

Zambia

Civil Courts (Attachment of Debts) Act, 1940

Chapter 78

Legislation as at 31 December 1996

FRBR URI: /akn/zm/act/1940/12/eng@1996-12-31

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PDF created on 21 February 2024 at 17:29.

Collection last checked for updates: 31 December 1996.

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Civil Courts (Attachment of Debts) Act, 1940

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Zambia

Civil Courts (Attachment of Debts) Act, 1940

Chapter 78

Commenced on 15 August 1940

[This is the version of this document at 31 December 1996.]

[12 of 1940; 4 of 1943; Government Notice 497 of 1964]

An Act to make provision for the attachment of debts; and to provide for matters incidental to or connected therewith.

1. Short title

This Act may be cited as the Civil Courts (Attachment of Debts) Act.

2. Examination of judgment debtor as to debts due to him

It shall be lawful for any creditor who has obtained a judgment in any court in Zambia to apply to the court for a rule or order that the judgment debtor should be orally examined before the court as to any and what debts are owing to him; and the court may make such rule or order for the examination of such judgment debtor and for the production of any books or documents.

3. Court may order an attachment of debts

It shall be lawful for a court, upon the *ex parte* application of such judgment creditor, either before or after such oral examination and upon affidavit by himself or his attorney stating that judgment has been recovered, and that it is still unsatisfied, and to what amount, and that any other person is indebted to the judgment debtor, and is within the jurisdiction of the court, to order that all debts owing or accruing from such third person (hereinafter called the garnishee) to the judgment debtor shall be attached to answer the judgment debt; and, by the same or any subsequent order, it may be ordered that the garnishee shall appear before the court to show cause why he should not pay the judgment creditor the debt due from him to the judgment debtor, or so much thereof as may be sufficient to satisfy the judgment debt.

4. Order for attachment to bind debts

Service of an order that debts due or accruing to the judgment debtor shall be attached, or notice thereof to the garnishee, in such manner as the court shall direct, shall bind such debts in his hands.

5. Proceedings to levy amount due from garnishee to judgment debtor

If the garnishee does not forthwith pay into court the amount due from him to the judgment debtor, or an amount equal to the judgment debt, and does not dispute the debt due or claimed to be due from him to the judgment debtor, or if he does not appear upon summons, then the court may order execution to issue, and it may be sued forth accordingly, without any previous writ or process, to levy the amount due from such garnishee towards satisfaction of the judgment debt.

6. Court may allow judgment creditor to sue garnishee

If the garnishee disputes his liability, the court, instead of making an order that execution shall issue, may order that the judgment creditor shall be at liberty to proceed against the garnishee by writ, calling upon him to show cause why there should not be execution against him for the alleged debts, and for costs of suit.

7. Garnishee discharged

Payment made by or execution levied upon the garnishee under any such proceeding as aforesaid shall be a valid discharge to him as against the judgment debtor to the amount paid or levied, although such proceedings may be set aside or the judgment reversed.

8. Court may refuse to interfere in proceedings to attach debts

In any proceedings to obtain an attachment of debts under this Act, the court may, in its discretion, refuse to interfere, where from the smallness of the amount to be recovered, or of the debt sought to be attached, or otherwise, the remedy sought would be worthless or vexatious.

9. Proceedings where third person has a lien on the debt

Whenever in proceedings under this Act to obtain an attachment of debts it is suggested by the garnishee that the debt sought to be attached belongs to some third person who has a lien or charge upon it, the court may order such third person to appear before it, and state the nature and particulars of his claim upon such debt.

10. Court may bar claim of third person and make orders

After hearing the allegations of such third person under such order, and of any other person whom, by the same or any subsequent order, the court may think fit to call before it, or in the case of such third person not appearing before it upon such summons, the court may order execution to issue to levy the amount due from such garnishee, or the judgment creditor to proceed against the garnishee according to the provisions of this Act, and it may bar the claim of such third person, or make such other order as it shall think fit, upon such terms, in all cases, with respect to the lien or charge (if any) of such third person, and to costs, as it shall think just and reasonable.

11. Costs of applications

The costs of any application for an attachment of debts under this Act, and of any proceedings arising from or incidental to such application, shall be in the discretion of the court.

12. No attachment of wages or salaries

Notwithstanding anything in this Act contained, wages and salaries shall not be liable to attachment:

Provided that the provision contained in this section shall not be deemed to prevent the attachment of any wages or salary for the purpose of enforcing an affiliation order, maintenance order or a judgment for damages in respect of personal injury.

[As amended by No. 4 of 1943]