

## ATTACHMENT OF WAGES LIMITATION ACT.

### Act No. 28, 1957.

**Elizabeth II,** An Act to make provision with respect to the attachment of wages and salaries of employees of certain employing authorities and of certain employees of the Crown; to limit the amount of wage or salary that may be attached in garnishee proceedings; for these and other purposes to amend the Common Law Procedure Act, 1899, the Public Service Act, 1902, and certain other Acts; and for purposes connected therewith. [Assented to, 4th May, 1957.]  
**No. 28, 1957.**

**BE** it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**Short title and commencement.**

**1.** (1) This Act may be cited as the "Attachment of Wages Limitation Act, 1957".

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

**Amendment of Act No. 21, 1899. Sec. 181 (3).**  
 (Wages or salary of £3 per week or under not to be attached.)

**2.** (1) The Common Law Procedure Act, 1899, as amended by subsequent Acts, is amended by omitting subsection three of section one hundred and eighty-one and by inserting in lieu thereof the following subsection:—

(3) No order for the attachment of wages or salary of any servant or employee shall be made in any case where such wage or salary does not exceed the

the prescribed rate per week; and where such wage or salary is at a greater rate than the prescribed rate per week an order shall be made only for the attachment of amounts of the wage or salary in excess of the prescribed rate per week. No. 28, 1957.

In this subsection—

“prescribed rate” means an amount equal to four pounds less than the Sydney basic wage.

“Sydney basic wage” means—

- (a) where the order is made for the attachment of wages or salary of a servant or an employee who is a male person, the basic wage for adult males assessed and calculated in accordance with the provisions of paragraph (a) of subsection two of section 61k of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of section 61m of that Act, as so amended, before the order is made;
- (b) where the order is made for the attachment of wages or salary of a servant or an employee who is a female person, the basic wage for adult females assessed and calculated in accordance with the provisions of paragraph (b) of the said subsection two and as last adjusted in accordance with the provisions of the said section 61m before the order is made.

(2) The Common Law Procedure Act, 1899, as amended by subsequent Acts and by this Act, may be cited as the Common Law Procedure Acts, 1899-1957.

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Amendment  
of Act No.  
23, 1912.

Sec. 117

(2).

(Wages or  
salary of  
£3 per  
week or  
under not  
to be  
attached.)

**3.** (1) The District Courts Act, 1912, as amended by subsequent Acts, is amended by omitting subsection two of section one hundred and seventeen and by inserting in lieu thereof the following subsection:—

(2) No order for the attachment of wages or salary of any servant or employee shall be made in any case where such wage or salary does not exceed the prescribed rate per week; and where such wage or salary is at a greater rate than the prescribed rate per week an order shall be made only for the attachment of amounts of the wage or salary in excess of the prescribed rate per week.

In this subsection—

“prescribed rate” means an amount equal to four pounds less than the Sydney basic wage.

“Sydney basic wage” means—

(a) where the order is made for the attachment of wages or salary of a servant or an employee who is a male person, the basic wage for adult males assessed and calculated in accordance with the provisions of paragraph (a) of subsection two of section 61k of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of section 61m of that Act, as so amended, before the order is made;

(b) where the order is made for the attachment of wages or salary of a servant or an employee who is a female person, the basic wage for adult females assessed and calculated in accordance with the provisions of paragraph (b) of the said subsection two and as last adjusted in accordance with the provisions of the said section 61m before the order is made.

(2) The District Courts Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the District Courts Act, 1912-1957.

**4.**

4. (1) The Small Debts Recovery Act, 1912, as amended by subsequent Acts, is amended by omitting subsection five of section fifty-six and by inserting in lieu thereof the following subsection:—

(5) No order for the attachment of wages or salary of any servant or employee shall be made in any case where such wage or salary does not exceed the prescribed rate per week; and where such wage or salary is at a greater rate than the prescribed rate per week an order shall be made only for the attachment of amounts of the wage or salary in excess of the prescribed rate per week.

In this subsection—

“prescribed rate” means an amount equal to four pounds less than the Sydney basic wage.

“Sydney basic wage” means—

- (a) where the order is made for the attachment of wages or salary of a servant or an employee who is a male person, the basic wage for adult males assessed and calculated in accordance with the provisions of paragraph (a) of subsection two of section 61K of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of section 61M of that Act, as so amended, before the order is made;
- (b) where the order is made for the attachment of wages or salary of a servant or an employee who is a female person, the basic wage for adult females assessed and calculated in accordance with the provisions of paragraph (b) of the said subsection two and as last adjusted in accordance with the provisions of the said section 61M before the order is made.

(2) The Small Debts Recovery Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Small Debts Recovery Act, 1912-1957.

5.

No. 28, 1957.

Amendment  
of Act No.  
33, 1912.

Sec. 56.

(Wages or  
salary of  
£3 per  
week or  
under not  
to be  
attached.)

**Attachment of Wages Limitation Act.**

No. 28, 1957.

Amendment  
of Act No.  
31, 1902.Sec. 56A.  
(Enforce-  
ment of  
judgments.)

**5.** The Public Service Act, 1902, as amended by subsequent Acts, is amended—

- (a) by omitting from subsection three of section 56A the words “and shall pay those sums to the judgment creditor:

Provided that in no case shall a deduction be made which will reduce the amount to be received by the officer or employee to less than four pounds per week, or to less than one-third of the amount which would, but for the provisions of this section, be payable to the officer or employee, whichever is the greater” and by inserting in lieu thereof the following words:— and shall apply those sums in the manner hereinafter in this section provided:

Provided that in no case shall a deduction be made which will reduce the amount to be received by the officer or employee to less than a sum per week equivalent to the amount ascertained in accordance with subsection (3A) of this section.

- (b) by inserting next after the same subsection the following new subsection:—

(3A) The amount which, pursuant to the proviso to subsection three of this section, is to be ascertained in accordance with this subsection shall—

- (a) in the application of that proviso to a male officer or employee, be ascertained by deducting four pounds from the basic wage for adult males assessed and calculated in accordance with the provisions of paragraph (a) of subsection two of section 61K of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of section 61M of that Act, as so amended, before the deduction under subsection three of this section is made;

(b)

- (b) in the application of that proviso to a female officer or employee, be ascertained by deducting four pounds from the basic wage for adult females assessed and calculated in accordance with the provisions of paragraph (b) of the said subsection two, and as last adjusted in accordance with the provisions of the said section 61M before the deduction under subsection three of this section is made.
- (c) by omitting from subsection five of the same section the words "A payment made to a judgment creditor in pursuance of this section" and by inserting in lieu thereof the words "Any deductions made under the provisions of subsection three of this section from moneys due to an officer or employee";
- (d) by inserting in subsection six of the same section after the word "satisfied" the words ", or is deemed to be satisfied,";
- (e) by omitting from subsection seven of the same section the words "If any payment made in pursuance of this section exceeds the amount due under the judgment" and by inserting in lieu thereof the words "If any deduction made in pursuance of the provisions of subsection three of this section from moneys due to a judgment debtor exceeds the amount due under the judgment against such judgment debtor";
- (f) by inserting at the end of the same section the following new subsections:—
- (9) (a) Out of the sums deducted under the provisions of subsection three of this section there shall be retained by the permanent head, to be paid by him to the Colonial Treasurer for credit of the Consolidated Revenue Fund, an amount equal to five per centum (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of such sums, and the balance of such sums shall be paid to the judgment creditor.
- (b)

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(b) When the permanent head makes a payment to a judgment creditor under the provisions of this subsection, the permanent head shall forward to the judgment creditor a statement showing—

- (i) the sums deducted under the provisions of subsection three of this section in respect of the judgment from moneys due to the officer or employee concerned; and
- (ii) the amount retained under the provisions of this subsection out of such sums by the permanent head; and
- (iii) the balance of such sums paid under the provisions of this subsection to the judgment creditor.

(c) Upon payment being made under the provisions of this subsection to the judgment creditor, the judgment creditor shall credit the officer or employee concerned with the sums referred to in subparagraph (i) of paragraph (b) of this subsection, as shown in the statement forwarded by the permanent head to the judgment creditor, and the judgment in respect of which such payment was made shall for all purposes be deemed to be satisfied to the extent of those sums, as so shown.

(10) In this section, "judgment" includes a judgment against joint defendants.

Amendment  
of Act  
No. 18,  
1930.  
Sec. 128A.  
(Enforce-  
ment of  
judgments.)

**6.** (1) The Transport Act, 1930, as amended by subsequent Acts, is amended—

- (a) by omitting from subsection three of section 128A the words "and shall pay those sums to the judgment creditor" and by inserting in lieu thereof the words "and shall apply those sums in the manner hereinafter in this section provided";
- (b) by omitting from the proviso to the same subsection the words "or to less than one-third of the amount which would, but for the provisions of this section, be payable to the officer, whichever is the greater";

(c)

(c) by omitting paragraphs (a) and (b) of subsection four of the same section and by inserting in lieu thereof the following paragraphs:—

- (a) in the application of that proviso to a male officer, be ascertained by deducting four pounds from the basic wage for adult males assessed and calculated in accordance with the provisions of paragraph (a) of subsection two of section 61k of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of section 61m of that Act, as so amended, before the deduction under subsection three of this section is made;
- (b) in the application of that proviso to a female officer, be ascertained by deducting four pounds from the basic wage for adult females assessed and calculated in accordance with the provisions of paragraph (b) of the said subsection two, and as last adjusted in accordance with the provisions of the said section 61m before the deduction under subsection three of this section is made.
- (d) by omitting from subsection six of the same section the words “A payment made to a judgment creditor in pursuance of this section” and by inserting in lieu thereof the words “Any deductions made under the provisions of subsection three of this section from moneys payable to an officer or contractor”;
- (e) by inserting in subsection seven of the same section after the word “satisfied” the words “, or is deemed to be satisfied”;
- (f) by omitting from subsection eight of the same section the words “If any payment made in pursuance of this section exceeds the amount due under the judgment” and by inserting in lieu thereof

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thereof the words "If any deduction made in pursuance of the provisions of subsection three of this section from moneys payable to a judgment debtor exceeds the amount due under the judgment against such judgment debtor";

(g) by inserting at the end of the same section the following new subsections:—

(11) (a) Out of the sums deducted under the provisions of subsection three of this section there shall be retained by the Commissioner, to be paid by him into the General Fund established by section sixty-eight of this Act, an amount equal to five per centum (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of such sums, and the balance of such sums shall be paid to the judgment creditor.

(b) When the Commissioner makes a payment to a judgment creditor under the provisions of this subsection, the Commissioner shall forward to the judgment creditor a statement showing—

- (i) the sums deducted under the provisions of subsection three of this section in respect of the judgment from moneys payable to the officer or contractor concerned; and
- (ii) the amount retained under the provisions of this subsection out of such sums by the Commissioner; and
- (iii) the balance of such sums paid under the provisions of this subsection to the judgment creditor.

(c) Upon payment being made under the provisions of this subsection to the judgment creditor, the judgment creditor shall credit the officer or contractor concerned with the sums referred to in subparagraph (i) of paragraph (b) of this subsection, as shown in the statement forwarded by the Commissioner to the judgment

judgment creditor, and the judgment in respect of which such payment was made shall for all purposes be deemed to be satisfied to the extent of those sums, as so shown. No. 23, 1957.

(12) In this section, "judgment" includes a judgment against joint defendants.

(2) The Transport Act, 1930, as amended by subsequent Acts and by this Act, may be cited as the Transport Act, 1930-1957.

**7.** (1) The Government Railways Act, 1912, as amended by subsequent Acts, is amended— Amendment  
of Act No.  
30, 1912.

(a) by omitting from subsection three of section 107A the words "and shall pay those sums to the judgment creditor" and by inserting in lieu thereof the words "and shall apply those sums in the manner hereinafter in this section provided"; Sec. 107A.  
(Enforce-  
ment of  
judgments.)

(b) by omitting from the proviso to the same subsection the words " , or to less than one-third of the amount which would, but for the provisions of this section, be payable to the officer, whichever is the greater";

(c) by omitting paragraphs (a) and (b) of subsection (3A) of the same section and by inserting in lieu thereof the following paragraphs:—

(a) in the application of that proviso to a male officer, be ascertained by deducting four pounds from the basic wage for adult males assessed and calculated in accordance with the provisions of paragraph (a) of subsection two of section 61K of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of section 61M of that Act, as so amended, before the deduction under subsection three of this section is made;

(b)

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- (b) in the application of that proviso to a female employee, be ascertained by deducting four pounds from the basic wage for adult females assessed and calculated in accordance with the provisions of paragraph (b) of the said subsection two, and as last adjusted in accordance with the provisions of the said section 61M before the deduction under subsection three of this section is made.
- (d) by omitting from subsection five of the same section the words "A payment made to a judgment creditor in pursuance of this section" and by inserting in lieu thereof the words "Any deductions made under the provisions of subsection three of this section from moneys payable to an officer or contractor";
- (e) by inserting in subsection six of the same section after the word "satisfied" the words ", or is deemed to be satisfied";
- (f) by omitting from subsection seven of the same section the words "If any payment made in pursuance of this section exceeds the amount due under the judgment" and by inserting in lieu thereof the words "If any deduction made in pursuance of the provisions of subsection three of this section from moneys payable to a judgment debtor exceeds the amount due under the judgment against such judgment debtor";
- (g) by inserting at the end of the same section the following new subsections:—

(10) (a) Out of the sums deducted under the provisions of subsection three of this section there shall be retained by the Commissioner, to be paid by him into the Fund established by section 41B of this Act, an amount equal to five per centum (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of such sums, and the balance of such sums shall be paid to the judgment creditor. (b)

(b) When the Commissioner makes a payment to a judgment creditor under the provisions of this subsection, the Commissioner shall forward to the judgment creditor a statement showing—

- (i) the sums deducted under the provisions of subsection three of this section in respect of the judgment from moneys payable to the officer or contractor concerned; and
- (ii) the amount retained under the provisions of this subsection out of such sums by the Commissioner; and
- (iii) the balance of such sums paid under the provisions of this subsection to the judgment creditor.

(c) Upon payment being made under the provisions of this subsection to the judgment creditor, the judgment creditor shall credit the officer or contractor concerned with the sums referred to in subparagraph (i) of paragraph (b) of this subsection, as shown in the statement forwarded by the Commissioner to the judgment creditor, and the judgment in respect of which such payment was made shall for all purposes be deemed to be satisfied to the extent of those sums, as so shown.

(11) In this section “judgment” includes a judgment against joint defendants.

(2) The Government Railways Act, 1912, as amended by subsequent Acts and by this Act, may be cited as the Government Railways Act, 1912-1957.

8. (1) The Police Regulation Act, 1899, as amended by subsequent Acts, is amended by inserting next after section 12B the following new section:—

Amendment  
of Act No.  
20, 1899.  
New sec.  
12c.

12c. (1) Where judgment has been given by any court against any member of the police force or special constable for the payment of any sum of money,

Enforcement  
of judg-  
ments.  
cf. Act No.  
31, 1902,  
s. 56A.

No. 28, 1957.

money, the person in whose favour the judgment is given may serve on the Commissioner a copy of the judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered, and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor, and setting out the amount due by the judgment debtor under the judgment.

(2) Upon the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section the Commissioner shall, as soon as practicable, notify the judgment debtor in writing of the service of the copy judgment and statutory declaration, and require him to state in writing within a time to be specified by the Commissioner whether the judgment has been satisfied, and, if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under the judgment.

(3) If a member of the police force or special constable fails to prove to the satisfaction of the Commissioner that the judgment has been satisfied, the Commissioner may, from time to time, deduct from any moneys due to the member of the police force or special constable such sums as are, in his opinion, necessary to enable the judgment to be satisfied, and shall apply those sums in the manner hereinafter in this section provided:

Provided that in no case shall a deduction be made which will reduce the amount to be received by the member of the police force or special constable to less than a sum per week equivalent to the amount ascertained in accordance with subsection four of this section.

(4) The amount which, pursuant to the proviso to subsection three of this section, is to be ascertained in accordance with this subsection shall—

- (a) in the application of that proviso to a member of the police force or a male special constable, be ascertained by deducting four pounds from the basic wage for adult males assessed

assessed and calculated in accordance with <sup>No. 28, 1957.</sup> the provisions of paragraph (a) of subsection two of section 61k of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of section 61m of that Act, as so amended, before the deduction under subsection three of this section is made;

(b) in the application of that proviso to a female special constable, be ascertained by deducting four pounds from the basic wage for adult females assessed and calculated in accordance with the provisions of paragraph (b) of the said subsection two, and as last adjusted in accordance with the provisions of the said section 61m before the deduction under subsection three of this section is made.

(5) Where more than one judgment and statutory declaration are served upon the Commissioner in respect of one judgment debtor, the judgments shall be dealt with under this section in the order in which copies of the judgments are served upon the Commissioner.

(6) Any deductions made under the provisions of subsection three of this section from moneys due to a member of the police force or special constable shall, as between the member of the police force or special constable and the Commissioner, be deemed to be a payment by the Commissioner to the member of the police force or special constable.

(7) If any deduction made in pursuance of the provisions of subsection three of this section from moneys due to a judgment debtor exceeds the amount due under the judgment against such judgment debtor the excess shall be repayable by the Commissioner to the judgment debtor, and in default of payment may be recovered by the judgment debtor from the Commissioner in any court of competent jurisdiction.

(8)

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(8) Any person to whom a payment has been made in pursuance of this section who fails to notify the Commissioner immediately a judgment debt in respect of which the payment was made is satisfied, or is deemed to be satisfied, shall be liable to a penalty not exceeding fifty pounds.

(9) The foregoing provisions of this section shall not apply in relation to any member of the police force or special constable whose estate has been sequestrated either voluntarily or compulsorily for the benefit of his creditors and who has not obtained a certificate of discharge.

(10) The remedy prescribed by this section shall not, as regards the member of the police force or special constable, limit or affect any other remedy which may be open under the ordinary process of the law, but as regards the Commissioner, such remedy shall be an exclusive one.

(11) (a) Out of the sums deducted under the provisions of subsection three of this section there shall be retained by the Commissioner, to be paid by him to the Colonial Treasurer for credit of the Consolidated Revenue Fund, an amount equal to five per centum (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of such sums, and the balance of such sums shall be paid to the judgment creditor.

(b) When the Commissioner makes a payment to a judgment creditor under the provisions of this subsection, the Commissioner shall forward to the judgment creditor a statement showing—

- (i) the sums deducted under the provisions of subsection three of this section in respect of the judgment from moneys due to the member of the police force or special constable concerned; and
- (ii) the amount retained under the provisions of this subsection out of such sums by the Commissioner; and

(iii)

(iii) the balance of such sums paid under the provisions of this subsection to the judgment creditor. No. 28, 1957.

(c) Upon payment being made under the provisions of this subsection to the judgment creditor, the judgment creditor shall credit the member of the police force or special constable concerned with the sums referred to in subparagraph (i) of paragraph (b) of this subsection, as shown in the statement forwarded by the Commissioner to the judgment creditor, and the judgment in respect of which such payment was made shall for all purposes be deemed to be satisfied to the extent of those sums, as so shown.

(12) In this section—

“judgment” includes a judgment against joint defendants.

“special constable” means a special constable under the Police Offences Act, 1901, as amended by subsequent Acts, employed by the Commissioner of Police.

(2) The Police Regulation Act, 1899, as amended by subsequent Acts and by this Act, may be cited as the Police Regulation Acts, 1899-1957.

9. (1) The Main Roads Act, 1924, as amended by subsequent Acts, is amended by inserting next after section 7A the following new section:—

Amendment  
of Act  
No. 24,  
1924.  
New sec. 7B.

7B. (1) Where judgment has been given by any court against any officer or employee of the Commissioner (in this section hereinafter referred to as “officer”) for the payment of any sum of money, or against any contractor to the Commissioner for the payment of any sum of money in respect of any dishonoured cheque or promissory note or upon any guarantee or bond or for rent of any land or for goods supplied or money lent or for wages due in connection with his contract with the Commissioner, the person in whose favour the judgment has been given may serve on the Commissioner a copy of the judgment

Enforcement  
of judg-  
ments.  
cf. Act No.  
18, 1930,  
s. 123A.

No 28, 1957.

judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered or in which it was obtained and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor and setting out the amount due by the judgment debtor under the judgment.

(2) Upon the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section, the Commissioner shall, as soon as practicable, notify the judgment debtor in writing of the service of the copy judgment and statutory declaration and require him to state in writing, within a time to be specified by him, whether the judgment has been satisfied, and if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under it.

(3) If the officer or contractor fails to prove to the satisfaction of the Commissioner that the judgment has been satisfied, the Commissioner may, from time to time, deduct from the net amount of any moneys payable to the officer or contractor such sums as are in his opinion reasonable towards the satisfaction of the judgment, and shall apply those sums in the manner hereinafter in this section provided:

Provided that in no case shall a deduction be made which will reduce the amount to be received by an officer to less than a sum per week equivalent to the amount ascertained in accordance with subsection four of this section.

(4) The amount which, pursuant to the proviso to subsection three of this section is to be ascertained in accordance with this subsection, shall—

- (a) in the application of that proviso to a male officer, be ascertained by deducting four pounds from the basic wage for adult males assessed and calculated in accordance with the provisions of paragraph (a) of subsection two of section 61k of the Industrial Arbitration

Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of section 61M of that Act, as so amended, before the deduction under subsection three of this section is made; No. 23, 1957.

- (b) in the application of that proviso to a female officer, be ascertained by deducting four pounds from the basic wage for adult females assessed and calculated in accordance with the provisions of paragraph (b) of the said subsection two, and as last adjusted in accordance with the provisions of the said section 61M before the deduction under subsection three of this section is made.

(5) Where more than one judgment and statutory declaration are served upon the Commissioner in respect of one judgment debtor, the judgments shall be dealt with under this section in the order of service thereof upon the Commissioner.

(6) Any deductions made under the provisions of subsection three of this section from moneys payable to an officer or contractor shall, as between the Commissioner and the officer or contractor, be deemed to be a payment in full in money to the extent of such payment by the Commissioner to the officer or contractor.

(7) Any person to whom a payment has been made in pursuance of this section who fails to notify the Commissioner immediately a judgment debt in respect of which the payment was made, is satisfied, or is deemed to be satisfied, shall be guilty of an offence under this Act and be liable to a penalty not exceeding fifty pounds.

(8) If any deduction made in pursuance of the provisions of subsection three of this section from moneys payable to a judgment debtor exceeds the amount due under the judgment against such judgment debtor, the excess shall be repayable by the  
Commissioner

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Commissioner to the judgment debtor, and in default of payment, may be recovered by the judgment debtor in any court of competent jurisdiction.

(9) The foregoing provisions of this section shall not apply in relation to any officer or contractor whose estate has been sequestrated either voluntarily or compulsorily for the benefit of his creditors, and who has not obtained a certificate of discharge.

(10) The remedy prescribed by this section shall not, as regards any officer or contractor, limit or affect any other remedy which may be open under the ordinary process of the law; but as regards the Commissioner such remedy shall be an exclusive one.

(11) (a) Out of the sums deducted under the provisions of subsection three of this section there shall be retained by the Commissioner to be paid by him into such Fund established under this Act as the Commissioner determines an amount equal to five per centum (or such other percentage as the Governor may, by order, notify in the Gazette, which order the Governor is hereby authorised to make) of such sums and the balance of such sums shall be paid to the judgment creditor.

(b) When the Commissioner makes a payment to a judgment creditor under the provisions of this subsection, the Commissioner shall forward to the judgment creditor a statement showing—

- (i) the sums deducted under the provisions of subsection three of this section in respect of the judgment from moneys payable to the officer or contractor concerned; and
- (ii) the amount retained under the provisions of this subsection out of such sums by the Commissioner; and
- (iii) the balance of such sums paid under the provisions of this subsection to the judgment creditor.

(c)

(c) Upon payment being made under the provisions of this subsection to the judgment creditor, the judgment creditor shall credit the officer or contractor concerned with the sums referred to in subparagraph (i) of paragraph (b) of this subsection, as shown in the statement forwarded by the Commissioner to the judgment creditor, and the judgment in respect of which such payment was made shall for all purposes be deemed to be satisfied to the extent of those sums, as so shown.

No. 23, 1957.

(12) In this section, "judgment" includes a judgment against joint defendants.

(2) The Main Roads Act, 1924, as amended by subsequent Acts and by this Act, may be cited as the Main Roads Act, 1924-1957.

**10.** (1) Where judgment has been given by any court against any employee for the payment of any sum of money, or against any contractor to an employer for the payment of any sum of money in respect of any dishonoured cheque or promissory note or upon any guarantee or bond or for rent of any land or for goods supplied or money lent or for wages due in connection with his contract with such employer, the person in whose favour the judgment is given may serve on the employer of such employee or the employer with whom the contract was made, as the case may be, a copy of the judgment certified under the hand of the registrar or other proper officer of the court by which the judgment was delivered or in which it was obtained and a statutory declaration stating that the judgment has not been satisfied by the judgment debtor and setting out the amount due by the judgment debtor under the judgment.

Attachment of moneys due to employees of and contractors to certain employing authorities. cf. Act No. 18, 1930, s. 128A.

(2) Upon the service upon him of a copy of a judgment and a statutory declaration in pursuance of this section, the employer shall, as soon as practicable, notify the judgment debtor in writing of the service of the copy judgment and statutory declaration and require him to state in writing, within a time to be specified by the employer, whether the judgment has been satisfied, and if so, to furnish evidence in support thereof, and if the judgment has not been satisfied, to state the amount then due under it.

(3)

No. 28, 1957.

(3) If the employee or contractor fails to prove to the satisfaction of the employer that the judgment has been satisfied, the employer may, from time to time, deduct from the net amount of any moneys payable to the employee or contractor such sums as are in his opinion reasonable towards the satisfaction of the judgment, and shall apply those sums in the manner hereinafter in this section provided:

Provided that in no case shall a deduction be made which will reduce the amount to be received by an employee to less than a sum per week equivalent to the amount ascertained in accordance with subsection four of this section.

(4) The amount which, pursuant to the proviso to subsection three of this section, is to be ascertained in accordance with this subsection shall—

- (a) in the application of that proviso to a male employee, be ascertained by deducting four pounds from the basic wage for adult males assessed and calculated in accordance with the provisions of paragraph (a) of subsection two of section 61K of the Industrial Arbitration Act, 1940, as amended by subsequent Acts, and as last adjusted in accordance with the provisions of section 61M of that Act, as so amended, before the deduction under subsection three of this section is made;
- (b) in the application of that proviso to a female employee, be ascertained by deducting four pounds from the basic wage for adult females assessed and calculated in accordance with the provisions of paragraph (b) of the said subsection two and as last adjusted in accordance with the provisions of the said section 61M before the deduction under subsection three of this section is made.

(5) Where more than one judgment and statutory declaration are served upon the employer in respect of one judgment debtor, the judgments shall be dealt with under this section in the order of service thereof upon the employer.

(6)

(6) Any deductions made by an employer under the provisions of subsection three of this section from moneys payable to an employee or contractor shall, as between the employer and the employee or contractor, be deemed to be a payment in full in money to the extent of such payment by the employer to the employee or contractor. No. 28, 1957.

(7) If any deduction made by an employer in pursuance of the provisions of subsection three of this section from moneys payable to a judgment debtor exceeds the amount due under the judgment against the judgment debtor, the excess shall be repayable by the employer to the judgment debtor and in default of payment, may be recovered by the judgment debtor from the employer in any court of competent jurisdiction.

(8) Any person to whom a payment has been made in pursuance of this section who fails to notify the employer immediately a judgment debt in respect of which the payment was made is satisfied, or is deemed to be satisfied, shall upon conviction before a stipendiary magistrate or any two justices in petty sessions be liable to a penalty not exceeding fifty pounds.

(9) The foregoing provisions of this section shall not apply in relation to any employee or contractor whose estate has been sequestrated either voluntarily or compulsorily for the benefit of his creditors and who has not obtained a certificate of discharge.

(10) The remedy prescribed by this section shall not, as regards any employee or contractor, limit or affect any other remedy which may be open under the ordinary process of the law; but as regards the employer of such employee, or the employer with whom the contract was made, as the case may be, such remedy shall be an exclusive one.

(11) (a) Out of the sums deducted under the provisions of subsection three of this section there shall be retained by the employer, to be paid by him into the appropriate account or fund kept by him for the receipt of moneys in the nature of revenue, an amount equal to five per centum (or such other percentage as the Governor may, by order, notify in the Gazette, which

No. 28, 1957. order the Governor is hereby authorised to make) of such sums, and the balance of such sums shall be paid to the judgment creditor.

(b) When an employer makes a payment to a judgment creditor under the provisions of this subsection, the employer shall forward to the judgment creditor a statement showing—

- (i) the sums deducted under the provisions of subsection three of this section in respect of the judgment from moneys payable to the employee or contractor concerned; and
- (ii) the amount retained under the provisions of this subsection out of such sums by the employer; and
- (iii) the balance of such sums paid under the provisions of this subsection to the judgment creditor.

(c) Upon payment being made under the provisions of this subsection to the judgment creditor, the judgment creditor shall credit the employee or contractor concerned with the sums referred to in subparagraph (i) of paragraph (b) of this subsection, as shown in the statement forwarded by the employer to the judgment creditor, and the judgment in respect of which such payment was made shall for all purposes be deemed to be satisfied to the extent of those sums, as so shown.

(12) In this section—

“contractor” does not, where the name of the Commissioner for Motor Transport, the Commissioner for Government Transport, the Commissioner for Railways or the Commissioner for Main Roads is added to the Schedule to this section, include a contractor to the Commissioner whose name is so added in his capacity as such contractor.

“employee” means any officer of either House of Parliament or any person employed in either of the departments of the Legislature under the separate control of the President or Speaker,

or

or under their joint control and any officer or employee in the service of the Crown, not being an officer or employee in the service of an employing authority, and any officer or employee in the service of an employing authority, not being—

No. 28, 1957.

- (a) an officer or employee of the Public Service to whom section 56A of the Public Service Act, 1902, as amended by subsequent Acts and by this Act, applies; or
- (b) where the name of the Commissioner for Motor Transport or the Commissioner for Government Transport is added to the Schedule to this section, an officer or employee to whom section 128A of the Transport Act, 1930, as amended by subsequent Acts and by this Act, applies; or
- (c) where the name of the Commissioner for Railways is added to the Schedule to this section, an officer to whom section 107A of the Government Railways Act, 1912, as amended by subsequent Acts and by this Act, applies; or
- (d) where the name of the Commissioner of Police is added to the Schedule to this section, a member of the police force or special constable to whom section 12c of the Police Regulation Act, 1899, as amended by subsequent Acts and by this Act, applies; or
- (e) where the name of the Commissioner for Main Roads is added to the Schedule to this section, an officer or employee to whom section 7B of the Main Roads Act, 1924, as amended by subsequent Acts and by this Act, applies.

“employer”

No. 28, 1937.

“employer” means—

- (a) in respect of any officer of either House of Parliament or any person employed in either of the departments of the Legislature under the separate control of the President or Speaker, or under their joint control, the person for the time being holding the office of Parliamentary Accountant;
- (b) in respect of an officer or employee in the service of, or a contractor to, an employing authority, that employing authority; and
- (c) in respect of an officer or employee of the Crown, not being an officer or employee of an employing authority, the permanent head of the department which pays the wages or salary of that officer or employee.

“employing authority” means any person or body whose name appears in the Schedule to this section or is added to that Schedule in pursuance of this Act.

“judgment” includes a judgment against joint defendants.

(13) The Governor may, by order published in the Gazette, amend the Schedule to this section by inserting therein the name of any person, body or department by whom or by which persons are employed on behalf of the Crown, or the name of any body constituted by any Act.

(14) Nothing in this section shall affect—

- (a) the powers rights and privileges of the Legislative Council or the Legislative Assembly; or
- (b) the powers rights and privileges of or prejudice the control exercised by the President and Speaker, or either of them, over any officer of either

either House of Parliament or any person <sup>No. 28, 1957.</sup>  
employed in either of the departments of the  
Legislature under the separate control of the  
President or Speaker, or under their joint  
control.

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SCHEDULE.

Aborigines Welfare Board.  
Board of Fire Commissioners of New South Wales.  
The Board of Management constituted by the Taree-Wingham Water  
Supply Administration Act, 1929, as amended by subsequent  
Acts.  
Broken Hill Water Board.  
Commissioner of the Soil Conservation Service.  
Conservation Authority of New South Wales.  
The corporation sole constituted by section 41A of the Fisheries  
and Oyster Farms Act, 1935, as amended by subsequent Acts.  
The Electricity Authority of New South Wales.  
The Electricity Commission of New South Wales.  
Forestry Commission.  
Grafton and South Grafton Water Board.  
The Grain Elevators Board of New South Wales.  
Greyhound Racing Control Board.  
The Housing Commission of New South Wales.  
Hunter District Water Board.  
The Hunter Valley Conservation Trust.  
Local Government Superannuation Board.  
Lord Howe Island Board.  
The Maritime Services Board of New South Wales.  
The Metropolitan Meat Industry Board.  
Metropolitan Water, Sewerage and Drainage Board.  
Milk Board.  
New South Wales Ambulance Transport Service Board.  
New South Wales Government Engineering and Shipbuilding  
Undertaking.  
Prickly-pear Destruction Commissioner.  
Rural Bank of New South Wales.  
State Brickworks.  
State Mines Control Authority.  
Water Conservation and Irrigation Commission.  
Western Lands Commissioner.

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