



THE STATUTES OF THE REPUBLIC OF SINGAPORE

DEBTORS ACT

(CHAPTER 73)

(Original Enactment: Ordinance 16 of 1923)

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CHAPTER 73

Debtors Act

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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.

Interpretation

2. In this Act, unless there is anything repugnant in the 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

Arrest of judgment debtor

3. Where a judgment for the payment of money remains wholly or in part unsatisfied, whether or not a writ of execution has issued, 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.

Examination of 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.

Adjournment of examination and security for further attendance

(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.

Interim order for protection of debtor’s property

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.

Powers of court on examination

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.

(2) Subject to any rules of court made under or having effect by virtue of the Supreme Court of Judicature Act (Cap. 322), 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.

Failure to comply with order for instalments

(3) If the debtor makes default in the payment of any instalment ordered to be paid under subsection (1), 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 named in the notice, 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) to require 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;
- (b) to regulate 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.

Expenses to be judgment debt

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.

Commitment of defaulting trustee, etc.

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:

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.

Discharge or suspension of order

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

Imprisonment not to operate as satisfaction

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.

PART II

ARREST BEFORE JUDGMENT

Where defendant may be required to furnish security for appearance

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 —

- (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 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 period longer 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 judge may make such order as is just.

PART III

ATTACHMENT OF PROPERTY BEFORE JUDGMENT

Seizure 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 —

- (a) that the defendant is absent from Singapore and 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.

(2) 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 under subsection (1) only with the consent in writing of the Attorney-General.

(3) 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 (Cap. 269), the Land Titles Act (Cap. 157) or the Land Titles (Strata) Act (Cap. 158).

(4) In a case where 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 but subject to prior claims

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.

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

Part I applies to District Courts, except section 10

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.

Parts II, III and IV to apply to District Courts

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:

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.

Judgment debtor summons

24.—(1) Where a judgment or an 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.

Production of books and papers

(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.

Subpoena for witness

(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.

Judgment debtor not appearing

(4) Whether the judgment debtor or, where the judgment debtor is a corporation, the officer thereof, appears or 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 referred to in subsection (5), 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 and 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 stated in the notice 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.

(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.

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Power to discharge, vary or suspend order

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

Powers of Registrar of State Courts

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

Power of District Judge to order discharge of debtor

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.

(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

Debts incurred by fraud

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.

Penalty for fraudulently obtaining credit, etc.

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:

- (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;
- (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 2 months before the date of any unsatisfied judgment or order for payment of money obtained against him.

LEGISLATIVE HISTORY

DEBTORS ACT (CHAPTER 73)

This Legislative History is provided for the convenience of users of the Debtors Act. It is not part of the Act.

1. Ordinance 16 of 1923 — Fraudulent Debtors Ordinance 1923

Date of First Reading	: 28 May 1923
Date of Second Reading	: 25 June 1923
Date of Third Reading	: 3 September 1923
Date of commencement	: 28 September 1923

2. Ordinance 25 of 1934 — Debtors Ordinance 1934

Date of First Reading	: 12 February 1934
Date of Second Reading	: 16 April 1934
Date of Third Reading	: 28 May 1934
Date of commencement	: 1 January 1935

3. 1936 Revised Edition — Fraudulent Debtors Ordinance (Chapter 26)

Date of operation	: 1 September 1936
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4. 1936 Revised Edition — Debtors Ordinance (Chapter 48)

Date of operation	: 1 September 1936
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5. Ordinance 31 of 1937 — Debtors (Amendment) Ordinance 1937

Date of First Reading	: 30 August 1937
Date of Second and Third Readings	: 25 October 1937
Date of commencement	: 26 November 1937

6. Ordinance 56 of 1940 — Debtors (Amendment) Ordinance 1940

Date of First Reading	: 14 October 1940 (Bill published on 4 October 1940. No Bill number given.)
Date of Second and Third Readings	: 6 November 1940
Date of commencement	: 1 July 1941

7. 1955 Revised Edition — Debtors Ordinance (Chapter 13)

Date of operation	: 1 July 1956
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8. 1955 Revised Edition — Fraudulent Debtors Ordinance (Chapter 116)

Date of operation : 1 July 1956

9. Ordinance 62 of 1959 — State Advocate-General (Transfer of Powers) Ordinance 1959

Date of First Reading : 13 August 1959
(Bill No. 22/59 published on
24 August 1959)

Date of Second and Third Readings : 8 September 1959

Date of commencement : 11 September 1959

10. L.N. 455/64 — Modification of Laws (Debtors) (Borneo States and Singapore) Order 1964

Date of commencement : 24 December 1964

11. 1970 Revised Edition — Debtors Act (Chapter 19)

Date of operation : 1 March 1971

12. Act 34 of 1973 — Statutes of the Republic of Singapore (Miscellaneous Amendments) (No. 3) Act 1973

Date of First Reading : 11 July 1973
(Bill No. 27/73 published on
14 July 1973)

Date of Second and Third Readings : 25 July 1973

Date of commencement : 24 August 1973 (item (c) of the
Schedule — amendment of
Debtors Act)

13. 1985 Revised Edition — Debtors Act (Chapter 73)

Date of operation : 30 March 1987

14. Act 5 of 2014 — Subordinate Courts (Amendment) Act 2014
(Consequential amendments made to Act by)

Date of First Reading : 11 November 2013
(Bill No. 26/2013 published on
11 November 2013)

Date of Second and Third Readings : 21 January 2014

Date of commencement : 7 March 2014 (item 9 of the
Schedule — amendment of
Debtors Act)

15. 2014 Revised Edition — Debtors Act (Chapter 73)

Date of operation : 30 June 2014