STATUTORY INSTRUMENTS

1971 No. 836 (L.20)

COUNTY COURTS

PROCEDURE

The County Court (Amendment No. 2) Rules 1971

Made - - -	13*th May* 1971
Coming into Operation	2*nd August* 1971

1.—(1) These Rules may be cited as the County Court (Amendment No. 2) Rules 1971.

(2) In these Rules an Order and Rule referred to by number means the Order and Rule so numbered in the County Court Rules 1936(**a**), as amended (**b**); Appendices A, B and D mean respectively Appendices A, B and D to those Rules, and a form referred to by number means the form so numbered in Appendix A.

(3) The Interpretation Act 1889(**c**) shall apply for the interpretation of these Rules as it applies for the interpretation of an Act of Parliament.

2. Order 8, Rule 42, shall stand as paragraph (1) of that Rule and at the end there shall be added the following paragraph :—

"(2) The judge may allow an application for an attachment of earnings order to be served on the debtor out of England and Wales where the person to whom the order is to be directed is in England or Wales."

3. Order 25 shall be amended as follows :—

(1) In Rule 13A(2), for sub-paragraphs (*b*) and (*c*) there shall be substituted the following sub-paragraph :—

"(*b*) an affidavit in Form 175".

(2) Rule 48 shall be amended as follows :—

(*a*) In paragraph (4)(*c*) for the words "Rule 33" there shall be substituted the words "Rules 33 and 79".

(*b*) In paragraph (6) after the words "another court" there shall be inserted the words "or to apply to another court for an attachment of earnings order" and after the word "application" there shall be inserted the words "under paragraph (2) of this Rule".

(**a**) S.R. & O. 1936/626 (1936 I, p. 282).

(**b**) The relevant amending instruments are S.R. & O. 1938/18, 1939/815, S.I. 1950/1993, 1952/2198, 1954/1675, 1955/1799, 1956/1851, 1957/1136, 1958/2226, 1959/1251, 1960/1275, 1964/1974, 1967/276, 1969/585, 1970/1201, 1871 (1938 I, p. 977; 1939 I, p. 469; 1950 I, p. 440; 1952 I, p. 635; 1954 I, p. 541; 1955 I, p. 530; 1956 I, p. 545; 1957 I, p. 517; 1958 I, p. 372; 1959 I, p. 795; 1960 I, p. 809; 1964 III, p. 4477; 1967 I, p. 990; 1969 I, p. 1551; 1970 II, p. 3984; III, p. 6154).

(**c**) 1889 c. 63.

(3) The following Part shall be added at the end of the Order :—

"PART VII—ATTACHMENT OF EARNINGS

Interpretation

77. In this Part of this Order, unless the context otherwise requires—

1971 c. 32.

(*a*) "the Act of 1971" means the Attachment of Earnings Act 1971,

(*b*) expressions used in the Act of 1971 have the same meaning as in that Act,

(*c*) any reference to a Rule in another Part of this Order or in another Order includes a reference to any form prescribed for use under that Rule.

Index of orders

78.—(1) The registrar of every court shall keep a nominal index of the debtors residing within the district of his court in respect of whom there are in force attachment of earnings orders which have been made by that court or of which the registrar has received notice from another court.

(2) Where a debtor in respect of whom a court has made an attachment of earnings order resides within the district of another court, the registrar of the first-mentioned court shall send a copy of the order to the registrar of the other court for entry in his index.

(3) The registrar of a court shall, on the request of any person having a judgment or order against a person believed to be residing within the district of the court, cause a search to be made in the index of the court and issue a certificate of the result of the search.

Appropriate court

79.—(1) Subject to paragraphs (2) and (3), an application for an attachment of earnings order may be made to the court for the district in which the debtor resides.

(2) If the debtor does not reside within England or Wales, the application may be made to the court in which, or for the district in which, the judgment or order sought to be enforced was obtained.

(3) Where the creditor applies for attachment of earnings orders in respect of two or more debtors jointly liable under a judgment or order, the application may be made to the court for the district in which any of the debtors resides, so however that if the judgment or order was given or made by any such court, the application shall be made to that court.

(4) Where a creditor desires to make an application for an attachment of earnings order to a court other than the court in which the judgment or order was given or made, paragraphs (2) to (6) of Rule 48 of this Order shall apply, with the necessary modifications, as if for the reference in the said paragraph (2) to the court having jurisdiction to issue the judgment summons there were substituted a reference to the court having jurisdiction to entertain the application for an attachment of earnings order.

Mode of applying Form 402

80.—(1) An application for an attachment of earnings order shall be in Form 402 and shall be filed in the court office together with a copy for service on the debtor.

(2) Where it is sought to enforce a judgment or order of a county court, the creditor shall, on filing his application, produce the plaint note or originating process.

(3) Subject to the next following paragraph, Rules 35 and 37 of this Order shall apply, with the necessary modifications, to an application for an attachment of earnings order as they apply to an application for the issue of a judgment summons.

(4) Where it is sought to enforce an order of a magistrates' court, a certified copy of the order shall be filed in lieu of the office copy required by the said Rule 37 and, if payments under the order are required to be made to the clerk of the magistrates' court, a certificate by him as to the matters mentioned in Form 175 may be filed in lieu of an affidavit in that form.

Service and reply Form 403 Form 404

81.—(1) Subject to paragraphs (2) and (3) of this Rule, a copy of the application, together with a notice in Form 403 and a form of reply in Form 404, shall be served on the debtor in the manner prescribed by these Rules for the service of an ordinary summons.

(2) Service shall be effected not less than 21 clear days before the return day.

(3) Where service is to be effected by an officer of the court, a copy of Form 403 shall be indorsed with a note of service or non-service of the application in the manner prescribed by Order 8, Rule 9, for an ordinary summons.

(4) The debtor shall, within 14 days of the service of Form 403 on him inclusive of the day of service, file in the court office a reply in Form 404, and the instruction to that effect in Form 403 shall constitute a requirement imposed by virtue of section 14(4) of the Act of 1971 :

Provided that no proceedings shall be taken for an offence alleged to have been committed under section 23(2)(*c*) or (*f*) of the Act of 1971 in relation to the requirement unless the documents mentioned in paragraph (1) of this Rule have been served on the debtor personally or the court is satisfied that they came to the debtor's knowledge in sufficient time for him to comply with the requirement.

(5) On receipt of a reply in Form 404 the registrar shall send a copy to the applicant.

Notice to employer

82. Without prejudice to the powers conferred by section 14(1) of the Act of 1971, the registrar may, at any stage of the proceedings, send to any person appearing to have the debtor in his employment a notice requesting him to give to the registrar, within such period as may be specified in the notice, a statement of the debtor's earnings and anticipated earnings with such particulars as may be so specified.

Hearing of application

83.—(1) An application for an attachment of earnings order may be heard and determined by the registrar, and Order 48, Rule 4, shall apply in relation to any power conferred by the Act of 1971 as it applies in relation to any power conferred by these Rules.

(2) The application may be heard and determined in chambers and, unless the court otherwise orders, evidence in support of or in opposition to the application may be given by affidavit.

(3) If the creditor does not appear at the hearing of the application but—

(*a*) the court has received from him an affidavit which is admissible under the last foregoing paragraph, or

(*b*) the creditor requests the court in writing to proceed in his absence,

the court may, notwithstanding anything in Order 23, Rule 2, proceed to hear the application and to make an order thereon.

Enforcement of debtor's attendance

84. Rule 43 of this Order (except paragraph (2) thereof) shall apply, with the necessary modifications, to an order made under section 23(1) of the Act of 1971 for the attendance of the debtor at an adjourned hearing of an application for an attachment of earnings order as it applies to an order made under section 144 of the County Courts Act 1959 for the attendance of the debtor at an adjourned hearing of a judgment summons.

Costs

85. Where costs are allowed to the creditor on an application for an attachment of earnings order, Rule 66(2) of this Order and Appendices B and D shall apply as if—

(*a*) the application were a judgment summons issued in respect of the whole amount payable under the relevant adjudication (or so much of that amount as remains unpaid), including any relevant costs, and

(*b*) in a case to which Rule 83(3) of this Order applies, any solicitor who prepared on behalf of the creditor the affidavit or request mentioned in that Rule had attended the hearing.

Form and service of order

Form 405

86.—(1) An attachment of earnings order shall be in Form 405, and the particulars mentioned in the first paragraph of that form shall, so far as they are known to the court making the order, be the prescribed particulars for the purposes of section 6(3) of the Act of 1971.

(2) Costs incurred on an execution and not recovered thereunder shall not be included in any judgment debt or costs the payment of which is to be secured by an attachment of earnings order.

(3) An attachment of earnings order and any order varying or discharging such an order shall be served on the debtor and on the person to whom the order is directed, and Order 8, Rule 39, shall apply with the modification contained

in Order 24, Rule 8(3), and with the further modification that where the order is directed to a corporation which has requested the court that any communication relating to the debtor or to the class of persons to whom he belongs shall be directed to the corporation at a particular address, service may, if the registrar thinks fit, be effected on the corporation at that address.

(4) Where an attachment of earnings order is made to enforce a judgment or order of the High Court or a magistrates' court, a copy of the attachment of earnings order and of any order discharging it shall be sent by the registrar to the proper officer of the High Court or, as the case may be, the clerk of the magistrates' court.

Application to determine whether particular payments are earnings

87. An application to the court under section 16 of the Act of 1971 to determine whether payments to the debtor of a particular class or description are earnings for the purpose of an attachment of earnings order may be made to the registrar in writing and the registrar shall thereupon fix a date and time for the hearing of the application by the court and give notice thereof to the persons mentioned in paragraphs (*a*), (*b*) and (*c*) of subsection (2) of the said section 16.

Notice of cesser

88. Where an attachment of earnings order ceases to have effect under section 8(4) of the Act of 1971, the registrar of the court in which the matter is proceeding shall give notice of the cesser to the person to whom the order was directed.

Variation and discharge by court of own motion

89.—(1) Subject to paragraph (9) of this Rule, the powers conferred by section 9(1) of the Act of 1971 may be exercised by the court of its own motion in the circumstances mentioned in the following paragraphs.

(2) Where it appears to the court that a person served with an attachment of earnings order directed to him has not the debtor in his employment, the court may discharge the order.

(3) Where an attachment of earnings order which has lapsed under section 9(4) of the Act of 1971 is again directed to a person who appears to the court to have the debtor in his employment, the court may make such consequential variations in the order as it thinks fit.

(4) Where, after making an attachment of earnings order, the court makes or is notified of the making of another such order in respect of the same debtor which is not to secure the payment of a judgment debt or payments under an administration order, the court may discharge or vary the first-mentioned order having regard to the priority accorded to the other order by paragraph 8 of Schedule 3 to the Act of 1971.

(5) Where, after making an attachment of earnings order, the court makes an order under section 4(1)(*b*) of the Act of 1971 or makes an administration order, the court may discharge the attachment of earnings order or, if it exercises the power conferred by section 5(3) of the said Act, may vary the order in such manner as it thinks fit.

(6) On making a consolidated attachment of earnings order the court may discharge any earlier attachment of earnings order made to secure the payment of a judgment debt by the same debtor.

(7) Where it appears to the court that a receiving order or an order of adjudication in bankruptcy has been made against a person in respect of whom an attachment of earnings order is in force to secure the payment of a judgment debt, the court may discharge the attachment of earnings order.

(8) Where an attachment of earnings order has been made to secure the payment of a judgment debt and the court grants leave to issue execution for the recovery of the debt, the court may discharge the order.

(9) Before varying or discharging an attachment of earnings order of its own motion under any of the foregoing paragraphs of this Rule, the court shall, unless it thinks it unnecessary in the circumstances to do so, give the debtor and the person on whose application the order was made an opportunity of being heard on the question whether the order should be varied or discharged, and for that purpose the registrar may give them notice of a date, time and place at which the question will be considered.

Consolidated attachment order

90.—(1) Subject to the provisions of this Rule, the court may make a consolidated attachment order where—

(*a*) two or more attachment of earnings orders are in force to secure the payment of judgment debts by the same debtor, or

(*b*) on an application for an attachment of earnings order to secure the payment of a judgment debt, or for a consolidated attachment order to secure the payment of two or more judgment debts, it appears to the court that an attachment of earnings order is already in force to secure the payment of a judgment debt by the same debtor.

(2) An application for a consolidated attachment order may be made—

(*a*) by the debtor in respect of whom the order is sought, or

(*b*) by any person who has obtained or is entitled to apply for an attachment of earnings order to secure the payment of a judgment debt by that debtor.

(3) An application by the debtor for a consolidated attachment of earnings order may be made—

(*a*) in the proceedings in which any attachment of earnings order is in force to secure the payment of a judgment debt by the debtor, or

(*b*) at the hearing of any application for such an order.

The application shall be made in accordance with Order 13, Rule 1, on notice to the creditor in the proceedings in which the application is made and any other creditor who has obtained an attachment of earnings order which is in force to secure the payment of a judgment debt by the debtor, and Rules 79 to 81 of this Order shall not apply.

(4) An application by a creditor for a consolidated attachment order may—

(*a*) if the judgment which he seeks to enforce was given by the court to which the application is made, be made in accordance with Order 13, Rule 1, in the proceedings in which the judgment was obtained, and Rules 80 and 81 of this Order shall not apply ;

(*b*) in any other case, be made by originating application, and Rules 80(1) and (2) and 81 shall not apply.

The debtor and every person who, to the knowledge of the applicant, has obtained an attachment of earnings order which is in force to secure the payment of a judgment debt by the debtor shall be given notice of the application, or, as the case may be, made a respondent to the originating application.

(5) A person to whom two or more attachment of earnings orders are directed to secure the payment of judgment debts by the same debtor may request the court in writing to make a consolidated attachment order to secure the payment of those debts, and on receipt of such a request the registrar shall fix a date, time and place at which the request will be considered and give notice thereof to the debtor and the persons who obtained the attachment of earnings orders.

(6) Where an application is made for an attachment of earnings order to secure the payment of a judgment debt by a debtor in respect of whom an attachment of earnings order is already in force to secure the payment of another judgment debt and no application is made for a consolidated attachment order, the court may make such an order of its own motion after giving all persons concerned an opportunity of being heard.

(7) Where a consolidated attachment order is in force to secure the payment of two or more judgment debts, any creditor to whom another judgment debt is owed by the same judgment debtor may apply to the court by which the order was made for it to be extended so as to secure the payment of that debt as well as the first-mentioned debts and, if the application is granted, the court may either vary the order accordingly or may discharge it and make a new consolidated attachment order to secure payment of all the aforesaid judgment debts.

An application under this paragraph shall be treated for the purposes of the foregoing paragraphs of this Rule as an application for a consolidated attachment order.

(8) Instead of complying with section 13 of the Act of 1971, a registrar who receives payments made to him in compliance with a consolidated attachment order shall, after deducting such court fees, if any, in respect of proceedings for or arising out of the order as are deductible from those payments, deal with the sums paid as he would if they had been paid by the debtor to satisfy the relevant adjudications in proportion to the amounts payable thereunder, and for that purpose dividends may from time to time be declared and distributed among the creditors entitled thereto.

Transfer of attachment order

91.—(1) Where the court by which the question of making a consolidated attachment order falls to be considered is not the court by which any attachment of earnings order has been made to secure the payment of a judgment debt by the debtor, the registrar of the last-mentioned court shall, at the request of the registrar of the first-mentioned court, transfer to that court the matter in which the atttachment of earnings order was made.

(2) Without prejudice to paragraph (1) of this Rule, if in the opinion of the judge or registrar of any court by which an attachment of earnings order has been made, the matter could more conveniently proceed in some other court, whether by reason of the debtor having become resident in the district of that court or otherwise, he may order the matter to be transferred to that court.

(3) The court to which proceedings arising out of an attachment of earnings order are transferred under this Rule shall have the same jurisdiction in relation to the order as if it had been made by that court.

Exercise of power to obtain statement of earnings, etc.

92.—(1) An order under section 14(1) of the Act of 1971 shall be indorsed with or incorporate a notice warning the person to whom it is directed of the consequences of disobedience to the order and shall be served on him personally.

(2) Order 34, Rule 6, shall apply, with the necessary modifications, in relation to any penalty for failure to comply with an order under the said section 14(1) or, subject to the proviso to Rule 81(4) of this Order, any penalty for failure to comply with a requirement mentioned in that Rule, as it applies in relation to a fine under section 84 or 95 of the County Courts Act 1959.

Offences

93.—(1) Where it is alleged that a person has committed any offence mentioned in paragraph (*a*), (*b*), (*d*), (*e*) or (*f*) of section 23(2) of the Act of 1971 in relation to proceedings in, or to an attachment of earnings order made by, a county court, the registrar shall, unless it is decided to proceed against the alleged offender summarily, issue a summons in Form 406.

Form 406

The summons shall be served on the alleged offender personally not less than 10 clear days before the return day appointed in the summons, and Order 34, Rule 3, shall apply as it applies in relation to a summons under that rule.

(2) Order 34, Rules 1(2), 7A, 8, 9, 10 and 11, shall apply, with the necessary modifications, to proceedings for an offence under section 23(2) of the Act of 1971 as they apply to proceedings for offences under the County Courts Act 1959.

Maintenance orders

94.—(1) This Part of this Order shall apply in relation to maintenance payments as it applies in relation to a judgment debt, subject to the following paragraphs.

(2) An application for an attachment of earnings order to secure payments under a maintenance order made by a county court shall be made to that county court.

(3) Any application under section 10 of the Matrimonial Proceedings and Property Act 1970 for leave to enforce the payment of arrears which become due more than 12 months before the application for an attachment of earnings order shall be made in that application. 1970 c. 45.

(4) An application by the debtor for an attachment of earnings order to secure payments under a maintenance order may be made on the making of the maintenance order or an order varying the maintenance order, and Rules 80 and 81 shall not apply.

(5) Rule 85 shall apply as if for the reference to the whole amount payable under the relevant adjudication there were substituted a reference to the arrears due under the related maintenance order.

(6) An attachment of earnings order to secure payments under a maintenance order shall be in Form 407. Form 407

(7) Where an attachment of earnings order made by the High Court designates the registrar of a county court as the collecting officer, the registrar shall, on receipt of a certified copy of the order from the proper officer of the High Court, send notice in Form 408 to the person to whom the order is directed. Form 408

(8) Where an attachment of earnings order made by a county court to secure payments under a maintenance order ceases to have effect and—

(*a*) the related maintenance order was made by that court, or

(*b*) the related maintenance order was an order of the High Court and—

(i) the registrar of the county court has received notice of the cessation from the proper officer of the High Court, or

(ii) an order of commitment has been made in the county court for the enforcement of the related maintenance order,

the registrar of the county court shall give notice of the cessation to the person to whom the attachment of earnings order was directed.

(9) Where an attachment of earnings order has been made by a county court to secure payments under a maintenance order, or an attachment of earnings order made by the High Court designates the registrar of a county court as the collecting officer, notice under section 10(2) of the Act of 1971 to the debtor and to the person to whom the registrar is required to pay sums received under the order shall be in Form 409, and if the debtor wishes to request the court to discharge the attachment of earnings order or to vary it otherwise than by making the appropriate variation, he shall apply to the court, within 14 days after the date of the notice, for the relief desired.

Form 409

(10) Rule 89 shall have effect as if for paragraphs (4) to (7) there were substituted the following paragraphs :—

"(4) Where it appears to the court by which an attachment of earnings order has been made that the related maintenance order has ceased to have effect, whether by virtue of the terms of the maintenance order or under section 21 of the Matrimonial Proceedings and Property Act 1970 or otherwise, the court may discharge or vary the attachment of earnings order.

1970 c. 45.

(5) A county court by which an attachment of earnings order has been made under Part II of the Maintenance Orders Act 1958 may vary the order so as to bring it into conformity with the provisions of the Act of 1971 or replace it by an attachment of earnings order having effect as if made under the corresponding power in that Act."

1958 c. 39.

(11) Rule 90 shall not apply."

4. Paragraphs (8) to (20) of Order 46, Rule 17, shall be revoked.

5. In Form 170 after the words "of this court" there shall be inserted the words "for [*state nature of liability entitling plaintiff to proceed under section* 5 *of Debtors Act* 1869]".

6. In Forms 171, 173, 174, 184 and 186 for the words "for debt [*or* damages]" wherever they appear there shall be substituted the words "for [*state nature of liability entitling plaintiff to proceed under section* 5 *of Debtors Act* 1869]".

7. Form 175 shall be amended as follows :—

(1) In paragraph 5 after the word "*execution*" there shall be inserted the words "*or to apply for an attachment of earnings order*".

(2) After paragraph 5 there shall be inserted the following paragraph :—

"6. [*Add, where the plaintiff desires to issue a judgment summons or execution in the county court, and strike out the words which do not apply* That an [*or* no] application for an attachment of earnings order is pending and an [*or* no] attachment of earnings order is in force to secure the payment of the amount due]".

8. Forms 390 to 394 shall be revoked.

9. The following forms shall be inserted in Appendix A after Form 401 :—

"402

APPLICATION FOR ATTACHMENT OF EARNINGS ORDER

In the County Court Order 25, Rule 80(1)

Plaint No.

Attachment Application No.

BETWEEN Plaintiff

and Defendant[s]

To the Registrar and the Defendant [*state full name and address (or other sufficient identification) of each Defendant in respect of whom an attachment of earnings order is sought, together with such of the following particulars as are known to the Plaintiff*], who is employed by of at as a [Works No./Pay ref.].

The above-named Defendant being in arrear under the judgment obtained by me in this Court [*or as the case may be*] on the 19 , I apply for an attachment of earnings order requiring the Defendant's employer to make deductions from his earnings to satisfy the judgment.

Dated 19 .

[*Solicitor for the*] *Plaintiff*
Address

Balance of judgment debt and costs	£
Court fee on application	£
Sum on payment of which this matter will be satisfied	£

403

NOTICE OF APPLICATION FOR ATTACHMENT OF EARNINGS ORDER

Order 25. Rule 81(1)

[*Title as in Form* 402]

Seal

To the Defendant

TAKE NOTICE that this application will be heard [by the Registrar of this Court] at [*insert here address of court house*] on 19 at o'clock.

[*Insert except where maintenance order sought to be enforced* Unless you pay into court the sum necessary to satisfy this matter,] you must complete the attached form of reply and send it so as to reach the court office within 14 days after you receive this notice, counting the day of receipt. Failure to do so is a punishable offence and it may also result in your being ordered to attend the Court.

Dated 19 .

Registrar

404

REPLY TO APPLICATION FOR ATTACHMENT OF EARNINGS ORDER

Order 25. Rule 81(1)

[*Title as in Form* 402]

N.B. Answer *all* the following questions. Do not leave blanks.

Section 1 (Employment)

(*a*) What is your full name?

(*b*) By whom are you employed?
(If you have more than one employer give answers in respect of each of them)

(*c*) Where are you employed?

(*d*) In what capacity are you employed?

(*e*) What is the address of your employer's Head Office if different from (*c*) above?

(*f*) What is your
Works Number?
Pay reference?

Section 2 (Pay and Income)

(*a*) What is your basic pay before deductions? £ per week/month

(*b*) What overtime, bonuses, fees, allowances or commission do you receive?

(*c*) What deductions are normally made from your pay? £ per week/month for

(*d*) What is your usual take-home pay? £ per week/month

(*e*) Do you receive a pension or any other income? Please give details.

Section 3 (Liabilities)

(*a*) What persons, if any, are financially dependent on you? Please give details (including the ages of any dependent children) and mention any contribution they make to your household expenses.

(*b*) What rent or mortgage instalments do you have to pay? £ per week/month for

(*c*) What rates, if any, do you have to pay? £ per week/month

(*d*) Do you have to pay under any other Court orders? Please give details.

(*e*) What other regular payments have you to make?

(*f*) Have you any other liabilities which you would like the Court to take into account? Please give details.

Section 4 (Proposal for payment)

What sum would you be prepared to have deducted from your earnings to satisfy the Plaintiff's judgment? £ per week/month

Signed

Defendant

Address

405

ATTACHMENT OF EARNINGS ORDER (JUDGMENT DEBT)

Order 25, Rule 86(1)

[*Title as in Form* 402]

Seal

The Defendant of who works at as a [Works No./Pay ref.] is in arrear under a judgment of this Court [*or as the case may be*] and it appears that earnings are payable by you to him.

YOU ARE ORDERED to make out of those earnings periodical deductions in accordance with Schedule 3 to the Attachment of Earnings Act 1971 until £ , the amount payable under the judgment, has been paid. For the purpose of calculating the said deductions the normal deduction rate shall be £ a week [*or as the case may be*] and the protected earnings rate shall be £ a week [*or as the case may be*].

AND YOU ARE ORDERED to pay the sums deducted to the Registrar of this Court at monthly intervals [*or as the case may be*].

Dated 19 .

Registrar

To

Indorsement on copy sent to defendant

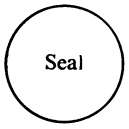
This is a copy of an attachment of earnings order directed to . If you leave his employment or become employed or re-employed, you must notify the Court in writing within 7 days, giving particulars of your earnings and anticipated earnings from any new employment. Failure to do so may render you liable to a fine or imprisonment.

To

406

SUMMONS FOR OFFENCE UNDER ATTACHMENT OF EARNINGS ACT 1971

[*Title as in Form* 402]



Order 25, Rule 93(1)

To
of

YOU ARE HEREBY SUMMONED to appear at this Court at on 19 , at o'clock, to show cause why an order should not be made against you under section 23(3) of the Attachment of Earnings Act 1971 for the payment of a fine not exceeding £25 [*add where appropriate* or for your committal to prison for not more than 14 days] for failing to comply with an attachment of earnings order made by this Court on 19 , in that you [*state particulars of failure*] [*or as the case may be, giving details of the alleged offence*].

Dated 19 .

Registrar

407

ATTACHMENT OF EARNINGS ORDER (MAINTENANCE)

Order 25, Rule 94(6)

[*Title as in Form* 402]

Seal

The above-named of , who works at as a [Works No./Pay ref.] is required to make payments of £ a week [*or as the case may be*] under a maintenance order made by this Court [*or as the case may be*] on 19 . An application has been made for an attachment of earnings order to secure the payments and it appears that earnings are payable by you to him.

YOU ARE ORDERED to make out of those earnings periodical deductions in accordance with Schedule 3 to the Attachment of Earnings Act 1971. For the purpose of calculating the deductions the normal deduction rate shall be £ a week [*or as the case may be*] and the protected earnings rate shall be £ a week [*or as the case may be*].

AND YOU ARE ORDERED to pay the sums deducted to the Registrar of this Court as and when the deductions are made [*or* at monthly intervals *or as the case may be*].

Dated 19 .

Registrar

To

Indorsement on copy sent to defendant

This is a copy of an attachment of earnings order directed to . If you leave his employment or become employed or re-employed, you must notify the Court in writing within 7 days, giving particulars of your earnings and anticipated earnings from any new employment. Failure to do so may render you liable to a fine or imprisonment.

To

408

NOTICE AS TO PAYMENT UNDER ATTACHMENT OF EARNINGS ORDER MADE BY HIGH COURT

Seal

Order 25, Rule 94(7)

An attachment of earnings order having been made by the High Court of Justice on 19 , requiring you to make payments to the Registrar of this Court out of the earnings payable by you to of who works at as a [Works No./Pay ref.].

TAKE NOTICE that the said payments may be made in cash at the office of this Court or may be sent by post, at the payer's risk, by crossed postal or money order or cheque. Postage must be prepaid. This notice must be sent with each payment and will be returned to you with a receipt.

Dated 19 .

Registrar

To

409

NOTICE OF INTENTION TO VARY ATTACHMENT OF EARNINGS ORDER UNDER SECTION 10(2) OF ATTACHMENT OF EARNINGS ACT 1971

Order 25, Rule 94(9)

[*Title as in Form* 402]

Seal

On 19 an attachment of earnings order was made to secure the payments required by a maintenance order obtained by against , and it appears that—

(*a*) the aggregate of the payments made for the purposes of the maintenance order exceeds the aggregate of the payments required by that order, and

(*b*) the normal deduction rate specified by the attachment of earnings order exceeds the rate of payments required by the maintenance order,

(*c*) no proceedings for the variation or discharge of the attachment of earnings order are pending.

TAKE NOTICE that unless the said applies to this Court within 14 days after the date of this notice for an order discharging the attachment of earnings order or varying it in some other manner, the Court will make an order varying the attachment of earnings order by reducing the normal deduction rate to the rate of payments required by the maintenance order or such lower rate as the Court thinks fit having regard to the amount of the excess mentioned in paragraph (*a*) above.

Dated 19 .

Registrar

To

and

We, the undersigned members of the Rule Committee appointed by the Lord Chancellor under section 102 of the County Courts Act 1959(a) having by virtue of the powers vested in us in this behalf made the foregoing Rules, do hereby certify the same under our hand and submit them to the Lord Chancellor accordingly.

D. O. McKee.
Connolly H. Gage.
H. S. Ruttle.
David Pennant.
W. Ralph Davies.
E. A. Everett.
K. W. Mellor.
M. J. P. Macnair.
A. F. Stapleton Cotton.
D. A. Marshall.

I allow these Rules, which shall come into operation on 2nd August 1971.

Dated 13th May 1971.

Hailsham of St. Marylebone, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

These Rules make provision for proceedings in the county court under the Attachment of Earnings Act 1971. They also amend the rules and forms relating to judgment summonses in consequence of the restrictions imposed by section 11 of the Administration of Justice Act 1970 (c.31) on the power of committal under section 5 of the Debtors Act 1869 (c.62).

(a) 1959 c. 22.

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