



Your guide to the Attachment of Earnings Act 1971

What is an Attachment of Earnings Order (AEO)?

The Attachment of Earnings Act 1971 allows a court to order you or your company to make deductions from the earnings of an employee to recover unpaid

- maintenance (High Court, county courts and magistrates' courts)
- fines, before 5 April 2004 (magistrates' courts)
- civil judgment debts (county courts)

The blue section of this booklet explains how to comply with the attachment of earnings order (AEO) that you have received.

Under the Act, you **must**

- write to the court within **ten** days if you receive an order and you do not employ the person named in it. For single county court or maintenance orders you should contact the Centralised Attachment of Earnings Payment System (CAPS) at Northampton
- take all reasonable steps to comply with an order or a varied order
- write to the court within **ten** days (a telephone call is not sufficient) if the employee leaves your employment. An AEO lapses from the pay day coinciding with the following termination of employment. For single county court or maintenance orders you should contact CAPS.

You must also

- give a signed statement of an employee's earnings if the court requires you to do so
- write to the court that made the order within **seven** days if you learn that a new employee has an existing order against him, giving details of your employee's earnings and anticipated earnings.

Remember, the court may fine you or your employee if you do not comply with an order or if you deliberately give false information.

- If you have any problems with a single county court or maintenance order please contact the CAPS helpline on 0300 123 1058

An AEO tells you

- the total debt owed by your employee (unless the order is for ongoing maintenance)
- how often you should make a deduction (usually weekly or monthly)
- the amount to deduct each week or month (the normal deduction rate (NDR))
- the amount below which you must not make a deduction (the protected earnings rate (PER)).

Remember, if your employee works at a different location to your office, the work can be done by a wages clerk or a branch manager and you can ask the court or CAPS to send further correspondence to a more convenient address.

The court will tell you in writing if it

- changes ('varies') the NDR or PER A magistrates' court may vary the protected earnings rate for a period of up to four weeks. You should revert to the original protected earnings rate after the period stated in the order.
- discharges (cancels) the order, or if the order has been paid in full. You must stop deductions as soon as possible and certainly within **seven** days of receiving the notice. Any money deducted should be sent to the court at once. You should check the amount of the final deduction; it may be less than the usual deduction.

Remember, you or your employee can make an application to the court at any time to settle a dispute about the operation of an order, or to resolve any uncertainty about whether particular earnings are attachable.

How to comply with an order

Making deductions

The order comes into force on the day you receive it. You should begin to make deductions the next time you pay your employee, and on each future pay day. The court may fine you if you do not make deductions or fail to explain why you are not making deductions. The court will not fine you if the first pay day falls within **seven** days of the date you receive the order.

You should make deductions from your employee's earnings until the total debt owed by your employee is reached. If you receive an order for ongoing maintenance, you should make deductions until the court tells you to stop.

Each time you make a deduction

- you may deduct **£1** from your employee's earnings towards your administrative costs for operating the order (even if this reduces your employee's income below the protected earnings rate)
- you must inform your employee in writing about each deduction (including the amount you can deduct towards your costs) as soon as possible after making the deduction

What if I pay my employee monthly but the order specifies weekly deductions?

If you are operating a county court AEO, you can ask the court to recalculate and amend the order so that you can make monthly deductions.

You can also ask the court to recalculate and amend the order if you pay your employee weekly and the order specifies monthly deductions.

If you are operating a magistrates' court AEO only your employee can ask the court to vary the order.

What types of earnings do I make deductions from?

The Act defines **earnings** as

- wages and salary (including bonuses, fees, overtime and commission)
- pension (for past service and compensation for loss of employment)
- statutory sick pay

but excludes

- disability pension
- statutory maternity, paternity and adoption pay
- guaranteed minimum pension (as provided by an occupational pension scheme)
- sums payable by any public department of the Government of Northern Ireland or a territory outside the UK
- armed forces pay
- tax credit
- wages payable to a person as a seaman

You must only make a deduction from what is left (the **attachable earnings**) after you have deducted:

- income tax (PAYE)
- national insurance
- superannuation (excluding free standing additional voluntary contributions)
- pension, allowances or benefit payable relating to social security

If you lend money to your employee and then recover the loan through your employee's earnings, you must make the AEO deduction before you take any repayment towards the loan. But do not make a deduction under an AEO from the total loan.

What category of AEO have I received?

For the purpose of calculating deductions attachment of earnings orders fall into **two** categories

- maintenance or fines (priority AEOs)
- civil debts (non-priority AEOs)

The forms you receive will identify the category of order you are being asked to operate.

Remember, under priority orders you must carry forward any shortfall in the normal deduction or the protected earnings from pay day to pay day until it is cleared.

Remember too, under non-priority orders you must not carry forward any such shortfalls.

What should I normally do on each pay day?

Example

You receive an AEO which gives a protected earnings rate of £150 and a normal deduction rate of £25

- calculate your employee's attachable earnings, eg. £190
- set aside his protected earnings, ie. £150
This leaves £40
- take off the normal deduction, ie. £25
This leaves £15
- Send the £25 normal deduction to the court
- deduct £1 if you wish from the remainder for making the deduction
- pay your employee his protected earnings (£150) and the remainder (£14), ie £164 in total

The examples that follow this always deal first with a non-priority AEO and then explain what you should do if you are operating a priority AEO.

What do I do if the attachable earnings are too low to allow the full deduction?

If your employee earns less than usual, you must still set aside your employee's protected earnings even if that does not leave enough for the normal deduction.

Example

You receive an AEO which gives a protected earnings rate of £150 and a normal deduction rate of £25

- calculate your employee's attachable earnings, eg £170
- set aside his protected earnings, ie £150
This leaves £20

As only £20 of the normal deduction can be met

- send what you can of the normal deduction (£20) to the court
- deduct £1 if you wish from your employee's protected earnings for making a deduction (even if this reduces your employee's income below the protected earnings rate)
This leaves £149
- pay your employee the remainder of his protected earnings, ie £149

The deduction is £5 short of the normal deduction of £25 but do not carry this deficit forward to the following pay day

Remember, under a non-priority order the normal deduction rate should never be exceeded.

Remember too, under a priority order you must carry forward the shortfall in the normal deduction and you will have to make up the full deduction as soon as possible.

On the following pay day for a **priority order** you would therefore

- calculate your employee's attachable earnings, eg £190
- set aside his protected earnings, ie £150
This leaves £40
- take off the normal deduction (£25) + the deficit in the last pay day's normal deduction (£5)
This leaves £10
- send the normal deduction (£30) to the court
- take £1 if you wish from the remainder for making a deduction
- pay your employee his protected earnings (£150) and the remainder (£9), ie £159 in total

What do I do if the attachable earnings are less than the protected earnings?

If your employee's attachable earnings are less than his protected earnings, pay him what you can of his protected earnings.

Example

You receive an AEO which gives a protected earnings rate of £150 and a normal deduction rate of £25

- calculate your employee's attachable earnings, eg £140

As the protected earnings rate is £150

- you cannot make the normal deduction (£25)
- you must not take £1 from the sum paid to your employee as you have made no deduction, but
- pay your employee £140

Remember, under a non-priority order, do not carry forward the deficit of protected earnings or normal deduction.

Remember too, under a priority order you must carry forward to the next pay day both the shortfall in protected earnings and the whole normal deduction.

On the next pay day for a **priority order**, you would therefore

- calculate your employee's attachable earnings, eg £190
 - set aside his protected earnings (£150) + the deficit of protected earnings from the last pay day (£10), ie £160
- This leaves £30

Both the normal deduction for this pay day and the last are due, ie £50

- send what you can of the normal deduction (£30) to the court and carry forward the deficit (£20) to the following pay day (and so on until the deficit is cleared)
- take £1 if you wish from your employee's protected earnings for making a deduction
- pay your employee the remainder of his protected earnings, ie £159

This will bring your employee's protected earnings up to date

Remember, do not carry forward the £1 you have deducted for your expenses as a deficit of protected earnings even though you may have deducted it from your employee's protected earnings as in this example.

What happens if I do not pay my employee monthly or weekly?

For any pay period longer or shorter than that specified in the attachment of earnings order, calculate the number of weeks (or days) for which pay is being given, and divide the total attachable earnings by this number. You will then be able to calculate the total amount of protected earnings and the total normal deduction in the usual way.

Example

You receive an AEO which gives a protected earnings rate of £550 and a normal deduction rate of £70.

You usually pay your employee monthly but this month you have included an extra pay day on 9 October.

- calculate your employee's attachable earnings, eg £230
- set aside his protected earnings, ie £550 divided by 31 days x 9 days =£159.68
This leaves £70.32
- take off the normal deduction, ie £70 divided by 31 days x 9 days =£20.32
This leaves £50.00
- send the normal deduction (£20.32) to the court
- deduct £1 if you wish from the remainder for making the deduction
- pay your employee his protected earnings (£159.68) and the remainder (£49), ie £208.68 in total

How do I calculate holiday pay in advance?

If you have been ordered to make a weekly deduction and you are paying your employee earnings in advance (eg because he is going on holiday), you should

- calculate your employee's total attachable earnings for the pay period
- multiply the PER and the NDR by the number of weeks in the pay period
- set aside the aggregated PER and take off the aggregated NDR in the usual way

Remember, as you are only making one deduction, you may only deduct £1 towards your administrative costs, and not £1 for each week included in the pay period.

Example

You receive an AEO which gives a protected earnings rate of £140 and a normal deduction rate of £30. Pay day is at the end of a week before two weeks' holiday.

- calculate your employee's attachable earnings, eg (3 weeks at £175 a week) = £525
- set aside his protected earnings, ie 3 weeks at £140 a week = £420
- This leaves £105
- take off the normal deduction (3 weeks at £30 a week) = £90
- This leaves £15
- send the deduction (£90) to the court
- take £1 if you wish from the remainder for making the deduction
- pay your employee his protected earnings (£420) and the remainder (£14), ie £434 in total

What if I am already operating another AEO for this employee?

- AEOs for maintenance or fines take precedence over each other by date of issue
- An AEO for civil debt always gives way to an AEO for maintenance or a fine
- AEOs for civil debts take precedence over each other by date of issue

If the AEOs are for civil debts only, you can ask the court to make a Consolidated Attachment of Earnings Order (CAEO). This will simplify your calculations and allow you to make a single deduction each pay day.

The court will recalculate the deduction you must make and will send you a new order. However, until a consolidated order is made, you must continue to make deductions under the existing AEO.

What if I receive an AEO and another type of order for the same employee?

This information is available in a handbook called '**Attachment Orders: a guide for employers**' available on our website at www.justice.gov.uk

The handbook gives guidance and worked examples on how to operate any type of attachment order issued in England, Wales, Scotland and Northern Ireland by courts, local authorities or the Child Support Agency. This is available on our website at www.hmcourts-service.gov.uk

Making payments

You should send the payment to the court which made the AEO (unless the order tells you otherwise) as soon as possible, stating the name of the employee and the case number. This information is on the copy order sent by the court.

If you are making payments under two or more orders issued by the same court, you can pay a lump sum cheque. You must send a paper schedule setting out the details of each payment you include.

You should make all cheques payable to HM Courts & Tribunals Service.

Some magistrates' courts allow you to pay by individual automated credit transfer (VOCA) payments using the bank automated clearing system (BACS). Contact the magistrates' court that made the order if you wish to pay in this way. CAPS also allows payment by BACS. You should contact BACS for further information.

Where can I receive further help and advice?

For further advice about a particular order, you should contact the court which made the AEO. Always quote the case or reference number.

For single county court or maintenance orders you should contact the CAPS helpline.

The helpline telephone number is 0300 123 1058

Alternatively you can write to CAPS at:

PO Box 404
Northampton
NN1 2ZY

e-mail: caps@hmcts.gsi.gov.uk