



BELIZE

**DEBTORS ACT
CHAPTER 168**

**REVISED EDITION 2011
SHOWING THE SUBSTANTIVE LAWS AS AT 31ST
DECEMBER, 2011**

This is a revised edition of the Substantive Laws, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Chapter 3 of the Substantive Laws of Belize, Revised Edition 2011.

CHAPTER 168**DEBTORS****ARRANGEMENT OF SECTIONS**

1. Short title.
2. Abolition of imprisonment for debt with certain exceptions.
3. Court may exercise discretion in certain cases, though excepted.
4. When courts may commit.
5. Arrest on *mesne* process abolished.
6. Power to arrest defendant about to leave Belize.
7. Chief Justice may make rules.
8. Punishment. Fraudulent debtors.
9. Court may order creditor to prosecute criminally.
10. Expenses of prosecution.
11. Form of information.
12. Punishments cumulative.

CHAPTER 168

DEBTORS

Ch. 203.
R.L. 1958.
CAP. 130.
R.E. 1980-1990.

[1st August, 1878]

Short title.

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

Abolition of imprisonment for debt with certain exceptions.

2.—(1) No person shall be arrested or imprisoned for making default in payment of a sum of money, except in the following cases,

- (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 recoverable before a court within the meaning of the Inferior Courts Act, Cap. 94;
- (c) default by a trustee or person acting in a fiduciary capacity and ordered to pay by a court of equity any sum in his possession or under his control;
- (d) default by attorney of the Supreme Court, 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 court;
- (e) default in payment of sums in respect of the payment of which orders are in this Act authorised to be made.

(2) No person shall be imprisoned in any case mentioned in subsection (1) (a) to (e) of this section for a longer period than one year.

(3) 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.

3. In any case coming within either of the exceptions referred to in paragraphs (c) and (d) of section 2(1) of this Act, any court or judge making the order for payment or having jurisdiction in the action or proceeding in which the order for payment is made may inquire into the case and, subject to subsection (2) of this section, may grant or refuse either absolutely or upon terms any application for a writ of attachment or other process, or order of arrest or imprisonment, and any application to stay the operation of any such writ, process or order or for discharge from arrest or imprisonment thereunder.

Court may exercise discretion in certain cases, though excepted.

4.—(1) Subject to the provisions hereinafter mentioned, and to the prescribed rules, any court may commit to prison 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 court,

When courts may commit.

Provided that,

- (a) the jurisdiction given by this section of committing a person to prison shall, in the case of a district court, be exercised only by a magistrate by an order made in open court and showing on its face the ground on which it is issued;
- (b) such jurisdiction shall only be exercised where it is proved to the satisfaction of the court that the person making default either 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 it.

(2) Proof of the ability or inability 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 prescribed rules.

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

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

(5) Persons committed under this section shall be committed to the prison at Hattieville or any other prison in Belize and every order of committal shall, subject to the prescribed rules, be issued, obeyed and executed in the like manner as would have been done under a writ of *capias ad satisfaciendum*.

(6) 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.

(7) 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.

5. No person shall be arrested upon *mesne* process in any action.

6.—(1) Where the plaintiff in any action in the Supreme Court at any time before final judgment, proves on oath to the satisfaction of a judge, that he has good cause of action against the defendant and that there is probable cause for believing that the defendant is about to leave Belize unless he be apprehended, and that the absence of the defendant will materially prejudice the plaintiff in the prosecution of his action, the judge shall in the prescribed manner order such defendant to be arrested and imprisoned for a period not exceeding six months, unless and until he sooner gives the prescribed security, not exceeding the amount claimed in the action, that he will not leave Belize without the leave of the Court,

Arrest on *mesne* process abolished.

Power to arrest defendant about to leave Belize.

Provided that,

- (a) if no action is actually pending when the *capias* is applied for, the usual summons shall be served upon the defendant simultaneously with the execution of the *capias*; and
- (b) when the action is on an account or for a liquidated sum, the plaintiff shall show to the satisfaction of the Chief Justice, or of a Commissioner as aforesaid, that he has a reasonable claim against the defendant to the amount of thirty dollars at the least.

(2) When the action is for a penalty or sum in the nature of a penalty, other than a penalty in respect of any contract, it shall not be necessary to prove that the absence of the defendant from Belize will materially prejudice the plaintiff in the prosecution of his action, and the security given, instead of being that the defendant will not leave Belize, shall be to the effect that any sum recovered against the defendant in the action shall be paid, or that the defendant shall be rendered to prison.

(3) The expenses incurred for the subsistence in prison of any person arrested under this section shall be paid by the plaintiff.

(4) Such payment shall be at a daily rate as the court may from time to time direct, and shall be made to the gaoler or keeper of the prison by monthly payments, in advance before the first day of each month, the first payment to be made for such portion of the current month as may remain unexpired before the defendant is imprisoned.

(5) The money so disbursed may be added to the costs of a decree, and be recovered by the plaintiff, unless the court shall otherwise order.

(6) The court may release the person so imprisoned on failure by the plaintiff to pay the subsistence.

Chief Justice may make rules.

7.-(1) The Chief Justice may make rules and regulations for the purpose of carrying into effect this Act by the several competent courts within Belize, which rules and orders shall be the rules "prescribed" in this Act.

(2) All rules and regulations made under this Act shall be subject to negative resolution.

(3) Unless and until fresh rules are made, those already in force shall be deemed to be made under this Act, and may be read with such verbal alterations as may be required to make them applicable to the requirements of this Act.

Punishment. Fraudulent debtors.

8.-(1) Every person shall in each of the following cases be deemed guilty of misdemeanour, and on conviction thereof shall be liable to be imprisoned for any term not exceeding one year, that is to say,

- (a) 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;
- (b) 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.

(2) Whenever any person is charged with any of the offences defined in this section, the magistrate shall take into consideration any evidence adduced before him tending to show that the act charged was not committed with a guilty intent.

Court may order creditor to prosecute criminally.

9. Where any court of competent jurisdiction is satisfied upon the representation of any creditor or upon hearing any evidence which may be adduced before it that there is ground to believe that any judgment debtor has been guilty of any offence under this Act, the court shall, if it appears to the court that there is a reasonable probability that such debtor may be convicted, order such creditor to prosecute the debtor for such

offence under Part III of the Indictable Procedure Act, Cap. 96, before the magistrate of the district in which such judgment was obtained.

10. Where the prosecution of any judgment debtor under this Act is ordered by any court, then, on the production of the order of the court, the expenses of the prosecution shall be allowed, paid and borne as expenses of prosecutions for felony are allowed, paid and borne.

Expenses of prosecution.

11. In an information for an offence under this Act, it shall be sufficient to set forth the substance of the offence charged, in the words of this Act specifying the offence, or as near thereto as circumstances admit, without alleging or setting forth any debt, judgment proceedings, order, warrant or document.

Form of information.

12. Where any person is liable under any other enactment of the Imperial Parliament or the National Assembly or at common law to any punishment or penalty for any offence made punishable by this Act, such person may be proceeded against under such other enactment or at common law or under this Act, so, however, that he is not punished twice for the same offence.

Punishments cumulative.