial fee to be paid at the time of lodgement of the execution document with the judicial officer. In addition, there is a poundage fee which amounts to 5% of the first €5,500 and 2.5% of the balance of the amount actually obtained by the judicial officer.

The creditor and/or the judicial officer cover unpaid enforcement fees if the debtor is insolvent.

IV.1.1 Prepayment of enforcement costs

The judicial officer will request a small initial enforcement lodgement fee of €19.00.

IV.1.2 Creditor and enforcement fees

The creditor will be aware of the initial enforcement fee and also likely costs of the judicial officer, if a seizure is necessary, as a schedule of costs is affixed to the execution order to be executed.

The judicial officer's fees are not negotiable and are set out in the Fees and Expenses Order 2005.

The prepaid limited judicial officer's fees (€19.00) are not reimbursed to the creditor.

Judicial officers are not entitled to additional remuneration, as their fees are based on the Fees and Expenses Order 2005.



IV.1.3 Debtor and enforcement fees

The debtor will potentially pay the costs awarded on the judgment made by the court and the judicial officer will be seeking these costs, which will be refunded to the creditor, if the judicial officer can obtain them from the debtor.

The debtor is not advised in advance of the fees that would be awarded on a judgment obtained against them.

The debtor cannot be exempted by his/her obligation regarding the enforcement fees, unless agreed with the creditor and/or the judicial officer.

This would depend on any agreement between the creditor and the judicial officer concerning who would pay the fees if the debtor was granted a payment exemption.

IV.1.4 Period of voluntary fulfillment and fees

There is no formal expiry term for voluntary fulfilment.

IV.1.5 Enforcement fees charged based on various phases within the enforcement process

Enforcement fees in Ireland are not calculated according to different phases. The only differentiation in the calculation of the enforcement fees relates to a sliding scale for commission payable to the judicial officer for the monies recovered.

IV.1.6 Fee for the initiation of enforcement proceedings

There is a fee for initiating a file. The creditor's lawyer sends this fee to the judicial officer who will not act until there he/she has received the fee.

The initiation fee is a nominal fixed amount of €19.00.

IV.1.7 Enforcement expenses

Enforcement expenses normally do not apply, unless it is necessary for the judicial officer to remove goods. The enforcement fee for the removal is calculated according to the actual and necessary expenses of removal.

Potentially the debtor is charged a fee for the use of an auction room.

The judicial officer would be entitled to reimbursement of expenses.

IV.1.8 Expenses from third parties

The judicial officer informs the creditor of the likely expenses pertaining to the action to be taken.

The judicial officer receives the reimbursement of the expenses of third parties.

IV.1.9 Performance fee

The judicial officer is entitled to charge a commission on a sliding scale on the monies actually recovered, which is called 'poundage'.

The debtor pays the commission fee of the judicial officer.

The commission fee is calculated at 5% of the first €5500.00 and 2.5% of the balance



of the monies recovered.

The commission of the judicial officer is proportional to the amount of debt recovered; there is no upper limit.

IV.1.10 State as a creditor or debtor

The state is not exempt from judicial officers' fees.

IV.1.11 Legal aid

It is possible in certain circumstances for a creditor to be exempted from the prepayment of the enforcement fees. A creditor can apply for legal aid, but this involves a means test and legal aid is much more likely to be granted to a debtor.

PART V: LINKS, LITERATURE AND SOURCES

Companies Act 2014

Court Officers Act 1926

District, Circuit and Supreme Court Rules 1986

Enforcement of Court Orders Act 1926, available on:

www.irishstatutebook.ie/eli/1926/act/18/enacted/en/html

Income Tax Act 1967

Sheriffs' Fees and Expenses Order 2005