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Attachment of Earnings Act 1971

1971 CHAPTER 32

An Act to consolidate the enactments relating to the attachment of earnings as a means of enforcing the discharge of monetary obligations. [12th May 1971]

Extent Information

E1 Act except s. 20(2) does not extend to Scotland or Northern Ireland see s. 29(3)

Modifications etc. (not altering text)

C1 Act saved (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), **s. 1(9)(a)**; S.I. 1992/455, **art.2**

C2 Power to apply conferred (E.W.) by Local Government Finance Act 1988 (c. 41, SIF 81:1), ss. 22, 142, **Sch. 4 para. 28**.

C3 Act applied (1.4.1992) by Magistrates' Courts Act 1980 (c. 43, SIF 82), **s. 59(3)(d)** (as substituted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), **s.2**; S.I. 1992/455, **art.2**)

C4 Act: power to continue conferred (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 5, 7(2), **Sch. 3 Pt. II para. 15**

C5 Act: power to apply conferred (6.3.1992) by Local Government Finance Act 1992 (c. 14), s. 14(3), **Sch. 4 para. 19(2)**

C6 By Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 101(1), **Sch. 12 para. 23**; S.I. 1991/2208, art. 2(1), **Sch.1** it is provided (14.10.1991) that in relation to any time before the commencement of s.70 of that 1991 Act (which came into force on 1.10.1992 by S.I. 1992/333, art. 2(2), **Sch. 2**) references in any enactment amended by that 1991 Act, to youth courts shall be construed as references to juvenile courts.

C7 Act applied (with modifications) (temp. from 23.2.2004 for specified purposes, 29.3.2004 for further specified purposes and 5.4.2004 for remaining purposes until 31.3.2006) by The Fines Collection Regulations 2004 (S.I. 2004/176), **regs. 1-4** (as amended (30.3.2005 for specified purposes and 1.4.2005 for remaining purposes) by S.I. 2005/484, **regs. 1-5**)

C8 Act modified (temp. from 27.3.2006 to 2.7.2006) by The Collection of Fines (Pilot Scheme) and Discharge of Fines by Unpaid Work (Pilot Schemes) (Amendment) Order 2006 (S.I. 2005/502), **arts. 1(1)(b)(2)**, 6 (with art. 3)

Commencement Information

I1 Act not in force at Royal Assent see s. 29(4); Act wholly in force 2.8.1971.

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Cases in which attachment is available

1 Courts with power to attach earnings.

(1) The High Court may make an attachment of earnings order to secure payments under a High Court maintenance order.

(2) A county court may make an attachment of earnings order to secure—
- (a) payments under a High Court or a county court maintenance order;
- (b) the payment of a judgment debt, other than a debt of less than £5 or such other sum as may be prescribed by county court rules; or
- (c) payments under an administration order.

(3) A magistrates' court may make an attachment of earnings order to secure—
- (a) payments under a magistrates' court maintenance order;
- (b) the payment of any sum adjudged to be paid by a conviction or treated (by any enactment relating to the collection and enforcement of fines, costs, compensation or forfeited recognisances) as so adjudged to be paid; or
- (c) the payment of any sum required to be paid by an **[**[F1]order under section 17(2) of the Access to Justice Act 1999**]**.

(4) The following provisions of this Act apply, except where otherwise stated, to attachment of earnings orders made, or to be made, by any court.

(5) Any power conferred by this Act to make an attachment of earnings order includes a power to make such an order to secure the discharge of liabilities arising before the coming into force of this Act.

Textual Amendments

F1 Words in s. 1(3)(c) substituted (2.4.2001) by 1999 c. 22, s. 24, **Sch. 4 para. 8** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 3(a)(ii)**

VALID FROM 03/07/2006

[[F2]1A Orders to which this Act applies

The following provisions of this Act apply, except where otherwise stated, to attachment of earnings orders made, or to be made, by any court under this Act or under Schedule 5 to the Courts Act 2003, or by a fines officer under that Schedule.**]**

Textual Amendments

F2 S. 1A inserted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 36**

2 Principal definitions.

In this Act—

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(a) "maintenance order" means any order specified in Schedule 1 to this Act and includes such an order which has been discharged if any arrears are recoverable thereunder;

(b) "High Court maintenance order", "county court maintenance order" and "magistrates' court maintenance order" mean respectively a maintenance order enforceable by the High Court, a county court and a magistrates' court;

(c) "judgment debt" means a sum payable under—

(i) a judgment or order enforceable by a court in England and Wales (not being a magistrates' court);

(ii) an order of a magistrates' court for the payment of money recoverable summarily as a civil debt; or

(iii) an order of any court which is enforceable as if it were for the payment of money so recoverable,

but does not include any sum payable under a maintenance order or an administration order;

(d) "the relevant adjudication", in relation to any payment secured or to be secured by an attachment of earnings order, means the conviction, judgment, order or other adjudication from which there arises the liability to make the payment; and

(e) "the debtor", in relation to an attachment of earnings order, or to proceedings in which a court has power to make an attachment of earnings order, or to proceedings arising out of such an order, means the person by whom payment is required by the relevant adjudication to be made.

3 Application for order and conditions of court's power to make it.

(1) The following persons may apply for an attachment of earnings order:—

(a) the person to whom payment under the relevant adjudication is required to be made (whether directly or through an officer of any court);

(b) where the relevant adjudication is an administration order, any one of the creditors scheduled to the order;

(c) without prejudice to paragraph (*a*) above, where the application is to a magistrates' court for an order to secure maintenance payments, and there is in force an order under **[**[F3]**[**[F4]section 59**]** of the Magistrates' Courts Act 1980**]**, or section 19(2) of the [M1]Maintenance Orders Act 1950, that those payments be made to **[**[F5]a justices' chief executive, that justices' chief executive**]**;

(d) in the following cases the debtor—

(i) where the application is to a magistrates' court;

or

(ii) where the application is to the High Court or a county court for an order to secure maintenance payments.

[F6](2) . . . . . .

(3) **[**[F7]Subject to subsection (3A) below**]** for an attachment of earnings order to be made on the application of any person other than the debtor it must appear to the court that the debtor has failed to make one or more payments required by the relevant adjudication.

[[F8](3A) Subsection (3) above shall not apply where the relevant adjudication is a maintenance order.**]**

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[[F9](3B) Where—

(a) a magistrates' court imposes a fine on a person in respect of an offence, and

(b) that person consents to an order being made under this subsection,

the court may at the time it imposes the fine, and without the need for an application, make an attachment of earnings order to secure the payment of the fine.

(3C) Where—

(a) a magistrates' court makes in the case of a person convicted of an offence an order under **[**[F10]section 130 of the Powers of Criminal Courts (Sentencing) Act 2000**]]** (a compensation order) requiring him to pay compensation or to make other payments, and

(b) that person consents to an order being made under this subsection,

the court may at the time it makes the compensation order, and without the need for an application, make an attachment of earnings order to secure the payment of the compensation or other payments.

(4) Where proceedings are brought—

(a) in the High Court or a county court for the enforcement of a maintenance order by committal under section 5 of the [M2]Debtors Act 1869; or

(b) in a magistrates' court for the enforcement of a maintenance order under **[**[F11]section 76 of the Magistrates' Courts Act 1980**]**(distress or committal),

then, [F12]. . ., the court may make an attachment of earnings order to secure payments under the maintenance order, instead of dealing with the case under section 5 of the [M3]said Act of 1869 or, as the case may be, **[**[F11]section 76 of the said Act of 1980**]**.

[F13](5) . . . . . .

(6) Where proceedings are brought in a county court for an order of committal under section 5 of the [M4]Debtors Act 1869 in respect of a judgment debt for any of the taxes, contributions **[**[F14]premiums**]** or liabilities specified in Schedule 2 to this Act, the court may, in any circumstances in which it has power to make such an order, make instead an attachment of earnings order to secure the payment of the judgment debt.

(7) A county court shall not make an attachment of earnings order to secure the payment of a judgment debt if there is in force an order or warrant for the debtor's committal, under section 5 of the [M5]Debtors Act 1869, in respect of that debt; but in any such case the court may discharge the order or warrant with a view to making an attachment of earnings order instead.

Textual Amendments

F3 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 97**(*a*)

F4 Words in s. 3(1)(c) substituted (1.4.1992) by Maintenance Enforcement 1991 (c. 17, SIF 49:3), s. 11(1), **Sch. 2 para. 1(1)**; S.I. 1992/455, **art. 2**

F5 Words in s. 3(1)(c) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 65** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**

F6 S. 3(2) repealed (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1)(2), Sch. 2 para. 1(2), **Sch. 3**; S.I. 1992/455, **art. 2**

F7 Words in s. 3(3) inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(2), **Sch. 2 para. 1(3)**; S.I. 1992/455, **art. 2**

F8 S. 3(3A) inserted (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(2), **Sch. 2 para. 1(4)**; S.I. 1992/455, **art. 2**

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F9 S. 3(3B)(3C) inserted (4.7.1996 with application as mentioned in s. 53(2)(3)) by 1996 c. 25, **s. 53(1)** (with s. 78(1))
F10 Words in s. 3(3C)(a) substituted (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 9 para. 44**
F11 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 97**(*b*)
F12 Words in s. 3(4) repealed (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1)(2), Sch. 2 para. 1(5), **Sch. 3**; S.I. 1992/455, **art. 2**
F13 S. 3(5) repealed (1.4.1992) by Maintenance Enforcement Act 1991 (c. 17, SIF 49:3), s. 11(1)(2), Sch. 2 para. 1(6), **Sch. 3**; S.I. 1992/455, **art. 2**
F14 Word inserted by Social Security Act 1973 (c. 38), **Sch. 27 para. 88**

Marginal Citations

M1 1950 c. 37.
M2 1869 c. 62.
M3 1869 c. 62.
M4 1869 c. 62.
M5 1869 c. 62.

Administration orders in the county court

4 Extension of power to make administration order.

(1) Where, on an application to a county court for an attachment of earnings order to secure the payment of a judgment debt, it appears to the court that the debtor also has other debts, the court—

(a) shall consider whether the case may be one in which all the debtor's liabilities should be dealt with together and that for that purpose **[**[F15]an administration order should be made**]**; and

(b) if of opinion that it may be such a case, shall have power (whether or not it makes the attachment of earnings order applied for), with a view to making an administration order, to order the debtor to furnish to the court a list of all his creditors and the amounts which he owes to them respectively.

(2) If, on receipt of the list referred to in subsection (1)(*b*) above, it appears to the court that the debtor's whole indebtedness amounts to not more than the amount **[**[F16]which for the time being is the county court limit for the purposes of section 112 of the County Courts Act 1984**]**(limit of total indebtedness governing county court's power to make administration order on application of debtor), the court may make such an order in respect of the debtor's estate.

[[F17](2A) Subsection (2) above is subject to section 112(3) and (4) of the County Courts Act 1984 (which require that, before an administration order is made, notice is to be given to all the creditors and thereafter restricts the right of any creditor to institute bankruptcy proceedings).**]**

(3) . . . . . [F18]

(4) Nothing in this section is to be taken as prejudicing any right of a debtor to apply, under **[**[F19]section 112 of the County Courts Act 1984**]**for an administration order.

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Textual Amendments

F15 Words substituted by Insolvency Act 1976 (c. 60), **s. 13(2)** (and that amendment continued by Statue Law (Repeals) Act 2004 (c. 14), **Sch. 2 para. 10**)

F16 Words substituted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 para. 40**(*a*)

F17 S. 4(2A) substituted for the second paragraph of subsection (2) by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 para. 40**(*b*)

F18 S. 4(3) repealed by Insolvency Act 1976 (c. 60), s. 13(1), **Sch. 3**

F19 Words substituted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 para. 40**(*c*)

5 Attachment of earnings to secure payments under administration order.

(1) Where a county court makes an administration order in respect of a debtor's estate, it may also make an attachment of earnings order to secure the payments required by the administration order.

(2) At any time when an administration order is in force a county court may (with or without an application) make an attachment of earnings order to secure the payments required by the administration order, if it appears to the court that the debtor has failed to make any such payment.

(3) The power of a county court under this section to make an attachment of earnings order to secure the payments required by an administration order shall, where the debtor is already subject to an attachment of earnings order to secure the payment of a judgment debt, include power to direct that the last-mentioned order shall take effect (with or without variation under section 9 of this Act) as an order to secure the payments required by the administration order.

Consequences of attachment order

6 Effect and contents of order.

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

(a) to make periodical deductions from the debtor's earnings in accordance with Part I of Schedule 3 to this Act; and

(b) at such times as the order may require, or as the court may allow, to pay the amounts deducted to the collecting officer of the court, as specified in the order.

(2) For the purposes of this Act, 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 section 24 of this Act.

(3) An attachment of earnings order shall contain prescribed particulars enabling the debtor to be identified by the employer.

(4) Except where it is made to secure maintenance payments, the order shall specify the whole amount payable under the relevant adjudication (or so much of that amount as remains unpaid), including any relevant costs.

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(5) The order shall specify—

(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 adjudication; 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, the court thinks it reasonable that the earnings actually paid to him should not be reduced.

(6) In the case of an order made to secure payments under a maintenance order (not being an order for the payment of a lump sum), the normal deduction rate—

(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 purpose of—

(i) securing payment of the sums falling due from time to time under the maintenance order, and

(ii) securing payment within a reasonable period of any sums already due and unpaid under the maintenance order.

(7) For the purposes of an attachment of earnings order, the collecting officer of the court shall be (subject to later variation of the order under section 9 of this Act)—

(a) in the case of an order made by the High Court, either—

(i) the proper officer of the High Court, or

(ii) the **[**[F20]appropriate officer**]** of such county court as the order may specify;

(b) in the case of an order made by a county court, the **[**[F20]appropriate officer**]** of that court; and

(c) in the case of an order made by a magistrates' court, the clerk **[**[F21]justices' chief executive for that court or for**]**another magistrates' court specified in the order.

[[F22](8) In subsection (7) above "appropriate officer" means an officer designated by the Lord Chancellor.**]**

Textual Amendments

F20 Words substituted (3.7.1978) by Administration of Justice Act 1977 (c. 38), **s. 19(5)**(*a*)

F21 Words in s. 6(7)(c) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 66**; S.I. 2001/916, **art. 2(a)(ii)**

F22 S. 6(8) added (3.7.1978) by Administration of Justice Act 1977 (c. 38), **s. 19(5)**(*b*)

7 Compliance with order by employer.

(1) Where an attachment of earnings order has been made, 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) 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

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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 the court.

(3) Part II of Schedule 3 to this Act shall have effect with respect to the priority to be accorded as between two or more attachment of earnings orders directed to a person in respect of the same debtor.

(4) 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, five new pence, or such other sum as may be prescribed by order made by the Lord Chancellor, towards his clerical and administrative costs; and

(b) he shall give to the debtor a statement in writing of the total amount of the deduction.

(5) An order of the Lord Chancellor under subsection (4)(*a*) above—

(a) may prescribe different sums in relation to different classes of cases;

(b) may be varied or revoked by a subsequent order made under that paragraph; and

(c) shall be made by statutory instrument subject to annulment by resolution of either House of Parliament.

Subordinate Legislation Made

P1 S. 7(4)(a)(5): power exercised by S.I.1991/356.

8 Interrelation with alternative remedies open to creditor.

(1) Where an attachment of earnings order has been made to secure maintenance payments, no order or warrant of commitment shall be issued in consequence of any proceedings for the enforcement of the related maintenance order begun before the making of the attachment of earnings order.

(2) Where a county court has made an attachment of earnings order to secure the payment of a judgment debt—

(a) no order or warrant of commitment shall be issued in consequence of any proceedings for the enforcement of the debt begun before the making of the attachment of earnings order; and

(b) so long as the order is in force, no execution for the recovery of the debt shall issue against any property of the debtor without the leave of the county court.

(3) An attachment of earnings order made to secure maintenance payments shall cease to have effect upon the making of an order of commitment or the issue of a warrant of commitment for the enforcement of the related maintenance order, or upon the exercise for that purpose of the power conferred on a magistrates' court by **[**[F23]section 77(2) of the Magistrates' Courts Act 1980**]**to postpone the issue of such a warrant.

(4) An attachment of earnings order made to secure the payment of a judgment debt shall cease to have effect on the making of an order of commitment or the issue of a warrant of commitment for the enforcement of the debt.

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(5) An attachment of earnings order made to secure any payment specified in section 1(3) (*b*) or (*c*) of this Act shall cease to have effect on the issue of a warrant committing the debtor to prison for default in making that payment.

Textual Amendments

F23 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 98**

Subsequent proceedings

9 Variation, lapse and discharge of orders.

(1) The court may make an order discharging or varying 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 liablility for non-compliance before seven days have elapsed since the service.

(3) Rules of court may make provision—

(a) as to the circumstances in which an attachment of earnings order may be varied or discharged by the court of its own motion;

(b) in the case of an attachment of earnings order made by a magistrates' court, for enabling a single justice, on an application made by the debtor on the ground of a material change in his resources and needs since the order was made or last varied, to vary the order for a period of not more than four weeks by an increase of the protected earnings rate.

(4) 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 collecting officer of amounts deducted at any time) and be of no effect unless and until the court again directs it to a person (whether the same as before or another) who appears to the court to have the debtor in his employment.

(5) The lapse of an order under subsection (4) above shall not prevent its being treated as remaining in force for other purposes.

10 Normal deduction rate to be reduced in certain cases.

(1) The following provisions shall have effect, in the case of an attachment of earnings order made to secure maintenance payments, where it appears to the collecting officer of the court that—

(a) the aggregate of the payments made for the purposes of the related maintenance order by the debtor (whether under the attachment of earnings order or otherwise) exceeds the aggregate of the payments required up to that time by the maintenance order; and

(b) the normal deduction rate specified by the attachment of earnings order (or, where two or more such orders are in force in relation to the maintenance order, the aggregate of the normal deduction rates specified by those orders) exceeds the rate of payments required by the maintenance order; and

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(c) no proceedings for the variation or discharge of the attachment of earnings order are pending.

(2) In the case of an order made by the High Court or a county court, the collecting officer shall give the prescribed notice to the person to whom he is required to pay sums received under the attachment of earnings order, and to the debtor; and the court shall make the appropriate variation order, unless the debtor requests it to discharge the attachment of earnings order, or to vary it in some other way, and the court thinks fit to comply with the request.

(3) In the case of an order made by a magistrates' court, the collecting officer shall apply to the court for the appropriate variation order; and the court shall grant the application unless the debtor appears at the hearing and requests the court to discharge the attachment of earnings order, or to vary it in some other way, and the court thinks fit to comply with the request.

(4) In this section, "the appropriate variation order" means an order varying the attachment of earnings order in question by reducing the normal deduction rate specified thereby so as to secure that that rate (or, in the case mentioned in subsection (1)(*b*) above, the aggregate of the rates therein mentioned)—

(a) is the same as the rate of payments required by the maintenance order; or

(b) is such lower rate as the court thinks fit having regard to the amount of the excess mentioned in subsection (1)(*a*).

11 Attachment order in respect of maintenance payments to cease to have effect on the occurrence of certain events.

(1) An attachment of earnings order made to secure maintenance payments shall cease to have effect—

(a) upon the grant of an application for registration of the related maintenance order under section 2 of the [M6]Maintenance Orders Act 1958 (which provides for the registration in a magistrates' court of a High Court or county court maintenance order, and for registration in the High Court of a magistrates' court maintenance order);

(b) where the related maintenance order is registered under Part I of the [M7]said Act of 1958, upon the giving of notice with respect thereto under section 5 of that Act (notice with view to cancellation of registration);

(c) subject to subsection (3) below, upon the discharge of the related maintenance order while it is not registered under Part I of the said Act of 1958;

(d) upon the related maintenance order ceasing to be registered in a court in England or Wales, or becoming registered in a court in Scotland or Northern Ireland, under Part II of the [M8]Maintenance Orders Act 1950.

(2) Subsection (1)(*a*) above shall have effect, in the case of an application for registration under section 2(1) of the said Act of 1958, notwithstanding that the grant of the application may subsequently become void under subsection (2) of that section.

(3) Where the related maintenance order is discharged as mentioned in subsection (1)(*c*) above and it appears to the court discharging the order that arrears thereunder will remain to be recovered after the discharge, that court may, if it thinks fit, direct that subsection (1) shall not apply.

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Marginal Citations

M6 1958 c. 39.
M7 1958 c. 39.
M8 1950 c. 37.

12 Termination of employer's liability to make deductions.

(1) Where an attachment of earnings order ceases to have effect under section 8 or 11 of this Act, the proper officer of the prescribed court shall give notice of the cesser to the person to whom the order was directed.

(2) Where, in the case of an attachment of earnings order made otherwise than to secure maintenance payments, the whole amount payable under the relevant adjudication has been paid, and also any relevant costs, the court shall give notice to the employer that no further compliance with the order is required.

(3) Where an attachment of earnings order—

(a) ceases to have effect under section 8 or 11 of this Act;

or

(b) is discharged under section 9,

the person to whom the order has been directed 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 the notice required by subsection (1) above or, as the case may be, a copy of the discharging order is served on him.

Administrative provisions

13 Application of sums received by collecting officer.

(1) Subject to subsection (3) below, the collecting officer to whom a person makes payments in compliance with an attachment of earnings order shall, after deducting such court fees, if any, in respect of proceedings for or arising out of the order, as are deductible from those payments, deal with the sums paid in the same way as he would if they had been paid by the debtor to satisfy the relevant adjudication.

(2) Any sums paid to the collecting officer under an attachment of earnings order made to secure maintenance payments shall, when paid to the person entitled to receive those payments, be deemed to be payments made by the debtor (with such deductions, if any, in respect of income tax as the debtor is entitled or required to make) so as to discharge—

(a) first, any sums for the time being due and unpaid under the related maintenance order (a sum due at an earlier date being discharged before a sum due at a later date); and

(b) secondly, any costs incurred in proceedings relating to the related maintenance order which were payable by the debtor when the attachment of earnings order was made or last varied.

(3) Where a county court makes an attachment of earnings order to secure the payment of a judgment debt and also, under section 4(1) of this Act, orders the debtor to furnish to the court a list of all his creditors, sums paid to the collecting officer in compliance

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with the attachment of earnings order shall not be dealt with by him as mentioned in subsection (1) above, but shall be retained by him pending the decision of the court whether or not to make an administration order and shall then be dealt with by him as the court may direct.

14 Power of court to obtain statements of earnings etc.

(1) Where in any proceedings a court has power to make an attachment of earnings order, it may—

(a) order the debtor to give to the court, 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 as to his earnings and anticipated earnings, and as to his resources and needs; and

(iii) specified particulars for the purpose of enabling the debtor to be identified by any employer of his;

(b) order any person appearing to the court to have the debtor in his employment to give to the court, 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, the court may at any time thereafter while the order is in force

[[F24](a) make such an order as is described in subsection (1)(*a*) or (*b*) above; and

(b) order the debtor to attend before it on a day and at a time specified in the order to give the information described in subsection (1)(*a*) above.**]**

(3) In the case of an application to a magistrates' court for an attachment of earnings order, or for the variation or discharge of such an order, the power to make an order under subsection (1) or (2) above shall be exercisable also, before the hearing of the application, by a single justice.

(4) Without prejudice to subsections (1) to (3) above, rules of court may provide that where notice of an application for an attachment of earnings order is served on the debtor, it shall include a requirement that he shall give to the court, within such period and in such manner as may be prescribed, a statement in writing of the matters specified in subsection (1)(*a*) above and of any other prescribed matters which are, or may be, relevant under section 6 of this Act to the determination of the normal deduction rate and the protected earnings rate to be specified in any order made on the application.

(5) In any proceedings in which a court has power to make an attachment of earnings order, and in any proceedings for the making, variation or discharge of such an order, a document purporting to be a statement given to the court in compliance with an order under subsection (1)(*a*) or (*b*) above, or with any such requirement of a notice of application for an attachment of earnings order as is mentioned in subsection (4) above, shall, in the absence of proof to the contrary, be deemed to be a statement so given and shall be evidence of the facts stated therein.

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Textual Amendments

F24 Words substituted by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 53(1)**

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

While an attachment of earnings order is in force—

(a) the debtor shall from time to time notify the court 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 paragraph (*a*) above 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 by what court it was made shall, within seven days of his becoming the debtor's employer or of acquiring that knowledge (whichever is the later) notify that court in writing that he is the debtor's employer, and include in his notification a statement of the debtor's earnings and anticipated earnings.

16 Power of court to determine whether particular payments are earnings.

(1) Where an attachment of earnings order is in force, the court shall, on the application of a person specified in subsection (2) below, 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 be entitled to give effect to any determination for the time being in force under this section.

(2) The persons referred to in subsection (1) above are—

(a) the employer;

(b) the debtor;

(c) the person to whom payment under the relevant adjudication is required to be made (whether directly or through an officer of any court); and

(d) without prejudice to paragraph (*c*) above, where the application is in respect of an attachment of earnings order made to secure payments under a magistrates' court maintenance order, the collecting officer.

(3) Where an application under this section 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, or any appeal in consequence thereof, is pending; but this subsection shall not, unless the court otherwise orders, apply as respects such payments if the employer subsequently withdraws the application or, as the case may be, abandons the appeal.

17 Consolidated attachment orders.

(1) The powers of a county court under sections 1 and 3 of this Act shall include power to make an attachment of earnings order to secure the payment of any number of judgment debts; and the powers of a magistrates' court under those sections shall include power to make an attachment of earnings order to secure the discharge of any number of such liabilities as are specified in section 1(3).

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(2) An attachment of earnings order made by virtue of this section shall be known as a consolidated attachment order.

(3) The power to make a consolidated attachment order shall be exercised subject to and in accordance with rules of court; and rules made for the purposes of this section may provide—

(a) for the transfer from one court to another—

(i) of an attachment of earnings order, or any proceedings for or arising out of such an order; and

(ii) of functions relating to the enforcement of any liability capable of being secured by attachment of earnings;

(b) for enabling a court to which any order, proceedings or functions have been transferred under the rules to vary or discharge an attachment of earnings order made by another court and to replace it (if the court thinks fit) with a consolidated attachment order;

(c) for the cases in which any power exercisable under this section or the rules may be exercised by a court of its own motion or on the application of a prescribed person;

(d) for requiring the **[**[F25]officer**]**of a court who receives payments made to him in compliance with an attachment of earnings order, instead of complying with section 13 of this Act, to deal with them as directed by the court or the rules; and

(e) for modifying or excluding provisions of this Act or **[**[F26]Part III of the Magistrates' Courts Act 1980**]**, but only so far as may be necessary or expedient for securing conformity with the operation of rules made by virtue of paragraphs (*a*) to (*d*) of this subsection.

Textual Amendments

F25 Words in s. 17(3)(d) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 67** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**

F26 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 99**

Special provisions with respect to magistrates' courts

18 Certain action not to be taken by collecting officer except on request.

(1) **[**[F27]A justices' chief executive**]**who is entitled to receive payments under a maintenance order for transmission to another person shall not—

(a) apply for an attachment of earnings order to secure payments under the maintenance order; or

(b) except as provided by section 10(3) of this Act, apply for an order discharging or varying such an attachment of earnings order; or

(c) apply for a determination under section 16 of this Act,

unless he is requested in writing to do so by a person entitled to receive the payments through him.

(2) Where **[**[F27]a justices' chief executive**]** is so requested—

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(a) he shall comply with the request unless it appears to him unreasonable in the circumstances to do so; and

(b) the person by whom the request was made shall have the same liabilities for all the costs properly incurred in or about any proceedings taken in pursuance of the request as if the proceedings had been taken by that person.

(3) For the purposes of subsection (2)(*b*) above, any application made by **[**[F27]a justices' chief executive**]**as required by section 10(3) of this Act shall be deemed to be made on the request of the person in whose favour the attachment of earnings order in question was made.

Textual Amendments

F27 Words in s. 18 substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 68** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**

19 Procedure on applications.

(1) Subject to rules of court made by virtue of the following subsection, an application to a magistrates' court for an attachment of earnings order, or an order discharging or varying an attachment of earnings order, shall be made by complaint.

(2) Rules of court may make provision excluding subsection (1) in the case of such an application as is referred to in section 9(3)(*b*) of this Act.

(3) An application to a magistrates' court for a determination under section 16 of this Act shall be made by complaint.

(4) For the purposes of **[**[F28]section 51 of the Magistrates' Courts Act 1980**]**(which provides for the issue of a summons directed to the person against whom an order may be made in pursuance of a complaint)—

(a) the power to make an order in pursuance of a complaint by the debtor for an attachment of earnings order, or the discharge or variation of such an order, shall be deemed to be a power to make an order against the person to whom payment under the relevant adjudication is required to be made (whether directly or through an officer of any court); and

(b) the power to make an attachment of earnings order, or an order discharging or varying an attachment of earnings order, in pursuance of a complaint by any other person (including a complaint in proceedings to which section 3(4)(*b*) of this Act applies) shall be deemed to be a power to make an order against the debtor.

(5) A complaint for an attachment of earnings order may be heard notwithstanding that it was not made within the six months allowed by **[**[F29]section 127(1) of the Magistrates' Courts Act 1980**]**.

Textual Amendments

F28 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 100**(*a*)

F29 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 100**(*b*)

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20 Jurisdiction in respect of persons residing outside England and Wales.

(1) It is hereby declared that a magistrates'court has jurisdiction to hear a complaint by or against a person residing outside England and Wales for the discharge or variation of an attachment of earnings order made by a magistrates' court to secure maintenance payments; and where such a complaint is made, the following provisions shall have effect.

(2) If the person resides in Scotland or Northern Ireland, section 15 of the [M9]Maintenance Orders Act 1950 (which relates to the service of process on persons residing in those countries) shall have effect in relation to the complaint as it has effect in relation to the proceedings therein mentioned.

(3) Subject to the following subsection, if the person resides outside the United Kingdom and does not appear at the time and place appointed for the hearing of the complaint, the court may, if it thinks it reasonable in all the circumstances to do so, proceed to hear and determine the complaint at the time and place appointed for the hearing, or for any adjourned hearing, in like manner as if the person had then appeared.

(4) Subsection (3) above shall apply only if it is proved to the satisfaction of the court, on oath or in such other manner as may be prescribed, that the complainant has taken such steps as may be prescribed to give to the said person notice of the complaint and of the time and place appointed for the hearing of it.

Marginal Citations

M9 1950 c. 37.

21 Costs on application under s. 16.

(1) On making a determination under section 16 of this Act, a magistrates' court may in its discretion make such order as it thinks just and reasonable for payment by any of the persons mentioned in subsection (2) of that section of the whole or any part of the costs of the determination (but subject to section 18(2)(*b*) of this Act).

(2) Costs ordered to be paid under this section shall—

(a) in the case of costs to be paid by the debtor to the person in whose favour the attachment of earnings order in question was made, be deemed—

(i) if the attachment of earnings order was made to secure maintenance payments, to be a sum due under the related maintenance order, and

(ii) otherwise, to be a sum due to the **[**[F30]justices' chief executive for**]**the court; and

(b) in any other case, be enforceable as a civil debt.

Textual Amendments

F30 Words in s. 21(2)(a)(ii) substituted (1.4.2001) by 1999 c. 22, s. 90, **Sch. 13 para. 69** (with Sch. 14 para. 7(2)); S.I. 2001/916, **art. 2(a)(ii)**

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Miscellaneous provisions

22 Persons employed under the Crown.

(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 this Act—

(a) the chief officer for the time being of the 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 debtor from one department, office or body to another being treated as a change of employment); and

(b) any earnings paid by the Crown or a Minister of the Crown, or out of the public revenue of the United Kingdom, shall be treated as paid by the said chief officer.

(3) 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 section, or as to who for those purposes is the chief officer thereof, the question shall be referred to and determined by the Minister for the Civil Service; but that Minister shall not be under any obligation to consider a reference under this subsection unless it is made by the court.

(4) A document purporting to set out a determination of the said Minister under subsection (3) above and to be signed by an official of the **[**[F31]Office of Public Service [F32]. . .**]** shall, in any such proceedings as are mentioned in that subsection, be admissible in evidence and be deemed to contain an accurate statement of such a determination unless the contrary is shown.

(5) This Act shall have effect notwithstanding any enactment passed before 29th May 1970 and preventing or avoiding the attachment or diversion of sums due to a person in respect of service under the Crown, whether by way of remuneration, pension or otherwise.

Textual Amendments

F31 Words in s. 22(4) substituted (6.7.1992) by virtue of S.I. 1992/1296, art. 6(1), **Sch. para. 4**.

F32 Words in s. 22(4) omitted (1.1.1996) by virtue of S.I. 1995/2985, art. 5(1), **Sch. para. 3**

23 Enforcement provisions.

(1) If, after being served with notice of an application to a county court for an attachment of earnings order or for the variation of such an order **[**[F33]or with an order made under section 14(2)(*b*) above**]**, the debtor fails to attend on the day and at the time specified for any hearing of the application **[**[F34]or specified in the order**]**, the court may adjourn the hearing and order him to attend at a specified time on another day; and if the debtor—

(a) fails to attend at that time on that day; or

(b) attends, but refuses to be sworn or give evidence,

he may be ordered by the judge to be imprisoned for not more than fourteen days.

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[[F35](1A) In any case where the judge has power to make an order of imprisonment under subsection (1) for failure to attend, he may, in lieu of or in addition to making that order, order the debtor to be arrested and brought before the court either forthwith or at such time as the judge may direct.**]**

(2) Subject to this section, a person commits an offence if—

(a) being required by section 7(1) or 9(2) of this Act to comply with an attachment of earnings order, he fails to do so; or

(b) being required by section 7(2) of this Act to give a notice for the purposes of that subsection, he fails to give it, or fails to give it within the time required by that subsection; or

(c) he fails to comply with an order under section 14(1) of this Act or with any such requirement of a notice of application for an attachment of earnings order as is mentioned in section 14(4), or fails (in either case) to comply within the time required by the order or notice; or

(d) he fails to comply with section 15 of this Act; or

(e) he gives a notice for the purposes of section 7(2) of this Act, or a notification for the purposes of section 15, 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 section 7(2) or 15 of this Act, or with an order under section 14(1), or with any such requirement of a notice of application for an attachment of earnings order as is mentioned in section 14(4), 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.

(3) Where a person commits an offence under subsection (2) above in relation to proceedings in, or to an attachment of earnings order made by, the High Court or a county court, he shall be liable on summary conviction to a fine of not more than **[**[F36]level 2 on the standard scale**]**or he may be ordered by a judge of the High Court or the county court judge (as the case may be) to pay a fine of not more than **[**[F37] £250**]** or, in the case of an offence specified in subsection (4) below, to be imprisoned for not more than fourteen days; and where a person commits an offence under subsection (2) otherwise than as mentioned above in this subsection, he shall be liable on summary conviction to a fine of not more than **[**[F36]level 2 on the standard scale**]**.

(4) The offences referred to above in the case of which a judge may impose imprisonment are—

(a) an offence under subsection (2)(*c*) or (*d*), if committed by the debtor; and

(b) an offence under subsection (2)(*e*) or (*f*), whether committed by the debtor or any other person.

(5) It shall be a defence—

(a) for a person charged with an offence under subsection (2)(*a*) above 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 subsection (2)(*b*) to prove that he did not know, and could not reasonably be expected to know, that the debtor was not in his employment, or (as the case may be) had ceased to be so, and that he gave the required notice as soon as reasonably practicable after the fact came to his knowledge.

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(6) Where a person is convicted or dealt with for an offence under subsection (2)(*a*), the court may order him to pay, to whoever is the collecting officer of the court for the purposes of the attachment of earnings order in question, any sums deducted by that person from the debtor's earnings and not already paid to the collecting officer.

(7) Where under this section a person is ordered by a judge of the High Court or a county court judge to be imprisoned, the judge may at any time revoke the order and, if the person is already in custody, order his discharge.

(8) Any fine imposed by a judge of the High Court under subsection (3) above and any sums ordered by the High Court to be paid under subsection (6) above shall be recoverable in the same way as a fine imposed by that court in the exercise of its jurisdiction to punish for contempt of court; **[**[F38]section 129 of the County Courts Act 1984**]**(enforcement of fines) shall apply to payment of a fine imposed by a county court judge under subsection (3) and of any sums ordered by a county court judge to be paid under subsection (6); and any sum ordered by a magistrates' court to be paid under subsection (6) shall be recoverable as a sum adjudged to be paid on a conviction by that court.

(9) For the purposes of section 13 of the [M10]Administration of Justice Act 1960 (appeal in cases of contempt of court), subsection (3) above shall be treated as an enactment enabling the High Court or a county court to deal with an offence under subsection (2) above as if it were contempt of court.

(10) In this section references to proceedings in a court are to proceedings in which that court has power to make an attachment of earnings order or has made such an order.

[[F39](11) A district judge, assistant district judge or deputy district judge shall have the same powers under this section as a judge of a county court.**]**

Textual Amendments

F33 Words inserted by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 53(2)**(*a*)

F34 Words inserted by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 53(2)**(*b*)

F35 S. 23(1A) inserted by Contempt of Court Act 1981 (c. 49, SIF 39:3), s. 14(5), **Sch. 2 Pt. III para. 6**

F36 Words substituted by virtue of Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46

F37 Words in s. 23(3) substituted (1.10.1992) by virtue of Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 17(3), **Sch. 4 Pt.I** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**.

F38 Words substituted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 para. 41**

F39 S. 23(11) inserted (1.7.1991) by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 125(2), **Sch. 17 para.6**; S.I. 1991/1364, **art. 2**,Sch.

Modifications etc. (not altering text)

C9 S. 23(3): power to amend conferred (1.10.1992) by Magistrates' Courts Act 1980 (c. 43, SIF 82), **Sch. 6A** (as substituted 1.10.1992) by Criminal Justice Act 1991 (c. 53, SIF 39:1), s. 17(3), **Sch. 4 Pt. IV** (with s. 28); S.I. 1992/333, art. 2(2), **Sch.2**)

Marginal Citations

M10 1960 c. 65.

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24 Meaning of "earnings".

(1) For the purposes of this Act, but subject to the following subsection, "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).

[[F40](c) by way of statutory sick pay.**]**

(2) The following shall not be treated as earnings:—

(a) sums payable by any public department of the Government of Northern Ireland or of a territory outside the United Kingdom;

(b) pay or allowances payable to the debtor as a member of Her Majesty's forces **[**[F41]other than pay or allowances payable by his employer to him as a special member of a reserve force (within the meaning of the Reserve Forces Act 1996)**]**;

[[F42](ba) a tax credit (within the meaning of the Tax Credits Act 2002);**]**

(c) pension, allowances or benefit payable under any **[**[F43]enactment relating to social security;**]**

(d) pension or allowances payable in respect of disablement or disability;

(e) **[**[F44]except in relation to a maintenance order**]**wages payable to a person as a seaman, other than wages payable to him as a seaman of a fishing boat.

[[F45](f) guaranteed minimum pension within the meaning of the **[**[F46]Pension Schemes Act 1993**]**.**]**

(3) In subsection (2)(*e*) above,

[[F47]"fishing boat" means a vessel of whatever size, and in whatever way propelled, which is for the time being employed in sea fishing or in the sea-fishing service;

"seaman" includes every person (except masters and pilots) employed or engaged in any capacity on board any ship; and

"wages" includes emoluments.**]**

Textual Amendments

F40 S. 24(1)(*c*) inserted by Social Security Act 1985 (c. 53, SIF 113:1), s. 21, **Sch. 4 para. 1**

F41 Words in s. 24(2)(b) inserted (1.1.1999) by S.I. 1998/3086, **reg. 6(1)**

F42 S. 24(2)(ba) inserted (6.4.2003) by 2002 c. 21, ss. 47, 61, **Sch. 3 para. 1**; S.I. 2003/962, **art. 2(3)(d)(i)**

F43 Words substituted by Social Security Act 1986 (c. 50, SIF 113:1), s. 86, **Sch. 10 Pt. VI para. 102**

F44 Words inserted by Merchant Shipping Act 1979 (c. 39, SIF 111), **s. 39(1)**

F45 S. 24(2)(*f*) inserted by Social Security Pensions Act 1975 (c. 60), **Sch. 4 Pt. I para. 15**

F46 Words in s. 24(2) substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 4** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**

F47 Words in s. 24(3) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 46** (with s. 312(1))

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25 General interpretation.

(1) In this Act, except where the context otherwise requires—

"administration order" means an order made under, and so referred to in, **[**[F48]Part VI of the County Courts Act 1984**]**;

"the court", in relation to an attachment of earnings order, means the court which made the order, subject to rules of court as to the venue for, and the transfer of, proceedings in county courts and magistrates' courts;

"debtor" and "relevant adjudication" have the meanings given by section 2 of this Act;

"the employer", in relation to an attachment of earnings order, means the person who is required by the order to make deductions from earnings paid by him to the debtor;

"judgment debt" has the meaning given by section 2 of this Act;

[F49] . . .

"maintenance order" has the meaning given by section 2 of this Act;

"maintenance payments" means payments required under a maintenance order;

"prescribed" means prescribed by rules of court; and

"rules of court", in relation to a magistrates' court, means rules under **[**[F50]section 144 of the Magistrates' Courts Act 1980**]**;

[F51] . . .

(2) Any reference in this Act to sums payable under a judgment or order, or to the payment of such sums, includes a reference to costs and the payment of them; and the references in sections 6(4) and 12(2) to relevant costs are to any costs of the proceedings in which the attachment of earnings order in question was made, being costs which the debtor is liable to pay.

(3) References in sections 6(5)(*b*), 9(3)(*b*) and 14(1)(*a*) of this Act to the debtor's needs include references to the needs of any person [F52] for whom he must, or reasonably may, provide.

(4) [F52] . . . . . .

(5) Any power to make rules which is conferred by this Act is without prejudice to any other power to make rules of court.

(6) This Act, so far as it relates to magistrates' courts, and **[**[F53]Part III of the Magistrates' Courts Act 1980**]**shall be construed as if this Act were contained in that Part.

(7) References in this Act to any enactment include references to that enactment as amended by or under any other enactment, including this Act.

Textual Amendments

F48 Words substituted by County Courts Act 1984 (c. 28, SIF 34), s. 148(1), **Sch. 2 para. 42**

F49 Definition of "legal aid contribution order" in s. 25(1) repealed (2.4.2002) by 1999 c. 22, s. 106, **Sch. 15 Pt. I** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 3(b)**

F50 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 101**(*a*)

F51 Words in s. 25(1) repealed (1.4.2001) by 1999 c. 22, s. 106, **Sch. 15 Pt. V(7)** (with Sch. 14 paras. 7(2), 36(9)); S.I. 2001/916, **art. 2(c)(ii)**

F52 S. 25(4) repealed by Dock Work Act 1989 (c. 13, SIF 43:1), s. 7(1), **Sch. 1 Pt. I**

Status: *Point in time view as at 06/04/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Attachment of Earnings Act 1971 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F53 Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 101**(*b*)

General

26 Transitional provision.

(1) As from the appointed day, an attachment of earnings order made before that day under Part II of the [M11]Maintenance Orders Act 1958 (including an order made under that Part of that Act as applied by section 46 or 79 of the [M12]Criminal Justice Act 1967) shall take effect as an attachment of earnings order made under the corresponding power in this Act, and the provisions of this Act shall apply to it accordingly, so far as they are capable of doing so.

(2) Rules of court may make such provision as the rule-making authority considers requisite—

(a) for enabling an attachment of earnings order to which subsection (1) above applies to be varied so as to bring it into conformity, as from the appointed day, with the provisions of this Act, or to be replaced by an attachment of earnings order having effect as if made under the corresponding power in this Act;

(b) to secure that anything required or authorised by this Act to be done in relation to an attachment of earnings order made thereunder is required or, as the case may be, authorised to be done in relation to an attachment of earnings order to which the said subsection (1) applies.

(3) In this section, "the appointed day" means the day appointed under section 54 of the [M13]Administration of Justice Act 1970 for the coming into force of Part II of that Act.

Modifications etc. (not altering text)
C10 2.8.1971 appointed by S.I. 1971/834

Marginal Citations
M11 1958 c. 39.
M12 1967 c. 80.
M13 1970 c. 31.

27 Consequential amendment of enactments.

(1) In consequence of the repeals effected by this Act, section 20 of the [M14]Maintenance Orders Act 1958 (which contains certain provisions about magistrates' courts and their procedure), except subsection (6) of that section (which amends section 52(3) of the [M15]Magistrates' Courts Act 1952), shall have effect as set out in Schedule 5 to this Act.

(2) [F54] . . . . . .

(3) In section 95(4) of the [M16]Merchant Shipping Act 1970 (saving, in relation to fishermen's wages, of provisions in Part II of the Administration of Justice Act 1970) for the words "Part II of the Administration of Justice Act 1970"there shall be substituted the words " the Attachment of Earnings Act 1971 ".

Status: *Point in time view as at 06/04/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F54 S. 27(2) repealed by Insolvency Act 1976 (c. 60), s. 14(4), **Sch. 3**

Modifications etc. (not altering text)

C11 The text of ss. 27(3), 29(2) and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Marginal Citations

M14 1958 c. 39.

M15 1952 c. 55.

M16 1970 c. 36

28 . . . . . [F55]

Textual Amendments

F55 S. 28 repealed with saving by Northern Ireland Constitution Act 1973 (c. 36), s. 42, **Sch. 6 Pt. I**

29 Citation, repeal, extent and commencement.

(1) This Act may be cited as the Attachment of Earnings Act 1971.

(2) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) This Act, except section 20(2), does not extend to Scotland and, except sections 20(2) . . . [F56] does not extend to Northern Ireland.

(4) This Act shall come into force on the day appointed under section 54 of the Administration of Justice Act 1970 for the coming into force of Part II of that Act.

Textual Amendments

F56 Words repealed with saving by Northern Ireland Constitution Act 1973 (c. 36), s. 42, **Sch. 6 Pt. I**

Modifications etc. (not altering text)

C12 The text of ss. 27(3), 29(2) and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

C13 2.8.1971 appointed by S.I. 1971/834

Status: *Point in time view as at 06/04/2003. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULES

SCHEDULE 1

Section 2.

MAINTENANCE ORDERS TO WHICH THIS ACT APPLIES

1 An order for alimony, maintenance or other payments made, or having effect as if made, under Part II of the [M17]Matrimonial Causes Act 1965 (ancillary relief in actions for divorce etc.).

Marginal Citations
M17 1965 c. 72.

2 An order for payments to or in respect of a child, being an order made, or having effect as if made, under Part III of the said Act of 1965 (maintenance of children following divorce, etc.).

[[F57]3 An order for periodical or other payments made, or having effect as if made, under Part II of the [M18]Matrimonial Causes Act 1973**]**

Textual Amendments
F57 Para. 3 substituted by Matrimonial Causes Act 1973 (c. 18), **Sch. 2 para. 13**

Marginal Citations
M18 1973 c. 18.

4 An order for maintenance or other payments to or in respect of a spouse or child, being an order made, **[**[F58]under Part I of the [M19]Domestic Proceedings and Magistrates' Courts Act 1978**]**

Textual Amendments
F58 Words substituted by Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), s. 89(3), **Sch. 2 para. 32**

Marginal Citations
M19 1978 c. 22.

[F59]5 An order for periodical or other payments made or having effect as if made under Schedule 1 to the Children Act 1989.

Status: *Point in time view as at 06/04/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Textual Amendments

F59 Sch. 1 para. 5 substituted (*14.10.1991*) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 116, **Sch. 16 para. 38**; S.I. 1991/1883, art.3, **Sch**edule

6 . . . . . **F60**

Textual Amendments

F60 Para. 6 repealed by Family Law Reform Act 1987 (c. 42, SIF 49:7), s. 33, Sch. 2 para. 44(b), Sch. 3 paras. 1, 6, **Sch. 4**

7 An order under **[**F61paragraph 23 of Schedule 2 to the Children Act 1989**]** . . . F62 section 23 of the Ministry of Social Security Act 1966 **[**F63 . . . F64section 18 of the Supplementary Benefits Act 1976**][**F65F66. . . section 24 of the Social Security Act 1986**][**F67or section 106 of the Social Security Administration Act 1992**]** (various provisions for obtaining contributions from a person whose dependants are assisted or maintained out of public funds).

Textual Amendments

F61 Words in Sch. 1 para. 7 substituted (14.10.1991) by Children Act 1989 (c. 41, SIF 20), s. 108(5)(6), Sch. 13 para. 29, **Sch. 14 para. 1(1)**; S.I. 1991/828, **art. 3(2)**

F62 Word repealed by Supplementary Benefits Act 1976 (c. 71), **Sch. 7 para. 20**(*b*)

F63 Words inserted by Supplementary Benefits Act 1976 (c. 71), **Sch. 7 para. 20**(*b*)

F64 Word repealed by Social Security Act 1986 (c. 50, SIF 113:1), s. 86, **Sch. 10 Pt. II para. 43**(*b*)

F65 Words inserted by Social Security Act 1986 (c. 50, SIF 113:1), s. 86, **Sch. 10 Pt. II para. 43**(*b*)

F66 Word in Sch. 1 para. 7 omitted (1.7.1992) by virtue of Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para. 7**

F67 Words in Sch. 1 para. 7 inserted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 Para.7**

8 An order under section 43 of the M20National Assistance Act 1948 (recovery of costs of maintaining assisted person).

Marginal Citations

M20 1948 c. 29.

9 An order to which section 16 of the M21Maintenance Orders Act 1950 applies by virtue of subsection (2)(*b*) or (*c*) of that section (that is to say an order made by a court in Scotland or Northern Ireland and corresponding to one of those specified in the foregoing paragraphs) and which has been registered in a court in England and Wales under Part II of that Act.

Modifications etc. (not altering text)

C14 Para. 9 amended by Matrimonial Causes Act 1973 (c. 18), **Sch. 2 para. 3(2)**

Status: *Point in time view as at 06/04/2003. This version of this Act contains provisions that are not valid for this point in time.*
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Marginal Citations
M21 1950 c. 37.

10 A maintenance order within the meaning of the [M22]Maintenance Orders (Facilities for Enforcement) Act 1920 (Commonwealth orders enforceable in the United Kingdom) registered in, or confirmed by, a court in England and Wales under that Act.

Marginal Citations
M22 1920 c. 33.

[[F68]11 A maintenance order within the meaning of Part I of the [M23]Maintenance Orders (Reciprocal Enforcement) Act 1972 registered in a magistrates' court under the said Part I.**]**

Textual Amendments
F68 Para. 11 inserted by Maintenance Orders (Reciprocal Enforcement) Act 1972 (c. 18), **Sch. para. 7**

Marginal Citations
M23 1972 c. 18.

[[F69]12 An order under section 34(1)(*b*) of the Children Act 1975 (payments of maintenance in respect of a child to his custodian).**]**

Textual Amendments
F69 Para. 12 inserted by Children Act 1975 (c. 72), s. 108(2), **Sch. 3 para. 76**(*b*)

[[F70]13 A maintenance order within the meaning of Part I of the Civil Jurisdiction and Judgments Act 1982 which is registered in a magistrates' court under that Part.**]**

Textual Amendments
F70 Para. 13 inserted by Civil Jurisdiction and Judgments Act 1982 (c. 27, SIF 45:3), s. 15(4), **Sch. 12 Pt. I para. 6**

[[F71]14 A maintenance judgment within the meaning of Council Regulation (EC) No. 44/2001 of 22nd December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, which is registered in a magistrates' court under that Regulation.**]**

Textual Amendments
F71 Sch. 1 para. 14 inserted (1.3.2002) by S.I. 2001/3929, arts. 1(b), 5, **Sch. 3 para. 9**

Status: *Point in time view as at 06/04/2003. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 18/06/2011

[F72 14A (1) A decision, court settlement or authentic instrument which falls to be enforced by a magistrates' court by virtue of the Maintenance Regulation and the Civil Jurisdiction and Judgments (Maintenance) Regulations 2011.

(2) In this paragraph—

"the Maintenance Regulation" means Council Regulation (EC) No 4/2009 including as applied in relation to Denmark by virtue of the Agreement made on 19th October 2005 between the European Community and the Kingdom of Denmark;

"decision", "court settlement" and "authentic instrument" have the meanings given by Article 2 of that Regulation.]

Textual Amendments

F72 Sch 1 para. 14A inserted (18.6.2011) by The Civil Jurisdiction and Judgments (Maintenance) Regulations 2011 (S.I. 2011/1484), **Sch. 7 para. 4(3)**

VALID FROM 05/12/2005

[F73 15 An order made under Schedule 5 to the Civil Partnership Act 2004 (financial relief in the High Court or a county court etc.), for periodical or other payments.

Textual Amendments

F73 Sch. 1 paras. 15, 16 inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 35**; S.I. 2005/3175, **art. 2(2)**

VALID FROM 05/12/2005

16 An order made under Schedule 6 to the 2004 Act (financial relief in magistrates' courts etc.), for maintenance or other payments to or in respect of a civil partner or child.]

Textual Amendments

F73 Sch. 1 paras. 15, 16 inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 35**; S.I. 2005/3175, **art. 2(2)**

Status: *Point in time view as at 06/04/2003. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULE 2

Section 3.

TAXES, SOCIAL SECURITY CONTRIBUTIONS ETC. RELEVANT FOR PURPOSES OF SECTION 3(6)

1 Income tax or any other tax or liability recoverable under section 65, 66 or 68 of the [M24]Taxes Management Act 1970.

Marginal Citations

M24 1970 c. 9.

2 [F74] . . . . . .

Textual Amendments

F74 Para. 2 repealed by Statute Law (Repeals) Act 1989 (c. 43), s. 1(1), **Sch. 1 Pt. I** Gp. 5

[[F75]3 **[**[F76]Contributions equivalent premiums**]** under Part III of the **[**[F77]Pension Schemes Act 1993**].]**

Textual Amendments

F75 Para. 3 substituted by Social Security Pensions Act 1975 (c. 60), **Sch. 4 Pt. I para. 16**

F76 Words in Sch. 2 para. 3 subtituted (6.4.1997) by 1995 c. 26, s. 151, **Sch. 5 para. 3**; S.I. 1997/664, art. 2(3), **Sch. Pt. II**

F77 Words in Sch. 2 para. 3 substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 4** (with ss. 6(8), 164); S.I. 1994/86, **art. 2**

3A Class 1, 2 and 4 contributions under Part I of the **[**[F78]Social Security Contributions and Benefits Act 1992**]**.

Textual Amendments

F78 Words in Sch. 2 para. 3A substituted (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 4, 7(2), **Sch. 2 para.6**

4 . . . . . [F79]

Textual Amendments

F79 Para. 4 repealed by Social Security Act 1973 (c. 38), **Sch. 28 Pt. I**

Status: *Point in time view as at 06/04/2003. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULE 3

Sections 6 and 7.

DEDUCTIONS BY EMPLOYER UNDER ATTACHMENT OF EARNINGS ORDER

Modifications etc. (not altering text)

C15 Sch. 3 modified by S.I. 1989/438, **reg. 37(2)**

C16 Sch. 3 modified (1.4.1992) by S.I. 1992/613, **reg. 42(2)(b)**.

PART I

SCHEME OF DEDUCTIONS

Preliminary definitions

1 The following three paragraphs have effect for defining and explaining, for purposes of this Schedule, expressions used therein.

2 "Pay-day", in relation to earnings paid to a debtor, means an occasion on which they are paid.

3 "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;

[F80(b) F81

(bb) primary class 1 contributions under Part I of the M25Social Security Act 1975]

[F82(c) amounts deductible under any enactment, or in pursuance of a request in writing by the debtor, for the purposes of a superannuation scheme, namely any enactment, rules, deed or other instrument providing for the payment of annuities or lump sums—

(i) to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age, or

(ii) to the personal representatives or the widows, relatives or dependants of such persons on their death or otherwise,

whether with or without any further or other benefits.]

Textual Amendments

F80 Paras. 3(*b*)(*bb*) substituted for para. 3(*b*) by Social Security (Consequential Provisions) Act 1975 (c. 18), **Sch. 2 Pt. I para. 43**

F81 Para. 3(*b*) repealed by Social Security Pensions Act 1975 (c. 60), **Sch. 5**

F82 Para. 3(*c*) substituted by Wages Act 1986 (c. 48, SIF 43:2), s. 32(1), **Sch. 4 para. 4** (which substitution fell (22.8.1996) by reason of the repeal of s. 32(1), Sch. 4 para. 4 of the 1986 substituting Act by 1996 c. 18, ss. 242, 243, **Sch. 3 Pt. I**) and substitution of para. 3(c) continued (22.8.1996) by 1996 c. 18, ss. 240, 243, **Sch. 1 para. 3** (with ss. 191-195, 202)

Marginal Citations

M25 1975 c. 60.

Status: *Point in time view as at 06/04/2003. This version of this Act contains provisions that are not valid for this point in time.*
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[F83 4 (1) On any pay-day—

(a) "the normal deduction" is arrived at by applying the normal deduction rate (as specified in the relevant attachment of earnings order) with respect to the relevant period; and

(b) "the protected earnings" are arrived at by applying the protected earnings rate (as so specified) with respect to the relevant period.

(2) For the purposes of this paragraph the relevant period in relation to any pay-day is the period beginning—

(a) if it is the first pay-day of the debtor's employment with the employer, with the first pay day of the employment; or

(b) if on the last pay-day earnings were paid in respect of a period falling wholly or partly after that pay-day, with the first day after the end of that period; or

(c) in any other case, with the first day after the last pay-day, and ending—

(i) where earnings are paid in respect of a period falling wholly or partly after the pay-day, with the last day of that period; or

(ii) in any other case, with the pay-day.]

Textual Amendments

F83 Para. 4 substituted by Administration of Justice Act 1982 (c. 53, SIF 37), **s. 54**

Employer's deduction (judgment debts and administration orders)

5 In the case of an attachment of earnings order made to secure the payment of a judgment debt or payments under an administration order, the employer shall on any pay-day—

(a) if the attachable earnings exceed the protected earnings, deduct from the attachable earnings the amount of the excess or the normal deduction, whichever is the less;

(b) make no deduction if the attachable earnings are equal to, or less than, the protected earnings.

Employer's deduction (other cases)

6 (1) The following provision shall have effect in the case of an attachment of earnings order to which paragraph 5 above does not apply.

(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 sub-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 the following sub-paragraph.

(3) The said amount is the sum of—

(a) the normal deduction; and

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(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 sub-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.

VALID FROM 03/07/2006

[F84 6A In the case of an attachment of earnings order made under Schedule 5 to the Courts Act 2003, the employer shall make deductions from the debtor's earnings in accordance with fines collection regulations made under that Schedule.]

Textual Amendments

F84 Sch. 3 para. 6A inserted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 45(b)**

PART II

PRIORITY AS BETWEEN ORDERS

7 Where the employer is required to comply with two or more attachment of earnings orders in respect of the same debtor, all or none of which orders are made to secure either the payment of judgment debts or payments under an administration order, then on any pay-day the employer shall, for the purpose of complying with Part I of this Schedule,—

(a) deal with the orders according to the respective dates on which they were made, disregarding any later order until an earlier one has been dealt with;

(b) deal with any later order as if the earnings to which it relates were the residue of the debtor's earnings after the making of any deduction to comply with any earlier order.

8 Where the employer is required to comply with two or more attachment of earnings orders, and one or more (but not all) of those orders are made to secure either the payment of judgment debts or payments under an administration order, then on any pay-day the employer shall, for the purpose of complying with Part I of this Schedule—

(a) deal first with any order which is not made to secure the payment of a judgment debt or payments under an administration order (complying with paragraph 7 above if there are two or more such orders); and

(b) deal thereafter with any order which is made to secure the payment of a judgment debt or payments under an administration order as if the earnings to which it relates were the residue of the debtor's earnings after the making of any deduction to comply with an order having priority by virtue of sub-paragraph (*a*) above; and

(c) if there are two or more orders to which sub-paragraph (*b*) above applies, comply with paragraph 7 above in respect of those orders.

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SCHEDULE

4. . . . . .
F85

Textual Amendments

F85 Sch. 4 repealed by Social Security Act 1986 (c. 50, SIF 113:1), s. 86, **Sch. 11**

SCHEDULE 5

Section 27.

SECTION 20 OF [M26]MAINTENANCE ORDERS ACT 1958 AS HAVING EFFECT IN CONSEQUENCE OF THIS ACT

Marginal Citations

M26 1958 c. 39.

Special provisions as to magistrates' courts.

20 (1) Notwithstanding anything in this Act, the clerk of a magistrates' court who is entitled to receive payments under a maintenance order for transmission to another person shall not apply for the registration of the maintenance order under Part I of this Act or give notice in relation to the order in pursuance of subsection (1) of section five thereof unless he is requested in writing to do so by a person entitled to receive the payments through him; and where the clerk is requested as aforesaid—

(i) he shall comply with the request unless it appears to him unreasonable in the circumstances to do so;

(ii) the person by whom the request was made shall have the same liabilities for all the costs properly incurred in or about any proceedings taken in pursuance of the request as if the proceedings had been taken by that person.

(2) An application to a magistrates' court by virtue of subsection (2) of section four of this Act for the variation of a maintenance order shall be made by complaint.

(8) For the avoidance of doubt it is hereby declared that a complaint may be made to enforce payment of a sum due and unpaid under a maintenance order notwithstanding that a previous complaint has been made in respect of that sum or a part thereof and whether or not an order was made in pursuance of the previous complaint.

Status: *Point in time view as at 06/04/2003. This version of this Act contains provisions that are not valid for this point in time.*
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SCHEDULE 6

Section 29

ENACTMENTS REPEALED

Modifications etc. (not altering text)

C17 The text of ss. 27(3), 29(2) and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of Repeal
6 & 7 Eliz.2. c.39.	The Maintenance Orders Act 1958.	Section 9. In section 20, in subsection (1) the words "or Part II of the Administration of Justice Act 1970", the word "or" at the end of paragraph (*a*), paragraphs (*b*) and (*c*) and the words from "and for the purposes" onwards; in subsection (2), the words "Subject to rules of court made by virtue of section 18(3)(*c*) of the Administration of Justice Act 1970", and the words "and an application to a magistrates' court for an attachment of earnings order, or an order discharging or varying an attachment of earnings order"; and subsections (3), (4), (5) and (7). In section 23(2), the words "except paragraph (*a*) of subsection (3) of section 20".
1970 c.31.	The Administration of Justice Act 1970.	Sections 13 to 26. Section 27(1) and (2). In section 28— in subsection (1), the definitions of "Act of 1958", " administration order", "the court", "debtor", "judgment debt", "relevant adjudication", "the employer", "legal aid contribution order", and the words from "maintenance payments'" onwards; and subsections (2) to (5). Section 29(1) to (4).

Status: *Point in time view as at 06/04/2003. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Attachment of Earnings Act 1971 is up to date with all changes known to be in force on or before 05 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

		Section 30(3) and (4). In section 53, the words “24 or”. In section 54(6), the words “and 27” and “7”. Schedules 5, 6 and 7.
1970 c.55.	The Family Income Supplements Act 1970.	Section 14.

Status:
Point in time view as at 06/04/2003. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
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