

The court will send the order to your employer saying how much to take out of your wages and when to take it. Your employer may take an additional £1 each time he or she takes money from your wages to cover his or her expenses.

<sup>1</sup>please refer to the Army Act 1955

### **What if I already have an attachment of earnings order?**

You should make the court aware if you already have an attachment of earnings order. The court will take into account your income and outgoings as a whole to decide whether to make an attachment of earnings order in the present claim.

Your existing attachment of earnings order will be regarded as an outgoing.

### **What is an arrestment order?**

An arrestment order is issued by the court, upon application by the judgment creditor, or the corner of the relevant sheading with the judgment creditor's consent, against a third party, e.g. a bank, to seize money in their keeping. The order will require the third party to pay the judgement creditor:-

- the amount of any debt due or accruing due to the you from the third party; or
- so much of that debt as is sufficient to satisfy the judgment debt and the judgment creditor's costs of the application.

### **What is appointing a Receiver?**

The appointment of a Receiver is where a person, usually a qualified professional , is appointed by the court on the application of the judgment creditor as a method of enforcing a judgment. The Receiver is a neutral person (often a professional trustee) appointed by a judge to take charge of the property of the judgment debtor and realise assets and available monies so realised to satisfy payment of the judgment debt.

*Last updated 11th September 2009*

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**COURTS OF JUSTICE**

**I cannot pay my judgment,  
what can I do?** **HCG16**

Defendant guidance in the Small Claims Procedure

**I cannot pay my  
judgment, what can I  
do?**

[www.courts.im](http://www.courts.im)

This leaflet will tell you what you can do if you cannot pay the judgment or if the claimant (the person who took you to court) asks the court to take steps to make you pay. This is known as 'enforcing the judgment'.

You may want to talk to an advocate if you are not sure about the case against you. You may qualify for Legal Aid to meet some, or all, of your legal costs.

### **What happens if I cannot pay the judgment?**

If you have been ordered to pay the whole judgment in full (in one amount) or you have been ordered to pay by instalments which you cannot afford, you can ask the court to vary the order and reduce the instalments.

Use form **HC8A** - Application Notice General to make your application to vary the order.

Fill in all the details about your income and spending. Remember to include the amount you can afford to pay. You have to pay a Fee for a varied order. Court staff will tell you how much you have to pay. Keep a copy and send the form and fee to the court. The court will send the form to the claimant, who will decide whether to accept your offer of payment.

If the claimant accepts your offer, the court will make an order for the instalments you said you could pay.

If the claimant does not accept your offer, the court will look at the information you gave and will decide how much to pay and when.

If you still do not think you can afford to pay, you can apply to the court asking it to vary the order. You should apply within 14 days of the date on the order. Give your reasons why you don't think you can pay amount that the court has ordered you to pay.

### **What if I cannot afford to pay anything towards the judgment?**

If you suddenly have no income and you can't pay anything towards the judgment, you can ask the court for permission to pay nothing for the moment. This is called a 'stay of enforcement'. Fill in form **HC8A** - Application Notice General to ask for a stay of enforcement, giving your reasons.

You will have to pay a fee to apply for a stay of enforcement. Court staff will tell you how much you have to pay. Keep a copy and send the form and fee to the court.

### **The court will arrange a private hearing for you and the claimant to discuss your application with a judge.**

### **What will happen if I do nothing?**

If you do not pay anything once you have received the judgment, or you do not keep up with the payments, the claimant can ask the court to enforce the judgment. The claimant will have to pay a fee for this and the fee will probably be added to the amount you owe. If you do nothing now you may have to pay more later.

The claimant then has a number of methods of enforcement:-

- execution;
- an attachment of earnings order.
- the appointment of a receiver;
- an arrestment order; or
- a charging order.

### **What is execution?**

Execution is an enforceable order giving authority for the money to be claimed. Execution enables a judgment given in favour of a party, usually the claimant, to be enforced by that party and therefore gives the coroner the power to visit the defendants home or business to:

- collect the money you owe; or
- see whether you have goods or land to the value of the money you owe.

If you do not have the money the coroner will look at your belongings and decide whether you have anything that can be sold at an auction to clear the debt.

### **What is an attachment of earnings order?**

An attachment of earnings order is sent to your employer. It tells your employer to take money from your wages each pay day and send it to the appropriate coroner. The coroner then sends the money to the claimant.

You must be employed by someone before an attachment of earnings order can be issued.

An order cannot be made if you are unemployed or self-employed. Also the court may not be able to make an order, or may only make an order to pay it back in small instalments, if your living expenses are greater than what is earned.

Tell the court if you are:

- unemployed;
- self-employed;
- in the armed forces<sup>1</sup>; or
- a merchant seaman.

The court cannot make an attachment of earnings order against you if you are one of the above. You may need to provide proof, such as your unemployment benefit number or your service number. If you pay the amount you owe straight away, the court will not send an order to your employer.

You must fill in the statement of means and send it to the court immediately. If you do not, the court can send you to prison and may also contact your employer to find out how much you earn.

The court will look at the information you have given on your statement and decide whether to make an attachment of earnings order. The court officer will also decide how much you can afford to pay each week or each month.

The court will take into account how much you need to live on and to pay regular bills.