



# Attachment of Earnings Act 1971

## 1971 CHAPTER 32

### *Administrative provisions*

#### **13 Application of sums received by collecting officer**

- (1) Subject to subsection (3) below, the collecting officer to whom a person makes payments in compliance with an attachment of earnings order shall, after deducting such court fees, if any, in respect of proceedings for or arising out of the order, as are deductible from those payments, deal with the sums paid in the same way as he would if they had been paid by the debtor to satisfy the relevant adjudication.
- (2) Any sums paid to the collecting officer under an attachment of earnings order made to secure maintenance payments shall, when paid to the person entitled to receive those payments, be deemed to be payments made by the debtor (with such deductions, if any, in respect of income tax as the debtor is entitled or required to make) so as to discharge—
  - (a) first, any sums for the time being due and unpaid under the related maintenance order (a sum due at an earlier date being discharged before a sum due at a later date); and
  - (b) secondly, any costs incurred in proceedings relating to the related maintenance order which were payable by the debtor when the attachment of earnings order was made or last varied.
- (3) Where a county court makes an attachment of earnings order to secure the payment of a judgment debt and also, under section 4(1) of this Act, orders the debtor to furnish to the court a list of all his creditors, sums paid to the collecting officer in compliance with the attachment of earnings order shall not be dealt with by him as mentioned in subsection (1) above, but shall be retained by him pending the decision of the court whether or not to make an administration order and shall then be dealt with by him as the court may direct.

#### **14 Power of court to obtain statements of earnings etc.**

- (1) Where in any proceedings a court has power to make an attachment of earnings order, it may—

- (a) order the debtor to give to the court, within a specified period, a statement signed by him of—
    - (i) the name and address of any person by whom earnings are paid to him ;
    - (ii) specified particulars as to his earnings and anticipated earnings, and as to his resources and needs; and
    - (iii) specified particulars for the purpose of enabling the debtor to be identified by any employer of his;
  - (b) order any person appearing to the court to have the debtor in his employment to give to the court, within a specified period, a statement signed by him or on his behalf of specified particulars of the debtor's earnings and anticipated earnings.
- (2) Where an attachment of earnings order has been made, the court may at any time thereafter while the order is in force make such an order as is described in subsection (1)(a) or (b) above.
- (3) In the case of an application to a magistrates' court for an attachment of earnings order, or for the variation or discharge of such an order, the power to make an order under subsection (1) or (2) above shall be exercisable also, before the hearing of the application, by a single justice.
- (4) Without prejudice to subsections (1) to (3) above, rules of court may provide that where notice of an application for an attachment of earnings order is served on the debtor, it shall include a requirement that he shall give to the court, within such period and in such manner as may be prescribed, a statement in writing of the matters specified in subsection (1)(a) above and of any other prescribed matters which are, or may be, relevant under section 6 of this Act to the determination of the normal deduction rate and the protected earnings rate to be specified in any order made on the application.
- (5) In any proceedings in which a court has power to make an attachment of earnings order, and in any proceedings for the making, variation or discharge of such an order, a document purporting to be a statement given to the court in compliance with an order under subsection (1)(a) or (b) above, or with any such requirement of a notice of application for an attachment of earnings order as is mentioned in subsection (4) above, shall, in the absence of proof to the contrary, be deemed to be a statement so given and shall be evidence of the facts stated therein.

## **15 Obligation of debtor and his employers to notify changes of employment and earnings**

While an attachment of earnings order is in force—

- (a) the debtor shall from time to time notify the court in writing of every occasion on which he leaves any employment, or becomes employed or re-employed, not later (in each case) than seven days from the date on which he did so ;
- (b) the debtor shall, on any occasion when he becomes employed or re-employed, include in his notification under paragraph (a) above particulars of his earnings and anticipated earnings from the relevant employment ; and
- (c) any person who becomes the debtor's employer and knows that the order is in force and by what court it was made shall, within seven days of his becoming the debtor's employer or of acquiring that knowledge (whichever is the later)

notify that court in writing that he is the debtor's employer, and include in his notification a statement of the debtor's earnings and anticipated earnings.

## **16 Power of court to determine whether particular payments are earnings**

- (1) Where an attachment of earnings order is in force, the court shall, on the application of a person specified in subsection (2) below, determine whether payments to the debtor of a particular class or description specified by the application are earnings for the purposes of the order; and the employer shall be entitled to give effect to any determination for the time being in force under this section.
- (2) The persons referred to in subsection (1) above are—
  - (a) the employer;
  - (b) the debtor;
  - (c) the person to whom payment under the relevant adjudication is required to be made (whether directly or through an officer of any court); and
  - (d) without prejudice to paragraph (c) above, where the application is in respect of an attachment of earnings order made to secure payments under a magistrates' court maintenance order, the collecting officer.
- (3) Where an application under this section is made by the employer, he shall not incur any liability for non-compliance with the order as respects any payments of the class or description specified by the application which are made by him to the debtor while the application, or any appeal in consequence thereof, is pending; but this subsection shall not, unless the court otherwise orders, apply as respects such payments if the employer subsequently withdraws the application or, as the case may be, abandons the appeal.

## **17 Consolidated attachment orders**

- (1) The powers of a county court under sections 1 and 3 of this Act shall include power to make an attachment of earnings order to secure the payment of any number of judgment debts; and the powers of a magistrates' court under those sections shall include power to make an attachment of earnings order to secure the discharge of any number of such liabilities as are specified in section 1(3).
- (2) An attachment of earnings order made by virtue of this section shall be known as a consolidated attachment order.
- (3) The power to make a consolidated attachment order shall be exercised subject to and in accordance with rules of court; and rules made for the purposes of this section may provide—
  - (a) for the transfer from one court to another—
    - (i) of an attachment of earnings order, or any proceedings for or arising out of such an order ; and
    - (ii) of functions relating to the enforcement of any liability capable of being secured by attachment of earnings;
  - (b) for enabling a court to which any order, proceedings or functions have been transferred under the rules to vary or discharge an attachment of earnings order made by another court and to replace it (if the court thinks fit) with a consolidated attachment order;

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*Status: This is the original version (as it was originally enacted).*

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- (c) for the cases in which any power exercisable under this section or the rules may be exercised by a court of its own motion or on the application of a prescribed person;
- (d) for requiring the clerk or registrar of a court who receives payments made to him in compliance with an attachment of earnings order, instead of complying with section 13 of this Act, to deal with them as directed by the court or the rules ; and
- (e) for modifying or excluding provisions of this Act or Part III of the Magistrates' Courts Act 1952, but only so far as may be necessary or expedient for securing conformity with the operation of rules made by virtue of paragraphs (a) to (d) of this subsection.