Commencement: 6 May 1966

CHAPTER 46

MAINTENANCE OF CHILDREN

JR 13 of 1966
JR 8 of 1967
JR 9 of 1970

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SCHEDULE – Notice

MAINTENANCE OF CHILDREN

To provide for the maintenance of natural children.

PART 1 – MAINTENANCE PROCEEDINGS

1. Commencement of maintenance proceedings

A woman, who at the time of the birth thereof –

(a) was unmarried; or

(b) who but for the provision of section 6 of the Control of Marriage Act, Cap. 45 would have been lawfully married;

is delivered of a child, may apply to the Magistrates' Court for the District in which she then resides for an order against the man alleged to be the father of the said child that he do pay to her such sum as may be sufficient for the maintenance and upbringing of the child:

Provided that where a woman is under the age of 21 years, such application may be made by her parents or the persons having effective charge of her, or, if one of them is dead or is unwilling or unable to make the application, by the other.

2. Application for order

An application under section 1 may be made –

(a) at any time within 12 months from the child's birth; or

(b) at any subsequent time upon proof that the man alleged to be the father of the child has within the 12 months next after the birth provided for or contributed to its maintenance and upbringing and there is reason to believe that he did so to fulfil his paternal obligations.

3. Reception of actions

A cause of action shall only lie if there is evidence to the fact –

(a) that during the normal period of conception (which expression shall for the purposes of this Act mean from the 300th to the 180th day before birth) there was an offer of marriage; or

(b) that during the same period the parties lived together as husband and wife; or

(c) that the man alleged to be the father of the child had at some time provided for or contributed to its maintenance and upbringing in a paternal capacity; or

(d) that the man alleged to be the father admitted the paternity of the child.

4. Cause of action will not lie in certain cases

Notwithstanding the provisions of section 3 a cause of action shall not lie if there is evidence–

(a) that during the normal period of conception the mother was of notorious loose behaviour;

(b) that during the said period the said mother had sexual intercourse with another man:

Provided that an action shall lie if there is evidence that the said other man is not the father; or

(c) that during the said period the alleged father was physically incapable of being the father of the child.

5. Powers of court

(1) The Magistrates' Court may if a cause of action lies and sufficient evidence to that effect is adduced adjudge the defendant to be the father of the child and may make against him such order as it thinks fit, having regard to the interests of the child, the intention of the parties with respect to the maintenance and upbringing by them of the said child and to the means of the parties, for the payment by him to the applicant of –

(a) a sum of money or its equal in kind not exceeding the equivalent of VT 1,000 weekly for the maintenance and upbringing of the child to be paid periodically as the said court shall decide but in no case more than yearly;

(b) the expenses incidental to the birth of the child.

(2) The power to make an order under this section shall include a power to vary the same on the application of either of the parties thereto.

(3) Any person against whom an order has been made who fails to make the payments therein ordered to be made shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding VT 1,500 and in the case of a second or subsequent conviction during a period of 5 years from the date of the first conviction to a term of imprisonment not exceeding 3 months.

6. Duration of orders

An order made under the provisions of section 5 of this Act shall not, except for the purpose of recovering money previously due under the order, be of any force or validity after the child has attained the age of 18 years or has died.

7. Duty of father to notify change of address

(1) Any person against whom an order has been made under section 5 shall if he changes his address give notice of the change to the court making the order.

(2) Any person who fails without reasonable excuse to give a notice which is required by this section, shall be guilty of an offence and on conviction thereof shall be liable to a fine not exceeding VT 1,000.

PART 2 – ENFORCEMENT OF MAINTENANCE ORDERS

8. Notice may be issued requiring person holding money for defaulter under maintenance to pay it to court

Where any money payable under an order made under the provisions of section 5 remains unpaid for 14 days from the date upon which it was payable, the court which made the said order may, upon information that any money is or is to become due or payable to the defendant by any person, firm or body, by notice in writing in the form prescribed in the Schedule, require such person, firm or body, to deduct such sum or sums as may be specified in such notice, in respect of the default and of further payments due under the said order, from any amount or amounts of money which may at any time and from time to time within 12 months from the date of such notice be or become due or payable to the defendant and requiring such person, firm or body, to pay such sum or sums specified to the court to the credit of the person in whose favour the order was made within the time specified in such notice.

9. Court to pay money received to dependant

All moneys paid to the court in pursuance of a notice issued under the provisions of section 8 shall be forthwith paid to the person in whose favour the order was made.

10. Person complying with notice to be indemnified

Any amount or amounts lawfully deducted under the provisions of section 8 shall be deemed to have been deducted with the consent of the defendant and no action shall lie against any person, firm or body merely by reason of the making of such deduction or deductions.

11. Money deducted deemed held for dependant

All money deducted from any sum or sums due or payable to the defendant shall be deemed to be held for the person in whose favour the order was made and shall, without prejudice to any other remedies against the defendant or any other person, be recoverable in the same manner in all respects as if it were money payable under the order by the defendant.

12. Procedure when person is unable to comply with notice and when defendant leaves his employment

Any person, firm or body, receiving such notice under the provisions of section 8 who is unable to comply therewith by reason of the fact that the money specified has not or will not come into the possession of such person, firm or body, within the period specified in such notice, shall notify the court in writing, as soon as practicable and in any case not later than the expiration of 14 days after such period, setting forth his or its true and full account of the facts giving rise to his or its inability to comply with the notice. If the person, firm or body receiving the notice is the employer of the defendant he or it shall notify the court within 14 days if the defendant shall leave the employment during the currency of the notice.

13. Offences and penalties

Any person, firm or body to whom a notice is issued under the provisions of section 8 and who without lawful excuse –

(a) fails to comply with the provisions thereof; or

(b) fails to notify the court within the period prescribed by section 12 that he or it is unable to comply therewith and to provide a full and true account of the reasons therefor; or

(c) fails to notify the court within 14 days that a defendant has left his or its employment;

shall be guilty of an offence and shall on conviction thereof be liable to a fine not exceeding VT 15,000.

SCHEDULE

(section 8)

NOTICE

Maintenance of Children Act, Cap. 46

To: . .....……

WHEREAS by a judgment of the Court held at ..... on the ..... day of ..... 20 .....…... an order was made under section 5 of the Maintenance of Children Act, Cap. 46 against ..... in favour of ..... for the payment of ..... per .....……

AND WHEREAS payments under the said order are in default for more than 14 days after the due date for the payment thereof, to the extent of ……..……..

AND WHEREAS information has been received by the said Court that moneys, namely ..... being for ..... are due or are become due and payable by you to the said ..... the defendant under the said order on the following date or dates within the period of 12 months next following the date of this notice namely .....

TAKE NOTICE THAT YOU ARE HEREBY REQUIRED to deduct the following sum or sums ..... from the said moneys due or become due and payable to the above named defendant.

AND to send them forthwith and in no case later than 7 days from the date of each such deduction to the said Court at ..... for the credit of the above named ..... the beneficiary under the said order.

Note:

(i) This notice is issued to you under the powers conferred by section 8 of the Maintenance of Children Act, Cap. 46.

(ii) You are protected and indemnified in making the deduction or deductions by section 10 of the said Act.

(iii) If you claim to be unable to comply with this notice by reason of the fact that the moneys specified will not come into your possession or be due by you to the defendant, you must notify the Court at ..... in writing within 14 days of the period named, setting out a true and full account of the facts by reason of which you claim to be unable to comply with this notice.

(iv) If the above named defendant is in your employment, you must notify the said Court in writing if he shall leave the employment, during the currency of this notice, within 14 days.

(v) The obligations set out herein are compulsory and breach thereof is punishable by a fine of up to VT 10,000 for each offence.

Dated at ..... this ..... day of ..... 20 .....

.....
Seal of the Court