



PRINCE EDWARD ISLAND  
ÎLE-DU-PRINCE-ÉDOUARD

# **GARNISHEE ACT REGULATIONS**

## PLEASE NOTE

This document, prepared by the *Legislative Counsel Office*, is an office consolidation of this regulation, current to January 1, 2009. It is intended for information and reference purposes only.

This document is *not* the official version of these regulations. The regulations and the amendments printed in the *Royal Gazette* should be consulted on the Prince Edward Island Government web site to determine the authoritative text of these regulations.

For more information concerning the history of these regulations, please see the *Table of Regulations* on the Prince Edward Island Government web site ([www.princeedwardisland.ca](http://www.princeedwardisland.ca)).

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**GARNISHEE ACT**  
**Chapter G-2**  
**REGULATIONS**

Made by the Lieutenant Governor in Council under the *Garnishee Act* R.S.P.E.I. 1988, Cap. G-2

**1. Attachment, notice to debtor**

Where a judgment creditor makes application for an attaching order pursuant to the *Garnishee Act* R.S.P.E.I. 1988, Cap. G-2 against a judgment debtor, the Prothonotary shall upon receipt of such application for an attaching order notify the judgment debtor of a time and place at which to appear before him, and such notification shall be in "Form A".  
(EC382/72; 735/08)

**2. Examination of debtor**

Upon the appearance of the judgment debtor before the Prothonotary, the Prothonotary shall orally examine the judgment debtor and shall during such oral examination ascertain

- (a) the number of persons over the age of twelve years dependent for maintenance and support upon the judgment debtor;
- (b) the number of persons under the age of twelve years dependent for maintenance and support upon the judgment debtor;
- (c) the number of persons mentioned in clauses (a) or (b) who under a prescription issued by a medical doctor require a special diet;
- (d) in the case of rented living accommodations, the amount of rent payable therefor;
- (e) whether the judgment debtor owns or rents his living accommodations;
- (f) in the case of living accommodations owned by the judgment debtor, where the judgment debtor is paying for the said living accommodations, the cost of
  - (i) taxes payable thereon,
  - (ii) the mortgage payments payable thereon,
  - (iii) the fire insurance payments thereon,
  - (iv) fuel for the period October 1 to May 31 preceding the date of examination,
  - (v) utilities for the twelve month period immediately preceding examination hereunder;
- (g) where the judgment debtor is boarding,
  - (i) the amount charged for board, and
  - (ii) the amount charged for lodging;

- (h) what, if any, continuing health and medical expenses are incurred by the judgment debtor or a person dependent on him for maintenance and support;
- (i) the judgment debtor’s average cost of transportation to and from his principal place of employment;
- (j) the amount of payments being made by the judgment debtor pursuant to Part X of the *Bankruptcy Act* R.S.C. 1985, Chap. B-3 (being the orderly payments of debts);
- (k) the amount of income accruing to the judgment debtor and to his dependents from any source other than under the *Welfare Assistance Act* R.S.P.E.I. 1988, Cap. W-3 or from a private welfare agency;
- (l) such other costs or expenses which the judgment debtor may consider to substantially increase his financial burden. (EC382/72; 735/08)

**3. Determination of items exempt from garnishment**

The Prothonotary shall on the basis of the information ascertained by him pursuant to section 2, and on the basis of such information as may be made available to him by the Director of Welfare Assistance of the Department of Health and Social Services of the Province of Prince Edward Island, calculate an exemption for the garnishment of wages due or accruing due to the judgment debtor and such calculation shall be on the basis of an exemption for each “item of basic need” hereinafter itemized:

**ITEMS OF BASIC NEED**

- (1) Food:
 

	Maximum monthly amount
Number of persons in household	
(a) one person over the age of twelve years .....	\$30.00
(b) second person over the age of twelve years .....	\$30.00
(c) each additional person over the age of twelve years .....	\$25.00
(d) each child under twelve years .....	\$20.00
(e) reasonable allowance for a special diet required by judgement debtor or dependent	
- (2) Clothing:
 

	Maximum monthly amount
(a) head of household .....	\$15.00
(b) each additional person .....	\$10.00
- (3) Household and personal items:
 

An allowance for household and personal items may be granted as follows:

	Maximum monthly amount
(a) first person over the age of twelve years .....	\$6.00
(b) second person over the age of twelve years .....	\$4.00
(c) any person under the age of eighteen years not in receipt of an allowance .....	\$2.00
(d) each additional person over the age of eighteen years .....	\$2.00
(e) maximum per family unit .....	\$15.00
- (4) Living accommodations:
  - (a) a rental allowance in the amount of the cost of such rent or in the case of a judgment debtor buying his own living accommodation, an allowance covering taxes, mortgage payments, fire insurance and other assessments may be included in the calculation

where such allowance does not exceed what reasonably might be expected to be paid for accommodation of a comparable kind and quality in the same area;

- (b) board and lodging in a private boarding house may be included in the calculation at the following rates:

	Maximum monthly amount
(i) one person actual cost up to .....	\$80.00
(ii) couple actual cost up to .....	\$120.00

- (5) Fuel and utilities:

An allowance may be included in the calculation for fuel and utilities on the basis of the actual cost of such fuel and utilities based on the previous year's expenditure provided that such allowance does not exceed what reasonably might be expected to be paid for comparable services in the same area for the same period.

- (6) Health care services:

An allowance may be included in the calculation to provide for the cost to the judgment debtor of:

- (a) necessary medical and surgical services, nursing, dental and optical care including dentures and eye glasses;
- (b) essential prescription drugs; and
- (c) prosthetic appliances. *(EC382/72; 287/80; 735/08)*

#### **4. Information furnished by Director**

Where by reason of illness or otherwise the judgment debtor does not appear for oral examination, the Prothonotary may direct in writing the Director of Welfare Assistance to conduct an investigation of the judgment debtor and to provide the Prothonotary with all such information as is required pursuant to section 2. *(EC382/72; 735/08)*

#### **5. Notice of amount exempt from garnishment**

Upon completing an oral examination pursuant to section 2 or upon receipt of information obtained by the Director of Welfare Assistance pursuant to section 4, the Prothonotary shall within five days notify the judgment creditor and the judgment debtor of the amount which shall be exempt from garnishment. *(EC434/72; 735/08)*

#### **6. Certificate of Prothonotary**

Unless otherwise ordered by a court or a judge pursuant to section 7, no attaching order shall be binding on a garnishee until such attaching order bears a certificate of the Prothonotary verifying the amount of wages subject to garnishment. *(EC434/72; 735/08)*

#### **7. Appeal**

- (1) A judgment debtor or a judgment creditor may appeal the amount of exemption calculated by the Prothonotary to a judge of the Supreme Court.

##### ***Idem***

- (2) The court or a judge may confirm or vary the calculation made by the Prothonotary. *(EC434/72; 735/08)*

**FORM A**

**NOTICE TO APPEAR**

....., 20.....

Dear Sir or Madam:

We have received an application from .....  
(judgment creditor)

for the garnishment of your wages.

You are entitled to an exemption from garnishment in an amount which will leave you with sufficient income to meet your needs as described by the regulations under the *Garnishee Act*.

We are writing to request your assistance in deciding upon the full amount of the exemption to which you are entitled.

You are therefore requested to appear before me at .....  
in ..... , on the ..... day of.....,  
20.....

**YOURS TRULY,**

.....  
*Prothonotary*