



Attachment of Earnings Act 1971

1971 CHAPTER 32

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 [^{F1}, or as the case may be the fines officer, making the order] 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 [^{F2}, or where the order is made under Schedule 5 to the Courts Act 2003, as the court or the fines officer as the case may be,] 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.
- (5) [^{F3}Subject to subsection (5A) below,] 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.

Status: Point in time view as at 03/07/2006.

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- [^{F4}(5A) If the order is made under Schedule 5 to the Courts Act 2003 then it shall specify the percentage deduction rate in accordance with fines collection regulations made under that Schedule.]
- (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 [^{F5}appropriate officer] of such county court as the order may specify;
 - (b) in the case of an order made by a county court, the [^{F5}appropriate officer] of that court; and
 - (c) in the case of an order made by a magistrates' court, the [^{F6}designated officer for that court or for] another magistrates' court specified in the order.
- [^{F7}(8) In subsection (7) above “appropriate officer” means an officer designated by the Lord Chancellor.]

Textual Amendments

- F1** Words in s. 6(1) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 38\(a\)\(i\)](#)
- F2** Words in s. 6(1)(b) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 38\(a\)\(ii\)](#)
- F3** Words in s. 6(5) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 38\(b\)](#)
- F4** S. 6(5A) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 38\(c\)](#)
- F5** Words substituted (3.7.1978) by [Administration of Justice Act 1977 \(c. 38\)](#), [s. 19\(5\)\(a\)](#)
- F6** Words in s. 6(7)(c) substituted (1.4.2005) by [Courts Act 2003 \(c. 39\)](#), s. 110(1), [Sch. 8 para. 142](#); S.I. 2005/910, [art. 3\(y\)](#)
- F7** 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.

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- (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 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 [F8section 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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- [^{F9}(5) An attachment of earnings order made to secure—
- (a) any payment mentioned in section 1(3)(c) of this Act; or
 - (b) the payment of any sum mentioned in paragraph 1 of Schedule 5 to the Courts Act 2003,
- shall cease to have effect on the issue of a warrant committing the debtor to prison for default in making that payment.]

Textual Amendments

- F8** Words substituted by Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 7 para. 98**
- F9** **S. 8(5)** substituted (3.7.2006) by The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 39**

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