
Fourth Session Fourth Parliament Republic of Trinidad
and Tobago



REPUBLIC OF TRINIDAD AND TOBAGO

Act No. 28 of 1995

[L.S.]

AN ACT to amend the Attachment of Earnings
(Maintenance) Act, 1988

[Assented to 4th October, 1995]

ENACTED by the Parliament of Trinidad and Tobago as ^{Enactment}
follows:—

1. This Act may be cited as the Attachment of ^{Short title}
Earnings (Maintenance) (Amendment) Act, 1995.

Interpretation Act
No. 14 of 1988

2. In this Act the Attachment of Earnings (Maintenance) Act is referred to as “the Act”.

Section 4 repealed

3. Section 4 of the Act is repealed and the following section is substituted:

“Power of
courts to
attach
earnings

4. Where a maintenance order has been made, whether before or after the commencement of this Act, the Court making the maintenance order may upon an application made under this Act, at the same time, or at any subsequent time as the case may be, make an attachment of earnings order to secure maintenance payments.”

Section 5 repealed

4. Section 5 of the Act is repealed and the following section is substituted:

“Application
for attach-
ment of
earnings
order

5. (1) The following persons may apply for an attachment of earnings order:

- (a) any person making an application for a maintenance order;
- (b) any person who is entitled to receive payment under a maintenance order whether directly or into a specified bank account or to the Collecting Officer;
- (c) without prejudice to paragraph (b), where the application is to the Magistrate’s Court for an attachment of earnings order and there is in force an order under section 26(6) of the Family Law (Guardianship of Minors, Domicile

and Maintenance) Act, that those payments be made to the Collecting Officer;

(d) the debtor.

(2) Where a maintenance order is in force, an application for an attachment of earnings order shall be made in accordance with Form 1 or 5 of Schedule 5 as is appropriate and a summons in Form 3 or 7 shall be served on the debtor.

(3) Where an application under subsection (2) is made by the debtor it shall be endorsed with the prescribed notice in Form 1 of Schedule 5 and a copy of the application so endorsed shall be served on the person entitled to receive payment under a maintenance order.

(4) Where a maintenance order is not in force, an application for an attachment of earnings order may be made at the same time as an application for a maintenance order, and the Court shall hear the application for the attachment of earnings order forthwith after the maintenance order has been granted.

(5) An application for an attachment of earnings order under subsection (4) shall be made by way of notice in Form 8 of Schedule 5 and a copy of the notice shall be served on the person against whom the maintenance order is being sought.

- (6) Where proceedings are brought—
- (a) in the High Court for the enforcement of a maintenance order by committal under—
- Chap. 8:07 (i) Section 5 of the Debtors Act; or
- Chap. 45:51 (ii) Rules 64 and 65 of the Matrimonial Causes Rules; or
- (b) in Magistrate's Court for the enforcement of a maintenance order under section 82 of the Summary Courts Act,
- Chap. 4:20 the Court may make an attachment of earnings order to secure payments under the maintenance order.”.

Section 6 amended

5. Section 6 of the Act is amended—

- (a) in subsection (2) by deleting the words “to a person who appears to the Court to have the debtor in his employment” and substituting the words “to the employer”;
- (b) in subsection (7)(b) by deleting the words “section 26(3)” and substituting the words “section 26(3) or (4)”.

Section 8 amended

6. Section 8 of the Act is amended by repealing subsection (2) and substituting the following subsection:

“ (2) Notwithstanding subsection (1) where an attachment of earnings order has been made but the attached earnings fail to satisfy the entire maintenance payments the Court may upon satisfactory evidence that the debtor has the means—

- (a) issue a warrant of commitment in respect of the non-payment of the sum not secured under the attachment of earnings order; or

(b) direct payment by instalment of the said sum.”.

7. Section 9(3) of the Act is amended—

Section 9 amended

(a) by deleting the words “the person to whom it is directed” and substituting the words “the employer”; and

(b) by deleting the words “a person, whether the same as before or another, who appears to the Court to have the debtor in his employment.” and substituting the words “the employer, whether the same as before or another.”.

8. Section 11 of the Act is repealed and the following section is substituted:

Section 11 repealed

“Termination
of employer’s
liability

11. Where an attachment of earnings order is discharged under section 9, the person to whom the order has been directed shall be under no liability in consequence of his treating the order as being still in force at any time before a copy of the discharging order is served on him.”.

9. Section 13 of the Act is amended—

Section 13 amended

(a) in subsection (1)(b) by deleting the words “any person appearing to the Court to have the debtor in his employment” and substituting the words “the employer”;

(b) in subsection (3) by inserting after the word “where” the words “a summons or”;

(c) in subsection (4) by inserting after the words “requirement of a” the words “summons or”.

Section 18 amended

10. Section 18(1) of the Act is amended by repealing paragraph (a) and substituting the following paragraph:

“ (a) the Chief Accounting Officer of the Department in which the debtor is for the time being employed shall be regarded for the purposes of this Act as the employer and any transfer of the debtor from one department to another shall not be treated as a cessation of employment within the meaning of section 9(3).”.

Section 19 amended

11. Section 19 of the Act is amended—

(a) in subsection (1) by inserting after the word “with” the words “a summons or a”;

(b) in subsection (2)(c) by inserting after the words “requirement of a” the words “summons or a”;

(c) in subsection (2)(f) by inserting after the words “requirement of a” the words “summons or a”.

Section 20A inserted

12. The following section is inserted after section 20 of the Act—

“Chap. 46:08
amended

20A. Section 28 of the Family Law (Guardianship of Minors, Domicile and Maintenance) Act is repealed.”.

Schedule 5 repealed

13. Schedule 5 of the Act is repealed and the following Schedule substituted:

SCHEDULE 5

(Section 5)

FORM 1

REPUBLIC OF TRINIDAD AND TOBAGO

Region of

IN THE MAGISTRATE'S COURT

THE ATTACHMENT OF EARNINGS (MAINTENANCE) ACT, 1988

APPLICATION FOR ORDER TO ATTACH EARNINGS

The application of of made the day of, 19..... states that by a maintenance order made at the Magistrate's Court held at on the day of, 19..... (name of debtor) was ordered to pay to or to having the care of a minor child/minor children the sum of per week/month.

AND the applicant further says that there is payable to the said certain earnings capable of being attached namely *

AND the applicant therefore prays that an order be made that the sum of * or such part thereof as the Court may order, may each week be attached out of the said earnings and paid—

- *(1) directly to the applicant
*(2) to the bank account specified herein
*(3) to the Collecting Officer for the said Magisterial District
*(4) directly to the person entitled to receive payment under the maintenance order.

Signed Applicant

Taken before me this day of, 19..... at in the

Signed Clerk of the Peace

ENDORSEMENT ON APPLICATION OF DEBTOR

To Name of person entitled to payments under maintenance order

TAKE NOTICE that this application has been filed by (the debtor) and will be heard by the Magistrate at on day of, 19..... at o'clock.

Dated this day of, 19.....

Signed Clerk of the Peace

*Sets out particulars of earnings.

Insert amount of weekly/monthly sum payable under the Attachment of Earnings Order.

*Delete whichever is inapplicable.

FORM 2

(Section 6)

REPUBLIC OF TRINIDAD AND TOBAGO

Region of

IN THE MAGISTRATE'S COURT

THE ATTACHMENT OF EARNINGS (MAINTENANCE) ACT, 1988

FORM OF RECEIPT TO BE GIVEN BY COLLECTING OFFICER

..... Magisterial District

No.

..... vs.

Received from this day of, 19..... the sum of being amount due under an attachment of earnings order in respect of weeks/months payments ending..... day of, 19.....

Signed Collecting Officer

\$ _____

..... Magisterial District

FORM 3

(Section 5)

REPUBLIC OF TRINIDAD AND TOBAGO

Region of

IN THE MAGISTRATE'S COURT

THE ATTACHMENT OF EARNINGS (MAINTENANCE) ACT, 1988

SUMMONS FOR ATTACHMENT OF EARNINGS

..... Magisterial District

To

Name and Address of Debtor

WHEREAS application has been made on the day of, 19..... that by a maintenance order made at the Magistrate's Court for the Magisterial District held at on the day of, 19..... it was adjudged that was ordered to pay the sum of \$..... per week/month to or to having the care of the minor child/minor children And the applicant further states that there are certain earnings capable of being attached, namely

These are therefore to require you to be and appear on the day of, 19..... at o'clock in the forenoon in the Magistrate's Court at to show cause why an order should not be made that the sum of or such part thereof as the Court may order may each week/month be attached out of the said earnings and paid in the manner specified in the said application.

You are requested to give to the Court, within fourteen (14) days, a sworn statement of the following matters:

- (i) the name and address of any person by whom earnings are paid to you;
(ii) particulars about your earnings and anticipated earnings as well as your resources and needs;
(iii) particulars of the amount of income tax and compulsory social security contributions which are to be deducted from your earnings or anticipated earnings as the case may be;
(iv) particulars for the purpose of enabling you to be identified by any employer of yours.

Given under my hand this day of, 19..... at in the Magisterial District

Signed

Clerk of the Peace

FORM 4

(Section 4) (Section 6)

REPUBLIC OF TRINIDAD AND TOBAGO

Region of

IN THE MAGISTRATE'S COURT

THE ATTACHMENT OF EARNINGS (MAINTENANCE) ACT, 1988

ORDER TO ATTACH EARNINGS

To

Name and Address of Debtor

..... Magisterial District

WHEREAS an application has been made by that by a maintenance order made at the Magistrate's Court held at on the day of, 19..... it was adjudged that of who is employed at as NIS No. was ordered to pay the sum of \$..... per week/month to and there is now due thereunder the sum of being the amount of arrears for weeks/months payments and that there is payable to the said certain earnings capable of being attached, namely

After giving the said an opportunity of being heard it is adjudged that the facts set out in the said application are true.

IT IS HEREBY ORDERED that the said (debtor) do make payments out of those earnings in accordance with the Act to be paid to in the manner specified by the Court.

AND IT IS FURTHER ORDERED that for the purpose of calculating the said payments the normal deduction rate shall be per week/month and that the protected earnings rate shall be per week/month.

Dated this day of, 19.....

Signed

Clerk of the Peace

..... Magisterial District

FORM 5

(Section 5)

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

THE ATTACHMENT OF EARNINGS (MAINTENANCE) ACT, 1988

APPLICATION FOR ORDER TO ATTACH EARNINGS

The application of
of
made the day of, 19..... to the High
Court states that by a maintenance order made in the High Court
of Justice dated the day of, 19.....
was ordered to pay to or to
.....
having the care of a minor child/minor children‡ the sum of
..... per week/month.‡

And the applicant further says that there is payable to the
said certain earnings capable
of being attached namely *

And the applicant therefore prays that an order be made that
the sum of †.....
or such part thereof as the Court may order, may each week be
attached out of the said earnings and paid—

- †(1) directly to the applicant
†(2) to the bank account specified herein
†(3) to the Collecting Officer for the said Magisterial
District
†(4) directly to the person entitled to receive payment
under the maintenance order.

Signed
Applicant

Taken before me this day of, 19.....
at in the

Signed
Registrar of the Supreme Court

ENDORSEMENT ON APPLICATION OF DEBTOR

To Name and address of person entitled to receive payments under maintenance order

TAKE NOTICE that this application has been filed by and will be held by the Judge in Chambers at on the day of, 19.....

Dated this day of, 19.....

Signed Registrar of the Supreme Court

*Set out particulars of earnings.

†Insert amount of weekly/monthly sum payable under the attachment of earnings order.

‡Delete whichever is inapplicable.

FORM 6

(Section 6)

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

THE ATTACHMENT OF EARNINGS (MAINTENANCE) ACT, 1988

FORM OF RECEIPT TO BE GIVEN BY THE REGISTRAR

No. of 19.....

..... vs.

Received from this day of, 19..... the sum of being amount due under an attachment of earnings order in the above matter in respect of weeks/months payments ending day of, 19.....

Signed Registrar of the Supreme Court

\$ _____

..... *Insert title of proceedings.

FORM 7

(Section 5)

REPUBLIC OF TRINIDAD AND TOBAGO
IN THE HIGH COURT OF JUSTICE
THE ATTACHMENT OF EARNINGS (MAINTENANCE) ACT, 1988
SUMMONS FOR ATTACHMENT OF EARNINGS

To

Name and Address of Debtor

WHEREAS application has been made to the High Court
19..... that by a maintenance order made at the High Court held
at on the day of,
19..... it was adjudged that was
ordered to pay the sum of \$..... per week/month to
..... or to
..... having the care of the
minor child/or children
And the applicant further states that there are certain earnings
capable of being attached, namely

These are therefore to require you to be and appear on the
..... day of, 19..... at o'clock in
the forenoon in the High Court at
to show cause why an order should not be made that the sum of
.....
or such part thereof as the Court may order may each week/month
be attached out of the said earnings and paid in the manner
specified in the said application.

You are requested to give to the Court, within fourteen (14)
days, a sworn statement of the following matters:

- (i) the name and address of any person by whom earnings are
paid to you;
(ii) particulars about your earnings and anticipated earnings
including your resources as well as your needs;
(iii) particulars of the amount of income tax and compulsory
social security contributions which are to be deducted from
your earnings or anticipated earnings as the case might be;
(iv) particulars for the purpose of enabling you to be identified
by any employer of yours.

Given under my hand this day of,
19..... at

Signed
Registrar of the Supreme Court

FORM 8

(Section 5)

REPUBLIC OF TRINIDAD AND TOBAGO

THE ATTACHMENT OF EARNINGS (MAINTENANCE) ACT, 1988

*In the Magistrate's Court
In the High Court of Justice

NOTICE OF APPLICATION

To
Name and address of person against whom order is being sought

TAKE NOTICE that
having made an application for maintenance applies to the Court
for an Attachment of Earnings Order under section 5 of the
Attachment of Earnings (Maintenance) Act, 1988.

The application will be heard immediately after the order for
maintenance has been granted and in default of your appearance
an order may be made as the Court thinks fit.

TAKE NOTICE also that you must send to the Registrar/Clerk of
the Peace so as to reach him within fourteen days after you receive
this notice a sworn statement of the following matters:

- (i) the name and address of any person by whom
earnings are paid to you;
(ii) particulars about your earnings and anticipated
earnings as well as your resources and needs;
(iii) particulars of the amount of income tax and
compulsory social security contributions which are
to be deducted from your earnings or anticipated
earnings as the case may be; and
(iv) particulars for the purpose of enabling you to be
identified by any employer of yours.

Dated

Signed
*Registrar of the Supreme Court/
Clerk of the Peace for the Magistrates District

*Delete whichever is inapplicable.

FORM 9

(Section 9)

REPUBLIC OF TRINIDAD AND TOBAGO

THE ATTACHMENT OF EARNINGS (MAINTENANCE) ACT, 1988

APPLICATION TO VARY ATTACHMENT OF EARNINGS
ORDER

*In the Magistrate's Court
In the High Court of Justice

No. of
Insert number of name of proceedings

WHEREAS by an attachment of earnings order dated the day of, 19..... was required out of earnings falling to be paid by him to to make payments to me in or towards satisfaction of the payments due to under a maintenance order made by the High Court of Justice or as the case may be on the day of, 19.....

And whereas it appears that—

- (a) the aggregate of the payments made for the purposes or the maintenance order exceeds the aggregate of the payments required by that order; and
- (b) the normal deduction rate specified by the attachment of earnings exceeds the rate of payments required by the maintenance order; and
- (c) no proceedings for the variation or discharge of the attachment of earnings order are pending.

Take notice that unless the said applies to the High Court of Justice/Magistrate's Court within fourteen days after the date of an order discharging the attachment of earnings order or varying it in some manner, the Court will make an order varying the attachment of earnings order by reducing the normal deduction rate to the rate of payments required by the maintenance order or to such lower rate as the Court thinks fit having regard to the amount of the excess mentioned in paragraph (a) of this notice.

Dated the day of, 19.....

*Signed (to be signed by the Registrar of the Supreme Court or the Collecting Officer of the Magistrate's Court as the case may be)

*Delete whichever is inapplicable.

Passed in the Senate this 12th day of September,
1995.

D. DOLLY
Acting Clerk of the Senate

Passed in the House of Representatives this 20th day
of September, 1995.

J. SAMPSON
Clerk of the House