

GARNISHING ORDER (AFTER JUDGMENT)

IN THE PROVINCIAL COURT OF BRITISH COLUMBIA
(SMALL CLAIMS COURT)

REGISTRY FILE NUMBER
REGISTRY LOCATION

Between _____ NAME _____ **JUDGMENT CREDITOR**

And _____ NAME _____ **JUDGMENT DEBTOR**

And _____ NAME _____ **GARNISHEE**

Before _____ : Judge/Registrar

On reading the affidavit of _____,
sworn on _____

I order that, except as otherwise ordered, all debts, obligations, and liabilities owing, payable, or accruing due from the garnishee (or garnishees or any of them) to the judgment debtor be attached up to the total amount set out below and paid into Court. If any of the debts, obligations, and liabilities are owing, payable, or accruing due for wages, then only as much of them as is permitted by Section 3 of the *Court Order Enforcement Act* are to be attached and paid into Court.
(See Reverse)

DATED _____

To the Judgment Debtor: (name and address)

By the Court (_____)

To the Garnishee: (name and address)

To the Judgment Debtor: (name and address)

Amount due on Judgment (or balance of it) \$ _____
as the case may be):

Cost of attachment proceedings: \$ _____

Total amount attached: \$ _____

When making payment into Court, Court File No. must be quoted and made payable to Minister of Finance.

NOTICE TO GARNISHEE

If you do not pay into court at once the amount of your indebtedness to the defendant or judgment debtor, or the amount limited by the above attaching order, or if you do not dispute your liability, an order may be made against you for the payment of the full amount with costs. If you dispute your liability you should at once file a dispute note.

"Owing, payable or accruing due" means owing, payable or accruing due at the time this order was served on you but, in the case of wages or salary, includes wages or salary that will, in the ordinary course of employment, become due and payable within 7 days after the day on which the affidavit first above mentioned was sworn.

NOTICE TO EMPLOYER

Section 27 of the *Court Order Enforcement Act* makes it an offence to dismiss or demote an employee or terminate a contract of employment of an employee merely because of the service of a garnishing order on the employer issued under this Act.

NOTICE TO JUDGMENT DEBTOR

To prevent further garnishment proceedings you may apply to the registrar or the court and, if considered just in all the circumstances, an order may be made releasing all or part of this garnishment and providing for payment of the judgement against you by instalments.
Court address is:

GARNISHING ORDER (AFTER JUDGMENT)

Part 1

Section 1 of the *Court Order Enforcement Act* defines “wages” as follows:

“wages” includes salary, commissions, and fees, and any other money payable by an employer to an employee for work or services performed in the course of employment of the employee; but it does not include deductions from wages made by an employer under an Act of the Legislature of any province or the Parliament of Canada.

Section 3(1), 3(4-8) of the *Court Order Enforcement Act* provides,

(1) In this section:

“**debt due**” and “**debts due**” include debts, obligations and liabilities owing, payable or accruing due and wages that would in the ordinary course of employment become owing, payable or due within 7 days after the date on which an affidavit has been sworn under subsection (2) or subsection (3);

“**debts, obligations and liabilities**”, subject to this Act, does not include an obligation or liability not arising out of trust or contract, unless judgment has been recovered on it against the garnishee but does include, without limitation, all claims and demands of the defendant, judgment debtor, or person liable under the order for payment of money against the garnishee arising out of trusts or contract if the claims and demands could be made available under equitable execution.

(4) An order must not be made under this Part for the attachment of a debt due to an employee for the employee’s salary or wages before a judgment or order for the payment of money has been obtained against the employee in the proceeding.

(5) Except as otherwise provided in the Part, 70% of any wages due by an employer to an employee is exempt from seizure or attachment under a garnishing order issued by a judge or registrar, but the amount of the exemption allowed under this subsection must not be less than

(a) in the case of a person without dependants, \$100 per month, or proportionately for a shorter period, and

(b) in the case of a person with one or more dependants, \$200 per month, or proportionately for a shorter period.

(6) Subsection (5) (a) does not apply if the debt is contracted for board or lodging and subsection (5) (b) does not apply if

(a) the debt is contracted for board or lodging, and

(b) in the opinion of the judge or registrar, the exemption set out in subsection (5) (b) is not necessary for the support and maintenance of the debtor’s dependants.

(7) Despite any other provision of this Part, if the wages of a person are seized or attached under

(a) a court order for alimony or maintenance,

(b) a duly executed separation agreement, or

(c) an order under section 18 (2) of the *Family Maintenance Enforcement Act*,

the exemption allowed to that person is 50% of any wages due if the wages due do not exceed \$600 per month and 33 1/3% for wages in excess of \$600 per month but the amount of the exemption allowed under this subsection must not be less than \$100 per month, or proportionately for a shorter period.

(8) The definition of “debts, obligations and liabilities” in subsection (1) applies to the use of that expression or the use of any of the words composing it in an order made under this section.

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“**debts, obligations and liabilities**”, subject to this Act, does not include an obligation or liability not arising out of trust or contract, unless judgment has been recovered on it against the garnishee but does include, without limitation, all claims and demands of the defendant, judgment debtor, or person liable under the order for payment of money against the garnishee arising out of trusts or contract if the claims and demands could be made available under equitable execution.

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(a) in the case of a person without dependants, \$100 per month, or proportionately for a shorter period, and

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(b) in the opinion of the judge or registrar, the exemption set out in subsection (5) (b) is not necessary for the support and maintenance of the debtor’s dependants.

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(8) The definition of “debts, obligations and liabilities” in subsection (1) applies to the use of that expression or the use of any of the words composing it in an order made under this section.

AFFIDAVIT OF SERVICE

Fill in: I _____ name _____ occupation _____
your name and address; of _____ address _____

Make oath and say that:

Solemnly affirm that:

the name of the party or other person served; I served _____

the date service took place; on _____ date _____

the address or location service took place. at _____

with a copy of this document.

Tell how service took place. Check appropriate box. by leaving a copy of it with him or her.

mailing a copy by registered mail to the person named above, at the above address, being the last known post office address: Attached to this Affidavit is:

a copy, produced by fax or otherwise, of the signature obtained by Canada Post at the time the Garnishing Order was delivered.

a print-out of the delivery confirmation made available on the Internet by Canada Post

as directed by the court by _____

Sworn/affirmed before me on

signature of person who served the document

Do not sign the affidavit until you are with the commissioner for taking affidavits.

_____ date _____

at _____
location where affidavit is sworn

A commissioner for the taking of affidavits will witness your signature

signature of commissioner for taking affidavits for British Columbia

AFFIDAVIT OF SERVICE