

TRIBUNALS, COURTS AND ENFORCEMENT ACT 2007

EXPLANATORY NOTES

PART 4: ENFORCEMENT OF JUDGMENTS AND ORDERS

Commentary on Sections: Part 4

Schedule 15: Attachment of earnings orders: deductions at fixed rates

416. This Schedule is in two parts. Part 1 contains the main amendments to the AEA 1971 and inserts new sections and a new Schedule to enable a fixed deductions scheme to operate and to allow for a change in the basis upon which deductions from earnings are made under county court AEOs to secure payment of judgment debts. Part 2 sets out consequential amendments to the AEA 1971.
417. [Paragraph 2](#) amends section 6 of the AEA 1971 (effect and contents of order) by setting out the basis of deductions from earnings under different AEOs, and specifying that where an AEO is made by a county court to secure payment of a judgment debt, the AEO must specify that deductions under the order should be made in accordance with the fixed deductions scheme.
418. [Paragraph 3](#) inserts a new section 6A into the AEA 1971 (the fixed deductions scheme) which defines the fixed deductions scheme and provides for the Lord Chancellor to set out the detail of the scheme in regulations, subject to the affirmative resolution procedure in the first instance. It is intended that such regulations will set out the scheme of deductions in tabular format, in a similar way as is presently used for deductions from earnings for the collection of council tax.
419. [Paragraph 4](#) amends section 9 of the AEA 1971 (variation, lapse and discharge of orders) by specifying that the power of a court to vary an AEO is subject to Schedule 3A inserted by paragraph 7, which specifies circumstances in which a county court may, and circumstances in which a county court must vary an AEO made to secure the payment of a judgment debt.
420. [Paragraph 5](#) inserts a new section 9A into the AEA 1971 (suspension of fixed deductions orders), and obliges a county court, in certain circumstances, to suspend an AEO made under the fixed deductions scheme (a fixed deductions order). Where such a suspension order is made, the employer will not have to make deductions from the debtor's earnings and the debtor will make payments directly to the creditor in the manner specified by the court in the suspension order. Where a county court considers that a fixed deductions order is not appropriate (by way of example, because a county court considers that deductions should be more or less than the deductions specified in the fixed deductions scheme because of the personal circumstances of the debtor), it must make a suspension order. The aim of the suspension provisions is to simplify the position for employers (who should only ever have to make deductions from earnings for county court AEOs made to secure a judgment debt in accordance with the fixed deductions scheme). Such a suspension order will specify the rate and timings of repayments by the debtor to

the creditor, and might specify other terms. If any of the terms of the suspension order are broken (by way of example, if the debtor fails to make payments to the creditor), then the court must revoke the suspension order and reinstate the AEO (requiring the employer to make deductions from the debtor's earnings). Even where the terms of the suspension order have not been broken, the court may revoke the suspension order if it considers it appropriate to do so, and rules of court may specify the circumstances in which a court may make or revoke a suspension order of its own motion.

421. [Paragraph 7](#) inserts a new Schedule 3A into the AEA 1971 (changing the basis of deductions). Part 1 of Schedule 3A provides for variations to the basis of deductions under an AEO made to secure a county court judgment debt, such a variation to be changing the basis of deductions from deductions made in accordance with Schedule 3 of the AEA 1971 (a Schedule 3 judgment debt order), to deductions made in accordance with the fixed deductions scheme (a fixed deductions order), therefore, varying an AEO so that the scheme of deductions changes from the current scheme to the new fixed tables scheme. Part 2 of Schedule 3A provides for an AEO made to secure a county court judgment debt to be changed from a fixed deductions order to a Schedule 3 judgment debt order.
422. [Part 1](#) of Schedule 3A provides that a Schedule 3 judgment debt order can be varied to become a fixed deductions order, either on an application to the county court or of the court's own motion. The court must vary a Schedule 3 judgment debt order by way of changing it to a fixed deductions order if a Schedule 3 judgment debt order lapses (because the debtor has changed employment) and is then re-directed to the debtor's new employer (such a variation to take effect at the time of re-direction). Paragraph 6 of Schedule 3A enables the Lord Chancellor to specify by order a "changeover date" when all existing Schedule 3 judgment debt orders should become fixed deductions orders. Paragraph 7 of Schedule 3A provides that where an AEO is varied pursuant to Part 1 of Schedule 3A, the employer must comply with the varied order (but will not incur liability for non-compliance until 7 days have elapsed since service of the order as varied).
423. [Part 2](#) of Schedule 3A deals with changing the basis of deductions under an AEO from a fixed deductions order to a Schedule 3 judgment debt order. Paragraph 10 provides that such a variation can only be made in accordance with Part 2 of Schedule 3A. Paragraph 11 of Schedule 3A specifies that where a county court directs that an existing fixed deductions order should take effect to secure payments under an administration order in accordance with section 5 of the AEA 1971, the AEO must be varied at the same time to specify that deductions under the AEO should be made in accordance with Schedule 3 to the AEA 1971. This is because, for an AEO made to secure payments under an administration order, the county court should retain the flexibility to specify different levels of deductions, and deductions at fixed rates are insufficiently flexible. Paragraph 8 of the Schedule makes a consequential amendment to section 5 of the AEA 1971 to this effect.
424. [Part 2](#) of the Schedule makes consequential amendments to the AEA 1971 to enable operation of the fixed deductions scheme.
425. [Paragraphs 9 to 15](#) amend section 14 of the AEA 1971, (power of the court to order the debtor and employer to provide specified information), in connection with the operation of fixed deductions orders to specify that unlike the position in connection with Schedule 3 deductions orders, the court will not need to order the debtor and/or the employer to provide particulars of the debtor's earnings and anticipated earnings, and as to his resources and needs (as the court will not need to be made aware of such facts when it is not setting the level of deductions under the AEO as deductions are to be made in accordance with the fixed deductions scheme). Similarly, paragraph 16 amends section 15 of the AEA 1971 (obligation of debtor and employer to notify changes) to specify that for fixed deductions orders, the debtor and/or the employer are not obliged to notify the court of particulars of earnings or anticipated earnings.

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

426. [Paragraph 17](#) makes various consequential amendments in connection with the operation of consolidated attachment orders and paragraph 18 specifies that the fixed deductions scheme should apply to a consolidated attachment order where, before the consolidated order is made, one or more of the AEOs to be consolidated is a Schedule 3 judgment debt order.