
STATUTORY INSTRUMENTS

1981 No. 1675

The Magistrates' Courts (Northern Ireland) Order 1981

PART IX

SATISFACTION AND ENFORCEMENT OF ORDERS

Attachment of earnings for enforcement of orders for the periodical payment of money

Power of court to make attachment of earnings order

100.—(1) An attachment of earnings may be made by a court of summary jurisdiction in accordance with Articles 101 to 108 for the enforcement of an order for the periodical payment of money such as is mentioned in Article 98(11) or of an order which is enforceable as if it were such an order including any such order which has been rescinded, revoked or discharged, if any arrears are recoverable under it.

(2) In Articles 101 to 108—

“collecting officer” means that officer as defined by^{[F1} Article 85(4)] or, as the case requires, as described in section 15(2) of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966;

“debtor” and “creditor” include respectively, in relation to an attachment of earnings order which is, or is to be, made to secure payments under an order (the original order) such as is referred to in paragraph (1), the person liable to make the payments under the original order and the person entitled to receive those payments;

“the employer” means the person who is required by an attachment of earnings order to make deductions from earnings paid by him to the debtor;

Definition rep. by 1995 NI 2

(3) For the purposes of those Articles the relationship of employer and employee shall be treated as subsisting between two persons if one of them, as a principal and not as a servant or agent, pays to the other any sums defined as earnings by paragraphs (4) and (5).

(4) For the purposes of those Articles, subject to paragraph (5), “earnings” are any sums payable to a person—

- (a) by way of wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service);
- (b) by way of pension (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).

(5) The following shall not be treated as earnings—

- (a) sums payable by any public department of a territory outside the United Kingdom;
- (b) pay or allowances payable to the debtor as a member of Her Majesty's forces;

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[^{F2}(ba) a tax credit (within the meaning of the Tax Credits Act 2002);]

- (c) pension, allowances or benefit payable under any of the following statutory provisions relating to social security—
 - (i) the Family Income Supplements Act (Northern Ireland) 1971^{F3};
 - (ii) the Social Security (Northern Ireland) Acts 1975 to 1977^{F4};
 - (iii) the Industrial Injuries and Diseases (Northern Ireland Old Cases) Act 1975^{F5};
 - (iv) the Child Benefit (Northern Ireland) Order 1975^{F6};
 - (v) the Supplementary Benefits (Northern Ireland) Order 1977;
- (d) guarantees minimum pension within the meaning of the Social Security Pensions (Northern Ireland) Order 1975^{F7} provided by an occupational pension scheme;
- (e) pension or allowances payable in respect of disablement or disability.

F1	1993 NI 6
F2	2002 c. 21
F3	1971 c. 8 (NI)
F4	1975 c. 15, 1975 NI 15, 1977 NI 11
F5	1975 c. 17
F6	1975 NI 16
F7	1975 NI 15

Making of attachment of earnings order

101.—(1) Where it appears to a court of summary jurisdiction that a debtor is a person to whom earnings fall to be paid, the court may make an attachment of earnings order requiring the person to whom the order is directed to make out of those earnings, or part thereof, such payments as may be specified in the order.

(2) An attachment of earnings order may be^[F8] made^[F9] in accordance with Article 85(1)]

(3) The person to whom an attachment of earnings order is directed shall be a person who appears to the court to have the debtor in his employment; and the order shall operate as an instruction to that person—

- (a) to make periodical deductions from the debtor's earnings in accordance with Article 102; and
 - (b) at such times as the order may require, or as the court may allow, to pay the amounts deducted to—
 - (i) where the attachment of earnings order is made by a court of summary jurisdiction to enforce an order for the periodical payment of money through a collecting officer, the collecting officer;
 - Head (ii) rep. by 1995 NI 2*
 - (iii) in any other case, the person entitled to the payments for which the order to be enforced provides;
- as specified in the order.

(4) An attachment of earnings order shall contain particulars prescribed by magistrates' courts rules enabling the debtor to be identified by the employer.

(5) The order shall specify—

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- (a) the normal deduction rate, that is to say, the rate (expressed as a sum of money per week, month or other period) at which the court thinks it reasonable for the debtor's earnings to be applied to meeting his liability under the relevant judgment; and
 - (b) the protected earnings rate, that is to say the rate (so expressed) below which, having regard to the debtor's resources and needs (including the needs of any person for which he must, or reasonably may, provide), the court thinks it reasonable that the earnings actually paid to him should not be reduced.
- (6) The normal deduction rate for the purposes of paragraph (5)(a)—
- (a) shall be determined after taking account of any right or liability of the debtor to deduct income tax when making the payments, and
 - (b) shall not exceed the rate which appears to the court necessary for the purposes of securing payment of the sums falling due from time to time under the order which is to be enforced and securing payment within a reasonable period of any sums already due and unpaid under that order.
- (7) Where an attachment of earnings order has been made by a court of summary jurisdiction to secure the payment of any money no proceedings for committal or distress by reason of failure to pay that money which were begun before the making of the order shall be continued.

F8	1995 NI 2
F9	1993 NI 6

Compliance with order by employer

102.—(1) Where an attachment of earnings order has been made by a court of summary jurisdiction the employer shall, if he has been served with the order, comply with it; but he shall be under no liability for non-compliance before seven days have elapsed since the service.

- (2) If on a pay-day the attachable earnings exceed the sum of—
- (a) the protected earnings; and
 - (b) so much of any amount by which the attachable earnings on any previous pay-day fell short of the protected earnings as has not been made good by virtue of this paragraph on another previous pay-day,

then, in so far as the excess allows, the employer shall deduct from the attachable earnings the amount specified in paragraph (3).

- (3) That amount is the sum of—
- (a) the normal deduction; and
 - (b) so much of the normal deduction on any previous pay-day as was not deducted on that day and has not been paid by virtue of this paragraph on any other previous pay-day.

(4) No deduction shall be made on any pay-day when the attachable earnings are equal to, or less than, the protected earnings.

(5) Where a person is served with an attachment of earnings order directed to him and he has not the debtor in his employment, or the debtor subsequently ceases to be in his employment, he shall (in either case), within ten days from the date of service or, as the case may be, the cesser, give notice of that fact to such officer of the court as may be prescribed by magistrates' courts rules.

(6) Part II of Schedule 1 to the Judgments Enforcement (Northern Ireland) Order 1981 has effect with respect to the priority to be accorded as between two or more attachment of earnings orders directed to a person either by the Enforcement of Judgments Office and a court, or by a court, in respect of the same debtor.

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(7) Any sums paid by the employer under an attachment of earnings order shall be treated as sums paid by the debtor.

(8) On any occasion when the employer makes, in compliance with the order, a deduction from the debtor's earnings—

- (a) he shall be entitled to deduct, in addition, £0.50 or such other sum as may be prescribed by judgment enforcement rules towards his clerical and administrative costs; and
- (b) he shall give to the payer a statement in writing of the total amount of the deduction.

(9) Any sum deducted by the employer from the debtor's earnings in compliance with the order, but not yet paid to the person mentioned in Article 101(3)(b), shall in the bankruptcy or winding up of the employer be treated as money held by the employer on trust for that person.

(10) In this Article—

“attachable earnings”, in relation to a pay-day, are the earnings which remain payable to the debtor on that day after deduction by the employer of—

- (a) income tax;
- (b) primary Class 1 contributions under Part I of the Social Security (Northern Ireland) Act 1975;
- (c) amounts deductible under any statutory provision, or in pursuance of a request in writing by the debtor, for the purposes of a superannuation scheme within the meaning of^{F10} paragraph 3(c) of Schedule 1 to the Judgments Enforcement (Northern Ireland) Order 1981];

“the normal deduction”, in relation to any pay-day, means the deduction arrived at by applying the normal deduction rate (as specified in the attachment of earnings order) with respect to the period since the last pay-day or, if it is the first pay-day of the debtor's employment with the employer, since the employment began;

“pay-day”, in relation to earnings paid to a debtor, means an occasion on which they are paid;

“the protected earnings”, in relation to any pay-day, means the amount arrived at by applying the protected earnings rate (as specified in the attachment of earnings order) with respect to the period since the last pay-day or, if it is the first pay-day of the debtor's employment with the employer, since the employment began.

F10 1988 NI 7

Persons employed under the Crown

103.—(1) The fact that an attachment of earnings order is made at the suit of the Crown shall not prevent its operation at any time when the debtor is in the employment of the Crown.

(2) Where a debtor is in the employment of the Crown and an attachment of earnings order is made in respect of him, then for the purposes of Articles 101, 102 and 104 to 108—

- (a) the chief officer for the time being of the government department, office or other body in which the debtor is employed shall be treated as having the debtor in his employment (any transfer of the payer from one department, office or body to another being treated as a change of employment); and
- (b) any earnings paid by the Crown, a Minister of the Crown or a government department, or out of the public revenue of the United Kingdom or Northern Ireland, shall be treated as paid by the said chief officer.

(3) In accordance with Article 100(3), the reference in paragraph (2)(a) to the department, office or other body in which the debtor is employed shall, in the case of a debtor who is not employed

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for the purposes of, but whose earnings are paid in the capacity of principal by, such a body, be construed as a reference to the department, office or other body by which any earnings of his are paid in that capacity.

(4) If any question arises, in proceedings for or arising out of an attachment of earnings order, as to what department, office or other body is concerned for the purposes of this Article, or as to who for those purposes is the chief officer thereof, the question shall be referred to and determined by the Department of the Civil Service or, as the case may require, the Minister for the Civil Service; but the Department or Minister shall not be under any obligation to consider a reference under this paragraph unless it is made by the court.

(5) A document purporting to set out a determination of the Department of the Civil Service under paragraph (4) and to be signed by an officer of that Department, or to set out a determination of the Minister for the Civil Service under that paragraph and to be signed on behalf of the Minister shall, in any such proceedings as are mentioned in that paragraph, be admissible in evidence and be deemed to contain an accurate statement of such a determination unless the contrary is shown.

(6) In this Article “government department” includes a department of the Government of the United Kingdom.

Variation, lapse, discharge and termination of orders

104.—(1) A court of summary jurisdiction may make an order varying (including suspending or reviving) or discharging an attachment of earnings order.

(2) Where an order is varied, the employer shall, if he has been served with notice of the variation, comply with the order as varied; but he shall be under no liability for non-compliance before seven days have elapsed since the service.

(3) Where an order is discharged, the employer shall be under no liability in consequence of his treating the order as still in force at any time before the expiration of seven days from the date on which notice of the discharging order is served on him.

(4) Magistrates' courts rules may make provision as to circumstances in which an attachment of earnings order may be varied or discharged by a court of summary jurisdiction of its own motion.

(5) Where an attachment of earnings order has been made and the person to whom it is directed ceases to have the debtor in his employment, the order shall lapse (except as respects deduction from earnings paid after the cesser and payment to the creditor, the collecting officer or the prescribed person (as the case requires) of amounts deducted at any time) and be of no effect unless and until a court of summary jurisdiction revives it by again directing it to a person (whether the same as before or another) who appears to the court to have the debtor in his employment.

(6) The lapse of an order under paragraph (5) shall not prevent its being treated as remaining in force for other purposes.

(7) An attachment of earnings order made by a court of summary jurisdiction to secure the payment of any money shall cease to have effect upon the making of an order of committal or the issue of a warrant of distress in respect of that money.

(8) An attachment of earnings order shall cease to have effect—

- (a) upon the grant of an application for registration in the High Court under Part II of the Maintenance and Affiliation Orders Act (Northern Ireland) 1966 of the order which is to be enforced;
- (b) where the order which is to be enforced is registered under the said Part II, upon the giving of notice with respect of it under section 14 of that Act of 1966 with a view to cancellation of its registration;

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- (c) upon the rescission or revocation of the order which is to be enforced or upon its being discharged while it is not registered under the said Part II, unless a court of summary jurisdiction otherwise orders with a view to recovering arrears under that order;
- (d) upon the order which is to be enforced ceasing to be registered in a court in Northern Ireland, or becoming registered in a court in another part of the United Kingdom, under Part II of the Maintenance Orders Act 1950.

(9) Where an attachment of earnings order ceases to have effect under paragraph (7) or (8), such officer of such court as may be prescribed by magistrates' courts rules shall give notice of the cesser to the employer.

(10) Where an attachment of earnings order ceases to have effect under paragraph (7) or (8), paragraph (3) shall apply as it applies in a case where such an order is discharged.

Statement of earnings, etc.

105.—(1) Where an attachment of earnings order is about to be made or revived a court of summary jurisdiction may at any time before making or reviving the order—

- (a) direct the debtor to furnish within a specified period a statement signed by him of—
 - (i) the name and address of any person by whom earnings are paid to him;
 - (ii) specified particulars of his earnings and anticipated earnings, and of his resources and needs (including the needs of any person for whom he must, or reasonably may, provide);
 - (iii) specified particulars of any matters which are, or may be, relevant under Article 101(5) to the determination of the normal deduction rate and the protected earnings rate to be specified in the order;
 - (iv) specified particulars for the purposes of enabling the debtor to be identified by any employer of his;
- (b) direct any person appearing to the court to be an employer of the debtor to furnish within a specified period a statement signed by him or on his behalf of specified particulars of the debtor's earnings and anticipated earnings.

(2) Where an attachment of earnings order has been made, a court of summary jurisdiction may at any time while the order is in force give any direction it is authorised by paragraph (1)(a) or (b) to give.

(3) A document purporting to be a statement such as is mentioned in paragraph (1)(a) or (b) shall, in proceedings before a court of summary jurisdiction, be received in evidence and be deemed to be such a statement without further proof, unless the contrary is shown.

Obligation of debtor and his employers to notify changes of employment and earnings

106.—(1) While an attachment of earnings order is in force—

- (a) the debtor shall notify the prescribed officer in writing of every occasion on which he leaves any employment, or becomes employed or re-employed, not later (in each case) than seven days from the date on which he did so;
- (b) the debtor shall, on any occasion when he becomes employed or re-employed, include in his notification under sub-paragraph (a) particulars of his earnings and anticipated earnings from the relevant employment; and
- (c) any person who becomes the debtor's employer and knows that the order is in force and that it was made by a court of summary jurisdiction shall, within seven days of his becoming the debtor's employer or of acquiring that knowledge (whichever is the later) notify the

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prescribed officer in writing that he is the debtor's employer, and include in his notification a statement of the debtor's earnings and anticipated earnings.

(2) In paragraph (1)(a) and (c) “the prescribed officer” means such officer of the courts as may be prescribed by magistrates' courts rules.

Power of court to determine whether particular payments are earnings

107.—(1) Where an attachment of earnings order is in force a court of summary jurisdiction shall, on the application of either the employer or the debtor, determine whether payments to the debtor of a particular class or description specified by the application are earnings for the purposes of the order; and the employer shall give effect to any determination for the time being in force under this Article.

(2) Where an application under this Article is made by the employer, he shall not incur any liability for non-compliance with the order as respects any payments of the class or description specified by the application which are made by him to the debtor while the application is pending; but this paragraph shall not unless a court of summary jurisdiction otherwise orders, apply as respects such payments if the employer subsequently withdraws the application.

Offences in relation to attachment of earnings orders

108.—(1) Subject to paragraphs (4) and (5), a person commits an offence if—

- (a) being required by Article 102(1) or 104(2) to comply with an attachment of earnings order, he fails to do so; or
- (b) being required by Article 102(5) to give a notice for the purposes of that paragraph, he fails to give it, or fails to give it within the period required by that paragraph; or
- (c) he fails to comply with a direction under Article 105(1) or (2); or
- (d) he fails to comply with Article 106; or
- (e) he gives a notice for the purposes of Article 102(5), or a notification for the purposes of Article 106, which he knows to be false in a material particular, or recklessly gives such a notice or notification which is false in a material particular; or
- (f) in purported compliance with Article 102(5), or (8)(b) or 106, or with a direction under Article 105(1) or (2), he makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular.

(2) Where a person commits an offence under paragraph (1) he shall be liable on summary conviction to a fine not exceeding^[F11] level 3 on the standard scale].

(3) Where a person who has been convicted under paragraph (2) commits a second or subsequent offence under the same provision of paragraph (1) in relation to the same provision of this Order (and in the case of an offence under paragraph (1)(a) in relation to the same attachment of earnings order) paragraph (2) shall have effect as if the reference therein to £100 were to £400.

(4) It shall be a defence—

- (a) for a person charged with an offence under paragraph (1)(a) to prove that he took all reasonable steps to comply with the attachment of earnings order in question;
- (b) for a person charged with an offence under paragraph (1)(b) to prove that he did not know, and could not reasonably be expected to know,—
 - (i) that the debtor was not in his employment, or (as the case may be)
 - (ii) that the debtor had ceased to be in his employment,and that he gave the required notice as soon as reasonably practicable after the fact came to his knowledge.

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(5) It shall also be a defence for a person charged with an offence under paragraph (1)(b) of failing to give notice that the debtor had ceased to be in his employment to prove that he had had reasonable cause to believe that the court had knowledge of the cesser.

(6) Where a person is convicted of an offence under paragraph (1)(a) a court of summary jurisdiction may order him to pay to the collecting officer^{F12} . . . or the creditor (as the case requires) any sums deducted by that person from debtor's earnings and not already so paid.

(7) Any sum ordered by the court to be paid under paragraph (6) shall be recoverable as a sum adjudged to be paid by a conviction.

F11 1984 NI 3

F12 1995 NI 2

Changes to legislation:

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Changes and effects yet to be applied to :

- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) arts.3\(4\)25](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.3\(5\)Sch.1](#)
- Instrument am (prosp) by [S.I. 1994/2795 \(N.I.\) art.5\(2\)](#)
- Instrument mod (prosp) by [1994 c. 33 s. 91\(3\)](#)
- Instrument revoked by [1998 c. 41 s.74\(1\)\(3\)Sch.12 para.5Sch.14 Pt.I](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Act amended by [1996 c. 25 s.79Sch.4 para 30](#)
- Order applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))
- Order power to modify conferred by [2015 c. 9 \(N.I.\) s. 24\(5\)\(a\)](#) (see s 24(6))

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch.6 Pt.I paras.1819 revoked by [1995 c. 21 s. 314\(1\)Sch.12](#) (Amendment could not be applied. The relevant affected text is not available on legislation.gov)
- Sch.6 Pt.I para.5 revoked by [S.I. 1995/756 art.15Sch.](#)
- Sch. 6 para. 128-130 repealed by [2011 c. 15 \(N.I.\) Sch. 3 Pt. 2](#) (Amendment could not be applied. The relevant affected text is not available on legislation.gov)
- Sch. 6 para. 125 repealed by [2011 c. 16 \(N.I.\) Sch. 5](#) (Amendment could not be applied. The relevant affected text is not available on legislation.gov)
- Sch. 6 Pt. 3 para. 170 repealed by [S.I. 2007/916 \(N.I.\) Sch. 8 Pt. 1](#) (Amendment could not be applied. The relevant affected text is not available on legislation.gov)
- Sch. 6 para. 144 repealed by [2006 c. 48 Sch. 15 Pt. 4](#) (Amendment could not be applied. The relevant affected text is not available on legislation.gov)
- Sch. 6 para. 21 repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on legislation.gov)
- Sch. 6 para. 25 repealed by [2013 c. 22 Sch. 11 para. 210](#) (Amendment could not be applied. The relevant affected text is not available on legislation.gov)
- art. 29A excluded by 1975 c. 59, s. 4(3) (as substituted) by [2015 c. 9 \(N.I.\) s. 7\(6\)](#)
- art. 29A inserted by [2015 c. 9 \(N.I.\) s. 7\(2\)](#)
- art. 34(1A)-(1E) inserted by [2015 c. 9 \(N.I.\) s. 8\(2\)](#)
- art. 140(2ZA) inserted by [2016 c. 18 \(N.I.\) Sch. 10 para. 16](#)