

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 from any county court office or from our website at www.hmcourts-service.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 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.

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 - Order to obtain information - how do I apply for an order?**').
- 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 6.

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 get free from any county court office, or from our website at www.hmcourts-service.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 free from any county court office, or from our website www.hmcourts-service.gov.uk You can find information about how to fill in this form on page 7.

How much will it cost?

The staff at any county court will be able to tell you how much you will have to pay. You can get more information from court staff or the County Court Fees leaflet, which is available from any county court office, or from our website www.hmcourts-service.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. Further information is available from court staff, or in the leaflet called 'Court Fees - do you have to pay them', which is available from any county court office, or from our website www.hmcourts-service.gov.uk

How can I pay the fee?

You may pay the fee in cash, by postal order or cheque. Make your cheque out to HMCS. For your own safety, do not send cash through the post.

Please note that credit cards and debit cards can only be accepted online. If you wish to make a payment at a county court office, credit and debit cards are **not** accepted.

What do I do with the form?

Take or send the form and the fee to the court which covers the defendant's home area. The court will issue the attachment of earnings application between five and 10 working days after receiving your form and fee.

If you got your judgment in a different court, you must first ask for the claim to be transferred to the court for the defendant's home area (the 'local court'). You can do this by writing a letter to the court where the judgment was entered. Say that you want to apply for an attachment of earnings order and give the name of the defendant's local court. If you do not know which court this is, any county court office can tell you. If the defendant has changed address, you should give the new address in your letter.

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

When the defendant's local court tells you the case has been transferred, you can send in your request form and fee.

If you want confirmation that your request has been dealt with and to know the attachment of earnings number, you must also send the court a stamped, addressed envelope.

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'.

A bailiff 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 bailiff 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 office where you sent your form to see what has happened.

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 reissue of post-judgment process (other than warrant)') to ask the court to send the order to the employer. There is no fee for this and you can get the form free from any county court office, or from our website www.hmcourts-service.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 free from any county court office, or from the website www.hmcourts-service.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 court **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 free from any county court office, or from the website www.hmcourts-service.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%).

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.

Filing in an attachment of earnings request form

Give your full name and address

Give the address where the defendant 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 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 to provide it. This could mean it takes longer for the court to make an order.

Write in black ink using BLOCK CAPITALS.

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 local court, give the name of the court where judgment was entered (made).

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

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

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

1 Claimant's name and address	PETER REED 52 MELCHESTER ROAD BARCHESTER BC2 4PW	In the BARCHESTER County Court
2 Name and address for service and payment <small>(if different from above) Ref/Tel No.</small>		Claim Number AB212345
3 Defendant's name and address	MRS PENNY STEVENS 61 CASTERBRIDGE AVENUE BARCHESTER BC1 5QY	<i>For court use only</i> A/E application no. Issue date: Hearing date: on _____ at _____ o'clock at (address)
4 Judgment details <small>Court where judgment/order made if not court of issue</small>		Supply for an attachment of earnings order
5 Outstanding debt <small>Balance due at date of request* (excluding issue fee but including unsatisfied warrant costs)</small>	326 : 61 Issue fee 50 : 00 AMOUNT NOW DUE 376 : 61	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 <i>Peter Reed</i> Claimant (Claimants solicitor)
6 Employment Details <small>Employer's name and address</small>	BARCHESTER BUILDINGS SUPPLIES LTD CHURCH VIEW BARCHESTER	Date 7 TH DECEMBER 2002
<small>Defendant's place of work (if different from employer's address)</small>	AS ABOVE	7 Other details <small>(Give any other details about the defendant's circumstances which may be relevant to the application)</small>
<small>The defendant is employed as</small>	A SECRETARY	IMPORTANT You must inform the court immediately of any payments you receive after you have sent this request to the court
<small>Works No / Pay Ref</small>	NOT KNOWN	

N337 Request for attachment of earnings order (4-99)