

SCHEDULES

SCHEDULE 1

Section 18.

ATTACHMENT OF EARNINGS ORDERS

Service of order

1.—(1) An attachment of earnings order must be served on the debtor's employer.

(2) Where a person is served with an attachment of earnings order that is directed to that person but the person does not employ the debtor, or subsequently ceases to employ the debtor, the person must, within 7 days of the date of service or of the person ceasing to employ the debtor (as the case may be), notify the collection officer in writing.

(3) A person commits an offence if the person fails, without reasonable excuse, to provide a notification required under sub-paragraph (2) (including as that sub-paragraph is applied by paragraph 6(4) or 7(7)).

(4) A person commits an offence if, in providing information in response to a requirement under sub-paragraph (2) (including as that sub-paragraph is applied by paragraph 6(4) or 7(7)), the person—

- (a) provides information which the person knows to be false in a material particular,
- (b) recklessly provides information which is false in a material particular, or
- (c) knowingly fails to disclose a material fact.

Commencement Information

II Sch. 1 para. 1 in operation at 1.6.2018 by S.R. 2018/99, art. 2(b)

Compliance with order

2.—(1) Where an attachment of earnings order is served on the debtor's employer, the employer must comply with the order.

(2) A person commits an offence if the person fails, without reasonable excuse, to comply with an attachment of earnings order served on that person.

(3) But the person is not liable, whether under sub-paragraph (2) or otherwise, for a failure to comply with the order before the end of seven days beginning with the date of service.

Commencement Information

I2 Sch. 1 para. 2 in operation at 1.6.2018 by S.R. 2018/99, art. 2(b)

Power to determine whether payments are earnings

3.—(1) Where an attachment of earnings order is made, the debtor or employer may apply to the responsible court for a determination as to whether payments to the debtor of the description specified in the application are earnings for the purposes of the order (as to which, see section 18(6)).

(2) The employer must give effect to any determination for the time being in force under sub-paragraph (1).

(3) Where the employer makes an application under this paragraph, the employer does not incur liability for failure to comply with the order in relation to payments of the description specified in the application before the application is determined or withdrawn.

Commencement Information

I3 Sch. 1 para. 3 in operation at 1.6.2018 by S.R. 2018/99, art. 2(b)

Administrative costs of employer

4 Regulations may provide that, on any occasion when the debtor's employer makes a deduction from the debtor's earnings in compliance with an attachment of earnings order, the employer—

- (a) may also deduct such sum as is specified towards clerical and administrative costs, and
- (b) where the employer does so, must give the debtor a statement in writing of the total amount of the deduction.

Commencement Information

I4 Sch. 1 para. 4 in operation at 3.10.2016 for specified purposes by S.R. 2016/248, art. 4(I)(i)

I5 Sch. 1 para. 4 in operation at 1.6.2018 in so far as not already in operation by S.R. 2018/99, art. 2(b)

Change of circumstances

5.—(1) If a debtor in relation to whom an attachment of earnings order is in force leaves an employment, or becomes employed or re-employed, the debtor must notify the collection officer in writing within seven days of doing so.

(2) If the debtor becomes employed or re-employed, the notification under sub-paragraph (1) must specify the earnings or expected earnings from the employment in question.

(3) A person who becomes an employer of the debtor and knows that an attachment of earnings order is in force in relation to the debtor must, within seven days of becoming the debtor's employer or of acquiring the knowledge (whichever is later), notify the collection officer that the person is employing the debtor.

(4) A notification under sub-paragraph (3) must state the debtor's earnings and expected earnings from the employment.

(5) A person commits an offence if the person fails, without reasonable excuse, to provide a notification required under sub-paragraph (1) or (3).

(6) A person commits an offence if, in providing a notification required under sub-paragraph (1) or (3), the person—

- (a) provides information which the person knows to be false in a material particular,
- (b) recklessly provides information which is false in a material particular, or
- (c) knowingly fails to disclose a material fact.

Commencement Information

I6 Sch. 1 para. 5 in operation at 1.6.2018 by S.R. 2018/99, art. 2(b)

Variation of order

6.—(1) Where the collection officer makes an attachment of earnings order, the collection officer may, whether on an application by the debtor or on the officer's own motion, vary the order.

(2) Where a court has made an attachment of earnings order, the court may, whether on an application by the debtor or the collection officer or on its own motion, vary the order.

(3) An attachment of earnings order may be varied under this paragraph only if—

- (a) there has been a change in the debtor's circumstances—
 - (i) which the collection officer or court (as the case may be) considers relevant, or
 - (ii) which is of a description such as may be specified in regulations, and

(b) the collection officer or court considers the variation appropriate.

(4) Where an attachment of earnings order is varied under this paragraph, the order as varied must be served on the employer; and paragraph 1(2) applies to the order as varied.

(5) Where an attachment of earnings order as varied under this paragraph is served on the debtor's employer, the employer must comply with the order as varied.

(6) A person commits an offence if the person fails, without reasonable excuse, to comply with an attachment of earnings order as varied under this paragraph that is served on that person.

(7) But a person does not incur liability, whether under sub-paragraph (6) or otherwise, for a failure to comply with the order before the end of seven days beginning with the date of service.

Commencement Information

- I7** Sch. 1 para. 6(1)(2) in operation at 1.6.2018 by S.R. 2018/99, **art. 2(b)**
- I8** Sch. 1 para. 6(3)(a)(i)(b) in operation at 1.6.2018 by S.R. 2018/99, **art. 2(b)**
- I9** Sch. 1 para. 6(3)(a)(ii) in operation at 3.10.2016 for specified purposes by S.R. 2016/248, **art. 4(1)(ii)**
- I10** Sch. 1 para. 6(3)(a)(ii) in operation at 1.6.2018 in so far as not already in operation by S.R. 2018/99, **art. 2(b)**
- I11** Sch. 1 para. 6(4)-(7) in operation at 1.6.2018 by S.R. 2018/99, **art. 2(b)**

Discharge of order

7.—(1) Where the collection officer makes an attachment of earnings order, the collection officer may, whether on an application by the debtor or on the officer's own motion, discharge the order.

(2) Where a court makes an attachment of earnings order, the court may, whether on an application by the debtor or the collection officer or on its own motion, discharge the order.

(3) An attachment of earnings order is discharged if the outstanding amount is paid.

(4) An attachment of earnings order may be discharged under sub-paragraph (1) or (2) only if—

- (a) the order fails (see sub-paragraph (5)), or
- (b) the discharge is in accordance with sub-paragraph (6).

(5) An attachment of earnings order is to be regarded as failing in such circumstances as are specified in regulations.

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, SCHEDULE 1. (See end of Document for details)

(6) A discharge on the collection officer's or the court's own motion may be made only in such circumstances as are specified in regulations.

(7) Where an attachment of earnings order is discharged under this paragraph, notice of the discharge must be served on the employer; and paragraph 1(2) applies to the notice as it applies to an order.

(8) A person on whom a notice is served under sub-paragraph (7) commits an offence if, in spite of the discharge of the order, the person acts as the person would have been required to act if the order had still been in force.

(9) Where notice of the discharge of an attachment of earnings order is served on the employer, that person does not incur liability, whether under sub-paragraph (8) or otherwise, if, at any time before the end of seven days beginning with the date of service of the notice, the person treats the order as still in force.

Commencement Information

- I12** Sch. 1 para. 7(1)-(4) in operation at 1.6.2018 by S.R. 2018/99, art. 2(b)
- I13** Sch. 1 para. 7(5)(6) in operation at 3.10.2016 for specified purposes by S.R. 2016/248, art. 4(1)(iii)
- I14** Sch. 1 para. 7(5)(6) in operation at 1.6.2018 in so far as not already in operation by S.R. 2018/99, art. 2(b)
- I15** Sch. 1 para. 7(7)-(9) in operation at 1.6.2018 by S.R. 2018/99, art. 2(b)

Prioritisation of orders

8.—(1) Part 2 of Schedule 1 to the Judgments Enforcement (Northern Ireland) Order 1981 is amended as follows.

(2) In paragraph 9—

(a) in the definition of “attachment of earnings order”—

(i) for “100(4)” substitute “ 100(1) ”, and

(ii) at the end insert “ and such an order under section 18 of the Justice Act (Northern Ireland) 2016 ”,

(b) after that definition insert—

“collection order” means an order under section 3 of the Justice Act (Northern Ireland) 2016;”, and

(c) in the definition of “maintenance order”, for “that paragraph” substitute “Article 100(1) of the Magistrates' Courts (Northern Ireland) Order 1981”.

(3) In paragraph 10—

(a) omit “by a court” in the first and third places it appears, and

(b) after “maintenance orders” insert “ or collection orders ”.

- (4) In paragraph 11—
- (a) omit “by a court” in the first, third and fourth places it appears,
 - (b) after “maintenance orders” insert “ or collection orders ”,
 - (c) in sub-paragraphs (a) and (b), after “a maintenance order” insert “ or a collection order ”.

Commencement Information

I16 Sch. 1 para. 8 in operation at 1.6.2018 by S.R. 2018/99, art. 2(b)

Crown employment

9.—(1) Where a debtor is employed by the Crown and an attachment of earnings order is made in relation to the debtor—

- (a) the chief officer for the time being of the government department, office or other body in which the debtor is employed is to be treated as employing the debtor (any transfer of the debtor from one department, office or body to another being treated as a change of employment), and
- (b) any earnings paid by the Crown, a Minister of the Crown or a government department, or out of the public revenue of the United Kingdom or Northern Ireland, are to be treated as paid by that chief officer.

(2) The reference in sub-paragraph (1)(a) to the department, office or other body in which the debtor is employed is, in the case of a debtor whose earnings are paid by the body as principal and who is accordingly treated by virtue of section 18(5) as being employed by the body, to be read as a reference to the body by which earnings are paid to the debtor in that capacity.

(3) If a question arises in proceedings for or arising out of an attachment of earnings order as to which department, office or other body is concerned for the purposes of this paragraph, or as to who for those purposes is the chief officer of the body concerned, the question is to be referred to and determined by the Department of Finance and Personnel or (as the case may require) the Minister for that Department.

(4) A reference under sub-paragraph (3) is to be made by the collection officer or court making, or proposing to make, the attachment of earnings order.

(5) A document purporting to set out a determination of the Department of Finance and Personnel under sub-paragraph (3) and to be signed by an officer of that Department, or a determination of the Minister of that Department under that sub-paragraph and to be signed on behalf of that Minister, is in any proceedings for or arising out of an attachment of earnings order to be admissible in evidence and deemed to contain an accurate statement of the determination unless the contrary is shown.

Changes to legislation: There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, SCHEDULE 1. (See end of Document for details)

(6) In this paragraph, “government department” includes a department of the government of the United Kingdom.

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Commencement Information

I17 Sch. 1 para. 9 in operation at 1.6.2018 by S.R. 2018/99, art. 2(b)

Regulations

10 Regulations may make further provision relating to attachments of earnings orders.

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Commencement Information

I18 Sch. 1 para. 10 in operation at 3.10.2016 by S.R. 2016/248, art. 4(I)(iv)

Changes to legislation:

There are currently no known outstanding effects for the Justice Act (Northern Ireland) 2016, SCHEDULE 1.