



# Tribunals, Courts and Enforcement Act 2007

## 2007 CHAPTER 15

PROSPECTIVE

### PART 4

#### ENFORCEMENT OF JUDGMENTS AND ORDERS

##### *Attachment of earnings orders*

#### **91 Attachment of earnings orders: deductions at fixed rates**

- [<sup>F1</sup>(1) Schedule 15 makes amendments to the Attachment of Earnings Act 1971 (c. 32).  
(2) Those amendments are about the basis on which periodical deductions are to be made under an attachment of earnings order.  
(3) In particular, they provide that deductions under certain orders are to be made in accordance with a fixed deductions scheme made by the Lord Chancellor (rather than in accordance with Part I of Schedule 3 to the 1971 Act).]

#### **Annotations:**

##### **Amendments (Textual)**

- F1** S. repealed (prosp.) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 62(3), 146, 148(5), Sch. 13 para. 72, [Sch. 23 Pt. 3](#)

#### **91 Attachment of earnings orders: deductions at fixed rates** **E+W**

- (1) Schedule 15 makes amendments to the Attachment of Earnings Act 1971 (c. 32).

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- (2) Those amendments are about the basis on which periodical deductions are to be made under an attachment of earnings order.
- (3) In particular, they provide that deductions under certain orders are to be made in accordance with a fixed deductions scheme made by the Lord Chancellor (rather than in accordance with Part I of Schedule 3 to the 1971 Act).

## **92 Attachment of earnings orders: finding the debtor's current employer**

- (1) After section 15 of the Attachment of Earnings Act 1971 insert—

### **“15A Finding the debtor's current employer**

- (1) If an attachment of earnings order lapses under section 9(4), the proper authority may request the Commissioners—
  - (a) to disclose whether it appears to the Commissioners that the debtor has a current employer, and
  - (b) if it appears to the Commissioners that the debtor has a current employer, to disclose the name and address of that employer.
- (2) The proper authority may make a request under subsection (1) only for the purpose of enabling the lapsed order to be directed to the debtor's current employer.
- (3) The proper authority may not make a request under subsection (1) unless regulations under section 15B(5) and (8) are in force.
- (4) The proper authority may disclose such information (including information identifying the debtor) as it considers necessary to assist the Commissioners to comply with a request under subsection (1).
- (5) The Commissioners may disclose to the proper authority any information (whether held by the Commissioners or on their behalf) that the Commissioners consider is necessary to comply with a request under subsection (1).
- (6) A disclosure under subsection (4) or (5) is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (7) Nothing in this section is to be taken to prejudice any power to request or disclose information that exists apart from this section.
- (8) The reference in subsection (5) to information held on behalf of the Commissioners includes a reference to any information which—
  - (a) is held by a person who provides services to the Commissioners, and
  - (b) is held by that person in connection with the provision of those services.

### **15B Offence of unauthorised use or disclosure**

- (1) This section applies if the Commissioners make a disclosure of information (“debtor information”) under section 15A(5).
- (2) A person to whom the debtor information is disclosed commits an offence if—

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- (a) he uses or discloses the debtor information, and
  - (b) the use or disclosure is not authorised by subsection (3), (5), (6) or (7).
- (3) The use or disclosure of the debtor information is authorised if it is—
- (a) for a purpose connected with the enforcement of the lapsed order (including the direction of the order to the debtor's current employer), and
  - (b) with the consent of the Commissioners.
- (4) Consent for the purposes of subsection (3) may be given—
- (a) in relation to particular use or a particular disclosure, or
  - (b) in relation to use, or a disclosure made, in such circumstances as may be specified or described in the consent.
- (5) The use or disclosure of the debtor information is authorised if it is—
- (a) in accordance with an enactment or an order of court, or
  - (b) for the purposes of any proceedings before a court, and it is in accordance with regulations.
- (6) The use or disclosure of the debtor information is authorised if the information has previously been lawfully disclosed to the public.
- (7) The use or disclosure of the debtor information is authorised if it is in accordance with rules of court that comply with regulations under subsection (8).
- (8) Regulations may make provision about the circumstances, if any, in which rules of court may allow any of the following—
- (a) access to, or the supply of, debtor information;
  - (b) access to, or the supply of copies of, any attachment of earnings order which has been directed to an employer using debtor information.
- (9) It is a defence for a person charged with an offence under subsection (2) to prove that he reasonably believed that the disclosure was lawful.
- (10) A person guilty of an offence under subsection (2) is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine, or to both;
  - (b) on summary conviction, to imprisonment for a term not exceeding twelve months, to a fine not exceeding the statutory maximum, or to both.

### **15C Regulations**

- (1) It is for the Lord Chancellor to make regulations under section 15B.
- (2) But the Lord Chancellor may make regulations under section 15B only with the agreement of the Commissioners.
- (3) Regulations under section 15B are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under section 15B may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

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## **15D Interpretation**

- (1) For the purposes of sections 15A to 15C (and this section)—
- “the Commissioners” means the Commissioners for Her Majesty’s Revenue and Customs;
  - “information” means information held in any form;
  - “the lapsed order” means the attachment of earnings order referred to in section 15A(1);
  - “the proper authority” is determined in accordance with subsections (2) to (5).
- (2) If the lapsed order was made by the High Court, the proper authority is the High Court.
- (3) If the lapsed order was made by a county court, the proper authority is a county court.
- (4) If the lapsed order was made by a magistrates' court under this Act, the proper authority is—
- (a) a magistrates' court, or
  - (b) the designated officer for a magistrates' court.
- (5) If the lapsed order was made by a magistrates' court or a fines officer under Schedule 5 to the Courts Act 2003, the proper authority is—
- (a) a magistrates' court, or
  - (b) a fines officer.”
- (2) This section applies in relation to any attachment of earnings order, whether made before or after the commencement of this section.
- (3) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in section 15B(10)(b) of the Attachment of Earnings Act 1971 (c. 32) to 12 months is to be read as a reference to 6 months.

### *Charging orders*

## **93 Payment by instalments: making and enforcing charging orders**

- (1) Subsections (2), (3) and (4) make amendments to the Charging Orders Act 1979 (c. 53).
- (2) In section 1 (charging orders), after subsection (5) insert—
- “(6) Subsections (7) and (8) apply where, under a judgment or order of the High Court or a county court, a debtor is required to pay a sum of money by instalments.
  - (7) The fact that there has been no default in payment of the instalments does not prevent a charging order from being made in respect of that sum.
  - (8) But if there has been no default, the court must take that into account when considering the circumstances of the case under subsection (5).”

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- (3) In section 3 (provisions supplementing sections 1 and 2), after subsection (4) insert—
- “(4A) Subsections (4C) to (4E) apply where—
- (a) a debtor is required to pay a sum of money in instalments under a judgment or order of the High Court or a county court (an “instalments order”), and
  - (b) a charge has been imposed by a charging order in respect of that sum.
- (4B) In subsections (4C) to (4E) references to the enforcement of a charge are to the making of an order for the enforcement of the charge.
- (4C) The charge may not be enforced unless there has been default in payment of an instalment under the instalments order.
- (4D) Rules of court may—
- (a) provide that, if there has been default in payment of an instalment, the charge may be enforced only in prescribed cases, and
  - (b) limit the amounts for which, and the times at which, the charge may be enforced.
- (4E) Except so far as otherwise provided by rules of court under subsection (4D)—
- (a) the charge may be enforced, if there has been default in payment of an instalment, for the whole of the sum of money secured by the charge and the costs then remaining unpaid, or for such part as the court may order, but
  - (b) the charge may not be enforced unless, at the time of enforcement, the whole or part of an instalment which has become due under the instalments order remains unpaid.”
- (4) In section 6(2) (meaning of references to judgment or order of High Court or county court), for “section 1” substitute “ sections 1 and 3 ”.
- (5) In section 313(4) of the Insolvency Act 1986 (c. 45) (charge on bankrupt's home: certain provisions of section 3 of Charging Orders Act 1979 to apply), for the words before “section 3” substitute “ Subsection (1), (2), (4), (5) and (6) of ”.
- (6) This section does not apply in a case where a judgment or order of the High Court or a county court under which a debtor is required to pay a sum of money by instalments was made, or applied for, before the coming into force of this section.

## **94 Charging orders: power to set financial thresholds**

In the Charging Orders Act 1979 (c. 53), after section 3 there is inserted—

### **“3A Power to set financial thresholds**

- (1) The Lord Chancellor may by regulations provide that a charge may not be imposed by a charging order for securing the payment of money of an amount below that determined in accordance with the regulations.
- (2) The Lord Chancellor may by regulations provide that a charge imposed by a charging order may not be enforced by way of order for sale to recover money of an amount below that determined in accordance with the regulations.

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- (3) Regulations under this section may—
  - (a) make different provision for different cases;
  - (b) include such transitional provision as the Lord Chancellor thinks fit.
- (4) The power to make regulations under this section is exercisable by statutory instrument.
- (5) The Lord Chancellor may not make the first regulations under subsection (1) or (2) unless (in each case) a draft of the statutory instrument containing the regulations has been laid before, and approved by a resolution of, each House of Parliament.
- (6) A statutory instrument containing any subsequent regulations under those subsections is subject to annulment in pursuance of a resolution of either House of Parliament.”

#### *Information requests and orders*

### **95 Application for information about action to recover judgment debt**

- (1) A person who is the creditor in relation to a judgment debt may apply to the High Court or a county court for information about what kind of action it would be appropriate to take in court to recover that particular debt.
- (2) An application under subsection (1) must comply with any provision made in regulations about the making of such applications.

### **96 Action by the court**

- (1) This section applies if the creditor in relation to a judgment debt makes an application for information under section 95.
- (2) The relevant court may make one or more of the following in relation to the debtor—
  - (a) a departmental information request;
  - (b) an information order.
- (3) The relevant court may exercise its powers under subsection (2) only if it is satisfied that to do so will help it to deal with the creditor's application.
- (4) Before exercising its powers under subsection (2), the relevant court must give notice to the debtor that the court intends to make a request or order.
- (5) The relevant court may not make a departmental information request to the Commissioners unless regulations are in force that have been made under section 102(4) and (7) and relate to the use or disclosure of debtor information disclosed by the Commissioners.
- (6) The relevant court may disclose such information (including information identifying the debtor) as it considers necessary to assist the recipient of a request or order to comply with the request or order.
- (7) A disclosure under subsection (6) is not to be taken to breach any restriction on the disclosure of information (however imposed).

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- (8) Nothing in this section is to be taken to prejudice any power that exists apart from this section to request or order the disclosure of information.

## **97 Departmental information requests**

- (1) A departmental information request is a request for the disclosure of information held by, or on behalf of, a government department.
- (2) The request is to be made to the Minister of the Crown, or other person, who is in charge of the department.
- (3) In the case of a request made to the designated Secretary of State, the disclosure of some or all of the following information may be requested—
- (a) the full name of the debtor;
  - (b) the address of the debtor;
  - (c) the date of birth of the debtor;
  - (d) the national insurance number of the debtor;
  - (e) prescribed information.
- (4) In the case of a request made to the Commissioners, the disclosure of some or all of the following information may be requested—
- (a) whether or not the debtor is employed;
  - (b) the name and address of the employer (if the debtor is employed);
  - (c) the national insurance number of the debtor;
  - (d) prescribed information.
- (5) In the case of any other request, the disclosure of prescribed information may be requested.

- (6) In this section—

“designated Secretary of State” means the Secretary of State designated for the purpose of this section by regulations;

“government department” does not include the following—

- (a) any part of the Scottish Administration;
- (b) a Northern Ireland department;
- (c) the Welsh Assembly Government or any member of staff appointed under section 52 of the Government of Wales Act 2006 (c. 32);

“prescribed information”, in relation to a departmental information request, means information that falls within the category or categories of information (if any) prescribed by regulations in relation to the department to which the request relates.

## **98 Information orders**

- (1) An information order is an order of the relevant court which—
- (a) specifies a prescribed person (“the information discloser”),
  - (b) specifies prescribed information relating to the debtor (“the required information”), and
  - (c) orders the information discloser to disclose the required information to the relevant court.

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- (2) In subsection (1) “prescribed” means prescribed in regulations.
- (3) Regulations under this section may be made by reference to—
  - (a) particular persons or particular descriptions of person (or both);
  - (b) particular information or particular descriptions of information (or both).
- (4) Regulations may, in particular, be made under this section so as to ensure that—
  - (a) an information order made against a particular person, or a person of a particular description, may order that person to disclose only particular information, or information of a particular description;
  - (b) an information order that orders the disclosure of particular information, or information of a particular description, may only be made against a particular person, or a person of a particular description.
- (5) Regulations under this section must not make provision that would allow the relevant court to order—
  - (a) the disclosure of information by the debtor, or
  - (b) the disclosure of information held by, or on behalf of, a government department.

## **99 Responding to a departmental information request**

- (1) This section applies if the relevant court makes a departmental information request.
- (2) The recipient of the request may disclose to the relevant court any information (whether held by the department or on its behalf) that the recipient considers is necessary to comply with the request.
- (3) A disclosure under subsection (2) is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (4) Nothing in this section is to be taken to prejudice any power that exists apart from this section to disclose information.

## **100 Information order: required information not held etc.**

- (1) An information discloser is not to be regarded as having breached an information order because of a failure to disclose some or all of the required information, if that failure is for one of the permitted reasons.
- (2) These are the permitted reasons—
  - (a) the information provider does not hold the information;
  - (b) the information provider is unable to ascertain whether the information is held, because of the way in which the information order identifies the debtor;
  - (c) the disclosure of the information would involve the information discloser in unreasonable effort or expense.
- (3) It is to be presumed that a failure to disclose required information is for a permitted reason if—
  - (a) the information discloser gives the relevant court a certificate that complies with subsection (4), and
  - (b) there is no evidence that the failure is not for a permitted reason.

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- (4) The certificate must state—
  - (a) which of the required information is not being disclosed;
  - (b) what the permitted reason is, or permitted reasons are, for the failure to disclose that information.
- (5) Any reference in this section to the information discloser holding, or not holding, information includes a reference to the information being held, or not being held, on the information discloser's behalf.

## **101 Using the information about the debtor**

- (1) This section applies if—
  - (a) the creditor in relation to a judgment debt makes an application for information under section 95, and
  - (b) information (“debtor information”) is disclosed to the relevant court in compliance with a request or order made under section 96.
- (2) The relevant court may use the debtor information for the purpose of making another request or order under section 96 in relation to the debtor.
- (3) The relevant court may use the debtor information for the purpose of providing the creditor with information about what kind of action (if any) it would be appropriate to take in court (whether the relevant court or another court) to recover the judgment debt.
- (4) If the creditor takes any action in the relevant court to recover the judgment debt, the relevant court may use the debtor information in carrying out functions in relation to that action.
- (5) If the creditor takes any action in another court to recover the judgment debt—
  - (a) the relevant court may disclose the debtor information to the other court, and
  - (b) the other court may use that information in carrying out functions in relation to that action.
- (6) Debtor information may be used or disclosed under any of subsections (3) to (5) only if—
  - (a) regulations about such use or disclosure of information are in force, and
  - (b) the use or disclosure complies with those regulations.
- (7) In addition, if the debtor information was disclosed by the Commissioners, the information may be used or disclosed under any of subsections (3) to (5) only with the consent of the Commissioners.
- (8) Consent for the purposes of subsection (7) may be given—
  - (a) in relation to particular use or a particular disclosure, or
  - (b) in relation to use, or a disclosure made, in such circumstances as may be specified or described in the consent.
- (9) The use or disclosure of information in accordance with this section is not to be taken to breach any restriction on the use or disclosure of information (however imposed).
- (10) Nothing in this section is to be taken to prejudice any power that exists apart from this section to use or disclose information.

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## **102 Offence of unauthorised use or disclosure**

- (1) This section applies if—
  - (a) an application is made under section 95 in relation to recovery of a judgment debt (“the relevant judgment debt”),
  - (b) a departmental information request or an information order is made in consequence of that application, and
  - (c) information (“debtor information”) is disclosed in accordance with the request or order.
- (2) A person to whom the debtor information is disclosed commits an offence if he—
  - (a) uses or discloses the debtor information, and
  - (b) the use or disclosure is not authorised by any of subsections (3) to (6).
- (3) The use or disclosure of the debtor information is authorised if it is in accordance with section 101.
- (4) The use or disclosure of the debtor information is authorised if it is—
  - (a) in accordance with an enactment or order of court, or
  - (b) for the purposes of any proceedings before a court, and it is in accordance with regulations.
- (5) The use or disclosure of the debtor information is authorised if the information has previously been lawfully disclosed to the public.
- (6) The use or disclosure of the debtor information is authorised if it is in accordance with rules of court that comply with regulations under subsection (7).
- (7) Regulations may make provision about the circumstances, if any, in which rules of court may allow access to, or the supply of, information disclosed in accordance with a department information request or an information order.
- (8) It is a defence for a person charged with an offence under subsection (2) to prove that he reasonably believed that the use or disclosure was lawful.
- (9) A person guilty of an offence under subsection (2) is liable—
  - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both;
  - (b) on summary conviction, to imprisonment for a term not exceeding twelve months, to a fine not exceeding the statutory maximum, or to both.

## **103 Regulations**

- (1) It is for the Lord Chancellor to make information regulations.
- (2) But the Lord Chancellor may make the following regulations only with the agreement of the Commissioners—
  - (a) regulations under section 97(4)(d);
  - (b) regulations under section 102(4) or (7) so far as the regulations relate to the use or disclosure of debtor information disclosed by the Commissioners.
- (3) Information regulations are to be made by statutory instrument.

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- (4) A statutory instrument containing information regulations may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (5) But subsection (4) does not apply in the case of a statutory instrument that contains only—
  - (a) regulations under section 95, or
  - (b) regulations under section 97 which designate a Secretary of State for the purpose of that section.
- (6) In such a case, the statutory instrument is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section “information regulations” means regulations under any of sections 95 to 102.

#### **104 Interpretation**

- (1) This section applies for the purposes of sections 95 to 103.
- (2) In those provisions—
  - “Commissioners” means the Commissioners for Her Majesty's Revenue and Customs;
  - “creditor”, in relation to a judgment debt, means—
    - (a) the person to whom the debt is payable (whether directly or through an officer of any court or another person);
    - (b) where the debt is payable under an administration order (within the meaning of Part 6 of the County Courts Act 1984 (c. 28)), any one of the creditors scheduled to the order;
  - “debtor”, in relation to a judgment debt, means the person by whom the debt is payable;
  - “departmental information request” has the meaning given by section 97;
  - “information” means information held in any form;
  - “information discloser”, in relation to an information order, has the meaning given by section 98(1)(a);
  - “information order” has the meaning given by section 98;
  - “judgment debt” means either of the following—
    - (a) a sum which is payable under a judgment or order enforceable by the High Court or a county court;
    - (b) a sum which, by virtue of an enactment, is recoverable as if it were payable under a judgment or order of the High Court or of a county court (including a sum which is so recoverable because a court so orders);
  - “required information”, in relation to an information order, has the meaning given by section 98(1)(b);
  - “relevant court”, in relation to an application under section 95, means the court to which the application is made.
- (3) Any reference to information held on behalf of a government department, or on behalf of an information discloser, includes a reference to any information which—
  - (a) is held by a person who provides services to the department or to the information discloser, and

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(b) is held by that person in connection with the provision of those services.

#### **105 Application and transitional provision**

- (1) Sections 95 to 104 apply in relation to any judgment debt, whether it became payable, or recoverable, before or after the commencement of those sections.
- (2) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44), the reference in section 102(9)(b) to 12 months is to be read as a reference to 6 months.

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**Changes and effects yet to be applied to the whole Act, associated Parts and Chapters:**

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3 6](#)

**Commencement Orders yet to be applied to the Tribunals, Courts and Enforcement Act 2007:**

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2009/803 art. 1\(2\) 10](#) commences (2008 c. 17)
- [S.I. 2010/101 art. 2-5](#) commences (2008 c. 29)
- [S.I. 2010/862 art. 3](#) commences (2008 c. 17)
- [S.I. 2010/921 art. 2](#) commences (2009 c. 8)
- [S.I. 2010/1640 art. 2](#) commences (2009 c. 8)
- [S.I. 2011/1741 art. 2](#) commences (2009 c. 11)
- [S.I. 2012/1662 art. 2\(2\)\(b\)](#) commences (2011 c. 24)
- [S.R. 2010/101 art. 2](#) commences (2010 c. 4 (N.I.))