



Attachment of Earnings Act 1971

1971 CHAPTER 32

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 a legal aid contribution order.
- (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.

2 Principal definitions

In this Act—

- (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 section 52(1) of the Magistrates' Courts Act 1952, or section 19(2) of the Maintenance Orders Act 1950, that those payments be made to the clerk of a magistrates' court, the clerk of that court;
 - (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.
- (2) An application for an attachment of earnings order to secure maintenance payments shall not be made, except by the debtor, unless at least fifteen days have elapsed since the making of the related maintenance order.
- (3) 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.
- (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 Debtors Act 1869; or
 - (b) in a magistrates' court for the enforcement of a maintenance order under section 64 of the Magistrates' Courts Act 1952 (distress or committal),

then, subject to subsection (5) below, 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 said Act of 1869 or, as the case may be, section 64 of the said Act of 1952.

- (5) The court shall not, except on the application of the debtor, make an attachment of earnings order to secure payments under a maintenance order if it appears to it that the debtor's failure to make payments in accordance with the maintenance order is not due to his wilful refusal or culpable neglect.
- (6) Where proceedings are brought in a county court for an order of committal under section 5 of the Debtors Act 1869 in respect of a judgment debt for any of the taxes, contributions 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 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.