

Women's Charter (Garnishee Proceedings) Rules

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

WOMEN'S CHARTER (GARNISHEE PROCEEDINGS) RULES

R 6

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Citation

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

Definitions

- 2.—(1) 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 (other than the Post Office Savings Bank of Singapore), 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.