



# Senior Courts Act 1981

## 1981 CHAPTER 54

### PART II

#### JURISDICTION

#### THE HIGH COURT

##### *Powers*

#### **[<sup>F1</sup>40A Administrative and clerical expenses of garnishees.**

[ Where an [<sup>F3</sup>interim third party debt order] made in the exercise of the jurisdiction <sup>F2</sup>(1) mentioned in subsection (2) of the preceding section is served on [<sup>F4</sup>a deposit-taker, it] may, subject to the provisions of this section, deduct from the relevant debt or debts an amount not exceeding the prescribed sum towards [<sup>F5</sup>its administrative and clerical expenses] in complying with the order; and the right <sup>F6</sup>. . . to make a deduction under this subsection shall be exercisable as from the time the [<sup>F3</sup>interim third party debt order] is served on it.

(1A) In subsection (1) “the relevant debt or debts”, in relation to an [<sup>F3</sup>interim third party debt order] served on [<sup>F7</sup>a deposit-taker], means the amount, as at the time the order is served on [<sup>F8</sup>it], of the debt or debts of which the whole or a part is expressed to be attached by the order.

(1B) A deduction may be made under subsection (1) in a case where the amount referred to in subsection (1A) is insufficient to cover both the amount of the deduction and the amount of the judgment debt and costs in respect of which the attachment was made, notwithstanding that the benefit of the attachment to the creditor is reduced as a result of the deduction.]

(2) [<sup>F9</sup>An amount may not in pursuance of subsection (1)] be deducted or, as the case may be, retained in a case where, by virtue of [<sup>F10</sup>section 346 of the Insolvency Act <sup>M1</sup> 1986] or [<sup>F11</sup>section][<sup>F12</sup>183 of the Insolvency Act 1986] or otherwise, the creditor is not entitled to retain the benefit of the attachment.

*Status: Point in time view as at 25/03/2002.*

*Changes to legislation: Senior Courts Act 1981, Section 40A is up to date with all changes known to be in force on or before 27 July 2024. 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)*

- (3) In this section—  
     <sup>F13</sup>“deposit-taker” has the given by section 40(6);] and  
     “prescribed” means prescribed by an order made by the Lord Chancellor.
- (4) An order under this section—  
     (a) may make different provision for different cases; . . . <sup>F14</sup>  
     (b) without prejudice to the generality of paragraph (a) of this subsection, may prescribe sums differing according to the amount due under the judgment or order to be satisfied.  
     <sup>F15</sup>[ may provide for this section not to apply to <sup>F16</sup>deposit-takers] of any prescribed description.]
- (5) Any such order shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.]

#### Textual Amendments

- F1** S. 40A inserted by Administration of Justice Act 1982 (c. 53, SIF 37), s. 55(1), **Sch. 4 Pt. I**
- F2** S. 40A(1)(1A)(1B) substituted for s. 40A(1) by Administration of Justice Act 1985 (c. 61, SIF 37), ss. 52(2), 69(5), **Sch. 9 para. 11(2)**
- F3** Words in s. 40A(1)(1A) substituted (25.3.2002) by The Civil Procedure (Modification of Enactments) Order 2002 (S.I. 2002/439), **art. 6**
- F4** Words in s. 40A(1) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 291(2)(a)**
- F5** Words in s. 40A(1) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 291(2)(b)**
- F6** Words in s. 40A(1) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1, 291(2)(c)**
- F7** Words in s. 40A(1A) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 291(3)(a)**
- F8** Words in s. 40A(1A) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 291(3)(b)**
- F9** Words substituted by Administration of Justice Act 1985 (c. 61, SIF 37), **ss. 52(3) 69(5)**, Sch. 9 para. 11(2)
- F10** Words substituted by virtue of Insolvency Act 1985 (c. 65, SIF 66), **s. 235(1) Sch. 8 para. 35** and Insolvency Act 1986 (c.45, SIF 66), s. 439(2), Sch. 11 para. 9, **Sch. 14**
- F11** Word substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), ss. 21, 23, 30, 31(8), **Sch. 2**
- F12** Words substituted by virtue of Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), ss. 21, 23, 30, 31(8), **Sch. 2** and Insolvency Act 1986 (c. 45, SIF 66), s. 439(2), **Sch. 14**
- F13** Definition of  
     “deposit-taker”  
     in s. 40A(3) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 291(4)**
- F14** Word repealed by Administration of Justice Act 1985 (c. 61, SIF 37), ss. 52(4), 67(2), 69(5), Sch. 8 Pt. II, **Sch. 9 para. 11(2)**
- F15** Words inserted by Administration of Justice Act 1985 (c. 61, SIF 37), ss. 52(4), 69(5), **Sch. 9 para. 11(2)**
- F16** Words in s. 40A(4)(c) substituted (1.12.2001) by S.I. 2001/3649, **arts. 1, 291(5)**

#### Marginal Citations

- M1** 1986 c.45(66)

**Status:**

Point in time view as at 25/03/2002.

**Changes to legislation:**

Senior Courts Act 1981, Section 40A is up to date with all changes known to be in force on or before 27 July 2024. 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.