

Prisons and Courts Bill

Civil Enforcement – attachment of earnings

Introduction

1. The Government is committed to improving access to, and the efficiency of, civil justice. It is clearly a key element of fair access to justice that creditors who have established a legitimate claim should be able to pursue it through a straightforward and accessible system and, if necessary, enforce the judgment by the most appropriate means. Our reform approach is to digitise and simplify existing enforcement procedures to make them better for users.
2. This builds on the good progress that has already been made in speeding up the delivery of justice for the people that matter and improving the experience of all users, including victims, witnesses, the wider public, the judiciary, those who work in the justice system, and legal professionals.

What is the current position?

3. Attachment of Earnings Orders (AEO) are one of the most common methods of enforcement of a monetary judgment in the County Court, but they are not directly available in the High Court for civil debts. This means that if a creditor in the High Court wishes to enforce a judgment debt by way of an AEO, the matter must first be transferred to the county court. This adds stages to the enforcement process, which results in delay and extra work required by both the court and the creditor.
4. In addition, the rate of repayment of the judgment is currently calculated (by court administrative staff) by considering the debtor's income and necessary outgoings. This information can be obtained from the debtor by him completing a statement of means in the form of court form N56¹. This information is used by court staff to calculate, on a case-by-case basis, the repayment rate required by the debtor in order to repay the debt at a manageable rate. This process is inefficient.

What are the proposed changes?

5. The changes will extend the attachment of earnings powers of the High Court so that the High Court can make attachment of earnings orders for the recovery of sums due under a judgment debt, as far as practicable on the same basis as the county court, and using the fixed deductions scheme. Employers will be instructed to deduct an amount as prescribed in a deduction table, rather than maintain the current system where the rate and frequency of deductions from a debtor's earnings are calculated by court officials on a case by case basis. This will be balanced by the ability of the court to suspend an order based on the fixed deductions scheme where the rate or frequency of deductions is inappropriate in any given case.
6. The provisions in the Bill will reduce the extent of court administrative involvement; streamline and improve the efficiency of the processes; and create a

¹ Form N56: http://hmctsformfinder.justice.gov.uk/HMCTS/GetForm.do?court_forms_id=611 .

simpler and more consistent service; and should lead to quicker payment of the judgment debt in the County Court and High Court that are enforced by an attachment of earnings order, leading to greater confidence in the civil justice system.

7. At the moment this means that when one individual, Mr X, is owed a large sum of money by another, Mr Y, and wishes to use the enforcement method of attachment of earnings, he would only be able to seek the attachment of earnings order in the County Court; and if the case was brought in the High Court, it would need to be transferred to the County Court which adds several stages to the process causing delays. Following the judgment order, the court would send notice to Mr Y requesting for his employment details where that is not known. Where Mr Y does not respond within a specific time a court bailiff may be required to serve him notice.
8. Mr Y would then be sent a statement of means form, and the information when submitted would be used by court administrative staff to calculate the rate of repayment of the judgment. This process takes a length of time to complete and is dependent on Mr Y providing all the necessary and accurate information regarding his means. This inevitably uses time and resources and slows down the time taken to enforce the judgment.
9. In the proposed new system, Mr X would be able to bring the proceedings in the High Court for an attachment of earnings order. Under the fixed deduction scheme, fixed tables would specify, given Mr Y's net salary, the percentage of his salary that would be deducted each month by his employer to pay for the debt.
10. Currently, the time from application to the making of an AEO takes an average of 12 weeks. With the fixed deductions scheme, the MoJ estimates this could be reduced to just over 14 days.

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