



Attachment of Earnings Act 1971

1971 CHAPTER 32

Subsequent proceedings

9 Variation, lapse and discharge of orders

- (1) The court may make an order discharging or varying an attachment of earnings order.
- (2) 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.
- (3) Rules of court may make provision—
 - (a) as to the circumstances in which an attachment of earnings order may be varied or discharged by the court of its own motion ;
 - (b) in the case of an attachment of earnings order made by a magistrates' court, for enabling a single justice, on an application made by the debtor on the ground of a material change in his resources and needs since the order was made or last varied, to vary the order for a period of not more than four weeks by an increase of the protected earnings rate.
- (4) 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 collecting officer of amounts deducted at any time) and be of no effect unless and until the court again directs it to a person (whether the same as before or another) who appears to the court to have the debtor in his employment.
- (5) The lapse of an order under subsection (4) above shall not prevent its being treated as remaining in force for other purposes.

10 Normal deduction rate to be reduced in certain cases

- (1) The following provisions shall have effect, in the ease of an attachment of earnings order made to secure maintenance payments, where it appears to the collecting officer of the court that—

- (a) the aggregate of the payments made for the purposes of the related maintenance order by the debtor (whether under the attachment of earnings order or otherwise) exceeds the aggregate of the payments required up to that time by the maintenance order; and
 - (b) the normal deduction rate specified by the attachment of earnings order (or, where two or more such orders are in force in relation to the maintenance order, the aggregate of the normal deduction rates specified by those orders) exceeds the rate of payments required by the maintenance order; and
 - (c) no proceedings for the variation or discharge of the attachment of earnings order are pending.
- (2) In the case of an order made by the High Court or a county court, the collecting officer shall give the prescribed notice to the person to whom he is required to pay sums received under the attachment of earnings order, and to the debtor; and the court shall make the appropriate variation order, unless the debtor requests it to discharge the attachment of earnings order, or to vary it in some other way, and the court thinks fit to comply with the request.
- (3) In the case of an order made by a magistrates' court, the collecting officer shall apply to the court for the appropriate variation order; and the court shall grant the application unless the debtor appears at the hearing and requests the court to discharge the attachment of earnings order, or to vary it in some other way, and the court thinks fit to comply with the request.
- (4) In this section, " the appropriate variation order " means an order varying the attachment of earnings order in question by reducing the normal deduction rate specified thereby so as to secure that that rate (or, in the case mentioned in subsection (1)(b) above, the aggregate of the rates therein mentioned)—
- (a) is the same as the rate of payments required by the maintenance order; or
 - (b) is such lower rate as the court thinks fit having regard to the amount of the excess mentioned in subsection (1)(a).

11 Attachment order in respect of maintenance payments to cease to have effect on occurrence of certain events

- (1) An attachment of earnings order made to secure maintenance payments shall cease to have effect—
- (a) upon the grant of an application for registration of the related maintenance order under section 2 of the Maintenance Orders Act 1958 (which provides for the registration in a magistrates' court of a High Court or county court maintenance order, and for registration in the High Court of a magistrates' court maintenance order);
 - (b) where the related maintenance order is registered under Part I of the said Act of 1958, upon the giving of notice with respect thereto under section 5 of that Act (notice with view to cancellation of registration);
 - (c) subject to subsection (3) below, upon the discharge of the related maintenance order while it is not registered under Part I of the said Act of 1958 ;
 - (d) upon the related maintenance order ceasing to be registered in a court in England or Wales, or becoming registered in a court in Scotland or Northern Ireland, under Part II of the Maintenance Orders Act 1950.

- (2) Subsection (1)(a) above shall have effect, in the case of an application for registration under section 2(1) of the said Act of 1958, notwithstanding that the grant of the application may subsequently become void under subsection (2) of that section.
- (3) Where the related maintenance order is discharged as mentioned in subsection (1)(c) above and it appears to the court discharging the order that arrears thereunder will remain to be recovered after the discharge, that court may, if it thinks fit, direct that subsection (1) shall not apply.

12 Termination of employer's liability to make deductions

- (1) Where an attachment of earnings order ceases to have effect under section 8 or 11 of this Act, the proper officer of the prescribed court shall give notice of the cesser to the person to whom the order was directed.
- (2) Where, in the case of an attachment of earnings order made otherwise than to secure maintenance payments, the whole amount payable under the relevant adjudication has been paid, and also any relevant costs, the court shall give notice to the employer that no further compliance with the order is required.
- (3) Where an attachment of earnings order—
 - (a) ceases to have effect under section 8 or 11 of this Act; or
 - (b) is discharged under section 9,

the person to whom the order has been directed 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 the notice required by subsection (1) above or, as the case may be, a copy of the discharging order is served on him.