

CREDITORS REMEDIES ORDINANCE, 1921.⁽¹⁾

No. 14 of 1921.

An Ordinance to amend "The Creditors Remedies Ordinance of 1905."

BE it enacted by the Lieutenant-Governor of the Territory of Papua with the advice and consent of the Legislative Council thereof as follows:—

1.—(1.) This Ordinance may be cited as the *Creditors Remedies Ordinance, 1921.*⁽¹⁾

Short title and incorporation.

(2.) This Ordinance shall be incorporated and read as one with *The Creditors Remedies Ordinance of 1905.*

(3.) *The Creditors Remedies Ordinance of 1905* as incorporated with this Ordinance may be cited as the *Creditors Remedies Ordinance, 1905-1921.*

2. It shall be lawful for any creditor who has obtained a judgment in the Central Court⁽²⁾ to apply to the Court or the Chief Judicial Officer⁽³⁾ for a rule or order that the Judgment Debtor be orally examined as to his property or means available for the satisfaction of such judgment and in particular as to any and what debts are owing to him before the Chief Judicial Officer⁽³⁾ and the Court or Chief Judicial Officer⁽³⁾ shall make such rule or order for the examination of such Judgment Debtor and for the production of any books or documents and the examination shall be conducted in the same manner as in the case of an oral examination under "The Evidence and Discovery Ordinance"⁽⁴⁾ for the time being.

Examination of Judgment Debtor as to his property.
Q. 31 Vic.
No. 17, s. 51.

(1) Particulars of this Ordinance are as follows:—

Date of assent by Lieut.-Gov.	Date notified in Papua Govt. Gaz. as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
27.9.1921	1.2.1922	27.9.1921 (<i>Ordinances etc. of Papua, 1921, p. 39</i>)

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(3) See Section 4 of the *Central Court Ordinance, 1925.*

(4) See the *Evidence and Discovery Ordinance, 1913.*

COURTS—

Chief Judicial Officer may order an attachment of debts.

Q. 31 Vic.
No. 17, s. 52.

3. It shall be lawful for the Chief Judicial Officer⁽³⁾ upon the *ex parte* application of such Judgment Creditor either before or after such oral examination and upon affidavit by himself or his solicitor 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 to order that all debts owing or accruing from such third person (hereinafter called the Garnishee) to the judgment 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 Chief Judicial Officer⁽³⁾ 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.

Order for attachment to bind debts.

Q. *Ib.* s. 53.

4. 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 Chief Judicial Officer⁽³⁾ shall direct shall bind such debt in his hands.

Proceedings to levy amount due from Garnishee to Judgment Debtor.

Q. *Ib.* s. 54.

5. 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 motion then the Chief Judicial Officer⁽³⁾ may if he think fit order execution to issue and it may be issued accordingly without any previous writ or process to levy the amount due from such Garnishee towards satisfaction of the judgment debt.

Trial of liability of Garnishee.

Q. 55 Vic.
No. 33, s. 185.

6. If the Garnishee disputes his liability the Chief Judicial Officer⁽³⁾ instead of making an order that execution shall issue may order that any issue or question necessary for determining his liability be tried or determined and thereupon the same proceedings may be had in all respects as if an action were pending between the parties and any order or judgment made in such proceedings may be enforced in the same manner as a judgment in an action in the Central Court.⁽²⁾

Lien of third person on debt.

Q. *Ib.* s. 186.

7. When in proceedings to obtain an attachment of debts under this Ordinance it is suggested by the Garnishee or it otherwise appears that the debt sought to be attached belongs to a third person or that a third person has a lien or charge upon it the Chief Judicial Officer⁽³⁾ may order a summons to be issued requiring the third person to appear and state the nature and particulars of his claim upon the debt.

(2) See Section 19(2) of the *Ordinance Interpretation Ordinance, 1911-1940.*

(3) See Section 4 of the *Central Court Ordinance, 1925.*

Creditors Remedies Ordinance, 1921.

8. After hearing the allegations of the third person or of any other person whom by the same or a subsequent order the Chief Judicial Officer⁽³⁾ directs to be summoned or if the third person does not appear in obedience to the summons the Chief Judicial Officer⁽³⁾ may order that execution issue to levy the amount due from the Garnishee or that issue or question be tried or determined as hereinbefore provided and the Chief Judicial Officer⁽³⁾ may bar the claim of the third person or may make such other order as he thinks fit upon such terms with respect to the lien or charge (if any) of the third person and to costs as he thinks just.

Trial of claim
of third person.
Q. 55 Vic. No.
33, s. 187.

9. Payment made by or execution levied upon a Garnishee under any such proceeding shall be a valid discharge to him as against the Judgment Debtor to the amount paid or levied although the proceeding may be set aside or the judgment reversed.

Discharge of
Garnishee.
Q. *Ib.* s. 188.

10. The Registrar shall keep a debt attachment book in which entries shall be made of all attachments made and of the proceedings taken in respect of them with names dates and statements of the amount recovered and such other particulars as may be prescribed and copies of entries made in the book may be taken by any person upon application to the Registrar.

Attachment book.
Q. *Ib.*'s. 189.

11. The costs of an application for an attachment of debts and of the proceedings arising from or incidental to the application shall be in the discretion of the Chief Judicial Officer.⁽³⁾

(3) See Section 4 of the *Central Court Ordinance, 1925.*

COURTS—