

## CHAPTER 75.

## DEBTORS.

AN ORDINANCE RELATING TO IMPRISONMENT FOR DEBT. Ordinances  
No. 37 of 1917,  
,, 11 of 1918.

[17th December, 1917.]

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

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

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

(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 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 authorized to make an order;
- (f) Default in payment of sums in respect of the payment of which orders are in this Ordinance authorized to be made :

Limitation  
of imprison-  
ment.

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.

Power of  
committal in  
certain cases.

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 :  
Provided—

(a) 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 :—

(i) By an order made in open Court and showing on its face the ground on which it is issued;

(ii) 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 twenty-five pounds or is reduced by abandonment of excess to twenty-five pounds and the judgment debtor is resident within the district of the Court;

(iii) A summons to a judgment debtor residing out of the district of any such Court shall not issue for service

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26 of 1936

without the leave of the Judge thereof, and in no case shall any such summons issue from a Petty Civil Court in Trinidad for service in Tobago or from a Petty Civil Court in Tobago for service in Trinidad;

- (b) 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.

(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. Proof of means.

(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. Chambers.

(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. Instalments.

(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. Imprisonment not to extinguish debt.

(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). Discharge on payment.  
(Substituted by 11 of 1918, s. 2.)

Bankruptcy  
Ordinance.

5. 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.

Rules.

6. (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 authorized by this Ordinance to be prescribed.

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

Fraudulently  
obtaining  
credit.

7. Any person shall, in each of the cases following, be deemed guilty of a misdemeanor, and, on conviction on indictment, shall be liable to be imprisoned for any term not exceeding one year, with or without hard labour; that is to say:—

- (1) If in incurring any debt or liability, he has obtained credit under false pretences, or by means of any other fraud;
- (2) 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;
- (3) If he has, with intent to defraud his creditors, 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.

amended by sec  
7 of ord 26  
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