

*These notes refer to the Justice Act (Northern Ireland)
2016 (c.21) which received Royal Assent on 12 May 2016*

Justice Act (Northern Ireland) 2016

EXPLANATORY NOTES

SCHEDULES

Schedule 1

Attachment of earnings orders

Paragraph 1: Service of order

This paragraph sets out how an attachment of earnings order may be served on the employer, as well as time limits for notifications which must be made in certain circumstances and the offence of failing to comply with a notification requirement.

Paragraph 2: Compliance with order

This paragraph stipulates that the employer must comply with the order and commits an offence where he fails to do so. The paragraph states that non-compliance within 7 days of service of the order will not constitute an offence.

Paragraph 3: Power to determine whether payments are earnings

This paragraph provides for either an employer or an employee to apply to the court for a determination on what may constitute earnings. The employer must give effect to such a determination whilst it remains in force.

This paragraph provides for an employer who has made such an application to court, to be free of liability for not complying with the order whilst that application is being determined.

Paragraph 4: Administrative costs of the employer

This paragraph allows for regulations to specify what administrative costs an employer may charge for administering an attachment of earnings order and for the employer to inform the debtor in writing of the total amount of charges.

Paragraph 5: Change of circumstances

This paragraph outlines the process for notifying the collection officer of a change in the debtor's circumstances, both by the debtor himself and by his employer. This paragraph outlines what notifications must be made, as well as

their contents and time limits for doing so. This paragraph creates an offence for failing to comply with the notification requirements.

Paragraph 6: Variation of order

This paragraph provides that an attachment of earnings order may be varied either of the collection officer's own motion or on application by the debtor. The court may also vary the order on application of either of the aforementioned parties or of its own motion.

This paragraph also outlines the circumstances for variation to be considered appropriate, the requirements for service of the variation order and compliance with it, and offences for non-compliance.

Paragraph 7: Discharge of order

This paragraph provides for the circumstances where an attachment of earnings order may be discharged and by whom. The paragraph allows for regulations to specify when an attachment of earnings order fails, as well as when notice of the discharge of the order must be given and whom it should be served upon. If a person is served with such a notice and continues to enforce the order anyway, he is guilty of an offence under this paragraph, except if that action was taken within 7 days of the date of service of the order.

Paragraph 8: Prioritisation of orders

This paragraph amends Part 2 of Schedule 1 to the Judgments Enforcement (Northern Ireland) Order 1981 so that attachment of earnings orders within this Act will be included in the definition of attachment of earnings orders for the purpose of that Part. It also inserts a definition of "collection order". This paragraph places collection orders on a par, in priority terms, with maintenance orders.

Paragraph 9: Crown employment

This paragraph allows for an attachment of earnings order to be made against an employee of the Crown and sets out who is to be treated as the employer and what is to constitute earnings.

The paragraph stipulates who is to resolve any questions or issues arising from this, namely the Minister for the Department of Finance and Personnel; an application to whom can be made by the collection officer or court requesting a determination.

The Minister's determination is receivable in evidence in any proceedings that may arise.

Paragraph 10: Regulations

This paragraph allows for regulations to be made which make further provision as to attachment of earnings orders.