



Debtor/Creditor & Small Claims Court **Exemptions from Seizure**

Contents

Exempt Assets.....	1
Exempt Sources of Income	1
Further Income Exemptions	1
Practical Considerations.....	2

January 1, 2014

<http://www.dal.ca/faculty/law/dlas/public-legal-education.html>

Exempt Assets

One of the most pressing issues many clients present with are concerns that creditors will attempt to seize their limited assets or income in order to satisfy debts owing.

The Nova Scotia *Judicature Act* and *Personal Property Security Act* list certain items that are exempt from seizure under an Execution Order:

- Clothing, household furnishings and furniture of the debtor and their family;
- The family's fuel and food;
- All grains, seeds and livestock reasonably necessary for the domestic use of the debtor and their family;
- A car valued no more than \$6,500.00 if used for work and there is no public transit, or up to \$3,000.00 if not used for work unless the debt in question was for money used to purchase the car. If that is the case the car can be seized regardless of its value;
- All medical and health aids reasonably necessary for the debtor and their family; and
- Farm equipment, fishing nets, tools and other items used in the debtor's chief occupation not exceeding \$1,000.00.

Exempt Sources of Income

Many sources of income are also exempt from seizure or garnishment by private creditors.

The following benefits cannot be seized or garnished by private creditors:

- i. Income Assistance;
- ii. CPP payments;
- iii. OAS & GIS; and
- iv. EI

It is important to remember that debts owing to the programs listed above **can** be deducted from benefits payable by those programs.

Further Income Exemptions

The Nova Scotia *Civil Procedure Rules* also contain restrictions on whether someone's income can be seized pursuant to an Execution Order. The *Civil Procedure Rules* can be found here: http://www.courts.ns.ca/Rules/consolidated/cpr_consolidated_rules_13-08-01.pdf

Civil Procedure Rule 79.08 states that 15% of a judgment debtor's gross wages can be seized to pay a debt owing.

Civil Procedure Rule 79.08 also states that a judgment debtor's income **cannot** be seized if:

- i. Seizure would result in the debtor having less than \$330.00 net per week after all compulsory deductions have been deducted; **or**

- ii. Seizure would result in a debtor supporting a dependent (as defined in the *Income Tax Act*) having less than \$450.00 net per week after all compulsory deductions have been deducted.

The *Civil Procedure Rule 79.08* also reiterates that banks are **not** to pay the Sherriff any income from exempt sources – such as income assistance or Canada Pension Plan payments.

Practical Considerations

Despite *Civil Procedure Rule 79.08* banks are sometimes unwilling to determine the source of income in a debtor's bank account, and when presented with an Execution Order by the Sherriff will simply hand over the money in a debtor's account.

If you anticipate that a creditor intends to obtain an Execution Order in order to seize money from a debtor's bank account you should contact their bank and advise them of the exemptions from seizure pursuant to rule 79.08.

Another tactic to be aware of when it comes to banks and credit card companies is that they will sometimes resort to 'self-help remedies'. In particular banks will freeze a debtor's account if they have a debt owing. Unfortunately there is little recourse for a debtor in this situation other than to negotiate repayment of the debt owing.

Acknowledgement

Dalhousie Legal Aid Service would like to gratefully acknowledge and thank the [Law Foundation of Ontario](#) for its financial support of LEAP.

Disclaimer

This document contains general legal information and not legal advice. **If you need advice about a specific legal problem then you should contact a lawyer.** If you will have difficulty affording a lawyer then you should contact [Nova Scotia Legal Aid](#) or [the Legal Information Society of Nova Scotia's lawyer referral service](#).

Laws change frequently. We will try our best to make sure the information contained in all of our documents, as well as any other information you receive from Dalhousie Legal Aid Service, is reliable. However, **we cannot guarantee that the information in this document is completely accurate and up-to-date.** By accessing information from Dalhousie Legal Aid Service you assume any risks that arise from doing so.