

**Folkestone**

Hythe & Romney Marsh

Shepway District Council



# Council Tax Attachment of Earnings Order (AEO)

## Guidance for Employers

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## **1.1 Introduction**

This chapter is broken into three parts. The first (sections 1 to 10) explains how a council tax attachment of earnings order arises, what it looks like and how to deal with it. The second part (sections 11 to 21) explains how you calculate earnings and the appropriate deductions to make. The third part (section 23) and Annexes A to D provides further useful information. Chapter 2 explains how you prioritise deductions when there is more than one order outstanding against one of your employees.

Note that this chapter applies to Council Tax Attachment of Earnings Orders (CTAEO) in England and Wales only. The system in Scotland operates differently.

## **Administering Council Tax Attachment of Earnings Orders**

### **1.2 How does a Council Tax Attachment of Earnings Order arise?**

When a local authority issues a Council Tax bill and a reminder but does not receive payment, it may apply to a magistrates' court for a summons directing a person to appear before the court to explain why the council tax has not been paid.

If non-payment is proved, the court issues a liability order for Council Tax payable, plus the costs incurred by the local authority in obtaining the liability order. Once it has obtained a liability order, the local authority has a number of options, including attachment of earnings, for recovering the amount stated in the liability order;

If it considers attachment of earnings is the appropriate course, the authority will issue a CTAEO to the employer whom it believes has the debtor in his employment, sending a copy of the order to the debtor.

### **1.3 What does a CTAEO look like?**

The format of the order is prescribed in regulations to ensure consistency of presentation and is therefore expressed in a rather formal way. The order states the name and address of the debtor (your employee), the amount they owe and requires that deductions are calculated, in accordance with the regulations, from net earnings. The order must be sent with the prescribed deduction tables and a copy of the regulations which deal with CTAEOs. You can find a copy of the order at Annex A and the relevant regulations at Annex B. A copy of the deduction table can be found at Annexe C.

### **1.4 What duties does a CTAEO place on the employer?**

If you receive a CTAEO for someone who is no longer or has never been in your employment then you should inform the issuing authority within fourteen days in writing and your responsibility to do anything under the order will cease.

If the person who is the subject of the order is in your employment you should make deductions from their earnings. Sections 1.13 to 23 explain how you should calculate earnings and the deductions to be made. These deductions should begin as soon as possible after the receipt of the order. The amount deducted should then be forwarded to the authority by the 19th day of the month following the month in which the deduction was made.

You must inform your employee in writing about each deduction, and of either the total deductions made under the order to date or the outstanding balance to be repaid to the

authority, when they are given their pay statement. If no pay statements are usually given, you must inform them in writing as soon as possible after making the deduction. In each case you must include the amount you have deducted or will deduct towards your administrative costs for operating the order.

### **1.5 How should payments to the local authority be made?**

You can pay by sending the local authority a cheque for each deduction or a lump sum cheque covering all orders in respect of your employees for an individual local authority. You should send a paper schedule with a lump sum cheque setting out the CTAE0 reference number and amount of each individual deduction within the total payment. You are not required to list CTAE0s where no deduction is due, although you may wish to do so to demonstrate there has not been an accidental omission.

Payment can be made by:

- |   |  |
|---|--|
| Cheque  | - Made payable to Shepway District Council                                     |
| Cash  | - Please <u>do not</u> send cash by post                                       |
| Credit and Debit cards  | - by telephoning 01303 853555  |
| Internet Link   | - <a href="http://www.folkestone-hythe.gov.uk">www.folkestone-hythe.gov.uk</a> |
| Through your bank/building society, quoting all the details below |  |
|   | Sort code: 52-41-42  |
|   | Account No: 47159227   |
|   | Council Tax account reference of the employee                                  |

Please remember when making any payments under the attachment order to quote your employee name and Council Tax account number which appears on the correspondence you have been issued with.

### **1.6 What about administration costs?**

You may deduct £1 towards your administrative costs from your employee's earnings each time you make a deduction under a CTAE0. This amount must be included when you notify your employee about deductions made.

### **1.7 How long does the CTAE0 last?**

Deductions should be made each pay day until the total amount specified on the order has been paid over to the authority or until the order is discharged by them.

### **1.8 What happens if the debtor leaves my employment?**

If your employee leaves your employment, the order will lapse from the pay-day coinciding with or following termination of employment. You must notify the local authority in writing within fourteen days of the debtor leaving your employment. When the employee leaves your employment and you have notified the local authority nothing further is required of you. The local authority will have to serve a copy of the order on the new employer that will state the amount remaining to be deducted.

## **1.9 What happens if an employer doesn't comply with a CTAE0?**

A CTAE0 is a legal document and an employer could be liable for a fine if they:

- fail to comply with the order unless they can prove all reasonable steps were taken to comply
- fail to give all required notifications relating to the CTAE0
- in giving notification make a statement which they know to be false in a material particular or recklessly make a statement which is false in a material particular.

## **1.10 What about duties on employees?**

Within fourteen days of being asked to do so, your employee must write to the local authority giving:

- the name and address of their employer
- the amount of their net earnings and anticipated net earnings
- their place of employment, the nature of their work, and any pay reference/works number
- your employee must also write to the local authority within fourteen days of leaving your employment, or becoming unemployed or re-employed.

Employees could be liable for a fine where they fail, without reasonable excuse, to supply information or make a statement that they know to be false in a material particular.

## **1.11 What about duties on local authorities?**

An authority must tell the employer when the whole amount to which a CTAE0 relates has been paid, including when the payment was not made by means of a CTAE0.

An authority may, on its own account, or on application by the debtor or the debtor's employer, make an order discharging the CTAE0. Where a CTAE0 is discharged the authority should notify the employer.

## **Calculating deductions**

### **1.12 What amount should an employer make a deduction against?**

You should make a deduction against the total net earnings received by the employee.

### **1.13 What are net earnings?**

For the purposes of these orders, net earnings means:

- earnings after the deduction of income tax
- primary Class 1 national insurance contributions
- superannuation contributions and
- any deduction with a higher priority.

How to deal with advances and loans is covered below.

### **1.14 What are earnings?**

Earnings are defined as sums payable by way of:

- wages or salary (including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary payable under a contract of service)
- statutory sick pay.

Earnings do not include:

- sums payable by public departments of the Government of Northern Ireland or of a territory outside the United Kingdom
- pay and allowances of members of the armed forces (other than that paid by an employer to a person as a special member of a reserve force)
- benefit or allowances payable under any enactment relating to social security (this includes statutory maternity pay, statutory paternity pay and statutory adoption pay)
- tax credits
- allowances payable in respect of disablement or disability; and
- wages payable to a person as a seaman, other than as a seaman of a fishing boat.

### **1.15 How much should be deducted?**

Once you have worked out your employee's net earnings, you should use the deduction tables Annex C to calculate how much should be deducted.

Working out the correct amount to deduct from net earnings will usually be straightforward. You should simply find the attachable earnings range within which the employee falls in the first column of the deduction tables (weekly or monthly as appropriate) and apply the appropriate percentage deduction rate from the second column.

If you pay your employee at intervals of whole months or weeks, but not each week or month, for example fortnightly, then you should simply divide the payment by the number of weeks or months to which it applies, calculate the deduction as normal and then multiply the resulting amount by the number of weeks or months to arrive at the total deduction to be paid over.

Example 1 : You have received a CTAE0 and you pay your employee fortnightly

- calculate your employee's attachable earnings, e.g. £600
- divide this by two to arrive at a weekly figure i.e. £300
- identify from Table 1 (Annex D) the correct percentage deduction rate, i.e. exceeding £225 but not exceeding £355 = 12%
- calculate the amount to be deducted on a weekly basis i.e.  $300 \times 0.12 = £36$
- multiply this by two to arrive at the total amount to be deducted i.e. £72

This leaves £528

Now:

- send the deduction of £72 to the local authority
- deduct £1, if you wish, from the remainder for making the deduction
- pay your employee the remainder, i.e. £528

### **1.16 What if an employee is not paid in whole weeks or months?**

If an employee is paid at regular intervals, but not at intervals of a whole number of weeks or months, then net earnings should be divided by the number of days. The daily deductions table should then be used to work out the appropriate daily rate, which should then be multiplied by the number of days in the period.

Example 2 : You have received a CTAE0 and you pay your employee on the 10th, 20th and last days of each month. The pay period is 21 – 28 February.

- calculate your employee's attachable earnings, for the pay period, e.g. £560
- find the daily attachable earnings i.e. £560 divided by 8 days = £70
- identify from Table 3 (Annex D) the correct percentage deduction rate i.e. exceeding £52 but not exceeding £72 = 17%
- calculate the amount to be deducted i.e.  $70 \times 17\% = £11.90$
- multiply the deduction by eight = £95.20

### **1.17 What if more than one series of regular payments is made to an employee?**

You may, for example, pay earnings to a salesperson on a weekly basis and pay them commission monthly. If this is the case, you should apply the appropriate table to work out the deduction for the series with the shortest interval between payments. This means that, if they are paid on a weekly basis but also receive a regular monthly sum, you should apply Table 1 to their weekly earnings. In addition, you should deduct 20% of the attachable earnings payable on a monthly basis.

Example 3 : You have received a CTAE0 and you pay your employee weekly and monthly.

- calculate your employee's weekly attachable earnings, e.g. £200
- identify from Table 1 (Annex C), the correct percentage deduction rate, i.e. exceeding £185 but not exceeding £225 = 7%
- calculate the amount to be deducted i.e.  $£200 \times 7\% = £14$
- calculate your employee's monthly attachable earnings, e.g. £500
- calculate the appropriate deduction i.e.  $£500 \times 20\% = £100$
- add the £14 and £100 together for payment to the local authority, deduct £1 for each deduction and pay the remaining amount to your employee

### 1.18 What if an employee is not paid at regular intervals?

If you pay your employee at irregular intervals, you should divide their attachable earnings by the number of calendar days since the last payment. You should then use Table 3 to work out the appropriate daily deductions, and multiply this figure by the number of days in the period.

Example 4 : You have received a CTAE0 and you pay your employee at irregular intervals.

- calculate your employee's attachable earnings for each pay period e.g. £300 (1 April to 9 April); £850 (10 April to 20 April); £600 (21 April to 30 April)
- calculate the daily rate of attachable earnings for each pay period, i.e.  $£300 \text{ divided by } 9 = £33.33$ ;  $£850 \text{ divided by } 11 = £77.27$  and  $£600 \text{ divided by } 10 = £60$
- identify the correct percentage deduction rate from Table 3 (Annex C), i.e. 12%; 17% on the first £72 and 50% thereafter; and 17% respectively.
- calculate the daily deduction rate i.e.  $£33.33 \times 0.12 = £4.00$ ;  $£72.00 \times 0.17 + 5.27 \times 0.50 = £14.88$ ; and  $£60 \times 0.17 = £10.20$  respectively
- multiply by the number of days in the pay period to find the total deduction, i.e.  $9 \times £4.00 = £36.00$ ;  $11 \times £14.88 = £163.68$ ; and  $£10.20 \times 10 = £102.00$  respectively

### 1.19 What if an employee receives both regular and irregular payments?

You should apply the appropriate table to regular payments made to your employee. If you also make an irregular payment to your employee but not on the same pay day as the regular payments, you should deduct 20% of the irregular payment.



Example 5 : You have received a CTAEO. You pay your employee their regular monthly salary on 30 November and a Christmas bonus payment on 10 December.

- calculate your employee's attachable earnings e.g. £1,000 for the November salary and £500 for the Christmas bonus
- identify the correct percentage deduction rate from Table 2 (Annex C) for the monthly salary payment, i.e. exceeding £900 but not exceeding £1,420 = 12%
- calculate the deduction on the monthly salary, i.e.  $0.12 \times £1,000 = £120$
- calculate the deduction on the Christmas bonus, i.e.  $0.20 \times £500 = £100$

### **1.20 What if a regular and irregular payment to an employee fall on the same day?**

If both a regular payment and an irregular payment fall due on the same pay-day, you should combine the two payments for the purpose of calculating a deduction and treat the combined payment as if it were a single payment made on the regular pay-day, applying the appropriate table to the whole sum.

Example 6 : Facts as in Example 5 above except now the Christmas bonus is paid on 20 December at the same time as the regular monthly salaries for December

- calculate your employee's attachable earnings e.g. £1,500 for the December salary and Christmas bonus together
- identify the correct percentage deduction rate from Table 2 (Annex D) for the monthly salary payment i.e. exceeding £1420 but not exceeding £2020 = 17%
- calculate the deduction i.e.  $0.17 \times £1,500 = £255$

### **1.21 How should advances for holiday pay be treated?**

The amount to deduct is the aggregate of a) the amount that would have been deducted on the pay day if there had been no advance of pay; and b) the amounts that would have been deducted if the amounts advanced had been paid on the normal pay day or days.

Example 7 : You have received a CTAE0. In addition to their weekly salary you are paying your employee two weeks' holiday pay in advance.

- calculate your employee's attachable earnings excluding the advance, e.g. one week at £200
- apply from Table 1 (Annex C) the appropriate percentage deduction rate i.e. exceeding £185 but not exceeding £225 = 7%
- calculate the deduction, i.e.  $0.7 \times £200 = £14$
- calculate your employee's attachable earnings relating to the advance, e.g. £400 for two weeks
- divide this total equally between the future pay periods for which the advance is given, i.e. £400 divided by 2 = £200
- apply from Table 1 (Annex C) the appropriate percentage deduction rate i.e. exceeding £185 but not exceeding £225 = 7%
- calculate the deduction, i.e.  $0.7 \times £200 = £14$
- multiply the weekly deduction by the number of weeks in the advance pay period, i.e.  $£14 \times 2 = £28$
- pay over to the local authority the total deduction, i.e.  $£14 + £28 = £42$
- Note that since you are making a deduction from a single payment, only £1 may be deducted for administration costs

## 1.22 How should other loans be treated?

Loans made, for example, for the purchase of a season ticket or for helping with moving house, are not advances of pay and should not be counted as earnings.

The way that repayments of such loans are treated in calculating a deduction depends on the date that the CTAE0 was made:

- for calculating a deduction under a CTAE0 made on or after 1 April 1995, the AEO deduction should be based on net earnings before any loan repayment
- for CTAE0s made before 1 April 1995, net earnings should be reduced by the amount of the repayment made to the employer.

## **Calculating deductions**

### 1.23 Further help and advice

You should contact Shepway District Council Customer Services Team on 01303 853555. If your query is about the interpretation of the regulations concerning CTAE0s then you may also want to contact the council tax policy team in the Department for Communities and Local Government at [council.tax@communities.gsi.gov.uk](mailto:council.tax@communities.gsi.gov.uk)

## **2 Priority of Orders**

### **2.1 What do you do if you receive more than one order for the same employee?**

You may be sent more than one order for the same employee. Whether you should apply more than one order against the earnings of your employee is determined by the type of order. Which order you apply first is determined by the priority status of the order.

### **2.2 How do you know which order takes priority?**

In England, Wales and Northern Ireland priority depends on the type of order and the date it was made. In Scotland priority depends on the type of order and the date you received the order.

In England and Wales the orders, which you should apply first, to your employee's attachable earnings are explained in 2.4 to 2.5.

### **2.3 Operating more than one order of different types**

When you apply orders of different types to your employee's earnings, you will need to take care that you apply the correct type of attachable earnings (the elements may vary depending on the type of order). You must not include in the available attachable earnings a deduction made under a prior order, but you should include any money set aside as 'protected earnings' under a prior order.

## **Employers in England and Wales**

### **2.4 What type of order might you receive?**

You could receive any of the following types of order:

- an Attachment of Earnings Order (AEO)
- a Child Support Deduction from Earnings Order (DEO)
- a Council Tax Attachment of Earnings Order (CTAEO).

*Note: Orders made under the Attachment of Earnings Act 1971 fall into two categories:*

- *Orders for maintenance or a fine (commonly known as priority AEOs) and*
- *Orders for civil debts (commonly known as non-priority AEOs).*

The copy of the order sent to you by the court should identify which type of AEO you are being asked to operate.

### **2.5 Which orders take priority?**

- Attachment of Earnings Orders for civil debts take precedence over each other by date of issue.

*Note: If you receive more than one AEO for civil debt, you may wish to apply to the court to have the AEOs consolidated.*

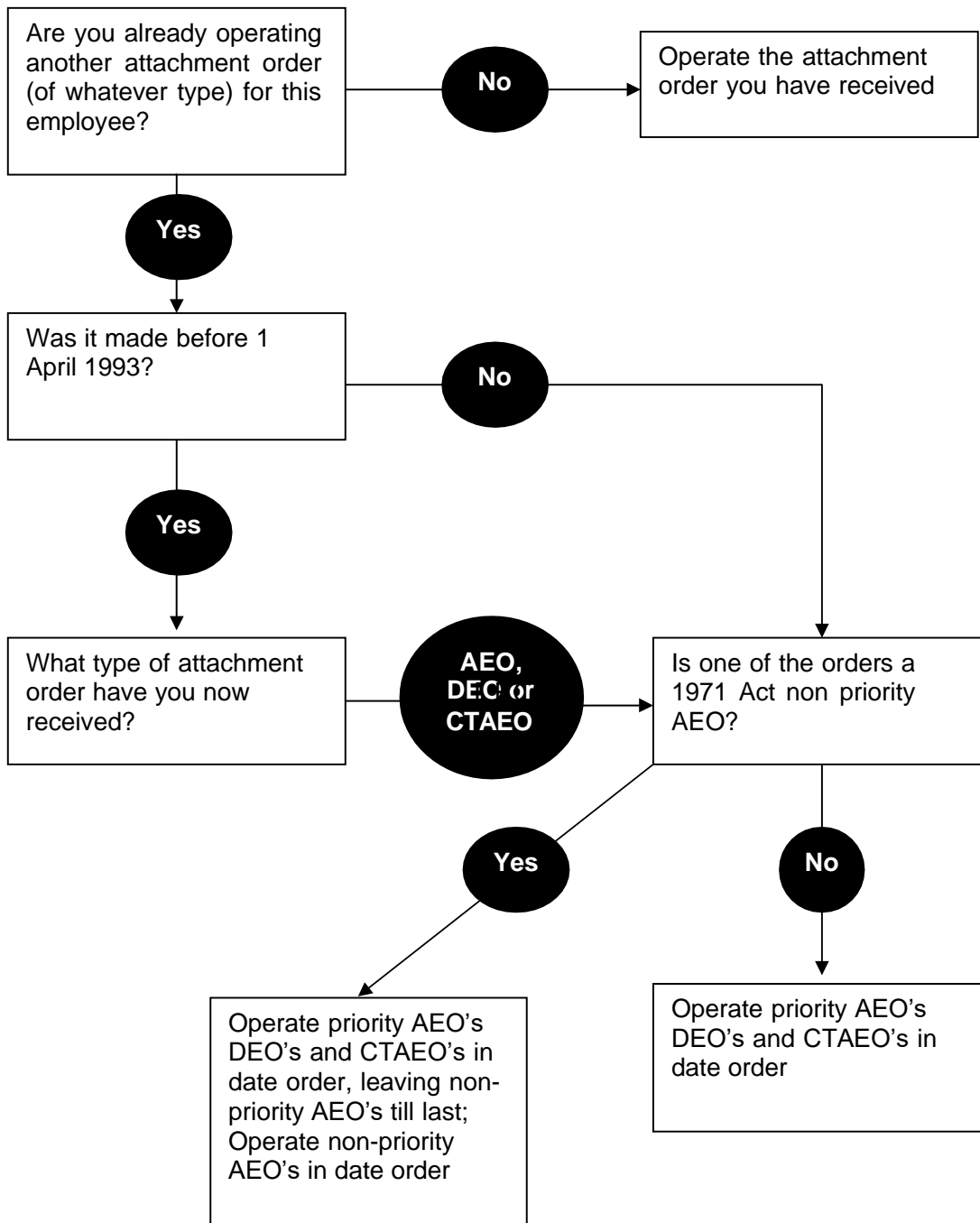
- An AEO for civil debt, student loan or a Scottish Current Maintenance Arrestment always gives way to an AEO for maintenance or a fine; a DEO and a CTAEO
- Earnings Arrestments should be treated as priority orders and taken in date sequence

- AEOs for maintenance or fines, DEOs and CTAEOs take precedence over each other by date of issue. You should apply the later order(s) to any remaining attachable earnings after you have made the deduction under the first order
- Only two CTAEOs for the same billing authority may be in operation against the earnings of an employee at any given time. Where you are already operating two CTAEOs against the earnings of an employee and you are sent a third CTAEO, you cannot apply it and you should return it to the authority, which sent it to you.

*Note: If you receive two or more orders made on the same date, you should prioritise them by date of receipt. If they have all been made by the same court, Agency or local authority, you should refer them back to the court, Agency, or local authority for clarification as to which order you should operate first.*

- Magistrates can withdraw old type fines orders and consolidate them with new type (fixed table deductions) orders. In these circumstances the two orders are consolidated under one new order and deducted together as one deduction. For the purposes of priority among orders of a similar type, the date of the old order will be taken as the date of the order.

## Priority check guide for employers in England and Wales



Annex A : Example of an Attachment of Earnings Order

*[Name of billing authority]*

Regulation 37 of the Council Tax

(Administration and Enforcement) Regulations 1992

*[Debtor's name [Payroll/Works No.] [Billing authority's reference] and address]*

To any person who has in his employment the person named above.

On *[date]* the *[name]* magistrates' court made a liability order under regulation 34 of the Council Tax (Administration and Enforcement) Regulations 1992 against the person named above in respect of an amount of which £*[amount]* is outstanding at the date of the making of this order. This order relates to the outstanding amount.

YOU ARE ORDERED by *[name of billing authority]* to make deductions from the net earnings (as defined in regulation 32 of those Regulations) of the person named above at the times and at the rate specified in regulation 38 of those Regulations. The first such deduction shall be made as soon as reasonably practicable after the service on you of a copy of this order. A copy of regulations 32 and 38, together with regulations 39 to 42 and Schedule 4, are set out at the end of this order.

YOU ARE ALSO ORDERED to pay each sum deducted to *[name of billing authority and address for payments]* within the period of 19 days beginning on the last day of the month in which the deduction was made.

Dated , 20.....

Proper officer of the authority

\*Indorsement on copy sent to person appearing to have the debtor in his employment

It appears to *[name of billing authority]* that you have the above-named debtor in your employment. You must notify *[name of billing authority]* in writing within 14 days of the date of service on you of this copy of the order if you do not have the debtor in your employment. You must also notify *[name of billing authority]* in writing within 14 days of the day on which the debtor leaves your employment. Failure to do so may render you liable to a fine.

\*Indorsement on copy sent to debtor

This is a copy of an attachment of earnings order served on your employer. If you leave his employment or become employed or re-employed you must notify *[name of billing authority]* in writing within 14 days, giving the particulars specified in regulation 40(1) of the Regulations mentioned in the order. Failure to do so may render you liable to a fine.

Italics indicate words or figures to be inserted.

\*Delete whichever indorsement is inapplicable.

## **Annex B : Legislation**

The powers to make Council Tax Attachment of Earnings Orders are found in the Local Government Finance Act 1992.

The rules under which Council Tax Attachment of Earnings Orders should be administered are set out in the Council Tax (Administration and Enforcement) Regulations 1992, SI No. 1992/613. These have however been amended on a number of occasions, most recently by SI No. 2006/3395 and SI No. 2007/501 to update the deduction tables for orders made on or after 1 April 2007.

## Annex C : Deduction tables for CTAEOs made on or after 1 April 2007

Table 1 - Deductions from **weekly** earnings

(1) Net earnings	(2) Deduction rate (percentage)
Not exceeding £75	0
Exceeding £75 but not exceeding £135	3
Exceeding £135 but not exceeding £185	5
Exceeding £185 but not exceeding £225	7
Exceeding £225 but not exceeding £355	12
Exceeding £355 but not exceeding £505	17
Exceeding £505	17 in respect of the first £505 and 50% in respect of the remainder

Table 2 - Deductions from **monthly** earnings

(1) Net earnings	(2) Deduction rate (percentage)
Not exceeding £300	0
Exceeding £300 but not exceeding £550	3
Exceeding £550 but not exceeding £740	5
Exceeding £740 but not exceeding £900	7
Exceeding £900 but not exceeding £1,420	12
Exceeding £1,420 but not exceeding £2,020	17
Exceeding £2,020	17 in respect of the first £2,020 and 50% in respect of the remainder

Table 3 - Deductions based on **daily** earnings

(1) Net earnings	(2) Deduction rate (percentage)
Not exceeding £11	0
Exceeding £11 but not exceeding £20	3
Exceeding £20 but not exceeding £27	5
Exceeding £27 but not exceeding £33	7
Exceeding £33 but not exceeding £52	12
Exceeding £52 but not exceeding £72	17
Exceeding £72	17 in respect of the first £72 and 50% in respect of the remainder



## Annex D

Council Tax (Administration and Enforcement) Regulations 1992 (SI 1992/613), as amended by SI 1999/534, 2003/522, 2003/738, 2005/2866 206/3395 and 2007/501.

defines earnings by way of :

- wages or salary (including any fees, bonuses, commission, overtime pay or other emoluments payable in addition to wages or salary payable under a contract of service)
- statutory sick pay.

excludes from earnings

- sums payable by any public department of the Government of Northern Ireland or of a territory outside the United Kingdom
- pay or allowances payable to the debtor as a member of Her Majesty's forces, other than pay of allowances payable by his employer to him as a special member of a reserve force (within the meaning of the Reserve Forces Act 1996)
- allowances or benefit payable under any enactment relating to social security
- tax credits within the meaning of the Tax Credits Act 2002
- allowances payable in respect of disablement or disability and
- wages payable to a person as a seaman, other than wages payable to him as a seaman of a fishing boat.

defines the residue as attachable after the following deductions

- income tax (PAYE);
- primary class 1 contributions under Part 1 of the Social Security Contributions and Benefits Act 1992
- amounts deductible under any enactment, or in pursuance of a request in writing by the debtor, for the purposes of a superannuation scheme, namely any enactment, rules, deed or other instrument providing for the payment of annuities or lump sum
  - (i) to the persons with respect to whom the instrument has effect on their retirement at a specified age or on becoming incapacitated at some earlier age, or
  - (ii) to the personal representatives or the widows, widowers, surviving civil partners, relatives or dependants of such persons on their death or otherwise, whether with or without any further or other benefits
- any deduction with a higher priority.

## Contact Us

### Civic Centre

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Folkestone  
Kent CT10 2QY

Opening times:  
Monday to Friday 8.30 - 4.30

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**Email:** [revenues.benefits@folkestone-hythe.gov.uk](mailto:revenues.benefits@folkestone-hythe.gov.uk)

[www.folkestone-hythe.gov.uk](http://www.folkestone-hythe.gov.uk)