

Council Tax Attachment of Earnings Orders

A Guide for Employers

Introduction

This fact sheet has been written to give an employer advice about Attachment of Earnings Orders for Council Tax, and includes the statutory information, which the Billing Authority is obliged to send when issuing an Order.

Notes and Guidance for Employers

What is this order and why has it been sent?

This is an Attachment of Earnings Order in relation to your employee's Council Tax arrears. You are legally obliged to deduct payments from your employee's wages, and send them to the Council.

How much do I have to deduct?

The deductions are a percentage of the net earnings. For these purposes net earnings are the amount left after Income Tax, National Insurance and Superannuation contributions have been deducted. The table at Appendix 1 shows the percentage to be deducted. You may also deduct £1.00 from the employee for every transaction to cover your administration costs. The City Council may ask you to do deductions at a fixed amount, where an employee is suffering financial hardship as a result of the percentage deduction. This will be confirmed in all cases in writing.

How long do I have to make the deductions?

You must make deductions each pay day, from the first pay date after you receive the order, until the amount specified on the Order is paid in full.

What will happen if I do not pay the Council as instructed?

The Council monitors payments, and has the right to instigate legal proceedings against you each time payments are not received. **This may result in a fine of up to £1,000.**

What if the person is not employed by my company/organisation or leaves my employment?

You must notify the Council within 14 days of receiving the order, or the employee leaving your employment.

What if I already have an Attachment of Earnings Order in force or receive two orders?

You are legally obliged to pay up to two orders at a time. The amount payable on a second order is based on what is left after the first order's deduction has been made.

**Schedule 4 Regulation 38 – Deductions to be made under Attachment of Earnings Order
Made on or after 1 April 2007**

TABLE A – Deductions from Weekly Earnings	
(1) Net Earnings	(2) Deduction rate (percentage)
Not exceeding £75	0
Exceeding £75 but not exceeding £135	3
Exceeding £135 but not exceeding £185	5
Exceeding £185 but not exceeding £225	7
Exceeding £225 but not exceeding £355	12
Exceeding £355 but not exceeding £505	17
Exceeding £505	17 in respect of the first £505 and 50% in respect of the remainder

TABLE B – Deductions from Monthly Earnings	
(1) Net Earnings	(2) Deduction rate (percentage)
Not exceeding £300	0
Exceeding £300 but not exceeding £550	3
Exceeding £550 but not exceeding £740	5
Exceeding £740 but not exceeding £900	7
Exceeding £900 but not exceeding £1420	12
Exceeding £1420 but not exceeding £2020	17
Exceeding £2020	17 in respect of the first £2020 and 50% in respect of the remainder

TABLE C – Deductions from Daily Earnings	
(1) Net Earnings	(2) Deduction rate (percentage)
Not exceeding £11	0
Exceeding £11 but not exceeding £20	3
Exceeding £20 but not exceeding £27	5
Exceeding £27 but not exceeding £33	7
Exceeding £33 but not exceeding £52	12
Exceeding £52 but not exceeding £72	17
Exceeding £72	17 in respect of the first £72 and 50% in respect of the remainder

Priority table

		Action for Employer	Relevant Regulations
Council Tax Attachment of Earnings Order	and Council Tax Attachment of Earnings Order	Apply Attachment of Earnings Order in date order, applying later order to residue of earnings	Regulation 42 (1) of Council Tax (Administration and Enforcement) Regulations (SI 1992/613), as substituted by SI 1992/3008
Council Tax Attachment of Earnings Order	and 1971 Act Attachment of Earnings Order	Apply Attachment of Earnings Order in date order, applying later order to residue of earnings (but see note 1 below)	Regulation 42 (1) of Council Tax (Administration and Enforcement) Regulations (SI 1992/613), as substituted by SI 1992/3008
Council Tax Attachment of Earnings Order	and Child Support Deductions from Earnings Order	Apply Attachment of Earnings Order in date order, applying later order to residue of earnings	Regulation 42 (1) of Council Tax (Administration and Enforcement) Regulations (SI 1992/613), as substituted by SI 1992/3008

Note (1)

An employer shall not deal with a non-priority order until he has dealt with the Council Tax Attachment of Earnings Order or Attachment of Earnings Orders and any other order under the Attachment of Earnings Act 1971 or Section 31(2) of the Child Support Act 1991. In this context a non priority order is an order made on or after 1st April 1993 under the 1971 Act either wholly or in part in respect of the payment of a judgement debt or payments under an administration order.

Attachment of Earnings Order – The Law

The council is obliged to send you full details with regards to the order. Below are the regulations concerning your responsibilities as an employer.

Interpretation and application

Regulation 32 – (1) In this Part:

- ‘attachment of allowances order’ means an order under Regulation 44;
- ‘attachment’ of earnings order’ means and order under Regulation 37;
- ‘charging order’ means an order under Regulation 50;
- ‘debtor’ means a person against whom a liability order has been made;
- ‘the Income Support Regulations’ means the Council Tax (deductions from Income Support) Regulations 1993;
- ‘earnings’ means sums payable to a person –

- a. by way of wages or salary (including any fees, bonuses, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service);
or
- b. by way of statutory sick pay but in so far as the following would otherwise be regarded as earnings, they shall not be treated as such;
 - i. sums payable by any public department of the Government of Northern Ireland or of a territory outside the United Kingdom;
(1) (a) for ‘any outstanding sum which is or forms part of the amount in respect of which the liability order was made’ substitute ‘ the appropriate amount’;
 - ii. pay or allowances payable to the debtor as a member of Her Majesty’s Forces other than pay or allowances payable by his employer as a special member of a reserve force (within the meaning of the Reserve Forces Act 1996);
 - iii. allowances or benefits payable under the Social Security Acts;
a tax credit (within the meaning of the Tax Credits Act 2002 (c));
 - iv. allowances payable in respect of disablement or disability; and
 - v. wages payable to a person as a seaman other than wages payable to him as a seaman of a fishing boat;

'liability order' means an order under regulation 34; and 'net earnings' in relation to an employment means the residue of earnings payable under the employment after deduction by the employer of:

- a. income tax; and
 - b. primary Class 1 contributions under Part 1 of the Social Security Contributions & Benefits Act 1992 (b); and
 - c. amounts deductible under any enactment, or in pursuance of a request in writing by the debtor, for the purposes of a superannuation scheme, namely any enactment, rules, deed or other instrument providing for the payment of annuities or lump sum –
 - i. to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age, or
 - ii. to the personal representative or the widows, relatives or dependants of such persons on their death or otherwise whether with or without any further or other benefits and where an order under regulation 32 (making an attachment of earnings order) of the Community Charges (Administration & Enforcement) Regulations 1989 made before the making of the attachment of earnings order remains in force.
 - d. Any amount required to be deducted in accordance with the order.
 - (1A) for the purpose of this regulation the appropriate amount is the aggregate of :
 - a. any outstanding sum which is or forms part of the amount in respect of which the liability order was made; and
 - b. where the authority concerned has sought to levy an amount by distress and sale of the debtor's goods under regulation 45 and the person making the distress has reported that he was unable (for whatever reason) to find any or sufficient goods of the debtor on which to levy the amount:
 - i. a sum determined in accordance with Schedule 5 in respect of charges connected with the distress, and
 - ii. if the authority has applied for the issue of a warrant committing the debtor to prison in accordance with regulation 47, the authority's reasonable costs incurred up to the time of the making of the order under regulation 37, in making one or more of the applications referred to in Schedule 6, but not exceeding the amount specified for that application in Schedule 6.
- (2) In sub paragraph (v) of the definition of 'earnings' in paragraph (1) above, expressions used in the Merchants Shipping Act 1894 (c) have the same meaning as in that Act.
- (3) Regulation 33 to 53 apply for the recovery of a sum which has become payable to a billing authority under Part V and which has not been paid; but their application in relation to a sum for which persons are jointly or severally liable under that Part is subject to the provisions of Regulation 54 (joint and several liability).
- (4) Reference in this Part to a sum which has become payable and which has not been paid include references to a sum forming part of a larger sum which has become payable and the other part of which has been paid.

Deductions under attachment of earnings order

Regulation 38 – (1) Subject to paragraphs (2) and (3), the sum to be deducted by any employer under an attachment of earnings order on any pay day shall be;

- a. where the debtors earnings from the employer are payable weekly, a sum equal to the appropriate percentage of the net earnings otherwise payable on that pay day, and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table A in Schedule 4 in relation to the band in column 1 of that Table within which the net earnings fall;
- b. where his earnings from the employer are payable monthly, a sum equal to the appropriate percentage of the net earnings otherwise payable on that pay day; and for this purpose the appropriate percentage is the percentage (or percentages) specified in column 2 of Table B in Schedule 4 in relation to the band in column 1 of that Table within which the net earnings fall;
- c. where his earnings from the employer are payable at regular intervals of a whole number of weeks or months, the sum arrived at by;
 - i. calculating what would be his weekly or monthly net earnings by dividing the net earnings payable to him by the employer on the pay day by that whole number (of weeks or months as the case may be);
 - ii. ascertaining the percentage (or percentages) specified in column 2 of Table A (if the whole number is of weeks) or of Table B (if the whole number is of months) in Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under paragraph (i) fall; and

- iii. calculating the sum which equals the appropriate percentage (or percentages) of the notional net earnings for any of those weeks or months and multiplying that sum by the whole number of weeks or months, as appropriate.

(2) Where paragraph (1) applies and the amount to be paid to the debtor on any payday includes an advance in respect of future pay, the sum to be deducted on that pay day shall be the aggregate of the amount which would otherwise fall to be deducted under paragraph (1) and

a. where the amount advanced would otherwise have been paid on a single pay day, the sum which would have been deducted on that pay day in accordance with paragraph (1) if the amount advanced had been the amount of net earnings on that day; or

b. where the amount advanced would otherwise have been paid on more than one pay day, the sums which would have been deducted on each of the relevant pay days in accordance with paragraph (1) if –

- i. an equal proportion of the amount advanced had been paid on each of those days; and
- ii. the net earnings of the debtor on each of those days had been an amount equal to that proportion.

(3) Where the amount payable to the debtor on any pay day is reduced by reason of an earlier advance of pay or by reason of the repayment by the debtor of a loan made to him by his employer for any purpose, the net earnings of the debtor on that day shall, for the purposes of paragraph (1), be the amount defined in regulation 32 (1) less the amount of the deduction.

(4) Subject to paragraphs (5) and (6), where the debtors earnings from the employer are payable at regular intervals other than at intervals to which (1) applies, the sum to be deducted on any pay day shall be arrived at by:

a. calculating what would be his daily net earnings by dividing the net earnings payable to him by the employer on the pay day by the number of days in the interval;

b. ascertaining the percentage (or percentages) specified in column 2 of Table C in Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under sub paragraph (a) fall; and

c. calculating the sum which equals the appropriate percentage (or percentages) of the notional daily net earnings and multiplying that sum by the number of days in the interval.

(5) Where the debtors earnings are payable as mentioned in paragraph (4) and the amount to be paid to the debtor on any pay day includes an amount advanced in respect of future pay, the amount of the debtors notional net earnings under sub paragraph (a) of that paragraph shall be calculated in accordance with the formula:

$$\frac{A+B}{C+D}$$

Where –

A is the amount of net earnings payable to him on that pay day (exclusive of the amount advanced);

B is the amount advanced

C is the number of days in the period for which the amount of net earnings is payable; and

D is the number of days in the period for which, but for the agreement to pay in advance, the amount advanced would have been payable.

(6) Paragraph (3) applies in relation to paragraph (4) as it applies in relation to paragraph (1).

(7) Where earnings are payable to a debtor by the employer by 2 or more series of payments at regular intervals;

a. if some or all of the intervals are of different lengths;

i. for the purpose of arriving at the sum to be deducted, whichever of paragraphs (1), (2), (3), (4), (5) and (6) is appropriate shall apply to the series with the shortest interval (or, if there is more than one series with the shortest interval, such one of those series as the employer may choose); and

ii. in relation to the earnings payable in every other series, the sum to be deducted shall be 20 per cent of the net earnings, or where on any pay day an amount advanced is also paid, 20 per cent of the aggregate of the net earnings and the amount advanced.

b. if all of the intervals are of the same length, whichever of paragraphs (1), (2), (3), (4), (5) and (6) is appropriate shall apply to such series as the employer may choose and sub paragraph (a) (ii) shall apply to every other series, and paragraph (3) shall apply in relation to sub paragraph (a) (ii) above as it applies in relation to paragraph (1).

(8) Subject to paragraphs (9) and (10), where the debtors earnings from the employer are payable at irregular intervals, the sums to be deducted on any pay day shall be arrived at by:

a. calculating what would be his daily net earnings by dividing the net earnings payable to him by the employer on the pay day ; or

- i. by the number of days since earnings were last payable by the employer to him; or
- ii. if the earnings are the first earnings to be payable by the employer to him with respect to the employment in question, by the number of days since he began the employment;

b. ascertaining the percentage (or percentages) specified in column 2 of Table C of Schedule 4 opposite the band in column 1 of that Table within which the notional net earnings calculated under sub paragraph (a) fall; and

c. calculating the sum which equals the appropriate percentage (or percentages) of the daily net earnings and multiplying that sum by the same number as that of the divisor for the purposes of the calculation mentioned in sub paragraph (a).

(9) Where on the same pay day there are payable to the debtor by the employer both earnings payable at regular intervals and earnings payable at irregular intervals, for the purpose of arriving at the sum to be deducted on the pay day under the foregoing provisions of this regulation all the earnings shall be aggregated and treated as earnings payable at the regular interval.

(10)

(10) Where there are earnings payable to the debtor by the employer at regular intervals on one pay day, and earnings are payable by the employer to him at irregular intervals on a different pay day, the sum to be deducted on each of the pay days on which the earnings which are payable at irregular intervals are so payable shall be 20 per cent of the net earnings payable to him on the day.

Attachment of earnings orders: ancillary powers and duties of employers and others served.

39. –(1) An employer who deducts and pays amounts under an attachment of earnings order may, on each occasion that he makes such a deduction, also deduct from the debtor's earnings the sum of one pound towards his administrative costs.

(2). An employer who deducts and pays amounts under an attachment of earnings order shall, in accordance with paragraph (3), notify the debtor in writing of:

- a. the total amount of the sums (including sums deducted under paragraph (1)) deducted under the order up to the time of the notification; or
- b. the total amount of the sums (including sums deducted under paragraph (1)) that will fall to be so deducted after that time.

(3) A notification under paragraph (2) must be given at the time that the pay statement given by the employer to the debtor next after a deduction has been made is so given, or if no such statements are usually issued by the employer, as soon as practicable after a deduction has been made.

(4) A person on whom a copy of an attachment of earnings order has been served shall, in accordance with paragraph (5), notify in writing the authority which made the order if he does not have the debtor against whom it was made in his employment or the debtor subsequently ceases to be in his employment.

(5) A notification under paragraph (4) must be given within 14 days of the day on which the copy of the order was served on him or the debtor ceased to be in his employment (as the case may be).

(6) While an attachment of earnings order is in force, any person who becomes the debtors employer and knows that the order is in force and by what authority it is made shall notify that authority in writing that he is the debtors employer.

(7) A notification under paragraph (6) must be given within 14 days of the day on which the debtor became the persons employee or of the day on which the person first knows that the order is in force and the identity of the authority by which it was made, whichever is the later.

Priority between attachment of earnings orders

42. –(1) Where an employer would, but for this paragraph, be obliged to make deductions on any pay day under more than one attachment of earnings orders made, he shall:

- a. deal with the orders according to the respective dates on which they were made; and
- b. deal with any later order as if the earnings to which it relates were the residue of the debtor's earnings after the making of any deduction to comply with the earlier order.

- (2) Subject to paragraph (3), where an employer would, but for this paragraph, be obliged to comply with one or more attachment of earnings orders and with one or more deduction order, he shall deal with the orders according to the respective dates on which they were made in like manner as under paragraph (1).
- (3) An employer shall not deal with a deduction order made either wholly or in part in respect of the payment of a judgement debt or payments under an administration order until he has dealt with the attachment of earnings order or orders under any deductions order.
- (4) In this regulation 'deduction order' means an order under the Attachment of Earnings Act 1971 or section 31(2) (deductions from earnings orders) of the Child Support Act 1991.

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