

THE STATUTES OF THE REPUBLIC OF SINGAPORE

DEBTORS ACT
(CHAPTER 73)

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Debtors Act

ARRANGEMENT OF SECTIONS

Section

1. Short title.
2. Interpretation.

PART I

ARREST, EXAMINATION AND IMPRISONMENT OF JUDGMENT DEBTORS

3. Arrest of judgment debtor.
4. Examination of debtor.
5. Interim order for protection of debtor's property.
6. Powers of court on examination.
7. Rules.
8. Arrest or commitment to be dependent on deposit of expenses.
9. Expenses to be judgment debt.
10. Commitment of defaulting trustee, etc.
11. Discharge or suspension of order.
12. Imprisonment not to operate as satisfaction.

PART II

ARREST BEFORE JUDGMENT

13. Where defendant may be required to furnish security for appearance.
14. Procedure on application by surety to be discharged.
15. Procedure where defendant fails to furnish security or find fresh security.
16. Application by defendant.

PART III

ATTACHMENT OF PROPERTY BEFORE JUDGMENT

17. Seizure of property before judgment.
18. Court may release property.
19. Order for sale of perishable goods.
20. Property liable to execution.

PART IV

DAMAGES FOR IMPROPER ARREST OR ATTACHMENT

Section

21. Compensation for improper arrest or attachment.

PART V

APPLICATION TO DISTRICT COURTS

22. Part I applies to District Courts, except section 10.
 23. Parts II, III and IV to apply to District Courts.
 24. Judgment debtor summons.
 25. Power of District Judge to order discharge of debtor.

PART VI

FRAUDULENT DEBTORS

26. Debts incurred by fraud.
 27. Penalty for fraudulently obtaining credit, etc.

An Act relating to debtors and to provide penalties for fraudulent debtors.

[1st January 1935]

Short title. 1. This Act may be cited as the Debtors Act.

Interpreta- 2. In this Act, unless there is anything repugnant in the
 tion. context —

“court” means the High Court or a judge when sitting in open court in all cases where proceedings are taken in the High Court and means the District Court or a District Judge when sitting in open court, in all cases where proceedings are taken in a District Court;

“judge” means a judge sitting in chambers in all cases where proceedings are taken in the High Court and means a District Judge sitting in chambers in all cases where proceedings are taken in a District Court;

“judgment” includes any order for the payment of money.

PART I

ARREST, EXAMINATION AND IMPRISONMENT OF
JUDGMENT DEBTORS

3. Where a judgment for the payment of money remains wholly or in part unsatisfied, whether a writ of execution has issued or not, the court or a judge may order the debtor to be arrested and brought before the court forthwith for examination as hereinafter provided, if it appears to the court or judge that there is probable reason for believing, having regard to his conduct, or the state of his affairs, or otherwise, that he is likely to leave Singapore with a view to avoiding payment of such money or to avoiding examination in respect of his affairs.

Arrest of judgment debtor.

4.—(1) The examination referred to in section 3 shall be an oral examination of the debtor before the court respecting his ability to pay or satisfy the judgment or so much thereof as remains due, and shall be conducted in the manner and subject to any rules for the time being prescribed for the examination of a debtor by way of discovery in aid of execution or under section 25.

Examination of debtor.

(2) If the examination is adjourned, the court may order the debtor to be committed to the civil prison until the adjourned hearing, or until such time as he furnishes security in an amount to be named in the order for his appearance at the adjourned hearing.

Adjournment of examination and security for further attendance.

5. The court may, upon an examination under this Part, make any interim order which it may consider expedient for the protection of any property appearing likely to be available for the discharge of the judgment debt.

Interim order for protection of debtor's property.

6.—(1) On the conclusion of the examination, the court may commit the debtor to the civil prison for a term which may extend to 6 weeks or until earlier payment of the judgment debt, or may order that the judgment debt be paid by instalments of such amount and at such times as it thinks fit.

Powers of court on examination.

(2) Subject to any rules of court made under or having effect by virtue of the Supreme Court of Judicature Act, an order for the payment of instalments under this section shall not be a bar to proceedings in execution unless and except to the extent that the court so directs.

Cap. 322.

Failure to
comply with
order for
instalments.

Cap. 322.

(3) If the debtor makes default in the payment of any instalment ordered to be paid as aforesaid, the judgment creditor may apply in such manner as may be prescribed by rules of court made under or having effect by virtue of, the Supreme Court of Judicature Act for a notice in the prescribed form, to be issued from the court office, calling upon the debtor to attend before the court at a time therein named, and to show cause why he should not be committed to prison for such default and may cause such notice to be served personally upon him; and if on the day so named, or any subsequent day to which the matter may be adjourned, no sufficient cause is shown by the debtor, the court may commit him to the civil prison for a term which may extend to 6 weeks or until earlier payment of any instalment or instalments due.

(4) A debtor shall not be committed to prison under this section unless it appears that he has, since the date of the judgment or of the order directing payment by instalments, had sufficient means to pay the judgment or comply with the order, as the case may be.

Rules.

7. Rules of court may be made under the Supreme Court of Judicature Act for the following purposes:

- (a) for requiring the deposit by the person at whose instance any order for arrest or imprisonment is issued, of a sum of money to provide for the expense of bringing the debtor before the court and the subsistence of the debtor while in prison; and
- (b) for regulating any matter incidental to such deposit.

Arrest or
commitment
to be
dependent
on deposit
of expenses.

8.—(1) Where under any rules for the time being in force the judgment creditor is required to deposit money to provide for the expense of bringing the debtor before the court, the debtor shall not be arrested until such deposit has been made; and where the judgment creditor is required to deposit money to provide for the subsistence of the debtor while in prison, the order for committal shall not be executed until such deposit has been made.

(2) Where any further deposit is required during any period of imprisonment under this Part, the court or a judge may, if such deposit is not duly made, order that the debtor be discharged from prison.

9. Unless in any case the court otherwise orders, the costs and expenses of and incidental to the arrest and imprisonment of any judgment debtor under this Act shall be added to the judgment debt and be recoverable accordingly.

Expenses to be judgment debt.

10.—(1) Where the court is satisfied that there has been default by a trustee or person acting in a fiduciary capacity in payment into court of any sum in his possession or under his control, the court may commit such trustee or person to prison for a term which may extend to 6 months:

Commitment of defaulting trustee, etc.

Provided that no such committal shall be ordered, if it appears to the court that the trustee or person aforesaid has acted innocently in the matter.

(2) Upon payment of the amount due the prisoner shall be immediately released.

11. The court or a judge may discharge or vary any order made under this Part, or may suspend its operation.

Discharge or suspension of order.

12. No imprisonment under this Act shall operate to satisfy or extinguish any debt, or deprive any person of any right to issue execution against the property of the debtor.

Imprisonment not to operate as satisfaction.

PART II

ARREST BEFORE JUDGMENT

13.—(1) If at any stage of any action, other than an action for the possession of immovable property, against a defendant who carries on business or ordinarily resides within the jurisdiction, the plaintiff satisfies the court or a judge by evidence upon oath that he has a good cause of action against the defendant, and that the defendant, with intent to prejudice the plaintiff, or to avoid any process of the court, or to obstruct or delay the execution of any judgment that may be made against him —

Where defendant may be required to furnish security for appearance.

- (a) has absconded or left Singapore;
- (b) is about to abscond or leave Singapore; or
- (c) has disposed of or removed from Singapore his property or any part thereof,

the court or judge may issue an order to arrest the defendant and bring him before the court or a judge to show cause why he should not furnish security for his appearance:

Provided that the defendant shall not be arrested if he pays to the officer entrusted with the execution of the order

any sum specified in the order as sufficient to satisfy the plaintiff's claim. Such sum shall be held in deposit by the court until the action is disposed of or until further order.

(2) Where the defendant fails to show such cause, the court or judge shall order him either to deposit in court money or other property sufficient to answer the claim against him or to furnish security for his appearance at any time when called upon while the action is pending and until satisfaction of any order that may be made against him in the action, or shall make such order as it thinks fit with regard to the sum which may have been paid by the defendant under the proviso to subsection (1).

(3) Every surety for the appearance of a defendant shall bind himself to pay, in default of such appearance, any sum of money which the defendant may be ordered to pay in the action.

Procedure on application by surety to be discharged.

14.—(1) A surety for the appearance of a defendant may at any time apply to the court or a judge to be discharged from his obligation and on such application the court or a judge shall summon the defendant to appear, or may issue an order for his arrest.

(2) On the appearance of a defendant pursuant to any such summons or order, the court or judge shall discharge the surety from his obligation and call upon the defendant to furnish fresh security.

Procedure where defendant fails to furnish security or find fresh security.

15.—(1) Where the defendant fails to comply with any order under section 13 or 14, the court or a judge may order that he be detained in the civil prison until the decision of the action.

(2) No person shall be detained in prison under this section —

- (a) in any case for a longer period than 6 weeks; or
- (b) after he has complied with such order.

Application by defendant.

16. A defendant may, at any time after his arrest, apply to the court or a judge to rescind or vary the order made thereunder, or discharge him from custody, and the court or a judge may make such order as is just.

PART III

ATTACHMENT OF PROPERTY BEFORE JUDGMENT

17.—(1) If it is shown to the satisfaction of the court or a judge, at any time after the issue of a writ of summons, by evidence on oath, that the plaintiff has a good cause of action against the defendant, and —

Seizure of
property
before judg-
ment.

- (a) that the defendant is absent from Singapore and that his place of abode cannot be discovered;
- (b) that service of a writ of summons cannot without great delay or difficulty be effected; or
- (c) that the defendant, with intent to obstruct or delay the execution of any judgment which has been or may be made against him, has removed, or is about to remove, or has concealed, or is concealing, or making away with, or handing over to others, any of his movable or immovable property,

the court or judge may order that the property of the defendant, or any part thereof, be forthwith seized by the Sheriff of the Supreme Court as a pledge or surety to answer the just demand of the plaintiff, until the trial of the action and satisfaction of any judgment that may be made against the defendant; but such order shall not constitute the plaintiff a secured creditor if the defendant is adjudicated bankrupt:

Provided that any property of the defendant, if in the custody of any officer in the service of the Government, or of any member of the Singapore Armed Forces or of any visiting forces lawfully present in Singapore, in his official capacity shall be seized only with the consent in writing of the Attorney-General.

(2) If any immovable property is seized under this section, the Sheriff shall forthwith cause the order to be registered under the Registration of Deeds Act, the Land Titles Act or the Land Titles (Strata) Act.

Cap. 269.
Cap. 157.
Cap. 158.

(3) In case the land is subsequently seized in execution in satisfaction of judgment in the action, the order of court registered pursuant to such seizure shall have priority as

though it had been registered upon the date on which the order registered under this section was registered.

Court may release property.

18. The court or a judge may at any time, on reasonable cause being shown and upon such terms, if any, as to security or otherwise as seem just, release the property seized and order any movable property to be returned.

Order for sale of perishable goods.

19. The court or a judge may, at any time pending the trial of the action, order the sale of any property seized under this Part which is of a perishable nature, or which for any other reason it is desirable to sell without delay, and direct the proceeds of such sale to be retained by the Sheriff or paid into court pending the trial of the action.

Property liable to execution.

20. Any property so seized, or the proceeds of sale thereof, shall be liable to execution in satisfaction of any judgment in the action against the defendant; but it shall be subject to the prior claims of any judgment creditor whose judgment was obtained within one year before the seizure thereof under this Part if the judgment creditor had issued execution against the defendant's property before the making of any order under this Part.

Subject to prior claims.

PART IV

DAMAGES FOR IMPROPER ARREST OR ATTACHMENT

Compensation for improper arrest or attachment.

21.—(1) If at any subsequent stage of an action in which an order for arrest or attachment of property has been made under this Act it appears to the court that such arrest or attachment was applied for on insufficient grounds, or if the plaintiff's claim is dismissed and it appears to the court that there was no sufficient ground for instituting the action, the court may, on the application of the defendant, award against the plaintiff such amount, not exceeding \$500, as it thinks reasonable to compensate the defendant for any injury caused to him by the arrest or attachment.

(2) An award under this section shall bar any action for damages, but nothing in this section shall preclude the defendant from maintaining an action for damages instead of applying for an award under subsection (1).

PART V

APPLICATION TO DISTRICT COURTS

22. The provisions of Part I, with the exception of section 10, shall apply to District Courts, with all necessary modifications, and the powers thereby conferred may be exercised by District Judges and the bailiffs of District Courts in accordance with any rules for the time being in force in the District Courts.

Part I applies to District Courts, except section 10.

23.—(1) District Courts shall have the powers of ordering arrest and attachment before judgment given in Parts II and III with the same effects and consequences:

Parts II, III and IV to apply to District Courts.

Provided that any attachment ordered shall extend only to property liable to be seized under a District Court writ of seizure and sale.

(2) The provisions of Part IV apply to District Courts with all necessary modifications, and the powers thereby conferred may be exercised by District Courts.

24.—(1) Where a judgment or order of a District Court is for the recovery or payment of money, whether by instalments or otherwise, the party entitled to enforce it (hereinafter called the judgment creditor) may, subject to such rules as may be prescribed, summon the judgment debtor, or if the judgment debtor is a corporation, an officer of that corporation, to be orally examined before that District Court respecting the judgment debtor's ability to pay or satisfy the judgment debt and for the discovery of property applicable to such payment and as to the disposal which the judgment debtor has made of such property.

Judgment debtor summons.

(2) The judgment debtor or, where the judgment debtor is a corporation, the officer thereof who has been summoned shall, when called upon, produce all books, papers or documents in his possession or power relating to such property.

Production of books and papers.

(3) The judgment creditor may subpoena as a witness any person whom he considers likely to be able to supply information respecting the judgment debtor's ability to pay the judgment debt or respecting his property.

Subpoena for witness.

(4) Whether the judgment debtor, or, where the judgment debtor is a corporation, the officer thereof, appears or

Judgment debtor not appearing.

not the judgment creditor and other witnesses may be examined on oath respecting the matters aforesaid.

(5) If the judgment debtor or, where the judgment debtor is a corporation, the officer thereof, having been duly served does not appear, the court may —

- (a) order him to be arrested and brought before the court to be examined; or
- (b) make an order against the judgment debtor *ex parte*.

Order.

(6) Upon such examination or non-appearance as aforesaid, the court may order the judgment debtor to pay the judgment debt either —

- (a) in one sum whether forthwith or within such period as the court may fix; or
- (b) by such instalments payable at such times as the court may fix.

Failure to comply with order.
Notice to show cause.

(7) If the judgment debtor makes default in payment according to any such order, a notice in the prescribed form may be issued on the request of the judgment creditor, calling upon the judgment debtor to attend before the court at a time therein stated and show cause why he should not be committed to prison for such default.

Commitment to prison.

(8) Such notice shall be personally served upon the judgment debtor, and if, on the day so named, or on any subsequent day to which the matter may be adjourned, no sufficient cause is shown by the judgment debtor, the court may commit him to the civil prison for a term which may extend to 6 weeks or until earlier payment of any instalment or instalments or other sum due.

34/73.

(9) A debtor shall not be committed to prison under this section unless it appears that, since the date of the order directing payment, whether forthwith, or within a specified period or by instalments, he has had sufficient means to comply with the order.

Power to discharge, vary or suspend order.

(10) The District Court may discharge or vary any order made under this section, or may suspend its operation.

Powers of Registrar of Subordinate Courts.

(11) Subject to the Subordinate Courts Rules and notwithstanding anything in section 2, the powers conferred by subsections (5) and (6) may be exercised by the Registrar of the Subordinate Courts sitting in open court.

25.—(1) If at any time it appears to the satisfaction of a District Judge that any debtor arrested or confined in prison by order of the District Court is unable from any cause to pay any sum recovered against him (whether by way of satisfaction of a claim or counterclaim or by way of costs or otherwise), or any instalment thereof, and ought to be discharged, the District Judge may order his discharge upon such terms (including liability to rearrest if the terms are not complied with) as the District Judge thinks fit.

Power of District Judge to order discharge of debtor.

(2) Where an order of commitment issued by one District Court has been sent to another District Court for execution, the judge of that other court shall have the same power as the judge of the court in which the order of commitment was made of ordering the discharge of the debtor under this section.

PART VI

FRAUDULENT DEBTORS

26. Where a debtor makes any composition or arrangement with his creditors, he shall remain liable for the unpaid balance of any debt which he incurred or increased by any fraud, or for which before the date of the arrangement or composition he obtained forbearance by any fraud, provided the defrauded creditor has not assented to the arrangement or composition otherwise than by proving his debt and accepting dividends.

Debts incurred by fraud.

27. Any person shall in each of the following cases be guilty of an offence and be punished with imprisonment, which may extend to one year, or with fine or with both:

Penalty for fraudulently obtaining credit, etc.

- (a) if in incurring any debt or liability he has obtained credit under false pretences or by means of any other fraud;
- (b) if he has, with intent to defraud his creditors or any of them, made or caused to be made any gift, delivery or transfer of or any charge on his property; or
- (c) if he has, with intent to defraud his creditors or any of them, concealed or removed any part of his property since or within two months before the date of any unsatisfied judgment or order for payment of money obtained against him.