
STATUTORY INSTRUMENTS

1981 No. 226

Judgments Enforcement (Northern Ireland) Order 1981

PART V

ENFORCEMENT ORDERS

Attachment of earnings

Attachment of earnings order

73.—(1) Without prejudice to Article 81(2) and (3), where it appears to the Office that a debtor is a person to whom earnings fall to be paid, the Office may, on the application of the creditor, make an attachment of earnings order requiring the person to whom the order is directed to make out of those earnings, or part thereof, such payments as may be specified in the order.

(2) The person to whom an attachment of earnings order is directed shall be a person who appears to the Office to have the debtor in his employment; and the order shall operate as an instruction to that person—

- (a) to make periodical deductions from the debtor's earnings in accordance with Part I of Schedule 1; and
- (b) at such times as the order may require, or as the Office may allow, to pay the amounts deducted to the Office, as specified in the order.

(3) An attachment of earnings order shall contain particulars prescribed by rules enabling the debtor to be identified by the employer.

(4) The order shall specify the whole amount recoverable on foot of the relevant judgment (or so much of that amount as remains unpaid).

(5) The order shall specify—

- (a) the normal deduction rate, that is to say, the rate (expressed as a sum of money per week, month or other period) at which the Office thinks it reasonable for the debtor's earnings to be applied to meeting his liability under the relevant judgment; and
- (b) the protected earnings rate, that is to say the rate (so expressed) below which, having regard to the debtor's resources and needs (including the needs of any person for whom he must, or reasonably may, provide), the Office thinks it reasonable that the earnings actually paid to him should not be reduced.

Compliance with order by employer

74.—(1) Where an attachment of earnings order has been made, the employer shall, if he has been served with the order, comply with it; but he shall be under no liability for non-compliance before seven days have elapsed since the service.

(2) Where a person is served with an attachment of earnings order directed to him and he has not the debtor in his employment, or the debtor subsequently ceases to be in his employment, he

shall (in either case), within 10 days from the date of service or, as the case may be, the cesser, give notice in writing of that fact to the Office.

(3) Part II of Schedule 1 shall have effect with respect to the priority to be accorded as between two or more attachment of earnings orders directed to a person either by the Office and a court, or by a court, in respect of the same debtor.

(4) On any occasion when the employer makes, in compliance with the order, a deduction from the debtor's earnings—

- (a) he shall be entitled to deduct, in addition, [^{F1} £1] or such other sum as may be prescribed by rules towards his clerical and administrative costs; and
- (b) he shall give to the debtor a statement in writing of the total amount of the deduction.

(5) Any sum deducted by the employer from the debtor's earnings in compliance with the order, but not yet paid to the Office, shall in the bankruptcy or winding-up of the employer be treated as money held by the employer on trust for the Office.

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Persons employed under the Crown

75.—(1) The fact that an attachment of earnings order is made at the suit of the Crown shall not prevent its operation at any time when the debtor is in the employment of the Crown.

(2) Where a debtor is in the employment of the Crown and an attachment of earnings order is made in respect of him, then for the purposes of Articles 73, 74 and 76 to 79 and Schedule 1—

- (a) the chief officer for the time being of the government department, office or other body in which the debtor is employed shall be treated as having the debtor in his employment (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, shall be treated as paid by the said chief officer.

(3) In accordance with Article 3(2), the reference in paragraph (2)(a) to the department, office or other body in which the debtor is employed shall, in the case of a debtor who is not employed for the purposes of, but whose earnings are paid in the capacity of principal by, such a body, be construed as a reference to the department, office or other body by which any earnings of his are paid in that capacity.

(4) If any question arises, in proceedings for or arising out of an attachment of earnings order, as to what department, office or other body is concerned for the purposes of this Article, or as to who for those purposes is the chief officer thereof, the question shall be referred to and determined by the Department of the Civil Service or, as the case may require, the Minister for the Civil Service; but the Department or Minister shall not be under any obligation to consider a reference under this paragraph unless it is made by the Office.

(5) A document purporting to set out a determination of the Department of the Civil Service under paragraph (4) and to be signed by an officer of that Department, or to set out a determination of the Minister for the Civil Service under that paragraph and to be signed on behalf of the Minister shall, in any such proceedings as are mentioned in that paragraph, be admissible in evidence and be deemed to contain an accurate statement of such a determination unless the contrary is shown.

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

Variation, lapse, discharge and termination of orders

76.—(1) The power of the Office, conferred by Article 13(g)(i), to vary an attachment of earnings order includes power to suspend and revive it.

(2) Paragraphs (3) to (8) shall have effect where the Office varies or discharges an attachment of earnings order.

(3) Where an order is varied, the employer shall, if he has been served with notice of the variation, comply with the order as varied; but he shall be under no liability for non-compliance before seven days have elapsed since the service.

(4) Where an order is discharged, the employer shall be under no liability in consequence of his treating the order as still in force at any time before the expiration of seven days from the date on which notice of the discharging order is served on him.

(5) Rules may make provision as to circumstances in which an attachment of earnings order may be varied or discharged by the Office of its own motion.

(6) Where an attachment of earnings order has been made and the person to whom it is directed ceases to have the debtor in his employment, the order shall lapse (except as respects deduction from earnings paid after the cesser and payment to the Office of amounts deducted at any time) and be of no effect unless and until the Office revives it by again directing it to a person (whether the same as before or another) who appears to the Office to have the debtor in his employment.

(7) The lapse of an order under paragraph (6) shall not prevent its being treated as remaining in force for other purposes.

(8) Where the whole amount recoverable on foot of the relevant judgment has been paid the Office shall give notice to the employer that no further compliance with the attachment of earnings order is required.

Statement of earnings, etc.

77.—(1) Where an attachment of earnings order is about to be made or revived the Office may at any time before making or reviving the order—

- (a) direct the debtor to furnish 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 of his earnings and anticipated earnings, and of his resources and needs (including the needs of any person for whom he must, or reasonably may, provide);
 - (iii) specified particulars of any matters which are, or may be, relevant under Article 73(5) to the determination of the normal deduction rate and the protected earnings rate to be specified in the order;
 - (iv) specified particulars for the purpose of enabling the debtor to be identified by any employer of his;
- (b) direct any person appearing to the Office to be an employer of the debtor to furnish 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 Office may at any time while the order is in force give any direction it is authorised by paragraph (1)(a) or (b) to give.

(3) A document purporting to be a statement such as is mentioned in paragraph (1)(a) or (b) shall, in proceedings before the Office, be received in evidence and be deemed to be such a statement without further proof, unless the contrary is shown.

Obligation of debtor and his employers to notify changes of employment and earnings

78. While an attachment of earnings order is in force—

- (a) the debtor shall notify the Office 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) 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 that it was made by the Office shall, within seven days of his becoming the debtor's employer or of acquiring that knowledge (whichever is the later) notify the Office in writing that he is the debtor's employer, and include in his notification a statement of the debtor's earnings and anticipated earnings.

Power of Office to determine whether particular payments are earnings

79.—(1) Where an attachment of earnings order is in force the Office shall, on the application of either the employer or the debtor, 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 give effect to any determination for the time being in force under this Article.

(2) Where an application under this Article 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 is pending; but this paragraph shall not, unless the Office otherwise orders, apply as respects such payments if the employer subsequently withdraws the application.

Changes to legislation:

There are currently no known outstanding effects for the Judgments Enforcement (Northern Ireland) Order 1981, Attachment of earnings.