



Attachment of earnings

How do I ask for an attachment of earnings order?

What should I do?

Read the leaflet called '*EX321 - I have a judgment but the defendant hasn't paid - What can I do?*', which is available online from hmctsformfinder.justice.gov.uk This will help you decide whether an attachment of earnings order is the best action you should take.

An attachment of earnings order will only help if the defendant (debtor) is employed.

Before you can ask the court to issue an attachment of earnings order:

- the defendant must be behind with at least one payment (called 'being in arrears'); and
- the amount he or she still owes you must be £50 or more.

Who can an attachment of earnings order be made against?

You can ask for an attachment of earnings order unless the defendant is:

- unemployed or self-employed;
- a firm or a limited company;
- in the army, navy or air force; or
- a merchant seaman.

There are special arrangements for getting money from someone in the armed forces or a merchant seaman. Court staff will be able to give you more information but are unable to give you legal advice.

Before you decide how to go ahead, you need to consider whether you are likely to get back the money owed and the court fee from the defendant. Remember, no court can guarantee that you will get your money back.

How can I find out if the defendant is employed?

If you are not sure whether the defendant is employed, you can do any of the following.

- Ask for the defendant to be questioned: called an 'order to obtain information' (see the leaflet called '*EX324 - How do I apply for an Order? - Order to obtain information*').
- Ask the court in the defendant's home area to search the attachment of earnings index. This index is a list of all the *attachment of earnings* orders against people living in that area. (This includes orders made by Magistrates' courts.) There is no fee for this.
- The court will use this index to check whether the defendant has any other attachment of earnings orders against him or her.
- If the defendant has another attachment of earnings order against him or her already, you can ask the court to join (or 'consolidate') your debt with those he or she already owes. You can get an attachment of earnings order in this way without having to pay a fee. You can find more information about consolidated orders on page 7.

How do I ask for a search of the index?

To ask for a search of the index you can either:

- fill in the top part of form N336 ('request for and result of a search in the attachment of earnings index') which you can online from hmctsformfinder.justice.gov.uk; or
- write a letter asking for the information. You must include the name and address of the defendant, your claim number and the date of your judgment.

The court will either fill in the lower part of the Form N336 and send it to you, or write to you to tell you the result of the search.

What do I need to ask for an attachment of earnings order?

To ask for an attachment of earnings order you will need form N337 ('request for an attachment of earnings order'). You can get this form online from hmctsformfinder.justice.gov.uk You can find information about how to fill in this form on pages 7.

How much will it cost?

You can get information regarding fees from the *Civil and Family Court Fees leaflet (EX50)*, which is available online from hmctsformfinder.justice.gov.uk The court will add the fee to the amount the defendant already owes. *But they cannot refund the fee if your application is not successful.*

Remember, if you cannot afford the fee, you may not have to pay it in full. The booklet '**EX160A – How to apply for help with fees**' can give you more information on this. You can download a copy from hmctsformfinder.justice.gov.uk

How can I pay the fee?

You may pay the fee by cheque or postal order; make payable to 'HM Courts & Tribunals Service'.

What do I do with the form?

From the 6th April 2016 you should send the completed form and the fee to the Centralised Unit at the address below;

County Court Money Claims Centre
(CCMCC)
PO Box 527
Salford
M5 0BY

Remember to put the claim number on your letter - the court cannot trace your claim without it.

If you receive any payments from the defendant after you have sent your request to the court, you must tell the court immediately.

What happens next?

The court will tell the defendant to either:

- pay all the money owed; or
- fill in a form giving information about his or her employment, income and outgoings ('statement of means').

What if the defendant does not reply?

If the defendant does not send back the form, the court will try to contact the defendant and get a 'statement of means'.

An enforcement agent will serve an order telling the defendant to fill in a statement of means. If the defendant still does not return the form but the judge thinks the defendant knew about the attachment of earnings application, the judge may issue a warrant to arrest the defendant.

The enforcement agent will arrest the defendant and may bring him or her to court to fill in a statement of means.

If after six to eight weeks you have not heard anything from the court, you should ring the local court named on the last notification you received about your application.

What does the court do with the statement of means?

A court officer will look at the information given on the defendant's statement of means and decide how much the defendant can afford to pay.

The officer will take into account how much the defendant needs to live on for food, rent or mortgage and essentials and to pay regular bills, such as electricity. This is called the 'protected earnings rate'. If the defendant earns more than the protected earnings rate, an order will be made.

If the defendant is on a low wage, it may not be possible to make an attachment of earnings order.

The order will be sent to the defendant's employer saying how much to take and when to take it. The order will be sent by the Centralised Attachment of Earnings Payment System (CAPS) in Northampton, which will be responsible for collecting payments. You will be sent a copy of the order.

The defendant can ask for the order to be suspended if he or she does not want the court to contact his or her employer. If the court agrees, they will tell the defendant to make regular payments direct to you.

If the defendant has a suspended order and does not pay, or pays and then stops, you can use form N446 (Request for re-issue of enforcement or an order to obtain information from the debtor). to ask the court to send the order to the employer. There is no fee for this and you can get the form online from hmctsformfinder.justice.gov.uk

Do I have to accept the court officer's decision?

You do not have to accept the court officer's decision. You can ask for a district judge to decide what would be a fair way for the defendant to pay the money.

To do this you need to fill out form N244 (form of application) which you can get online from hmctsformfinder.justice.gov.uk You may have to pay a fee. You must say why you object to the court officer's decision. You may also write a letter giving this information, but make sure you give reasons for your objections.

You must send the form or letter to the County Court hearing centre *within 16 days* of the date of the postmark shown on the envelope which the attachment of earnings order came in. The court will make an appointment and you will be told when to come to court. If you do not go to this appointment, the district judge may make an order without you being there.

What happens after the attachment of earnings order has been made?

After the order is made, CAPS will send you any money they receive from the employer. They will send this money every week or month, depending on how the defendant is paid and when the employer takes the money from the defendant's earnings.

CAPS will make sure the employer makes payments. If CAPS do not receive payments, they will find out why from the employer.

The most common reasons for not receiving payments are:

- the defendant has left or changed jobs; or
- the defendant is not earning enough for the payments to be made.

If the employer does not reply, CAPS will ask the court that made the order to take action against the employer. You will be told if this happens.

If the defendant becomes unemployed after an order has been made, the order will stop ('lapse'). If you think that the defendant has found new work, you can use form N446 (request for reissue) to ask the court to send the attachment of earnings order to the new employer. There is no fee for this and you can get the form online from hmctsformfinder.justice.gov.uk

What happens if the defendant has another attachment of earnings order?

If the defendant already has an attachment of earnings against him or her, your order may be joined with it to make a 'consolidated order'.

Anyone involved in an attachment of earnings order (including the defendant's employer) can ask for a consolidated order. The court can also decide to do this. If you do want to do this, you must write to the court. Say that the defendant is behind with his or her payments and show the amount that is owed to you.

A consolidated order means that the employer will take one amount from the defendant's wages to cover all the orders. Payments will be held at the court until the court has received a certain percentage of the total debt (usually 10 per cent).

The court then divides this up according to the size of each debt between you and the other people who are owed money. They will then send you your share of this money. This is called 'declaring a dividend'.

If a consolidated order is made, it usually means that you receive a smaller amount of money less often than you would under an ordinary attachment of earnings order.

What happens if I do not want my order consolidated?

If the court is asked to make a consolidated order it will let you know. If you object to a consolidated order being made, you must send a letter to the court within 16 days of the date of the postmark shown on the envelope which the notice came in.

The court will make an appointment and you will be told when to come to court. If you do not go the district judge may make an order without you being there.

Remember, this leaflet can only give you a general idea of what is likely to happen. It cannot give a complete explanation of court rules and procedures.

Write in black ink using BLOCK CAPITALS.

- Give your full name and address

- Give the address where the defendant (debtor) is living. It does not have to be the same address you gave on the claim form.

- Try to give as much information as possible.

- Give the total amount of the money still owed to you, including the fees paid for the claim form and any other type of enforcement.

- Do not include the fee for this application.

- If you can, give the name and address of the defendant's (debtor's) employer and any other information that you know about his or her work. For example, this could be a works number or pay reference number.

- It will help the court make an order if you know this information. If you do not, the court will ask the defendant (debtor) to provide it. This could mean it takes longer for the court to make an order.

- You must enter here the court that covers the defendant's (debtor) address.

- You must give your claim number so that the court can find your file. The court will not be able to deal with your application without this number.

- If the claim has been transferred to the defendant's (debtor) local court, give the name of the court where judgment was entered (made).

- Use this box to write down anything you know about the defendant (debtor) that might be relevant to your application. For example, you might know that the defendant (debtor) works lots of overtime.

- You must sign this part of the form to say that the defendant (debtor) has not paid as he or she was told to.

Request for Attachment of Earnings Order
To be completed and signed by the claimant or their solicitor and sent to the court with the appropriate fee

1 Claimant's details
 Name, address, and phone number
 Peter Reed
 52 Midleton Road
 Borehampton
 Postcode: B 12 4 P W
 Phone no. [] [] [] [] [] [] [] [] [] []

2 Name and address for service and payment
(if different from above)
 Ref/Phone no. [] [] [] [] [] [] [] [] [] []
 Postcode [] [] [] [] [] [] [] [] [] []

3 Debtor's details
 Name, address and phone number
 Mrs Penny Stevens
 61 Oxtobury Avenue
 Borehampton
 Postcode: B 12 1 S Q V [] [] [] [] [] [] [] [] [] []
 Phone no. [] [] [] [] [] [] [] [] [] []

4 Judgment details
 Court where judgment/order made
 Court of issue [] [] [] [] [] [] [] [] [] []

5 Outstanding debt
 Balance due at date of request
(excluding issue fee but including any added interest costs)
 Issue fee [] [] [] [] [] [] [] [] [] []
AMOUNT NOW DUE
*You may also be awarded a judgment for up to £1000 of costs if you are the claimant or a party to the proceedings. Interest for late payment may also be awarded.

6 Employment details
Help the court to make an order more quickly.
 Employer's name and address
 Borehampton Buildings
 Supplies Ltd
 Church View
 Borehampton
 Postcode: B 12 1 Z S D G [] [] [] [] [] [] [] [] [] []
 Phone no. [] [] [] [] [] [] [] [] [] []

7 Other details
 Give any other details about the debtor's circumstances which may be relevant to the application.
 Works No./ Pay Ref/ Ref No.
 Not known

6 Employment details (continued)
 Debtor's place of work
(if different from employer's address)
 As above
 The debtor is employed as
 A secretary

Apply for an attachment of earnings order
 I certify that the whole or part of any instalments due under the judgment or order have not been paid and the balance now due is as shown.
 Signed Peter Reed
 Claimant (Claimants solicitor)
 Date 7 December 2002

IMPORTANT
 You must tell the court immediately of any payments you receive after you have sent this request to the court.
 N137 Request for attachment of earnings order (04/09)

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