

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

EXPLANATORY NOTES

PART 4: ENFORCEMENT OF JUDGMENTS AND ORDERS

Background

Attachment of earnings orders

409. An attachment of earnings order (AEO) is a means of securing payment of certain debts by requiring an employer to make deductions direct from an employed debtor's earnings. Currently, the rate of deductions under an AEO made to secure payment of a judgment debt is calculated by a county court using information provided by the debtor.
410. *Effective Enforcement* identified weaknesses in the current system and in particular the fact that information provided by debtors is often unreliable. The Act tackles this by making provision for a new method of calculation of deductions from earnings based on fixed rates, similar to the system used for council tax AEOs. Another weakness of the AEO system is that if a debtor changes job and does not inform the court of his new employer's details, the AEO lapses. The Act therefore enables the High Court, county courts, magistrates' courts and fines officers to request the name and address of the debtor's new employer from Her Majesty's Revenue and Customs ("HMRC"), for the purpose of redirecting the AEO.

Charging orders

411. A charging order is a means of securing payment of a sum of money ordered to be paid under a judgment or order of the High Court or a county court by placing a charge onto the debtor's property (usually a house or land or securities such as shares). A charging order can be made absolute or subject to conditions. Once an order is in place, a creditor can subsequently apply to court seeking an order for sale of the charged property.
412. At present, the court cannot make a charging order when payments due under an instalment order made to secure that same sum are not in arrears. In certain instances this can prejudice the creditor, allowing for example a debtor with large judgment debts, who is meeting his regular instalments, to benefit from the sale of a property without paying off the debt.
413. The Act removes this restriction and enables access to charging orders in circumstances where a debtor is not yet in arrears with an instalment order. As a safeguard, the Act allows the Lord Chancellor to set financial thresholds beneath which a court cannot make a charging order or order for sale, in order to ensure that charging orders are not used to secure payment of disproportionately small judgment debts.

Information requests and orders

414. Currently, the only means of creditors to obtain information to assist them in determining how to enforce a civil judgment debt is by way of an Order to Obtain

*These notes refer to the Tribunals, Courts and Enforcement Act
2007 (c.15) which received Royal Assent on 19th July 2007*

Information. This requires the debtor to attend court, which is problematic if the debtor is not co-operating with the court. The Act enables the High Court and the county courts to request information from the DWP and Commissioners for HMRC, other government departments and/or prescribed third parties (including banks and credit reference agencies) on a judgment debtor who has failed to respond to the judgment or comply with court-based methods of enforcement to assist with the enforcement of a judgment debt. Such information will include name, address, date of birth, National Insurance number and the name and address of the debtor's employer.