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 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.

(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 registrar of such county court as the order may specify;

(b) in the case of an order made by a county court, the registrar of that court; and

(c) in the case of an order made by a magistrates' court, the clerk either of that court or of another magistrates' court specified in the order.