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CHAPTER 6. No. 3.

DEBTORS.

Ordinance
Ch. 6. No. 3-
1940.

AN ORDINANCE RELATING TO IMPRISONMENT FOR DEBT.

Commence-
ment.

[17th December, 1917.]

Short title.

1. This Ordinance may be cited as the Debtors Ordinance.

Interpre-
tation.

2. In this Ordinance, "civil court" includes the Supreme Court and any Petty Civil Court.

Abolition of
imprison-
ment for
debt, with
exceptions.

3. (1) With the exceptions hereinafter mentioned, no person shall be arrested or imprisoned for making default in payment of a sum of money.

(2) There shall be exempted from the operation of the above enactment—

(a) default in payment of a penalty or sum in the nature of a penalty, other than a penalty in respect of any contract;

(b) default in payment of any sum recovered summarily before a Magistrate not sitting as Judge of a Petty Civil Court, or before any Justice;

(c) default by a trustee or person acting in a fiduciary capacity and ordered to pay by a civil court any sum in his possession or under his control;

(d) default by a solicitor in payment of costs when ordered to pay costs for misconduct as such, or in payment of a sum of money when ordered to pay the same in his character of an officer of the Supreme Court;

(e) default in payment for the benefit of creditors of any portion of a salary or other income in respect of the

payment of which any court is authorised to make an order;

(f) default in payment of sums in respect of the payment of which orders are in this Ordinance authorised to be made:

Provided, first, that no person shall be imprisoned in any case excepted from the operation of this section for a longer period than one year; and, secondly, that nothing in this section shall alter the effect of any judgment or order of any court for payment of money except as regards the arrest and imprisonment of the person making default in paying such money.

Limitation
of imprison-
ment.

(3) Nothing in this Ordinance shall in any way affect any right or power under any Ordinance for the time being relating to bankruptcy to arrest or imprison any person.

Bankruptcy.

4. (1) Subject to the provisions hereinafter contained and to the rules made under this Ordinance, any civil court may commit to the Royal Gaol for a term not exceeding six weeks or until payment of the sum due any person who makes default in payment of any debt or instalment of any debt due from him in pursuance of any order or judgment of that or any other competent civil court:

Power of
committal in
certain cases.

Provided that the jurisdiction by this section given of committing a person to prison shall, in the case of a Petty Civil Court, be exercised only subject to the following restrictions, that is to say,—

(a) by an order made in open court and showing on its face the ground on which it is issued;

(b) in respect of a judgment of the court making the order, or in the case of a judgment of another court, where the amount actually due does not exceed two hundred and forty dollars or is reduced to that amount by abandonment of excess and the judgment debtor is resident within the district of the court;

(c) a summons to a judgment debtor residing out of the district of any such court shall not issue for service without the leave of the Judge thereof:

Provided further that such jurisdiction shall only be exercised where it is proved to the satisfaction of the court that the person making default has, or has had since the

date of the order or judgment, the means to pay the sum in respect of which he has made default and has refused or neglected, or refuses or neglects, to pay the same.

Proof of means.

(2) Proof of the means of the person making default may be given in such manner as the court thinks just; and, for the purposes of such proof, the debtor and any witnesses may be summoned and examined on oath according to the rules made under this Ordinance.

Chambers.

(3) Any jurisdiction by this section given to the Supreme Court may be exercised by a Judge sitting in Chambers or otherwise in the prescribed manner.

Instalments.

(4) For the purposes of this section, any civil court may direct any debt due from any person in pursuance of any order or judgment of that or any other competent civil court to be paid by instalments, and may from time to time rescind or vary such order.

Imprisonment not to extinguish debt.

(5) No imprisonment under this section shall operate as a satisfaction or extinguishment of any debt or demand or cause of action, or deprive any person of any right to take out execution against the lands, goods, or chattels of the person imprisoned in the same manner as if such imprisonment had not taken place.

Discharge on payment.

(6) Any person imprisoned under this section shall be discharged out of custody upon a certificate signed in the prescribed manner to the effect that he has satisfied the debt or instalment of a debt in respect of which he was imprisoned together with the prescribed costs (if any).

Rules.

5. (1) The Chief Justice, with the concurrence of a Puisne Judge, may make rules for the purpose of carrying out the provisions of this Ordinance, and of fixing the fees payable in respect of all proceedings and matters under this Ordinance, and of providing for any such other matters as are authorised by this Ordinance to be prescribed.

(2) All rules made under this Ordinance shall be published in the *Royal Gazette*.