



REPUBLIC OF NAURU

**Attachment of Earnings and Phosphate  
Royalties Act 1973**

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**Act No. 20 of 1973**

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**Table of Provisions**

1	Short title and commencement.....	1
2	Interpretation .....	1
3	Power to attach earnings.....	3
4	Power to attach phosphate royalties.....	4
5	Application for orders.....	5
6	Effect and contents of order for attachment of earnings.....	5
7	Compliance with order by employer .....	6
8	Interrelation with alternative remedies open to creditor .....	7
9	Variation, lapse and discharge of orders .....	8
10	Normal deduction rate to be reduced in certain cases.....	9
11	Attachment order in respect of maintenance payments to cease to have effect on the discharge of the maintenance order .....	10
12	Termination of employer's liability to make deductions.....	10
13	Application of sums received by collecting officer .....	10
14	Power of Court to obtain statements of earnings, etc. ....	11
15	Obligation of debtor and his employers to notify changes of employment and earnings.....	12
16	Power of court to determine whether particular payments are earnings.....	13
17	Consolidated attachment orders.....	13
18	Persons employed by the Republic .....	14
19	Offences .....	15
20	Effect of this Act on section 8 of the <i>Maintenance Ordinance 1959-1967</i> .....	16
21	Repeal.....	16
	SCHEDULE .....	18

REPUBLIC OF NAURU

**Attachment of Earnings and Phosphate  
Royalties Act 1973**

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**Act No. 20 of 1973**

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An Act to provide for the attachment of earnings and of phosphate royalty payments as a means of enforcing the discharge of monetary obligations

*Certified on 8 November 1973*

Enacted by the Parliament of Nauru as follows:

**1 Short title and commencement**

This Act may be cited as the *Attachment of Earnings and Phosphate Royalties Act 1973* and shall come into force on a date to be notified by the Minister in the Gazette.<sup>1</sup>

**2 Interpretation**

(1) In this Act, unless the context otherwise requires:

***'judgment debt'*** means a sum payable under:

- (i) a judgment or order enforceable by a Court in Nauru;
- (ii) an order of any Court which is enforceable as if it were for the payment of money recoverable summarily as a civil debt,

but does not include any sum payable under a maintenance order;

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<sup>1</sup> By GN No. 285 of 1973 (Gazette 61, 20 December 1973), the Minister notified 31 December 1973 as the commencement date for this Act.

**'maintenance order'** means an order made by or registered in and enforceable by, a Court in Nauru for the debtor to pay for the maintenance of, or to contribute towards the cost of maintaining, his spouse or former spouse or his child, whether legitimate or illegitimate; it also includes such an order which has been discharged if any arrears are recoverable thereunder;

**'maintenance payments'** means payments required under a maintenance order;

**'the collecting officer'**, in respect of any order for the attachment of earnings or of phosphate royalties, means:

- (a) in the case of an order made by the Supreme Court, the Registrar of the Supreme Court;
- (b) in the case of an order made by the District Court, the Clerk of that Court; and
- (c) in the case of an order made by the Family Court, the Clerk of that Court;

**'the Court'**, in relation to an attachment of earnings order, means the Court which made the order;

**'the debtor'**, in relation to an attachment of earnings order, or to proceedings in which a Court has power to make an attachment of earnings order, or to proceedings arising out of such an order, means the person by whom payment is required by the relevant adjudication to be made;

**'the employer'**, in relation to an attachment of earnings order, means the person who is required by the order to make deductions from earnings paid by him to the debtor;

**'the relevant adjudication'**, in relation to any payment secured or to be secured by an attachment of earnings order, means the conviction, judgment, order or other adjudication from which there arises the liability to make the payment.

- (2) Any reference in this Act to sums payable under a judgment or order, or to the payment of such sums, includes a reference to costs and the payment of them; and the references in subsection (4) of section 6 and subsection (2) of section 12 to relevant costs are to any costs of the proceedings in which the attachment of earnings order in question was made, being costs which the debtor is liable to pay.

- (3) References in paragraph (b) of subsection (5) of section 6 and paragraph (a) of subsection (1) of section 14 of this Act to the debtor's needs include references to the needs of any person for whom he must, or reasonably may, provide.
- (4) For the purposes of this Act, but subject to the provisions of any other Act specifically exempting any salary, wages, pay, allowances, pension or benefit from attachment, '**earnings**' are any sums payable to a person:
  - (a) by way of wages or salary, including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary or payable under a contract of service;
  - (b) by way of pension, including any annuity in respect of past services, whether or not rendered to the person paying the annuity, and including periodical payments by way of compensation for the loss, abolition or relinquishment, or diminution in the emoluments, of any office or employment,and include the value of accommodation and food provided by the employer under the contract of employment.
- (5) Any power to make rules which is conferred by this Act is without prejudice to any other power to make rules of court.

### **3 Power to attach earnings**

- (1) Any Court may make an order for the attachment of earnings to secure or enforce:
  - (a) payments under a maintenance order made by or removed into that Court;
  - (b) the payment of a judgment debt payable under a judgment or order of or removed into that Court; and
  - (c) the payment of any fine, costs, compensation or penalty ordered by that Court in any criminal proceedings.
- (2) Any power conferred by this Act to make an order for the attachment of earnings includes a power to make such an order to secure the discharge of liabilities arising before the commencement of this Act.

**4 Power to attach phosphate royalties**

- (1) Any Court may make an order for the attachment of phosphate royalties of a debtor in the hands of the Council<sup>2</sup> to enforce:
  - (a) the payment of the arrears due, or the deposit of a sum ordered as security for the payment of maintenance, under a maintenance order made by or removed into that Court;
  - (b) the payment of a judgment debt payable under a judgment or order made by or removed into that Court; and
  - (c) the payment of any fine, costs, compensation or penalty ordered by that Court in any criminal proceedings.
- (2) An order may be made under the preceding subsection notwithstanding that at the time when the order is made the debtor is not entitled to receive any phosphate royalties and shall have effect to attach in the hands of the Council not only such royalties as are payable to the debtor at that time but also any royalties which may become payable during the twelve months next following the date on which the order is made, and to require their payment, to the extent of the sum stated therein, to the collecting officer of the Court by which the order is made.
- (3) An order made under this section shall have no effect in relation to phosphate royalties payable from, or standing to the credit of the debtor in, any fund other than the Nauruan Land Owners Cash Royalties Fund.
- (4) Where the Council is served with two or more orders in respect of the phosphate royalties of the same debtor, it shall, to the extent that royalties are, or become within one year of the date of the order, payable to the debtor satisfy the orders in the

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<sup>2</sup> From its commencement on 21 February 1972 until the commencement of the *Nauru Local Government Council Dissolution Consequential Amendments Act 1997* (Act No. 5 of 1997) on 13 June 1997, the *Interpretation Act 1971* provided in section 2(1), among other things, that '**Council**' means the Nauru Local Government Council'. This definition was deleted by Act No. 5 of 1997.

Section 2(7) of the *Interpretation Act 1971* (inserted by Act No. 4 of 1996) provides:

'Subject to the *Nauru Island Council Act 1992*, a reference to the Nauru Local Government Council established under the *Nauru Local Government Council Ordinance 1951-1967*, the Head Chief, the Deputy Head Chief, a Councillor of the Nauru Local Government Council in any written law, including the principal Act, means a reference to the Republic, the Cabinet, the Chairman of the Cabinet, or a Cabinet Minister as the case may be.'

sequence in which they are lodged with it whether or not all the orders were issued out of the same Court.

## **5 Application for orders**

- (1) Application for an order for the attachment of earnings or of phosphate royalties may be made by:
  - (a) the person to whom payment under the relevant adjudication is required to be made, whether directly or through an officer of any Court;
  - (b) any person authorised by any written law to apply for the enforcement of the judgment or order on behalf of that person; or
  - (c) the debtor.
- (2) No application for the attachment of a debtor's earnings to secure maintenance payments shall be made unless not less than fifteen days have elapsed since the maintenance order was made and the payments have fallen into arrears.
- (3) Where proceedings are brought to enforce the payment of maintenance or the satisfaction of a judgment debt by the committal of the debtor to prison, the Court may, if it thinks fit, make instead an order for the attachment of his earnings.

## **6 Effect and contents of order for attachment of earnings**

- (1) An order for the attachment of earnings shall be an order directed to a person who appears to the Court to have the debtor in his employment and shall operate as an instruction to that person:
  - (a) to make periodical deductions from the debtor's earnings in accordance with Part I of the Schedule to this Act; and
  - (b) at such times as the order may require, or as the Court may allow, to pay the amounts deducted to the collecting officer of the Court, as specified in the order.
- (2) For the purposes of this Act, the relationship of employer and employee shall be treated as subsisting between two persons if one of them, as a principal and not as a servant or agent, pays to the other any sums defined as earnings by subsection (4) of section 2 of this Act.

- (3) An order for the attachment of earnings shall contain prescribed particulars enabling the debtor to be identified by the employer.
- (4) Except where it is made to secure maintenance payments or to enforce the payment of arrears of maintenance, the order shall specify the whole amount payable under the relevant adjudication, or so much of that amount as remains unpaid, including any relevant costs.
- (5) The order shall specify:
  - (a) the normal deduction rate, that is to say, the rate, expressed as a sum of money per week, month or other period, at which the Court thinks it reasonable for the debtor's earnings to be applied to meeting his liability under the relevant adjudication; and
  - (b) the protected earnings rate, that is to say a rate being 75 per cent of the rate of the Nauruan Basic Wage as determined from time to time by the President under section 27 of the *Public Service Act 1961-1971*.
- (6) In the case of an order made to secure payments under a maintenance order, not being an order for the payment of a lump sum, the normal deduction rate shall not exceed the rate which appears to the Court necessary for the purpose of:
  - (a) securing payment of the sums falling due from time to time under the maintenance order; and
  - (b) securing payment within a reasonable period of any sums already due and unpaid under the maintenance order.

## **7 Compliance with order by employer**

- (1) Where an attachment of earnings order has been made, the employer shall, if he has been served with the order, comply with it; but he shall be under no liability for non-compliance before seven days have elapsed since the service.
- (2) Where a person is served with an attachment of earnings order directed to him and he has not the debtor in his employment, or the debtor subsequently ceases to be in his employment, he shall, in either case, within ten days from the date of service or, as the case may be, the cesser, give notice of that fact to the Court.

- (3) Part II of the Schedule to this Act shall have effect with respect to the priority to be accorded as between two or more orders for the attachment of earnings directed to a person in respect of the same debtor.
- (4) On any occasion when the employer makes, in compliance with the order, a deduction from the debtor's earnings:
  - (a) he shall be entitled to deduct, in addition, ten cents, or such other sum as may be prescribed by the Minister by notice in the Gazette, towards his clerical and administrative costs; and
  - (b) he shall give to the debtor a statement in writing of the total amount of the deduction.
- (5) An order of the Minister under paragraph (a) of the last preceding subsection:
  - (a) may prescribe different sums in relation to different classes of cases;
  - (b) may be varied or revoked by a subsequent order made under that paragraph; and
  - (c) shall be subject to annulment by resolution of Parliament.

## **8 Interrelation with alternative remedies open to creditor**

- (1) Where an order for the attachment of earnings has been made to secure maintenance payments, no order or warrant of committal shall be made or issued in consequence of any proceedings for the enforcement of the related maintenance order begun before the making of the order for the attachment of earnings.
- (2) Where a Court has made an order for the attachment of earnings to secure the payment of a judgment debt:
  - (a) no order or warrant of committal shall be made or issued in consequence of any proceedings for the enforcement of the debt begun before the making of the order for the attachment of earnings; and
  - (b) so long as the order is in force, no execution for the recovery of the debt shall issue against any property of the debtor without the leave of the Court.



- (3) An order for the attachment of earnings made to secure maintenance payments shall cease to have effect upon the making of an order of committal or the issue of a warrant of committal for the enforcement of the related maintenance order.
- (4) An order for the attachment of earnings made to secure the payment of a judgment debt shall cease to have effect on the making of an order of committal or the issue of a warrant of committal for the enforcement of the judgment or order.
- (5) An order for the attachment of earnings made to secure any payment specified in paragraph (c) of subsection (1) of section 3 of this Act shall cease to have effect on the issue of a warrant committing the debtor to prison for default in making that payment.

**9 Variation, lapse and discharge of orders**

- (1) A Court may make an order discharging or varying its order for the attachment of earnings.
- (2) Where an order is varied, the employer shall, if he has been served with notice of the variation, comply with the order as varied; but he shall be under no liability for non-compliance before seven days have elapsed since the service.
- (3) Rules of court may make provision as to the circumstances in which an attachment of earnings order may be varied or discharged by the Court of its own motion.
- (4) Where an order for the attachment of earnings has been made and the person to whom it is directed ceases to have the debtor in his employment, the order shall lapse, except as respects deduction from earnings paid after the cesser and payment to the collecting officer of amounts deducted at any time, and be of no effect unless and until the Court again directs it to a person, whether the same as before or another, who appears to the Court to have the debtor in his employment.
- (5) The lapse of an order under subsection (4) shall not prevent its being treated as remaining in force for other purposes.

**10 Normal deduction rate to be reduced in certain cases**

- (1) The following provisions shall have effect, in the case of an attachment of earnings order made to secure maintenance payments, where it appears to the collecting officer of the Court that:
- (a) the aggregate of the payments made for the purposes of the related maintenance order by the debtor, whether under the attachment of earnings order or otherwise, exceeds the aggregate of the payments required up to that time by the maintenance order;
  - (b) the normal deduction rate specified by the attachment of earnings order or, where two or more such orders are in force in relation to the maintenance order, the aggregate of the normal deduction rates specified by those orders, exceeds the rate of payments required by the maintenance order; and
  - (c) no proceedings for the variation or discharge of the attachment of earnings order are pending.
- (2) The collecting officer shall give the prescribed notice to the person to whom he is required to pay sums received under the order for the attachment of earnings, and to the debtor; and the Court shall make the appropriate variation order, unless the debtor requests it to discharge the order for the attachment of earnings, or to vary it in some other way, and the Court thinks fit to comply with the request.
- (3) In this section, **'the appropriate variation order'** means an order varying the attachment of earnings order in question by reducing the normal deduction rate specified thereby so as to secure that that rate or, in the case mentioned in paragraph (a) of subsection (1) of this section, the aggregate of the rates therein mentioned:
- (a) is the same as the rate of payments required by the maintenance order; or
  - (b) is such lower rate as the Court thinks fit having regard to the amount of the excess mentioned in paragraph (a) of subsection (1).

**11 Attachment order in respect of maintenance payments to cease to have effect on the discharge of the maintenance order**

- (1) An attachment of earnings order made to secure maintenance payments shall cease to have effect upon the discharge of the related maintenance order.
- (2) Where the related maintenance order is discharged and it appears to the Court discharging the order that arrears thereunder will remain to be recovered after the discharge, that Court may, if it thinks fit, direct that the provisions of the preceding subsection shall not apply.

**12 Termination of employer's liability to make deductions**

- (1) Where an order for the attachment of earnings ceases to have effect under section 8 or section 11 of this Act, the proper officer of the Court which made the order shall give notice of the cesser to the person to whom the order was directed.
- (2) Where, in the case of an order for the attachment of earnings made otherwise than to secure maintenance payments, the whole amount payable under the relevant adjudication has been paid, and also any relevant costs, the Court shall give notice to the employer that no further compliance with the order is required.
- (3) Where an order for the attachment of earnings:
  - (a) ceases to have effect under section 8 or section 11 of this Act; or
  - (b) is discharged under section 9,

the person to whom the order has been directed shall be under no liability in consequence of his treating the order as still in force at any time before the expiration of seven days from the date on which the notice required by subsection (1) or, as the case may be, a copy of the discharging order is served on him.

**13 Application of sums received by collecting officer**

- (1) The collecting officer to whom a person makes payments in compliance with an order for the attachment of earnings shall, after deducting such court fees, if any, in respect of proceedings for or arising out of the order, as are deductible from those payments, deal with the sums paid in the same way as he would

if they had been paid by the debtor to satisfy the relevant adjudication.

- (2) Any sums paid to the collecting officer under an order for the attachment of earnings made to secure maintenance payments shall, when paid to the person entitled to receive those payments, be deemed to be payments made by the debtor, so as to discharge:
  - (a) first, any sums for the time being due and unpaid under the related maintenance order, a sum due at an earlier date being discharged before a sum due at a later date; and
  - (b) secondly, any costs incurred in proceedings relating to the related maintenance order which were payable by the debtor when the attachment of earnings order was made or last varied.

**14 Power of court to obtain statements of earnings, etc.**

- (1) Where in any proceedings a Court has power to make an order for the attachment of earnings, it may:
  - (a) order the debtor to give to the Court, within a specified period, a statement signed by him of:
    - (i) the name and address of any person by whom earnings are paid to him;
    - (ii) specified particulars as to his earnings and anticipated earnings, and as to his resources and needs; and
    - (iii) specified particulars for the purpose of enabling the debtor to be identified by any employer of his;
  - (b) order any person appearing to the Court to have the debtor in his employment to give to the Court, within a specified period, a statement signed by him or on his behalf of specified particulars of the debtor's earnings and anticipated earnings.
- (2) Where an order for the attachment of earnings has been made, the Court may at any time thereafter while the order is in force make such an order as is described in paragraph (a) or paragraph (b) of subsection (1).

- (3) Without prejudice to the two preceding subsections, rules of court may provide that where notice of an application for an order for the attachment of earnings is served on the debtor, it shall include a requirement that he shall give to the Court, within such period and in such manner as may be prescribed, a statement in writing of the matters specified in paragraph (a) of subsection (1) and of any other prescribed matters which are, or may be, relevant under section 6 of this Act to the determination of the normal deduction rate and the protected earnings rate to be specified in any order made on the application.
- (4) In any proceedings in which a Court has power to make an order for the attachment of earnings, and in any proceedings for the making, variation or discharge of such an order, a document purporting to be a statement given to the Court in compliance with an order under paragraph (a) or paragraph (b) of subsection (1), or with any such requirement of a notice of application for an attachment of earnings order as is mentioned in the last preceding subsection, shall, in the absence of proof to the contrary, be deemed to be a statement so given and shall be evidence of the facts stated therein.

**15            Obligation of debtor and his employers to notify changes of employment and earnings**

While an attachment of earnings order is in force:

- (a) the debtor shall from time to time notify the Court in writing of every occasion on which he leaves any employment, or becomes employed or re-employed, not later, in each case, than seven days from the date on which he did so;
- (b) the debtor shall, on any occasion when he becomes employed or re-employed, include in his notification under paragraph (a) particulars of his earnings and anticipated earnings from the relevant employment; and
- (c) any person who becomes the debtor's employer and knows that the order is in force and by what Court it was made shall, within seven days of his becoming the debtor's employer or of acquiring that knowledge, whichever is the later, notify that Court in writing that he is the debtor's employer, and include in his notification a statement of the debtor's earnings and anticipated earnings.

**16 Power of court to determine whether particular payments are earnings**

- (1) Where an attachment of earnings order is in force, the Court shall, on the application of a person specified in the next following subsection, determine whether payments to the debtor of a particular class or description specified by the application are earnings for the purposes of the order; and the employer shall be entitled to give effect to any determination for the time being in force under this section.
- (2) The persons referred to in the preceding subsection are:
  - (a) the employer;
  - (b) the debtor; and
  - (c) the person to whom payment under the relevant adjudication is required to be made, whether directly or through an officer of any court.
- (3) Where an application under this section is made by the employer, he shall not incur any liability for non-compliance with the order as respects any payments of the class or description specified by the application which are made by him to the debtor while the application, or any appeal in consequence thereof, is pending; but this subsection shall not, unless the Court otherwise orders, apply as respects such payments if the employer subsequently withdraws the application or, as the case may be, abandons the appeal.

**17 Consolidated attachment orders**

- (1) The powers of a Court under section 3 of this Act shall include power to make an attachment of earnings order to secure any number of payments of any of the types referred to in subsection (1) of section 3.
- (2) An attachment of earnings order made by virtue of this section shall be known as a consolidated attachment order.
- (3) The power to make a consolidated attachment order shall be exercised subject to and in accordance with rules of court; and rules made for the purposes of this section may provide:
  - (a) for the transfer from one Court to another:
    - (i) of an attachment of earnings order, or any proceedings for or arising out of such an order; and

- (ii) of functions relating to the enforcement of any liability capable of being secured by attachment of earnings;
- (b) for enabling a Court to which any order, proceedings or functions have been transferred under the rules to vary or discharge an attachment of earnings order made by another Court and to replace it, if the Court thinks fit, with a consolidated attachment order;
- (c) for the cases in which any power exercisable under this section or the rules may be exercised by a Court of its own motion or on the application of a prescribed person; and
- (d) for requiring the Registrar or Clerk of a Court who receives payments made to him in compliance with an attachment of earnings order, instead of complying with section 13 of this Act, to deal with them as directed by the Court or the rules.

**18 Persons employed by the Republic**

- (1) The fact that an attachment of earnings order is made at the suit of the Republic shall not prevent its operation at any time when the debtor is in the employment of the Republic.
- (2) Where a debtor is in the employment of the Republic and an attachment of earnings order is made in respect of him, then for the purposes of this Act:
  - (a) the chief officer for the time being of the department, office or other body in which the debtor is employed shall be treated as having the debtor in his employment, any transfer of the debtor from one department, office or body to another being treated as a change of employment; and
  - (b) any earnings paid by the Republic, or otherwise out of the Treasury Fund, shall be treated as paid by the said chief officer.
- (3) If any question arises, in proceedings for or arising out of an attachment of earnings order, as to what department, office or other body is concerned for the purposes of this section, or as to who for those purposes is the chief officer thereof, the question shall be referred to and determined by the Chief Secretary; but the Chief Secretary shall not be under any obligation to consider

a reference under this subsection unless it is made by the Court.

- (4) A document purporting to set out a determination of the Chief Secretary under the last preceding subsection and to be signed by him shall, in any such proceedings as are mentioned in that subsection, be admissible in evidence and be deemed to contain an accurate statement of such a determination unless the contrary is shown.

## **19 Offences**

- (1) Any person who:
- (a) being required by subsection (1) of section 7 or subsection (2) of section 9 of this Act to comply with an attachment of earnings order, fails to do so;
  - (b) being required by subsection (2) of section 7 of this Act to give a notice for the purposes of that subsection, fails to give it, or fails to give it within the time required by that subsection;
  - (c) fails to comply with an order under subsection (1) of section 14 of this Act or with any such requirement of a notice of application for an attachment of earnings order as is mentioned in subsection (3) of section 14, or fails, in either case, to comply within the time required by the order or notice;
  - (d) fails to comply with section 15 of this Act;
  - (e) gives a notice for the purposes of subsection (2) of section 7 of this Act, or a notification for the purposes of section 15, which he knows to be false in a material particular, or recklessly gives such a notice or notification which is false in a material particular; or
  - (f) in purported compliance with subsection (2) of section 7 or 15 of this Act, or with an order under subsection (1) of section 14, or with any such requirement of a notice of application for an attachment of earnings order as is mentioned in subsection (3) of section 14, makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular;

is guilty of an offence.



- (2) A debtor who is guilty of an offence under paragraph (c) or paragraph (d) of the preceding subsection is liable to imprisonment for one month and to a fine of one hundred dollars.
- (3) Any person who is guilty of an offence under paragraph (e) or paragraph (f) of subsection (1) is liable to imprisonment for one month and to a fine of one hundred dollars.
- (4) Any person who is guilty of an offence under paragraph (a) or paragraph (b) of subsection (1) and any person other than a debtor who is guilty of an offence under paragraph (c) or paragraph (d) of that subsection is liable to a fine of one hundred dollars.
- (5) It shall be a defence:
  - (a) for a person charged with an offence under paragraph (a) of subsection (1) to prove that he took all reasonable steps to comply with the attachment of earnings order in question; and
  - (b) for a person charged with an offence under paragraph (b) of subsection (1) to prove that he did not know, and could not reasonably be expected to know, that the debtor was not in his employment, or, as the case may be, had ceased to be so, and that he gave the required notice as soon as reasonably practicable after the fact came to his knowledge.
- (6) Where a person is convicted or dealt with for an offence under paragraph (a) of subsection (1), the Court may order him to pay, to whoever is the collecting officer of the Court for the purposes of the attachment of earnings order in question, any sums deducted by that person from the debtor's earnings and not already paid to the collecting officer.

**20      *Effect of this Act on section 8 of the Maintenance Ordinance 1959-1967***

No order shall be made under section 8 of the *Maintenance Ordinance 1959-1967* for the attachment of the earnings of any person otherwise than in accordance with the provisions of this Act.

**21      *Repeal***

- (1) Section 111 of the *Public Service Act 1961-1971* is repealed.

- (2) Subsection (1) of section 36 of the *Civil Procedure Act 1972* is amended by:
- (a) deleting the words and punctuation 'salary and wages accrued or to become due', in the fourth and fifth lines of that subsection; and
  - (b) by deleting paragraph (g) of the proviso to that subsection.

## SCHEDULE

sections 6 and 7

### DEDUCTIONS BY EMPLOYER UNDER ATTACHMENT OF EARNINGS ORDER

#### PART I – SCHEME OF DEDUCTIONS

- (1) The following three paragraphs have effect for defining and explaining, for purposes of this Schedule, expressions used therein.
- (2) **'Pay-day'**, in relation to earnings paid to a debtor, means an occasion on which they are paid.
- (3) **'Attachable earnings'**, in relation to a pay-day, are the earnings which remain payable to the debtor on that day after deduction by the employer of amounts deductible under any enactment for the purposes of a provident fund or superannuation scheme.
- (4) On any pay-day:
  - (a) **'the normal deduction'** is arrived at by applying the normal deduction rate, as specified in the relevant attachment of earnings order, with respect to the period since the last pay-day or, if it is the first pay-day of the debtor's employment with the employer, since the employment began; and
  - (b) **'the protected earnings'** are arrived at by applying the protected earnings rate, as so specified, with respect to the said period.
- (5) In the case of an attachment of earnings order made to secure the payment of a judgment debt, the employer shall on any pay-day:
  - (a) if the attachable earnings exceed the protected earnings, deduct from the attachable earnings the amount of the excess or the normal deduction, whichever is the less;
  - (b) make no deduction if the attachable earnings are equal to, or less than, the protected earnings.

- (6) (1) The following provision shall have effect in the case of an attachment of earnings order to which paragraph 5 above does not apply.
- (2) If on a pay-day the attachable earnings exceed the sum of:
- (a) the protected earnings; and
  - (b) so much of any amount by which the attachable earnings on any previous pay-day fell short of the protected earnings as has not been made good by virtue of this subparagraph on another previous pay-day, then, in so far as the excess allows, the employer shall deduct from the attachable earnings the amount specified in the following subparagraph.
- (3) The said amount is the sum of:
- (a) the normal deduction; and
  - (b) so much of the normal deduction on any previous pay-day as was not deducted on that day and has not been paid by virtue of this subparagraph on any other previous pay-day.
- (4) No deduction shall be made on any pay-day when the attachable earnings are equal to, or less than, the protected earnings.

## **PART II – PRIORITY AS BETWEEN ORDERS**

- (7) Where the employer is required to comply with two or more attachment of earnings orders in respect of the same debtor, all or none of which orders are made to secure the payment of judgement debts, then on any pay-day the employer shall, for the purpose of complying with Part I of this Schedule:
- (a) deal with the orders according to the respective dates on which they were made, disregarding any later order until an earlier one has been dealt with;
  - (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 any earlier order.

- (8) Where the employer is required to comply with two or more attachment of earnings orders, and one or more, but not all, of those orders are made to secure the payment of judgment debts, then on any pay-day the employer shall, for the purpose of complying with Part I of this Schedule:
- (a) deal first with any order which is not made to secure the payment of a judgment debt, complying with paragraph 7 if there are two or more such orders; and
  - (b) deal thereafter with any order which is made to secure the payment of a judgment debt 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 an order having priority by virtue of the preceding subparagraph; and
  - (c) if there are two or more orders to which the last preceding subparagraph applies, comply with paragraph 7 in respect of those orders.