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Creditors’ Relief Act, 2010

S.O. 2010, CHAPTER 16  
Schedule 4

**Consolidation Period:** From June 8, 2023 to the [e-Laws currency date](http://www.e-laws.gov.on.ca/navigation?file=currencyDates&lang=en).

Last amendment: [2023, c. 9, Sched. 12](http://www.ontario.ca/laws/statute/S23009" \l "sched12s1).

Legislative History: [2020, c. 11, Sched. 6](http://www.ontario.ca/laws/statute/S20011" \l "sched6s1); [2023, c. 9, Sched. 12](http://www.ontario.ca/laws/statute/S23009" \l "sched12s1).

Definitions

**1** (1)  In this Act,

“county” means a county or district described in section 151 of the Courts of Justice Act; (“comté”)

“judge” means, in respect of a county in which a sheriff carries out duties under this Act, a judge of the Superior Court of Justice who sits in that county. (“juge”) 2010, c. 16, Sched. 4, s. 1 (1).

Application of Execution Act definitions

(2)  Terms defined in the Execution Act have the same meaning in this Act. 2010, c. 16, Sched. 4, s. 1 (2).

No priority among execution or garnishment creditors

**2** (1)  Except as otherwise provided in this Act, there is no priority among creditors by execution or garnishment issued by the Superior Court of Justice, the Family Court of the Superior Court of Justice and the Ontario Court of Justice. 2010, c. 16, Sched. 4, s. 2 (1).

Exception, Small Claims Court

(2)  Subsection (1) does not affect the priority of,

(a) a creditor by garnishment issued under the Small Claims Court Rules made under the Courts of Justice Act; or

(b) a creditor by writ of seizure and sale of personal property issued under the Small Claims Court Rules made under the Courts of Justice Act. 2010, c. 16, Sched. 4, s. 2 (2).

Exception, support or maintenance orders

(3)  A support or maintenance order has the following priority over other judgment debts, other than debts owing to the Crown in right of Canada, regardless of when an enforcement process is issued or served:

1. If the maintenance or support order requires periodic payments, the order has priority to the extent of all arrears owing under the order at the time of seizure or attachment.

2. If the support or maintenance order requires the payment of a lump sum, the order has priority to the extent of any portion of the lump sum that has not been paid. 2010, c. 16, Sched. 4, s. 2 (3).

Support orders rank equally

(4)  Support and maintenance orders rank equally with one another. 2010, c. 16, Sched. 4, s. 2 (4).

Priority if execution creditors include the Crown

(5)  If there are no support or maintenance orders against a debtor and the Crown is an execution creditor, the priority among the execution creditors and creditors by garnishment is in the following order:

1. The Crown in Right of Canada, with respect to writs of execution filed on its behalf, with all such writs ranking equally with one another.

2. The Crown in right of Ontario with respect to writs of execution filed on its behalf, with all such writs ranking equally with one another.

3. All other creditors by execution or garnishment. 2010, c. 16, Sched. 4, s. 2 (5).

If federal Crown waives priority

(6)  If the Crown in right of Canada, as represented by the Minister of Justice, provides a written waiver of the priority of the Crown in right of Canada with respect to a judgment debt for which the Crown in right of Canada would otherwise have priority, the sheriff may reassign to a support or maintenance order priority over the judgment debt, regardless of when an enforcement process is issued or served with respect to that judgment debt. 2010, c. 16, Sched. 4, s. 2 (6).

Identification re support or maintenance order

(7)  A process for the enforcement of a support or maintenance order must be identified on its face as being for support or maintenance. 2010, c. 16, Sched. 4, s. 2 (7).

Garnishment, attachment of debt to be for benefit of all creditors

**3** (1)  A creditor who attaches a debt by garnishment the proceeds of which are paid to the sheriff is deemed to do so for the benefit of all execution creditors of the debtor as well as his or her own benefit. 2010, c. 16, Sched. 4, s. 3 (1).

To which sheriff payment is made

(2)  Payment of the debt is to be made to the sheriff for the county in which the debtor resides or, if the debtor resides outside the Province, to the sheriff for the county in which the proceeding that gave rise to the judgment was commenced. 2010, c. 16, Sched. 4, s. 3 (2).

Exception re garnishment in specified courts

(3)  This section does not apply to a debt attached by garnishment in the Small Claims Court, the Ontario Court of Justice or the Family Court of the Superior Court of Justice unless, before the amount recovered by garnishment is actually paid to the creditor, an execution against the property of the debtor is filed with the sheriff for the county. 2010, c. 16, Sched. 4, s. 3 (3).

Money paid into specified courts

(4)  When money recovered by garnishment is paid to the clerk of the Family Court of the Superior Court of Justice, the Ontario Court of Justice or the Small Claims Court, the sheriff may, on the request of an execution creditor, demand and receive the money from the clerk of the court for the purpose of distributing it to judgment creditors in accordance with this Act. 2010, c. 16, Sched. 4, s. 3 (4).

Right of attaching creditor to share with other creditors

(5)  If a sheriff receives money under subsection (1) or pursuant to a demand under subsection (4), the garnishment creditor is entitled to share in the distribution of the money in respect of his or her claim against the debtor. 2010, c. 16, Sched. 4, s. 3 (5).

Limit on share of funds

(6)  The garnishment creditor’s share of the money referred to in subsection (5) shall not exceed the amount recovered by the garnishment proceedings referred to in subsection (1) or from the clerk of the court under subsection (4), unless the garnishment creditor has filed a writ of execution with the sheriff before the money is distributed. 2010, c. 16, Sched. 4, s. 3 (6).

Rights of creditors re money received under execution, garnishment, etc.

Sheriff to record receipt of money

**4** (1)  On receipt of money under an execution, by garnishment or in respect of a debt that has been attached or sold under section 15 of the Absconding Debtors Act, the sheriff shall promptly record the amount received with respect to the debtor and the date of receipt. 2010, c. 16, Sched. 4, s. 4 (1).

Right of creditors to share

(2)  Subject to subsections (4) and (5) and any claims having priority under section 2, the money received shall be shared proportionately among,

(a) all execution creditors whose executions were filed with the sheriff at the time the sheriff received the money or who filed an execution with the sheriff within a one-month period after the date the sheriff received the money; and

(b) the garnishment creditor, if any of the money was received by reason of garnishment proceedings, but the garnishment creditor may share only to the extent of the amount received by reason of the garnishment proceedings unless the garnishment creditor is also an execution creditor referred to in clause (a). 2010, c. 16, Sched. 4, s. 4 (2).

If sheriff receives additional money under same execution

(3)  The following rules apply if the sheriff receives additional money from the debtor’s property or receives additional money in respect of a debt of the debtor that has been attached or sold under the same execution from which money was originally received and recorded under subsection (1):

1. If the money is received within the one-month period described in subsection (2), the sheriff shall promptly record the amount and the date the money is received and shall link that information to the record of the money originally received.

2. The additional money referred to in paragraph 1 shall be distributed under subsection (2) with the money originally received.

3. If the additional amount is received after the end of the one-month period described in subsection (2), the receipt of the additional money is considered to be unrelated to the original receipt of money and is dealt with under subsections (1) and (2) as if it were a new and unrelated receipt of money. 2010, c. 16, Sched. 4, s. 4 (3).

When two-month period applies

(4)  If money referred to in subsection (1) is the proceeds of the property of an absconding debtor against whom an order of attachment was issued under the Absconding Debtors Act, every reference to “one-month period” in clause (2) (a) and subsection (3) is to be read as a reference to “two-month period”. 2010, c. 16, Sched. 4, s. 4 (4).

Limit on amount to be distributed

(5)  The amount to be distributed to creditors described in clauses (2) (a) and (b) is subject to the following:

1. The retention of any amount under section 11 by reason of an objection to the proposed scheme of distribution under that section.

2. The payment of the costs of the creditor under whose execution an amount for distribution was received.

3. The payment to a creditor of the costs of garnishment proceedings if an amount for distribution was received through garnishment proceedings. 2010, c. 16, Sched. 4, s. 4 (5).

Right to share in subsequent distribution

(6)  A creditor who has shared in a previous distribution is entitled to share in a subsequent distribution, but only to the extent of the amount remaining due to that creditor after crediting the creditor with amounts previously received. 2010, c. 16, Sched. 4, s. 4 (6).

Equality of all executions

(7)  In distributing money under this section, creditors who have executions against personal property only, against real property only or against personal property and real property, are entitled to share rateably with all other execution creditors any money realized under any execution or attaching order. 2010, c. 16, Sched. 4, s. 4 (7).

Execution deemed not to expire

(8)  An execution which was in force at the time the money was received by the sheriff but which would otherwise expire before the end of the one-month or two-month period, as applicable, is deemed to continue in full force and effect, with respect to the money to which that one-month or two-month period applies, until the end of that one-month or two-month period. 2010, c. 16, Sched. 4, s. 4 (8).

Public inspection

(9)  Where technology permits, the sheriff shall make available to the public without charge the information recorded under subsection (1) and paragraph 1 of subsection (3). 2010, c. 16, Sched. 4, s. 4 (9).

Rights of creditors in case of interpleader proceedings

**5** (1)  The following rules apply if proceedings are taken by an interested party for relief relating to interpleader:

1. Only those execution creditors who are parties to the proceedings and who agree to contribute proportionately to the expense of contesting any adverse claim, according to the amount of their executions, are entitled to share in any benefit that may be derived from contesting the claim.

2. The execution creditors referred to in paragraph 1 may share in any benefit that may be derived from contesting the claim only to the extent necessary to satisfy their executions. 2010, c. 16, Sched. 4, s. 5 (1).

Order as to carriage of proceedings

(2)  The judge making the interpleader order may direct,

(a) that one execution creditor have carriage of the interpleader proceedings on behalf of all interested creditors; and

(b) that the costs of the proceedings be as between lawyer and client and be a first charge on the money or personal property that may be found to be applicable on the executions. 2010, c. 16, Sched. 4, s. 5 (2).

Discretion to allow filing of executions

(3)  On an interpleader application, the judge may, on such terms as to costs and otherwise as the judge considers just, allow other judgment creditors a reasonable period of time in which to file executions with the sheriff in order to take part in the proceedings. 2010, c. 16, Sched. 4, s. 5 (3).

Effect of payment or withdrawal

**6** (1)  Section 4, other than subsection 4 (1), does not apply if,

(a) without a sale by the sheriff, a debtor pays,

(i) the full amount owing in respect of all executions then filed with the sheriff, including costs, or

(ii) part of the amount owing in respect of an execution and no other executions have been filed with the sheriff;

(b) the money received is by reason of garnishment and is,

(i) sufficient to pay the full amount of the debt in respect of which the garnishment was issued and all executions then filed with the sheriff, including costs, or

(ii) part of the debt in respect of which the garnishment was issued and no executions have been filed with the sheriff; or

(c) all executions filed with the sheriff are withdrawn. 2010, c. 16, Sched. 4, s. 6 (1).

Sheriff may apply the money

(2)  In a situation described in clause (1) (a) or (b), the sheriff shall apply the money to satisfy,

(a) the executions or the part of the execution, as the case may be, in the situation described in clause (1) (a); or

(b) the debt and the executions or the part of the debt, as the case may be, in the situation described in clause (1) (b). 2010, c. 16, Sched. 4, s. 6 (2).

Priority for costs of proceedings under Absconding Debtors Act

Application

**7** (1)  This section applies if,

(a) proceedings have been taken against a debtor under the Absconding Debtors Act;

(b) the debtor’s property has been attached under an order of attachment before any executions have been filed with the sheriff; and

(c) the money received by the sheriff is all or part of the proceeds from the property. 2010, c. 16, Sched. 4, s. 7 (1).

Priority for costs

(2)  The cost of the order of attachment or, if there is more than one, the cost of the first order of attachment filed with the sheriff and the cost of the proceedings under the Absconding Debtors Act have priority over the claims of other creditors. 2010, c. 16, Sched. 4, s. 7 (2).

Money paid into court

Application

**8** (1)  This section applies if,

(a) an amount has been paid into court that belongs to an execution debtor or to which the execution debtor is entitled; and

(b) one or more executions have been filed with the sheriff. 2010, c. 16, Sched. 4, s. 8 (1).

Payment to the sheriff

(2)  At the request of an execution creditor, the sheriff may, for the purpose of distribution under this Act, demand and receive from the court the amount paid into court or, if only part of that amount is necessary to satisfy all executions filed with the sheriff and any claims having priority, an amount sufficient to satisfy the executions and claims. 2010, c. 16, Sched. 4, s. 8 (2).

Receiver appointed by creditor

**9** (1)  This section applies if a judgment creditor obtains the appointment of a receiver by way of equitable execution of property of the creditor’s debtor. 2010, c. 16, Sched. 4, s. 9 (1).

Payment into court

(2)  The receiver shall pay into court all money received by virtue of the receivership. 2010, c. 16, Sched. 4, s. 9 (2).

Application of s. 9

(3)  Subsection 9 (2) applies except that the judgment creditor is entitled to be paid out of that money the costs of and incidental to the receivership order and the proceedings, in priority to the claims of other creditors. 2010, c. 16, Sched. 4, s. 9 (3).

Personal property held by Small Claims Court bailiff

Application

**10** (1)  This section applies if,

(a) the sheriff does not find property of an execution debtor that is sufficient to satisfy all amounts in respect of executions filed with the sheriff; and

(b) the sheriff is advised that the bailiff of the Small Claims Court holds personal property of the debtor or proceeds from personal property of the debtor under an execution or attachment against the debtor. 2010, c. 16, Sched. 4, s. 10 (1).

Demand and delivery

(2)  At the request of an execution creditor, the sheriff shall demand the property or proceeds from the bailiff and the bailiff shall promptly deliver to the sheriff,

(a) the property or proceeds;

(b) a copy of every execution and attachment against the debtor that has been filed with the bailiff; and

(c) a memorandum showing the amount to be paid under each execution, including the bailiff’s fees, and the date when each execution and attachment was filed with the bailiff. 2010, c. 16, Sched. 4, s. 10 (2).

Priority, bailiff’s costs

(3)  The costs and disbursements of the bailiff are a first charge on the property or proceeds and, after the costs and disbursements are assessed by the Small Claims Court clerk, the sheriff shall pay the costs and disbursements to the bailiff. 2010, c. 16, Sched. 4, s. 10 (3).

Rights of Small Claims Court execution creditors

(4)  For the purposes of determining to whom the proceeds may be distributed, the Small Claims Court execution creditors are treated as if their executions had been filed with the sheriff. 2010, c. 16, Sched. 4, s. 10 (4).

Allocation and distribution by sheriff if amount is insufficient for all claims

Allocation

**11** (1)  If the sheriff does not find money or property of an execution debtor that is sufficient to satisfy all amounts in respect of executions filed with the sheriff, the sheriff shall,

(a) allocate an amount equal to the full taxed costs and the costs of the execution to the creditor at whose instance and under whose execution the seizure was made, if the creditor is entitled to priority for those costs under this Act; and

(b) allocate the balance then remaining rateably among the creditors after taking into consideration any claims having priority under section 2. 2010, c. 16, Sched. 4, s. 11 (1).

Schedule of proposed distribution

(2)  The sheriff shall prepare a schedule setting out,

(a) the names of the creditors entitled to share in the distribution;

(b) the amount due to each of the creditors for principal, interest and costs;

(c) the total amount available for distribution to the creditors; and

(d) opposite the name of each creditor, the amount the sheriff proposes to pay to that creditor on the distribution. 2010, c. 16, Sched. 4, s. 11 (2).

Service

(3)  The sheriff shall serve a copy of the schedule on the debtor and on each creditor or the creditor’s lawyer by personal service or by sending it by regular lettermail or by e-mail or any other electronic means. 2010, c. 16, Sched. 4, s. 11 (3); 2023, c. 9, Sched. 12, s. 1.

Right to object

(4)  Any person who would be affected by the distribution may object to the sheriff’s proposed allocation by advising the sheriff in writing of the objection and the facts and reasons on which the person relies in objecting. 2010, c. 16, Sched. 4, s. 11 (4).

Time limit for objecting

(5)  An objection is valid only if it is received by the sheriff within 10 days after all the copies of the schedule have been served, or within such longer period as the judge may allow. 2010, c. 16, Sched. 4, s. 11 (5).

If no objection received

(6)  If no objection is received by the sheriff within the time required under subsection (5), the sheriff shall promptly distribute the money in accordance with the schedule. 2010, c. 16, Sched. 4, s. 11 (6).

Partial distribution pending resolution of objection

(7)  If the sheriff receives an objection, the sheriff shall,

(a) determine the portion of the money that would not be affected if the objection were successful;

(b) distribute rateably among the creditors the amount determined under clause (a), after paying any claims having priority under section 2; and

(c) retain the balance of the money pending the resolution of the objection. 2010, c. 16, Sched. 4, s. 11 (7).

Direction by judge to seize additional money

(8)  The judge may by order direct the sheriff to seize any additional money or property of the judgment debtor that would be required to satisfy the claim of the objector. 2010, c. 16, Sched. 4, s. 11 (8).

Authority of sheriff under order

(9)  An order under subsection (8) confers on the sheriff the same authority as he or she would have under an execution. 2010, c. 16, Sched. 4, s. 11 (9).

**Section Amendments with date in force (d/m/y)**

[2023, c. 9, Sched. 12, s. 1](http://www.ontario.ca/laws/statute/S23009" \l "sched12s1) - 08/06/2023

Disposition of objection

Application to judge

**12** (1)  Not more than eight days after filing an objection, the objector shall,

(a) apply to the judge for an order resolving the matter in dispute; and

(b) obtain from the court an appointment for a hearing on the matter. 2010, c. 16, Sched. 4, s. 12 (1).

Objection deemed abandoned if fail to meet time limit

(2)  If the objector fails to make an application or obtain an appointment under subsection (1) within the required time, or within such longer period as the judge may allow, the objection is deemed to have been abandoned. 2010, c. 16, Sched. 4, s. 12 (2).

Service of appointment and notice

(3)  The objector shall serve a copy of the appointment and a notice in writing, in a form approved by the Attorney General, that sets out his or her objection and the facts and reasons on which the objector intends to rely, on,

(a) the debtor, unless the debtor is the objector; and

(b) on each creditor or his or her lawyer, or on such of them as the judge may direct. 2010, c. 16, Sched. 4, s. 12 (3).

Application deemed abandoned

(4)  An objector who does not comply with the requirements under the Rules of Civil Procedure relating to confirmation of the application or who does not appear at the hearing of his or her application is deemed to have abandoned the objection and application unless the court orders otherwise. 2010, c. 16, Sched. 4, s. 12 (4).

Disposition

(5)  The judge may determine any question necessary to dispose of the objection in a summary manner, or may direct an action to be brought or an issue to be tried with or without a jury in any court, and may make such order as to the costs of the proceedings as he or she considers just. 2010, c. 16, Sched. 4, s. 12 (5).

Directions by judge to avoid unnecessary parties and trials

(6)  If several creditors are interested in an objection, either for or against, the judge shall,

(a) give such directions as he or she considers just to save the expense of an unnecessary number of parties and trials, and of unnecessary procedures; and

(b) direct by whom and in what proportions any costs incurred in the application or in any related proceeding shall be paid and what if any costs are to be paid out of the money retained by the sheriff pending the disposition of the objection. 2010, c. 16, Sched. 4, s. 12 (6).

If objection not upheld or partially upheld

(7)  If, as a result of the judge’s decision, a person is found not to be entitled to all or part of the amount he or she claims as a creditor, the sheriff shall allocate and distribute rateably among the remaining creditors the amount to which the person is found not to be entitled, after paying the balance of any claims having priority under section 2 that were not satisfied on the initial distribution. 2010, c. 16, Sched. 4, s. 12 (7).

If objection abandoned

(8)  If an objection is abandoned or deemed to have been abandoned, the sheriff shall allocate and distribute the amount retained under clause 11 (7) (c) rateably among the creditors after paying the balance of any claims having priority under section 2 that were not satisfied on the initial distribution. 2010, c. 16, Sched. 4, s. 12 (8).

Effect of decisions

**13** The decision of a judge of the Superior Court of Justice or of the Divisional Court on an appeal referred to in section 16 binds the debtor and all the debtor’s creditors, unless it appears that the decision was obtained by fraud or collusion. 2010, c. 16, Sched. 4, s. 13.

Rights of subsequent execution creditors if first execution followed by a mortgage

Application

**14** (1)  This section applies if,

(a) one or more executions are filed with the sheriff; and

(b) after at least one execution is filed with the sheriff, the debtor executes a mortgage or other charge that is otherwise valid on all or part of his or her property. 2010, c. 16, Sched. 4, s. 14 (1).

Distribution

(2)  The following rules apply:

1. The sheriff may sell the encumbered property under an execution filed before the mortgage or charge was given, as if the mortgage or charge had not been given.

2. The sheriff shall prepare a scheme of distribution of the proceeds of sale of the encumbered property that proposes the distribution of the amount of the proceeds, before taking into consideration the amount owing under the mortgage or charge,

i. firstly among any creditors who have priority under section 2, and

ii. secondly among those creditors whose executions were filed with the sheriff before the mortgage or charge was given.

3. To the extent the proceeds of sale exceed the total amount plus costs that would be distributed as described in paragraph 2, the scheme of distribution must provide for the distribution to the encumbrancer of the amount owing under the mortgage or charge, or all of the remaining amount if it does not exceed the amount owing.

4. If proceeds would still remain after the payments proposed under paragraphs 2 and 3, the sheriff shall prepare a separate scheme of distribution of the balance among the creditors who filed executions with the sheriff after the mortgage or charge was given. 2010, c. 16, Sched. 4, s. 14 (2).

Right to object

(3)  Section 11, other than subsection 11 (1), and sections 12 and 13 apply if a person who would be affected by a scheme of distribution under this section wishes to object to the proposed distribution. 2010, c. 16, Sched. 4, s. 14 (3).

Deposit of money in bank

**15** A sheriff shall deposit money that comes into his or her hands in a bank designated for that purpose by the Deputy Attorney General or the person designated by the Deputy Attorney General under subsection 73 (2) of the Courts of Justice Act. 2020, c. 11, Sched. 6, s. 1.

**Section Amendments with date in force (d/m/y)**

[2020, c. 11, Sched. 6, s. 1](http://www.ontario.ca/laws/statute/S20011" \l "sched6s1) - 08/07/2020

Appeal

**16** If a party to an objection or any matter on which a judge has rendered or made a final judgment or order is dissatisfied with the judgment or order and it is with respect to a question involving a sum greater than the appeal limit for a final order of the Small Claims Court, the party may appeal from judgment or order to the Divisional Court in accordance with the rules of that court. 2010, c. 16, Sched. 4, s. 16.

Powers of judge

**17** Any proceeding erroneously taken under this Act may be set aside by a judge, with or without costs as he or she thinks fit. 2010, c. 16, Sched. 4, s. 17.

Evidence on proceeding before judge

**18** On any proceeding before the judge, the evidence may be taken orally or by affidavit as the judge may direct. 2010, c. 16, Sched. 4, s. 18.

Application of Courts of Justice Act

**19** Except where inconsistent with this Act, the Courts of Justice Act and the rules of court apply to any proceeding under this Act. 2010, c. 16, Sched. 4, s. 19.

Forms

**20** The Attorney General may approve the use of forms for any purpose of this Act, specify the procedure for the use of the forms and require their use for any purpose of this Act. 2010, c. 16, Sched. 4, s. 20.

Transitional, certificate of proof of claim

**21** The following rules apply with respect to a certificate issued to a claimant under subsection 9 (1) of the Creditors Relief Act that is still in force on the day that Act is repealed:

1. The certificate continues to remain in force for three years from the date of the certificate and may from time to time be renewed in the same manner as an execution.

2. On delivery of the certificate to the sheriff either before or after this Act comes into force, the claimant is deemed to be an execution creditor for the purposes of this Act whose execution is deemed to have been filed with the sheriff on the day the certificate is delivered to the sheriff, subject to the debt to which the certificate relates being disputed subsequently by another creditor under proceedings referred to in section 5.

3. For the purpose of interpleader proceedings, the certificate is deemed to be an execution. 2010, c. 16, Sched. 4, s. 21.

22.-29Omitted (amends, repeals or revokes other legislation). 2010, c. 16, Sched. 4, ss. 22-29.

30Omitted (provides for coming into force of provisions of this Act). 2010, c. 16, Sched. 4, s. 30.

31Omitted (enacts short title of this Act). 2010, c. 16, Sched. 4, s. 31.

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