

CHAPTER 10

PAYMENT OF FINES (COURTS OF SUMMARY
JURISDICTION)

AN ORDINANCE TO AMEND THE LAW WITH RESPECT TO THE
ENFORCEMENT BY COURTS OF SUMMARY JURISDICTION
OF THE PAYMENT OF FINES IMPOSED BY SUCH COURTS.

Ordinances
Nos. 49 of 1938,
60 of 1939,
12 of 1945,
19 of 1947.

[1st February, 1941.]

1. This Ordinance may be cited as the Payment of
Fines (Courts of Summary Jurisdiction) Ordinance.

Short title.

2. Where any person is convicted of an offence
before a court of summary jurisdiction and sentenced
to a fine and is not sentenced to imprisonment in
addition to the fine, the court shall, in fixing the
amount of the fine, take into consideration, amongst
other things, the means of the offender so far as they
appear or are known to the court.

Means of the
offender to be
considered in
fixing amount
of fine.

3. (1) The court shall allow time for the payment
of the fine fixed under section 2, unless it is satisfied
that the offender is possessed of sufficient means to
pay the fine forthwith, or unless, upon being asked by
the court whether he desires that time should be
allowed for payment, the offender does not express
any such desire, or fails to satisfy the court that he
has a fixed abode, or unless the court for any other
special reason (to be recorded by the court) expressly
directs that time should not be allowed.

Obligation on
court to allow
time for
payment of
fine.

(2) Where time has been allowed under subsection
(1) for the payment of a fine, the competent court
may, on an application made by or on behalf of the
offender, allow further time for the payment of the
fine.

(3) In deciding what time shall be allowed under
subsection (1) or subsection (2) a court shall consider
any representation made by the offender, but the

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time allowed under subsection (1) shall not be less than seven clear days.

(4) A court may, when allowing time or further time for payment of the fine under subsection (1) or subsection (2), order payment of the fine by instalments.

No commitment to prison for default of payment of fine without inquiry as to means of defaulter.

4. (1) Where a court of summary jurisdiction sentences an offender to a fine and, under the provisions of section 3, time is allowed for payment of the fine or an order is made for payment of the fine by instalments, the court shall not on that occasion impose on the offender a period of imprisonment in default of payment of the fine :

Provided that this subsection shall not have effect where the court on that occasion and in the presence of the offender determines that for special reason, whether having regard to the gravity of the offence, to the character of the offender, or to other special circumstances, it is expedient that he should be imprisoned without further inquiry in default of payment.

(2) Where a period of imprisonment is imposed under the power reserved by the proviso to subsection (1), the court shall record the reasons for its determination.

(3) A warrant of commitment to prison in respect of the non-payment of a fine imposed by a court of summary jurisdiction shall not be issued in the case of an offender who has been allowed time for payment or who has been ordered to pay the fine by instalments unless on an occasion subsequent to his conviction the competent court has made inquiry as to his means in his presence :

Provided that this subsection shall not have effect—

- (a) where a period of imprisonment in default of payment was imposed on the offender on the occasion of his conviction under the power reserved by the proviso to subsection (1), or
- (b) in the case of an offender who is in prison.

5. (1) Where a court of summary jurisdiction has convicted an offender and sentenced him to a fine, and it appears to the court that the offender is residing within the jurisdiction of any other court of summary jurisdiction and that it is in the circumstances expedient so to do, the convicting court may make with respect to that fine an order for the purposes of this section, termed a "transfer of fine order", and shall specify in such order the other court of summary jurisdiction :

Transfer of
jurisdiction
as to fines.

Provided that no Magistrate's Court shall make an order under this section transferring a fine except to some other Magistrate's Court and no Rural Court shall make such order transferring a fine except to some other Rural Court.

(2) As from the date on which a transfer of fine order is made with respect to any fine, all functions with respect to that fine which, if such an order had not been made, would have been exercisable under any written law (including this Ordinance) by the convicting court shall be exercised by the court of summary jurisdiction specified in the order :

Provided that any fine received by virtue of a transfer of fine order by any court other than the convicting court shall be accounted for by the convicting court.

(3) Where it appears to a court exercising functions by virtue of a transfer of fine order that the offender is residing within the jurisdiction of any other court of summary jurisdiction, the court exercising such functions may, subject to the proviso to subsection (1), make a further transfer of fine order with respect to that fine and shall cause a copy thereof to be sent to the convicting court.

6. A court of summary jurisdiction may, in any circumstances in which the court has, or if this Ordinance had not been enacted would have had, power to issue a warrant of commitment to prison in respect of the non-payment of a fine, in lieu of issuing such a warrant, order that the offender be detained in the precincts of the court until such hour on the day on which the order is made, not being later than 8 p.m., as the court may specify in the order.

Detention in
precincts of
court in lieu
of imprison-
ment.

[§ 2, 60 of 1939.]

Fines,
supervision.

[§ 2, 19 of 1947.]

7. (1) Where an offender has been sentenced to a fine by a court of summary jurisdiction and has been allowed time for payment or has been ordered to pay the fine by instalments, the competent court may, either on the occasion of his conviction or on a subsequent occasion, order him to be placed under the supervision of a probation officer appointed under the Probation of Offenders Ordinance, or of such other person as the court may from time to time appoint.

(2) An order placing a person under supervision with respect to any fine may be discharged by the competent court and shall cease to have effect on the making of a transfer of fine order with respect to that fine (without prejudice, however, in either case, to the power of the competent court to make a further order) but subject as aforesaid a person placed under supervision in respect of any fine shall so remain so long as he is under any liability in respect of that fine.

(3) A warrant of commitment to prison in respect of the non-payment of a fine imposed by a court of summary jurisdiction shall not be issued in the case of an offender who is under supervision unless before issuing the warrant the court has taken such steps as may be reasonably practicable to obtain from the person appointed for the supervision of the offender an oral or written report as to his conduct and means, and has considered any report so obtained, in addition, in a case where inquiry is required to be made by section 4 (3), to that inquiry.

Fines,
supervision
of defaulters
under
twenty-one
obligatory.

8. (1) An offender who has not attained the age of twenty-one years shall not be committed to prison in respect of the non-payment of a fine imposed by a court of summary jurisdiction and for the payment of which he has been allowed time or which he has been ordered to pay by instalments, unless he has been placed under supervision with respect to that fine :

Provided that this subsection shall not have effect where the court having power to issue a warrant of commitment is satisfied (for reasons to be recorded by the court) that it is undesirable or impracticable to place him under supervision.

(2) For the purposes of this section a person shall be deemed not to have attained the age of twenty-one years if he appears to the court not to have attained that age.

9. Where a court of summary jurisdiction sentences an offender to pay a fine and either—

Notice of fines to persons liable.

- (a) the court allows time for payment or directs payment of the fine by instalments; or
- (b) the offender is not present on the occasion of the conviction,

the court shall as soon as may be thereafter cause to be delivered to the offender or sent by post addressed to him at his last known or usual place of abode, a notice in writing stating the amount of the fine, the date on or before which payment thereof is required, and the person or persons to whom, and the place or places and times at which, payment may be made, and, if payment by instalments is directed, particulars of the instalments.

10. (1) For the purpose of holding the inquiry required by section 4 (3), the competent court may at any time issue a summons to the offender to appear before the court, and if he does not appear in obedience to the summons, may issue a warrant for his arrest, or, where the competent court is a Magistrate's Court, may, without issuing a summons in the first instance, issue a warrant for his arrest.

Provisions applicable to inquiry into means of an offender.

Every such warrant shall specify the sum or sums of money in respect of the payment of which the offender is in default.

Where the language of the offender is either Sinhalese or Tamil there shall be attached to the warrant a translation thereof in Sinhalese or Tamil, as the case may be.

(2) Where a warrant is issued under this section, and the sum or sums of money specified in the warrant are paid to the officer holding the warrant by the

offender or any person on his behalf, such officer, if he is an authorized officer—

- (a) shall not arrest the offender, or, if he has already arrested him, shall release him, and
- (b) shall forward to the court the money received from or on behalf of the offender, together with a return to the warrant stating the fact of the payment and of the arrest and release, if any.

Where the officer executing the warrant is not an authorized officer he shall, if the offender or any person on behalf of the offender tenders the sum or sums of money specified in the warrant, forthwith take such offender before an authorized officer who shall, upon payment to him of the sum or sums of money specified in the warrant, release the offender and forward to the court the money so paid to him together with a return stating the fact of payment, the name of the officer by whom the offender was arrested, and the date, time and place of the arrest and release of the offender.

In this subsection "authorized officer" means any revenue officer not below the rank of Korala, Vidane Arachchi or Udaiyar, or any other officer specially authorized by the Government Agent to receive money for the purposes of this section.

(3) The following provisions shall apply to every inquiry required by subsection (3) of section 4 to be made into the means of an offender :—

- (a) The court may summon and examine any person whose evidence the court may consider relevant.
- (b) The offender may give evidence and may call witnesses.
- (c) A statement in writing to the effect that wages of any amount have been paid to the offender during any period, purporting to be signed by or on behalf of his employer shall be prima facie evidence of the facts stated therein.

(4) Subject to the provisions of subsection (2), every summons or warrant issued under this section—

- (a) by a Magistrate's Court, shall be deemed to be a summons or warrant, as the case may be, which that Court is empowered to issue under the provisions of the Criminal Procedure Code ;
- (b) by a Rural Court, shall be deemed to be a summons or warrant, as the case may be, which that Court is empowered to issue under the provisions of the Rural Courts Ordinance or any rules applicable to such Court.

11. In this Ordinance unless the context otherwise requires—

Interpretation.

- (a) "court of summary jurisdiction" means a Magistrate's Court or the court of a Municipal Magistrate, and includes a Rural Court ;
- (b) "competent court" means, in relation to any fine, the court by which that fine was imposed, or, where by virtue of a transfer of fine order functions in relation to that fine are exercisable by another court, that other court ;
- (c) "Magistrate's Court" includes the court of a Municipal Magistrate ;
- (d) references to commitment to prison or to imprisonment shall not be deemed to include any reference to detention within the precincts of a court under section 6.

[§ 3, 60 of 1939.]

12. (1) The provisions of this Ordinance shall have effect notwithstanding anything in the Criminal Procedure Code, the Rural Courts Ordinance, or any other written law to the contrary ; but such provisions of the said Code and of the said Ordinance and of such law as are not inconsistent with the provisions of this Ordinance shall continue to apply as heretofore to proceedings before a court of summary jurisdiction.

Application
of Ordinance.

(2) The provisions of this Ordinance shall have no application in any case where by any written law it is provided that any fee, tax, duty, penalty or other money shall be deemed to be a fine imposed by a court of summary jurisdiction or shall be recovered as a fine or by any special procedure prescribed in such written law.

(3) The Minister of Justice¹ may by Order published in the Gazette declare that the provisions of this Ordinance shall have no application in the case of any written law or of any offence under any written law specified in that Order ; and any such Order when so published shall have the force of law and shall be as valid and effectual as if it were herein enacted.

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