

WOMEN'S CHARTER
(CHAPTER 353, SECTION 180(1))

WOMEN'S CHARTER (GARNISHEE PROCEEDINGS) RULES

ARRANGEMENT OF RULES

Rule

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[1st May 1997]

Citation

1. These Rules may be cited as the Women's Charter (Garnishee Proceedings) Rules.

Definitions

2. In these Rules, unless the context otherwise requires —

“applicant” means a person who applies for a garnishee order;

“defendant”, in relation to garnishee proceedings or proceedings under rule 15, means the person who fails to make one or

more payments required to be made under a maintenance order;

“garnishee” means a person who is within the jurisdiction and from whom money is due or accruing due to the defendant;

“garnishee order” means an order made under section 71(1)(c) of the Act;

“garnishee proceedings” means proceedings for the application of a garnishee order and includes proceedings which arise out of or are incidental to such application;

“maintenance order” has the same meaning as in section 80 of the Act;

“Registrar” means —

- (a) the Registrar, a Deputy Registrar or an Assistant Registrar of the High Court in all cases where proceedings are taken in the High Court; and
- (b) the Registrar or a Deputy Registrar of the Subordinate Courts in all cases where proceedings are taken in a District Court or a Magistrate's Court;

“scheduled territories” has the same meaning as in the Exchange Control Act (Cap. 99).

Application for garnishee order

3.—(1) A person who has applied for a maintenance order, or a person to whom the court has directed maintenance to be paid, may apply for a garnishee order for the enforcement of the maintenance order.

(2) An application to a District Court or a Magistrate's Court for a garnishee order shall be made in accordance with the procedure under section 79(1) of the Act.

Powers of court in garnishee proceedings

4.—(1) Subject to any written law, where an application for a garnishee order is made to any court, the court may at any time —

- (a) order the defendant to give to the court, within such period as may be specified in the order, a statement signed by him of —
- (i) the name and address of every garnishee;
 - (ii) such particulars of the nature and the amount of debt due or accruing due as may be specified in the order; and
 - (iii) such particulars of the defendant as may be specified in the order for the purpose of enabling the defendant to be identified by a garnishee; and
- (b) order any person appearing to the court to be a garnishee to give to the court, within such period as may be specified in the order, a statement signed by him or on his behalf of such particulars as may be required by the order of all debts due or accruing due to the defendant.

(2) A document purporting to be such a statement as is mentioned in paragraph (1) shall, in the garnishee proceedings, be received in evidence and be deemed to be such statement without further proof unless the contrary is shown.

Nature of garnishee order

5.—(1) The court may, in respect of an application for a garnishee order, order the garnishee to pay the applicant the amount of any debt due or accruing due to the defendant from the garnishee, or so much thereof as is sufficient to satisfy the outstanding amounts due under the maintenance order and the costs of the garnishee proceedings.

(2) An order under paragraph (1) —

- (a) shall, in the first instance, be an order to show cause, specifying the date, time and place for further consideration of the matter, and in the meantime attaching such debt as is mentioned in paragraph (1), or so much thereof as may be specified in the order, to satisfy the outstanding amounts due under the maintenance order and the costs of the garnishee proceedings; and
- (b) shall be in Form 1 set out in the Schedule.

(3) For the purpose of this rule, “any debt due or accruing due” includes an amount standing to the credit of the defendant in a current account or deposit account in a bank or other financial institution , whether or not it has matured and notwithstanding any restriction as to the mode of withdrawal.

Service and effect of order to show cause

6.—(1) An order under rule 5 to show cause must, at least 7 days before the time appointed thereby for the further consideration of the matter, be served —

(a) on the garnishee; and

(b) unless the court otherwise directs, on the defendant.

(2) Such an order shall bind in the hands of the garnishee as from the service of the order on him any debt specified in the order or so much thereof as may be so specified.

Mode of service

7. Unless the court otherwise directs, the service of any document on a garnishee shall be undertaken by the Registrar by way of registered post.

No appearance or dispute of liability by garnishee

8.—(1) Where, on the further consideration of the matter, the garnishee does not attend or does not dispute the debt claimed to be due from him to the defendant, the court may, subject to rule 13, make an order absolute under rule 5 in the appropriate form in Form 2 set out in the Schedule against the garnishee.

(2) An order absolute under rule 5 against the garnishee may be enforced in the same manner as any other order for the payment of money made by a court and the Rules of Court (Cap. 322, R 5) shall, with the necessary modifications, apply to such enforcement.

Dispute of liability by garnishee

9. Where, on the further consideration of the matter, the garnishee disputes liability to pay the debt claimed to be due from him to the defendant, the court may summarily determine the question at issue or

order in Form 3 set out in the Schedule that any question necessary for determining the liability of the garnishee be tried in any manner in which any question or issue in an action may be tried.

Certificate by bank or financial institution

10. Where the garnishee is a bank or other financial institution, a certificate signed by an authorised officer of the bank or financial institution containing —

- (a) information as to whether the bank or financial institution disputes the debt claimed to be due from the bank or financial institution to the defendant;
- (b) if the matter in paragraph (a) is not disputed by the bank or financial institution, information as to the amount of the debt; and
- (c) such other information as the court may require,

may be received in evidence by the court for the purposes of rules 8(1), 9 and 12.

Service of order absolute, etc.

11. An order absolute under rule 5 and an order under rule 9 shall be served —

- (a) on the garnishee; and
- (b) unless the court otherwise directs, on the defendant.

Claims of third persons

12.—(1) If in garnishee proceedings it is brought to the notice of the court that some person other than the defendant is or claims to be entitled to the debt sought to be garnished or has or claims to have a charge or lien upon it, the court may order that person to attend before the court and state the nature of the claim with particulars thereof.

(2) After hearing any person who attends before the court in compliance with an order under paragraph (1), the court may summarily determine the question at issue between the claimants or make such other order as it thinks just, including an order that any question or issue necessary for determining the validity of the claim of

such other person as is mentioned in paragraph (1) be tried in such manner as is mentioned in rule 9.

Applicant resident outside scheduled territories

13.—(1) The court shall not make an order under rule 5 requiring the garnishee to pay any sum to or for the credit of any applicant outside the scheduled territories unless the applicant produces a certificate that the Monetary Authority of Singapore has given permission under the Exchange Control Act (Cap. 99) for the payment unconditionally or on conditions which have been complied with.

(2) If it appears to the court that payment by the garnishee to the applicant will contravene any provision of the Exchange Control Act, the court may order the garnishee to pay into court the amount due to the applicant and the costs of the garnishee proceedings after deduction of his own costs, if the court so orders.

Discharge of garnishee

14. Any payment made by a garnishee in compliance with an order absolute under these Rules, and any execution levied against him in pursuance of such an order, shall be a valid discharge of his liability to the defendant to the extent of the amount paid or levied notwithstanding that the garnishee proceedings are subsequently set aside or the maintenance order from which they arose reversed, set aside or varied.

Money in court

15.—(1) Where money is standing to the credit of the defendant in court, a person shall not be entitled to apply for a garnishee order under these Rules in respect of that money but may apply to the court by summons for an order that the money or so much of it as is sufficient to satisfy the sums outstanding under the maintenance order concerned and the costs of the application be paid to him.

(2) On issuing a summons under this rule, the applicant must produce the summons at the office of the Accountant-General and leave a copy at that office, and the money to which the application relates shall not be paid out of court until after the determination of the application.

(3) If the application is dismissed, the applicant must give notice of that fact to the Accountant-General.

(4) Unless the court otherwise directs, the summons must be served on the defendant at least 7 days before the day named therein for the hearing of it.

(5) The court hearing an application under this rule may make such order with respect to the money as it thinks just.

Forms

16. The Forms in the Schedule shall be used with such variations as the circumstances of the particular case require.

Non-applicability of Order 49 of Rules of Court

17. Order 49 of the Rules of Court (Cap. 322, R 5) shall not apply to proceedings under these Rules.

THE SCHEDULE

FORMS

Form 1

Rule 5 (2)

GARNISHEE ORDER TO SHOW CAUSE
IN THE HIGH COURT/SUBORDINATE COURTS OF THE
REPUBLIC OF SINGAPORE

MSS No.)

of 19)

Between

Applicant

and

Defendant

and

Garnishee

Upon the application of

and upon hearing

It is ordered by the Judge that all debts due or accruing due from the abovementioned garnishee to the abovementioned defendant (in the sum of \$) be attached to answer an order made in the High Court/Subordinate Courts on the day of 19 ordering payment by the defendant of the sums of \$ as maintenance (together with the costs of the garnishee proceedings) on which order the sum of \$ remains due and unpaid.

And it is ordered that the garnishee attend before the Judge in Court on the day of 19 at am/pm, on an application by the said applicant that the garnishee do pay

THE SCHEDULE — continued

to the applicant, or such person as the Court may direct, the debt due from the garnishee to the defendant, or so much thereof as may be sufficient to satisfy the order, together with the costs of the garnishee proceedings.

Dated this day of 19 .
(Seal)

Judge

To the abovenamed garnishee and defendant.

Form 2

Rule 8 (1)

GARNISHEE ORDER

(Title as in Form 1)

(a) Garnishee order absolute where garnishee owes more than the outstanding maintenance.

Upon hearing the application of on the day of 19 , and upon reading the order to show cause made herein dated the day of 19 , and upon hearing (counsel for) the applicant and the garnishee, whereby it was ordered all debts due or accruing due from the abovenamed garnishee to the abovenamed defendant should be attached to answer an order made in the High Court/Subordinate Courts dated the day of 19 ordering payment by the said defendant of the sum of \$ as maintenance to and \$ costs (together with the costs of the garnishee proceedings) on which order the sum of \$ remained due and unpaid.

It is ordered that the said garnishee do forthwith pay to the applicant (or such person as the Court may direct) (or into Court if the applicant is resident outside the scheduled territories as defined in the Exchange Control Act (Cap. 99), or would receive payment of the said sum on behalf of a person so resident, unless the permission of the Monetary Authority of Singapore under that Act has been given unconditionally or upon conditions which have been complied with) \$ being so much of the debt due from the garnishee to the defendant as is sufficient to satisfy the outstanding maintenance and costs, together with \$ the costs of the garnishee proceedings, and that the garnishee be at liberty to retain \$ for his costs of this application out of the balance of the debt due from him to the defendant.

Dated this day of 19 .
(Seal)

Judge

GARNISHEE ORDER

(Title as in Form 1)

THE SCHEDULE — *continued*

(b) Garnishee order absolute where garnishee owes less than the outstanding maintenance.

Upon hearing (as above)

It is ordered that the said garnishee (after deducting therefrom \$ for his costs of this application) do forthwith pay to the said applicant (or such person as the Court may direct) (or into Court if the applicant is resident outside the scheduled territories as defined in the Exchange Control Act (Cap. 99), or would received payment of the said sum on behalf of a person so resident, unless the permission of the Monetary Authority of Singapore under that Act has been given unconditionally or upon conditions which have been complied with) \$ the debt due from the garnishee to the defendant. And that the sum of \$ the costs of the applicant of this application be added to the outstanding maintenance and be retained out of the money recovered by the applicant under this order and in priority to the amount of the outstanding maintenance.

Dated this day of 19 .

(Seal)

Judge

Form 3

Rule 9

ORDER FOR ISSUE BETWEEN APPLICANT AND GARNISHEE

(Title as in Form 1)

Upon reading the application of filed the day of 19 , and the order nisi herein, dated the day of 19 , and upon hearing (counsel for) the applicant, the garnishee and the defendant.

It is ordered that the applicant and the garnishee proceed to the trial of an issue wherein the said applicant shall be plaintiff and the said garnishee shall be defendant, and that the question to be tried shall be whether there was any debt due or accruing due in any and what amount from the garnishee to the defendant against whom the maintenance order was made at the time the said order nisi was served. And it is further ordered that the question of costs and all further questions be reserved to the Judge trying the same issue.

Dated this day of 19 .

(Seal)

Judge

[G.N. No. S 178/97]

LEGISLATIVE HISTORY
WOMEN'S CHARTER (GARNISHEE PROCEEDINGS) RULES
(CHAPTER 353, R 6)

This Legislative History is provided for the convenience of users of the Women's Charter (Garnishee Proceedings) Rules. It is not part of these Rules.

1. G. N. No. S 178/1997 — Women's Charter (Garnishee Proceedings) Rules 1997

Date of commencement : 1 May 1997

2. 1998 Revised Edition — Women's Charter (Garnishee Proceedings) Rules

Date of operation : 15 June 1998

3. G. N. No. S 565/1998 — Women's Charter (Garnishee Proceedings) (Amendment) Rules 1998

Date of commencement : 16 November 1998