

SCHEDULE 3

Regulation 37

FORM OF ATTACHMENT OF EARNINGS ORDER

{Name of billing authority}
Regulation 37 of the Council Tax
(Administration and Enforcement) Regulations 1992

{Debtor's name
and address}

{Payroll/Works No.}

{Billing authority's
reference}

To any person who has in his employment the person named above.

On {date} the {name} Magistrates' Court made a liability order under regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992 against the person named above in respect of an amount of which £{amount} is outstanding at the date of the making of this order. This order relates to the outstanding amount.

YOU ARE ORDERED by {name of billing authority} to make deductions from the net earnings (as defined in regulation 32 of those Regulations) of the person named above at the times and at the rate specified in regulation 38 of those Regulations. The first such deduction shall be made as soon as reasonably practicable after the service on you of a copy of this order. A copy of regulations 32 and 38, together with regulations 39 to 42 and Schedule 4, are set out at the end of this order.

YOU ARE ALSO ORDERED to pay each sum deducted to {name of billing authority and address for payments} within the period of 19 days beginning on the last day of the month in which the deduction was made.

Dated . 199 .
Proper officer of the authority

*Indorsement on copy sent to person appearing to have the debtor in his employment

It appears to {name of billing authority} that you have the above-named debtor in your employment. You must notify {name of billing authority} in writing within 14 days of the date of service on you of this copy of the order if you do not have the debtor in your employment. You must also notify {name of billing authority} in writing within 14 days of the day on which the debtor leaves your employment. Failure to do so may render you liable to a fine.

*Indorsement on copy sent to debtor

This is a copy of an attachment of earnings order served on your employer. If you leave his employment or become employed or re-employed you must notify {name of billing authority} in writing within 14 days, giving the particulars specified in regulation 40(1) of the Regulations mentioned in the order. Failure to do so may render you liable to a fine.

Italics indicate words or figures to be inserted.
*Delete whichever indorsement is inapplicable.

REGULATIONS 32 AND 38 TO 42 OF, AND SCHEDULE 4 TO, THE COUNCIL TAX (ADMINISTRATION AND ENFORCEMENT) REGULATIONS 1992

Interpretation and application of Part VI

32.—(1) In this Part—

“attachment of allowances order” means an order under regulation 44;

“attachment of earnings order” means an order under regulation 37;

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“charging order” means an order under regulation 50;

“debtor” means a person against whom a liability order has been made;

“earnings” means 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); or
- (b) by way of statutory sick pay,

but, in so far as the following would otherwise be treated as earnings, they shall not be treated as such—

- (i) sums payable by any public department of the Government of Northern Ireland or of a territory outside the United Kingdom;
- (ii) pay or allowances payable to the debtor as a member of Her Majesty’s forces;
- (iii) allowances or benefit payable under the Social Security Acts⁽¹⁾;
- (iv) allowances payable in respect of disablement or disability; and
- (v) wages payable to a person as a seaman, other than wages payable to him as a seaman of a fishing boat;

“liability order” means an order under regulation 34; and

“net earnings” in relation to an employment means the residue of earnings payable under the employment after deduction by the employer of—

- (a) income tax;
- (b) primary Class 1 contributions under Part I of the Social Security Contributions and Benefits Act 1992⁽²⁾ and
- (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 sum—
 - (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.

(2) In sub-paragraph (v) of the definition of “earnings” in paragraph (1) above expressions used in the Merchant Shipping Act 1894⁽³⁾ have the same meanings as in that Act.

(3) Regulations 33 to 53 apply for the recovery of a sum which has become payable to a billing authority under Part V and which has not been paid; but their application in relation to a sum for which persons are jointly and severally liable under that Part is subject to the provisions of regulation 54 (joint and several liability).

(4) References in this Part to a sum which has become payable and which has not been paid include references to a sum forming part of a larger sum which has become payable and the other part of which has been paid.

(1) See the definition in section 116(1) of the Local Government Finance Act 1992.

(2) 1992 c. 4.

(3) 1894 c. 60. The definition of “fishing boat” in section 370 was amended by the Merchant Shipping Act 1970 (c. 36), Schedule 5 and the definition of “seaman” in section 742 was amended by paragraph 4 of Schedule 3 to that Act.

Deductions under attachment of earnings order

38.—(1) Subject to paragraphs (2) and (3), the sum to be deducted by an employer under an attachment of earnings order on any pay-day shall be—

- (a) where the debtor's earnings from the employer are payable weekly, a sum equal to the appropriate percentage of the net earnings otherwise payable on that pay-day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table A in Schedule 4 in relation to the band in column 1 of that Table within which the net earnings fall;
- (b) where his earnings from the employer are payable monthly, a sum equal to the appropriate percentage of the net earnings otherwise payable on that pay-day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table B in that Schedule 4 in relation to the band in column 1 of that Table within which the net earnings fall;
- (c) where his earnings from the employer are payable at regular intervals of a whole number of weeks or months, the sum arrived at by—
 - (i) calculated what would be his weekly or monthly net earnings by dividing the net earnings payable to him by the employer on the pay-day by that whole number (of weeks or months, as the case may be),
 - (ii) ascertaining the percentage or percentages specified in column 2 of Table A (if the whole number is of weeks) or of Table B (if the whole number is of months) in Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under paragraph (i) fall, and
 - (iii) calculating the sum which equals the appropriate percentage (or percentages) of the notional net earnings for any of those weeks or months and multiplying that sum by the whole number of weeks or months, as appropriate.

(2) Where paragraph (1) applies and the amount to be paid to the debtor on any pay-day includes an advance in respect of future pay, the sum to be deducted on that pay-day shall be the aggregate of the amount which would otherwise fall to be deducted under paragraph (1) and—

- (a) where the amount advanced would otherwise have been paid on a single pay-day, the sum which would have been deducted on that pay-day in accordance with paragraph (1) if the amount advanced had not been the amount of net earnings on that day; or
- (b) where the amount advanced would otherwise have been paid on more than one pay-day, the sums which would have been deducted on each of the relevant pay-days in accordance with paragraph (1) if—
 - (i) an equal proportion of the amount advanced had paid on each of those days; and
 - (ii) the net earnings of the debtor on each of those days had been an amount equal to that proportion.

(3) Where the amount payable to the debtor on any pay-day is reduced by reason of an earlier advance of pay or by reason of the repayment by the debtor of a loan made to him by his employer for any purpose, the net earnings of the debtor on that day shall, for the purposes of paragraph (1), be the amount defined in regulation 32(1) less the amount of the deduction.

(4) Subject to paragraphs (5) and (6), where the debtor's earnings from the employer are payable at regular intervals other than at intervals to which paragraph (1) applies, the sum to be deducted on any pay-day shall be arrived at by—

- (a) calculating what would be his daily net earnings by dividing the net earnings payable to him by the employer on the pay-day by the number of days in the interval,

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- (b) ascertaining the percentage or percentages specified in column 2 of Table C in Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under sub-paragraph (a) fall, and
- (c) calculating the sum which equals the appropriate percentage (or percentages) of the notional daily net earnings and multiplying that sum by the number of days in the interval.

(5) Where the debtor's earnings are payable as mentioned in paragraph (4), and the amount to be paid to the debtor on any pay-day includes an amount advanced in respect of future pay, the amount of the debtor's notional net earnings under sub-paragraph (a) of that paragraph shall be calculated in accordance with the formula—

$$\frac{A - B}{C + D}$$

where

A is the amount of net earnings payable to him on that pay-day (exclusive of the amount advanced);

B is the amount advanced;

C is the number of days in the period for which the amount of net earnings is payable; and

D is the number of days in the period for which, but for the agreement to pay in advance, the amount advanced would have been payable.

(6) Paragraph (3) applies in relation to paragraph (4) as it applies in relation to paragraph (1).

(7) Where earnings are payable to a debtor by the employer by 2 or more series of payments at regular intervals—

(a) if some or all of the intervals are of different lengths—

(i) for the purpose of arriving at the sum to be deducted, whichever of paragraphs (1), (2), (3), (4), (5) and (6) is appropriate shall apply to the series with the shortest interval (or, if there is more than one series with the shortest interval, such one of those series as the employer may choose), and

(ii) in relation to the earnings payable in every other series, the sum to be deducted shall be 20 per cent. of the net earnings or, where on any pay-day an amount advanced is also paid, 20 per cent. of the aggregate of the net earnings and the amount advanced;

(b) if all of the intervals are of the same length, whichever of paragraphs (1), (2), (3), (4), (5) and (6) is appropriate shall apply to such series as the employer may choose and sub-paragraph (a)(ii) shall apply to every other series,

and paragraph (3) shall apply in relation to sub-paragraph (a)(ii) above as it applies in relation to paragraph (1).

(8) Subject to paragraphs (9) and (10), where the debtor's earnings from the employer are payable at irregular intervals, the sums to be deducted on any pay-day shall be arrived at by—

(a) calculating what would be his daily net earnings by dividing the net earnings payable to him by the employer on the pay-day—

(i) by the number of days since earnings were last payable by the employer to him, or

(ii) if the earnings are the first earnings to be payable by the employer to him with respect to the employment in question, by the number of days since he began the employment;

(b) ascertaining the percentage (or percentages) specified in column 2 of Table C of Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under sub-paragraph (a) fall; and

- (c) calculating the sum which equals the appropriate percentage (or percentages) of the daily net earnings and multiplying that sum by the same number as that of the divisor for the purposes of the calculation mentioned in sub-paragraph (a).

(9) Where on the same pay-day there are payable to the debtor by the employer both earnings payable at regular intervals and earnings payable at irregular intervals, for the purpose of arriving at the sum to be deducted on the pay-day under the foregoing provisions of this regulation all the earnings shall be aggregated and treated as earnings payable at the regular interval.

(10) Where there are earnings payable to the debtor by the employer at regular intervals on one pay-day, and earnings are payable by the employer to him at irregular intervals on a different pay-day, the sum to be deducted on each of the pay-days on which the earnings which are payable at irregular intervals are so payable shall be 20 per cent. of the net earnings payable to him on the day.

Attachment of earnings orders: ancillary powers and duties of employers and others served

39.—(1) An employer who deducts and pays amounts under an attachment of earnings order may, on each occasion that he makes such a deduction, also deduct from the debtor's earnings the sum of one pound towards his administrative costs.

(2) An employer who deducts and pays amounts under an attachment of earnings order shall, in accordance with paragraph (3), notify the debtor in writing of—

- (a) the total amount of the sums (including sums deducted under paragraph (1)) deducted under the order up to the time of the notification; or
- (b) the total amount of the sums (including sums deducted under paragraph (1)) that will fall to be so deducted after that time.

(3) A notification under paragraph (2) must be given at the time that the pay statement given by the employer to the debtor next after a deduction has been made is so given, or if no such statements are usually issued by the employer, as soon as practicable after a deduction has been made.

(4) A person on whom a copy of an attachment of earnings order has been served shall, in accordance with paragraph (5), notify in writing the authority which made the order if he does not have the debtor against whom it was made in his employment or the debtor subsequently ceases to be in his employment.

(5) A notification under paragraph (4) must be given within 14 days of the day on which the copy of the order was served on him or the debtor ceased to be in his employment (as the case may be).

(6) While an attachment of earnings order is in force, any person who becomes the debtor's employer and knows that the order is in force and by what authority it was made shall notify that authority in writing that he is the debtor's employer.

(7) A notification under paragraph (6) must be given within 14 days of the day on which the debtor became the person's employee or of the day on which the person first knows that the order is in force and the identity of the authority by which it was made, whichever is the later.

Attachment of earnings orders: duties of debtors

40.—(1) While an attachment of earnings order is in force, the debtor in respect of whom the order has been made shall notify in writing the authority which made it of each occasion when he leaves an employment or becomes employed or re-employed, and (in a case where he becomes so employed or re-employed) shall include in the notification a statement of—

- (a) his earnings and (so far as he is able) expected earnings from the employment concerned,
- (b) the deductions and (so far as he is able) expected deductions from such earnings—
 - (i) in respect of income tax;

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- (ii) in respect of primary Class 1 contributions under Part I of the Social Security Contributions and Benefits Act 1992;
- (iii) for the purposes of such a superannuation scheme as is mentioned in the definition of “net earnings” in regulation 32(1),
- (c) the name and address of the employer, and
- (d) his work or identity number in the employment (if any).

(2) A notification under paragraph (1) must be given within 14 days of the day on which the debtor leaves or commences (or recommences) the employment (as the case may be), or (if later) the day on which he is informed by the authority that the order has been made.

Attachment of earnings orders: ancillary powers and duties of authority

41.—(1) Where the whole amount to which an attachment of earnings order relates has been paid (whether by attachment of earnings or otherwise), the authority by which it was made shall give notice of the fact to any person who appears to it to have the debtor in his employment and who has been served with a copy of the order.

(2) The authority by which an attachment of earnings order was made may, on its own account or on the application of the debtor or an employer of the debtor, make an order discharging the attachment of earnings order; and if it does so it shall give notice of that fact to any person who appears to it to have the debtor in his employment and who has been served with a copy of the order.

(3) If an authority serves a copy of an attachment of earnings order in accordance with regulation 37(3), it shall (unless it has previously done so) also serve a copy of the order on the debtor.

Priority between attachment of earnings orders

42.—(1) Where an employer would, but for this paragraph, be obliged under regulation 37(3) to make deductions on any pay-day under two or more attachment of earnings orders made under this Part, he shall make deductions only with respect to the one which was made first until it ceases to be in force, and shall then deal with the other order or orders in like manner in the order in which they were made.

(2) Where an employer is or would, but for this paragraph, be obliged to comply at any time with an attachment of earnings order made under this Part and an order made under the Attachment of Earnings Act 1971 (“the 1971 Act”)(4) or the Child Support Act 1991 (“the 1991 Act”)(5)—

- (a) if the order made under the 1971 Act or, as the case may be, the 1991 Act was made first, whilst it is in force he shall comply only with the order made under the 1971 Act or, as the case may be, the 1991 Act, or
- (b) if the attachment of earnings order made under this Part was made first, whilst it is in force the attachable earnings for the purposes of Schedule 3 to the 1971 Act are to be treated as such of the attachable earnings mentioned in paragraph 3 of that Schedule(6) as remain after deduction of the amount to be deducted under the order made under this Part.

(4) 1971 c. 32.

(5) 1991 c. 48.

(6) Paragraph 3 of Schedule 3 was amended by the Social Security (Consequential Provisions) Act 1975 (c. 18), Schedule 2, paragraph 43, the Social Security Pensions Act 1975 (c. 60), Schedule 5 and the Wages Act 1986 (c. 48), Schedule 4, paragraph 4.