



Magistrates Court of Western Australia Civil Jurisdiction

Fact Sheet 34 – Earnings Appropriation Form

This fact sheet provides information for the judgment creditor, judgement debtor and third person (employer).

What is an earnings appropriation order?

This is an order requiring **an employer** who pays earnings (salary/wages) to the judgment debtor to **pay a portion** of those earnings to the **judgment creditor**.

An earnings appropriation order can only be made against an individual.

When can a judgment creditor apply for an earnings appropriation order?

Where an instalment order has been made and has been disobeyed and cancelled.

An order cannot be made against a judgment debtor if another earnings appropriation order is in effect.

An application cannot be addressed to more than one person who is liable to pay the judgment debtor's earnings.

Applying for an earnings appropriation order

May be applied for at a default inquiry if the court determines that the judgment debtor has failed to pay two or more instalments on an instalment order or has failed to comply with a time for payment order. The court must also cancel the instalment order.

May be applied for after the default inquiry by completing, lodging **Form 6** and paying the prescribed application fee (if not previously paid).

Serving the earnings appropriation order

The earning appropriation order must be served on the third person by ordinary service.

See Fact sheet: No. 8 Serving a court document

Judgment creditor no longer requires earnings appropriation order

The judgment creditor must immediately notify the third person if the order is no longer required. Failure to do this could result in a penalty of imprisonment for 12 months.

Obligations of the third person (employer)

A third person, who pays an amount to the judgment creditor under an earnings appropriation order or retains an amount for reasonable expenses, must give the judgment debtor a written notice containing details of these amounts.

The amounts that can be retained for reasonable expenses are:

1. for the first payment, an amount up to but not exceeding \$10.00

2. for the second and subsequent payment an amount up to but not exceeding \$5.00.

Grounds for objection by third person to an earnings appropriation order

1. They are not a person who is liable to pay earnings to the judgment debtor.
2. They have ceased to be liable to pay earnings to the judgment debtor on a date after the order was served.

How does the third person object to an earnings appropriation order?

Complete and file **Form 17** within **7 days** after the day on which the earnings appropriation order was served.

The application must state the grounds on which it is made and the facts that support the grounds.

The court will serve the objection on the judgment debtor and judgment creditor.

This is a guide only. The content is subject to change.

If you are unsure about any of the information in this fact sheet, contact your nearest registry or seek legal advice.