



# Attachment of Earnings Act 1971

## 1971 CHAPTER 32

### *Cases in which attachment is available*

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

[<sup>F1</sup>(A1) This section shall not apply to an attachment of earnings order to be made under Schedule 5 to the Courts Act 2003.]

(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 [<sup>F2</sup>any court or] an officer of any court);

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

[<sup>F3</sup>(c) without prejudice to paragraph (a) above, an officer of the family court if the application is to the family court for an order to secure maintenance payments and there is in force an order that those payments be made to the court or an officer of the court;]

[<sup>F4</sup>(ca) without prejudice to paragraphs (a) and (c) above, an officer of the family court if the application is to the family court to secure payments under a maintenance order described in paragraphs 13, 14, 14A or 14B of Schedule 1 and those payments are to be made to the 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 [<sup>F5</sup>the family court] for an order to secure maintenance payments.

[<sup>F6</sup>(2) .....

(3) [<sup>F7</sup>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.

*Changes to legislation: Attachment of Earnings Act 1971, Section 3 is up to date with all changes known to be in force on or before 14 August 2023. 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) View outstanding changes*

- <sup>F8</sup>[(3A) Subsection (3) above shall not apply where the relevant adjudication is a maintenance order.]
- [<sup>F9</sup>(3B) <sup>F10</sup> .....
- (3C) <sup>F10</sup> .....
- (4) Where proceedings are brought—
- (a) in the High Court or [<sup>F11</sup>the family court] for the enforcement of a maintenance order by committal under section 5 of the <sup>M1</sup>Debtors Act 1869; <sup>F12</sup>...
- <sup>F12</sup>(b) .....
- then, <sup>F13</sup> . . . , 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 <sup>M2</sup>said Act of 1869 <sup>F14</sup> ....
- <sup>F15</sup>(5) .....
- (6) Where proceedings are brought in [<sup>F16</sup>the county court] for an order of committal under section 5 of the <sup>M3</sup>Debtors Act 1869 in respect of a judgment debt for any of the taxes, contributions [<sup>F17</sup>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) [<sup>F18</sup>The 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 <sup>M4</sup>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

- F1** S. 3(A1) inserted (3.7.2006) by [The Collection of Fines \(Final Scheme\) Order 2006 \(S.I. 2006/1737\)](#), [art. 37\(a\)](#)
- F2** Words in s. 3(1)(a) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 23\(2\)](#); [S.I. 2014/954](#), [art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F3** S. 3(1)(c) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 23\(3\)](#); [S.I. 2014/954](#), [art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- F4** S. 3(1)(ca) inserted (coming into force in accordance with reg. 1(1) of the amending S.I.) by [The International Recovery of Maintenance \(Hague Convention 2007 etc.\) Regulations 2012 \(S.I. 2012/2814\)](#), reg. 1(1), [Sch. 4 para. 3\(3\)](#) (as amended (22.4.2014) by [The Crime and Courts Act 2013 \(Family Court: Consequential Provision\) \(No.2\) Order 2014 \(S.I. 2014/879\)](#), arts. 1(1), [145](#))
- F5** Words in s. 3(1)(d)(ii) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 10 para. 23\(4\)](#); [S.I. 2014/954](#), [art. 2\(d\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)
- 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** S. 3(3B)(3C) omitted (3.7.2006) by virtue of The Collection of Fines (Final Scheme) Order 2006 (S.I. 2006/1737), **art. 37(b)**
- F11** Words in s. 3(4)(a) substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 10 para. 23(4)**; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F12** S. 3(4)(b) and word omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 10 para. 23(5)(a)**; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F13** 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**
- F14** Words in s. 3(4) omitted (22.4.2014) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 10 para. 23(5)(b)**; S.I. 2014/954, art. 2(d) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F15** 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**
- F16** Words in Act substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 25(3)(a)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F17** Word inserted by Social Security Act 1973 (c. 38), **Sch. 27 para. 88**
- F18** Words in Act substituted (22.4.2014) by Crime and Courts Act 2013 (c. 22), s. 61(3), **Sch. 9 para. 25(3)(b)**; S.I. 2014/954, art. 2(c) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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#### Marginal Citations

- M1** 1869 c. 62.
- M2** 1869 c. 62.
- M3** 1869 c. 62.
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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act applied (with modifications) by [S.I. 2018/1125 reg. 8](#) (This amendment not applied to legislation.gov.uk. S.I. 2018/1125, reg. 8 omitted (31.12.2020) by virtue of Private International Law (Implementation of Agreements) Act 2020 (c. 24), s. 4(3), Sch. 5 para. 4(4))

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

- s. 6(1A)(1B) inserted by [2007 c. 15 Sch. 15 para. 2\(2\)](#) (This affecting provision is amended (22.4.2014) by 2013 c. 22, Sch. 9 para. 52; S.I. 2014/954, art. 2(c) (with art. 3))
- s. 6A inserted by [2007 c. 15 Sch. 15 para. 3](#)
- s. 9(1A) inserted by [2007 c. 15 Sch. 15 para. 4](#)
- s. 9A inserted by [2007 c. 15 Sch. 15 para. 5](#) (This affecting provision is amended (22.4.2014) by 2013 c. 22, Sch. 9 para. 52; S.I. 2014/954, art. 2(c) (with art. 3))
- s. 14(1A) inserted by [2007 c. 15 Sch. 15 para. 10](#) (This affecting provision is amended (22.4.2014) by 2013 c. 22, Sch. 9 para. 52; S.I. 2014/954, art. 2(c) (with art. 3))
- s. 14(2A) inserted by [2007 c. 15 Sch. 15 para. 12](#)
- s. 14(4A)(4B) inserted by [2007 c. 15 Sch. 15 para. 14](#)
- s. 15A-15D inserted by [2007 c. 15 s. 92](#) (This affecting provision is amended (22.4.2014) by 2013 c. 22, Sch. 9 para. 52; S.I. 2014/954, art. 2(c) (with art. 3))
- s. 17(4) inserted by [2007 c. 15 Sch. 15 para. 18](#) (This affecting provision is amended (22.4.2014) by 2013 c. 22, Sch. 9 para. 52; S.I. 2014/954, art. 2(c) (with art. 3))
- s. 23(1ZA) inserted by [2007 c. 15 Sch. 15 para. 21](#) (This affecting provision is amended (22.4.2014) by 2013 c. 22, Sch. 9 para. 52; S.I. 2014/954, art. 2(c) (with art. 3))
- s. 25(2)(c) words inserted by [2007 c. 15 Sch. 15 para. 22](#)
- s. 25(2)(f) words inserted by [2007 c. 15 Sch. 15 para. 22](#)
- Sch. 3A inserted by [2007 c. 15 Sch. 15 para. 7](#) (This affecting provision is amended (22.4.2014) by 2013 c. 22, Sch. 9 para. 52; S.I. 2014/954, art. 2(c) (with art. 3))