

MAGISTRATES' COURT GENERAL CIVIL PROCEDURE RULES 2020

Rule 72.05(6)

FORM 72F

ATTACHMENT OF EARNINGS ORDER

IN THE MAGISTRATES' COURT OF VICTORIA AT

Court Number

BETWEEN

Plaintiff

Of: (address)

and

Defendant

Of: (address)

Date of Document: Filed on Behalf of: Australian Lawyer name: Address: Code: Telephone: Reference:

THE COURT ORDERS THAT:

- 1. (Name of employer) of (address of employer) the employer of (judgment debtor) ("the judgment debtor") on each pay day whilst this order is in force, subject to paragraph 2 of this order, deduct from the earnings of the judgment debtor, the sum of \$ (amount) per (week/fortnight/month) ("the normal deduction rate") until a total sum of \$ (amount) has been deducted and remit each payment made under this order to (name of person to whom payments are to be made) of (address of person to whom payments are to be made)
2. The protected earnings rate, that is, the rate below which the earnings of the judgment debtor may not be reduced by a payment under this order, shall be (amount) per (week/fortnight/month)
3. A deduction on a pay day is only to be made if the net earnings of the judgment debtor exceed the protected earnings.
4. If any deduction is not made from the judgment debtor's earnings on any pay day (or is not made in full) by reason of the protected earnings rate, the employer shall make good such deduction from the excess of any subsequent earnings of the judgment debtor.
5. The employer may deduct each pay day \$ (amount) for clerical and administrative costs in

complying with this order.

6. In the event that:

- (a) you are not the employer of the judgment debtor;
- (b) if you were the employer of the judgment debtor at the time of service of this order but have since ceased to be the employer—

you must give written notice of such fact (and the date you ceased to be the employer of the judgment debtor)

to the registrar of the Magistrates' Court of Victoria at _____ and to the judgment creditor
(venue)

at

(address of judgment creditor or judgment creditor's Australian lawyer)

BY THE COURT

Dated:

Registrar

NOTES:

1. The first deduction required to be made under this order is on the first pay day following 7 days after the day of service of this order.
2. "**Earnings**" attached by this order means, in relation to a judgment debtor—
 - (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
 - (b) by way of pension, including—
 - (i) an annuity in respect of past services whether or not the services were rendered to the person paying the annuity; and
 - (ii) periodical payments in respect of or by way of compensation for the loss, abolishment or relinquishment, or any diminution in the emoluments, of any office or employment—
but does not include any pension payable to the judgment debtor under the Commonwealth Acts known as the Social Security Act 1991 as amended from time to time, the Veterans' Entitlements Act 1986 as amended from time to time.
3. Where you are or have been served with two or more attachment of earnings orders, you are required to—
 - (a) comply with those orders according to the respective day on which they took effect and disregard a subsequent order until an earlier order has been complied with; and
 - (b) comply with any order as if the earnings to which it relates were residue of the earnings of the judgment debtor after the making of any payment under an earlier order.
4. You are required to give the judgment debtor a notice specifying particulars of the payments made by you under this attachment of earnings order.
5. You are required to give the judgment debtor notice of any deductions made under paragraph 5 of this order.

WARNING:

1. It is an offence to fail to comply with an attachment of earnings order. The maximum penalty for non-compliance is 60 penalty units or 6 months imprisonment or both.
2. It is an offence to dismiss an employee or injure an employee or alter an employee's position to the prejudice of the employee because of the making of an attachment of earnings order or because of a requirement to make payments under an attachment of earnings order. The maximum penalty is 5 penalty units.

3. If you fail to comply with this order, the judgment creditor may apply to the court to have you the employer liable to pay the deductions.