



LAWS OF MALAYSIA

Act 794

MARRIED WOMEN AND CHILDREN (ENFORCEMENT OF MAINTENANCE) ACT 1968

(Revised—2017)

REVISED BY
THE COMMISSIONER OF LAW REVISION, MALAYSIA
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2017

**MARRIED WOMEN AND CHILDREN
(ENFORCEMENT OF MAINTENANCE)
ACT 1968**

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LAWS OF MALAYSIA

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MARRIED WOMEN AND CHILDREN (ENFORCEMENT OF MAINTENANCE) ACT 1968

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LAWS OF MALAYSIA

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MARRIED WOMEN AND CHILDREN (ENFORCEMENT OF MAINTENANCE) ACT 1968

An Act to provide for the enforcement of maintenance orders.

[21 March 1968]

Short title

1. This Act may be cited as the Married Women and Children (Enforcement of Maintenance) Act 1968.

Application

2. This Act applies to Peninsular Malaysia.

Interpretation

3. In this Act, unless the context otherwise requires—

“defendant”, in relation to a maintenance order or a related attachment of earnings order, means the person liable to make payments under the maintenance order;

“court” means a court of competent jurisdiction to make a maintenance order;

“employer” means a person by whom, as a principal and not as a servant or agent, earnings are to be paid to a defendant;

“earnings”, in relation to a defendant, means any sums payable to him—

- (a) by way of wages or salary, including any fees, bonus, commission, overtime pay or other emoluments payable in addition to wages or salary by the person paying the wages or salary or payable under a contract of service; or
- (b) by way of pension, including gratuity and an annuity in respect of past services, whether or not the services were rendered to the person paying the annuity, and including periodical payments by way of compensation for the loss, abolition or relinquishment, or any diminution in the emoluments, of any office or employment;

“maintenance order” means—

- (a) an order made under section 3 of the Married Women and Children (Maintenance) Act 1950 [Act 263];
- (b) an order for the payment of periodical sums by way of maintenance or alimony to a wife or for the benefit of any child under the Law Reform (Marriage and Divorce) Act 1976 [Act 164]; and
- (c) a maintenance order confirmed by the court under the Maintenance Orders (Facilities for Enforcement) Act 1949 [Act 34],

and where this Act are applicable by virtue of an authorization under section 14 to or in respect of a maintenance order made by a Syariah Court, includes such order;

“attachment of earnings order” means an order made under section 4.

Power of court to make an attachment of earnings order

4. (1) Notwithstanding any written law to the contrary, the court may, upon the application of the person for whose maintenance the order is made or the guardian of such person, make an attachment of earnings order if the court considers it just so to make.

(2) An application for an attachment of earnings order may be made in the proceedings in which a maintenance order is applied for or in any subsequent proceedings.

Nature of attachment of earnings order

5. (1) An attachment of earnings order shall require the person to whom the order in question is directed, being a person appearing to the court to be the defendant's employer, to make out of the earnings which are to be paid to the defendant payments in satisfaction of the order.

(2) The amount to be prescribed in an attachment of earnings order shall be such sum as to the court shall seem reasonable after taking into account the resources and needs of the defendant and the needs of persons for whom the defendant must or reasonably should provide.

(3) An attachment of earnings order shall contain, so far as the particulars are known to the court making the order, such particulars as may be prescribed for the purpose of enabling the defendant to be identified by the person to whom the order is directed.

(4) An attachment of earnings order or any variation of the order shall not come into force until the expiration of seven days from the date when a copy of the order is served on the person to whom the order is directed.

(5) An attachment of earnings order shall designate the officer to whom the payments under the order are to be made.

Effect of attachment of earnings order

6. (1) When an attachment of earnings order is made, all other proceedings for the enforcement of the related maintenance order begun before the making of the attachment of earnings order shall be suspended.

(2) The court by which an attachment of earnings order has been made may, if it thinks fit, on the application of the defendant or a person entitled to receive payments under the related maintenance order, make an order discharging or varying the attachment of earnings order.

(3) An attachment of earnings order shall cease to have effect—

- (a) upon the issue of a warrant directing that the amount payable under the related maintenance order shall be levied in the manner provided by law for levying fines;
- (b) upon the making of an order sentencing the defendant to imprisonment for failure to comply with the related maintenance order; and
- (c) upon the rescission of the related maintenance order.

(4) Where an attachment of earnings order ceases to have effect under subsection (3), the court making such order shall give notice of the cessation to the person to whom the order was directed.

Duty of defendant and employer to comply with attachment of earnings order

7. (1) A person to whom an attachment of earnings order is directed shall, notwithstanding anything in any other written law but subject to this Act, comply with the order or, if the order is subsequently varied under section 6, with the order as so varied.

(2) Where on any occasion on which earnings are to be paid to a defendant there are in force two or more attachment of earnings orders relating to those earnings, then, for the purpose of complying with this Act the employer shall—

- (a) deal with those orders according to the respective dates on which they came into force disregarding any later order until all earlier orders have been dealt with; and
- (b) deal with any later order as if the earnings to which it relates were the residue of the defendant's earnings after the making of any payment under this Act in pursuance of any earlier order.

(3) An employer, who in pursuance of an attachment of earnings order makes a payment under this Act, shall give to the defendant a statement in writing specifying the amount of that payment.

(4) Where the person to whom an attachment of earnings order is directed has, during the period of one month immediately preceding the day on which the order is served on him, on no occasion been the defendant's employer, he shall forthwith give notice in writing to that effect in the prescribed form to the court.

Additional powers of court in attachment of earnings order proceedings

8. (1) Where proceedings relating to an attachment of earnings order are brought in any court, the court may either before or at the hearing—

(a) order the defendant to give to the court, within such period as may be specified by the order, a statement signed by him of—

(i) the name and address of his employer, or of each of his employers if he has more than one;

(ii) such particulars as to the defendant's earnings as may be so specified; and

(iii) such prescribed particulars as may be so specified for the purpose of enabling the defendant to be identified by his employer; and

(b) order any person appearing to the court to be an employer of the defendant to give to the court, within such period as may be specified by the order, a statement signed by him or on his behalf of such particulars as may be specified by the order, of all earnings of the defendant which are to be paid by that person during such period as may be so specified.

(2) A document purporting to be such a statement as is mentioned in subsection (1) shall, in any such proceedings as are so mentioned, be received in evidence and be deemed to be such a statement without further proof unless the contrary is shown.

Power of court to determine what are earnings

9. (1) The court by which an attachment of earnings order has been made shall, on the application of the person to whom the order is directed or of the defendant or of the person in whose favour the order was made, determine whether payments to the defendant of a particular class or description specified by the application are earnings for the purposes of that order; and the person to whom the order is directed shall be entitled to give effect to any determination for the time being in force under this subsection.

(2) A person to whom an attachment of earnings order is directed who makes an application under subsection (1) shall not incur any liability for failing to comply with the order as regards any payments of the class or description specified by the application which are made by him to the defendant while the application, or any appeal in consequence of the order, is pending.

(3) Subsection (2) shall not apply to such payments if the person subsequently withdraws the application or, abandons the appeal, as the case may be.

Payment of money under attachment of earnings order

10. (1) The court to whom an employer pays any sum in pursuance of an attachment of earnings order shall pay that sum to such person entitled to receive payments under the related maintenance order as is specified by the attachment of earnings order.

(2) Any sums received by virtue of an attachment of earnings order by the court shall be deemed to be payments made by the defendant so as to discharge—

- (a) firstly, any sums for the time being due and unpaid under the related maintenance order (a sum due at an earlier date being discharged before a sum due at a later date); and
- (b) secondly, any costs incurred in proceedings relating to the maintenance order which were payable by the defendant when the attachment of earnings order was made or last varied.

Where earnings paid by Government or out of Consolidated Fund

11. (1) In relation to earnings which are to be paid by the Government or out of the Consolidated Fund, the earnings shall be treated as to be paid by the chief officer of the department, office or other body concerned.

(2) Subject to subsection (3), if any question arises in connection with any proceedings relating to an attachment of earnings order—

(a) as to the department, office or other body which is concerned for the purposes of this section; or

(b) as to who for those purposes is the chief officer of the department, office or other body concerned,

that question shall be referred to and determined by the Minister of Finance.

(3) The Minister of Finance shall not be under any obligation to consider a reference under subsection (2) unless it is made by a court.

(4) A document purporting to set out a determination of the Minister of Finance under subsection (2) and to be signed by an official of the Ministry of Finance shall, in any such proceedings as are mentioned in that subsection, be admissible in evidence and deemed to contain an accurate statement of such a determination unless the contrary is shown.

Penalties for non-compliance with attachment of earnings order and for giving false notice or statement

12. (1) Any person who—

(a) fails to comply with subsection 7(1) or (4) or an order of a court under subsection 8(1);

(b) gives a notice under subsection 7(4) or a statement in pursuance of an order of a court under subsection 8(1) which he knows to be false in a material particular; or

(c) recklessly gives such a notice or statement which is false in a material particular,

shall, subject to subsection (2), be liable on conviction to imprisonment for a term not exceeding one year or to a fine not exceeding one thousand ringgit or to both.

(2) It shall be a defence for a person charged with failing to comply with subsection 7(1) to prove that he took all reasonable steps to comply with the attachment of earnings order to which the failure relates.

Order to make payment to court

13. (1) Where a defendant is a person whose income is derived from sources other than earnings, the court may on the application of the person for whose maintenance the maintenance order is made or on the application of the guardian of such person make an order that any sum of money payable under the maintenance order be paid direct to the court on such day as the court may fix.

(2) Upon receipt of the payment of such sum, the court will then pay the sum to the person for whose maintenance the maintenance order is made or to the guardian of such person.

(3) If the defendant neglects or fails to comply with any order made by the court under subsection (1), the court making the order may call upon the defendant to show cause as to why he has neglected or failed to comply with the order.

(4) If sufficient cause is not shown and the sum of money payable under the maintenance order is not paid, the court may proceed to recover the money by issuing a warrant for the attachment and the sale of the property belonging to the defendant.

(5) Except for a warrant of attachment issued by the High Court, a warrant for the attachment and the sale of the property belonging to a defendant under subsection (4) may be executed anywhere within Peninsular Malaysia, but if the warrant is required to be executed outside the State in which it is issued, the warrant shall be endorsed by a First Class Magistrate having jurisdiction in the State in which the warrant is to be executed.

(6) If the sum of money so payable is not paid and cannot be recovered by such attachment and sale, the court may direct that the defendant shall be imprisoned for a term not exceeding one month for every such neglect or failure to comply with the order of the court made under subsection (1).

(7) Any imprisonment under subsection (6)—

- (a) shall terminate whenever the amount so payable has been paid or recovered by the process of law; and
- (b) shall not absolve the defendant from the obligation to pay the sum of money so payable in respect of which he has neglected or failed to make payment.

(8) Notwithstanding any written law to the contrary, where the defendant has been directed to be imprisoned under subsection (6), the person for whose maintenance the maintenance order is made or the guardian of such person shall not be required to pay or to contribute towards the upkeep or maintenance of the defendant in prison.

Application to States

14. In pursuance of Clause (1) of Article 76A of the Federal Constitution, the State Legislatures in Peninsular Malaysia or any of them are authorized to make laws providing that this Act shall apply to or in respect of a maintenance order made by the Syariah Courts constituted by or under the Enactments of the States.

Modification

15. Where one of the State Legislatures of Peninsular Malaysia in pursuance of the authorization under section 14 by an Enactment applies this Act to or in respect of maintenance orders made by the Syariah Courts constituted under its Enactment, this Act shall have effect with respect to the maintenance orders subject to the following modifications:

- (a) the expression “court” shall include a Syariah Court constituted by or under the Enactment of that State;

- (b) the expression “maintenance order” shall include a maintenance order made by the Syariah Court; and
- (c) any order made or any warrant or any process issued by the Syariah Court under this Act shall be as valid and effectual as if the order, warrant or process is made or issued by a First Class Magistrate in that State and may be executed within that State, but if the order, warrant or process is required to be executed outside that State, the order, warrant or process shall be endorsed by a First Class Magistrate having jurisdiction in the State in which it is to be executed.
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(Revised—2017)

*Particulars under paragraphs 7(ii) and (iii) of the
Revision of Laws Act 1968 [Act 1]*

LIST OF AMENDMENTS

Amending law	Short title	In force from
Act 160	Malaysian Currency (Ringgit) Act 1975	29-08-1975
Act A996	Interpretation (Amendment) Act 1997	24-07-1997

LIST OF LAWS OR PARTS THEREOF SUPERSEDED

No.	Title
Act 356	Married Women and Children (Enforcement of Maintenance) Act 1968

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Act 794

**MARRIED WOMEN AND CHILDREN
(ENFORCEMENT OF MAINTENANCE)
ACT 1968**

(Revised—2017)

LIST OF SECTIONS AMENDED

Section	Amending authority	In force from
2	Act A996	24-07-1997
12	Act 160	29-08-1975
13	Act A996	24-07-1997
14	Act A996	24-07-1997
15	Act A996	24-07-1997

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MARRIED WOMEN AND CHILDREN (ENFORCEMENT OF MAINTENANCE) ACT 1968

(Revised—2017)

LIST OF AMENDMENTS MADE BY THE COMMISSIONER OF LAW REVISION UNDER SECTION 6 OF THE REVISION OF LAWS ACT 1968 [ACT 1]

Provision	Particulars of amendments	Authority for amendment
Throughout the Act	1. Word “payable” substituted for “payable and due” 2. Words “First Class Magistrate” substituted for “Magistrate of the First Class”	paragraphs 6(1)(iii) and (xxi) paragraph 6(1)(xxb)
Enacting clause	Omitted	subparagraph 6(1)(i)(f)
section 1	In the shoulder note, words “ Short title ” substituted for “ Citation ”	paragraph 6(1)(xxiv)
section 2	Words “States of” and “only” omitted	paragraph 6(1)(xxiv)
section 3	1. In the definition of “court”, words “court of competent jurisdiction” substituted for “court competent” 2. In the definition of “employer”, words ‘“employer” means a person by whom, as a principal and not as a servant or agent, earnings are to be paid to a defendant;’ substituted for ‘“employer” means a person by whom, as a principal and not as a servant or agent, earnings fall to be paid to a defendant, and references to payment of earnings shall be construed accordingly;’	paragraphs 6(1)(iii) and (xxiv) paragraphs 6(1)(xxi) and (xxiv)

Provision	Particulars of amendments	Authority for amendment
	3. In the definition of “earnings”, word “or” inserted after semicolon at the end of paragraph (a)	paragraph 6(1)(xv)
	4. In the definition of “maintenance order”—	paragraph 6(1)(xv)
	a. word “and” inserted after semi colon	paragraph 6(1)(xv)
	b. divided into paragraphs (a), (b) and (c) with consequential alterations made	paragraphs 6(1)(xii), (xiii) and (xxiv)
	5. Full stop substituted for semicolon in the definition of “attachment of earnings order”	paragraph 6(1)(xvi)
	6. Interpretation section arranged according to the national language text	subparagraph 6(1)(iv)(a)
subsection 4(1)	Words “Notwithstanding any written law to the contrary, the court may, upon the application of the person for whose maintenance the order is made or the guardian of such person, make an attachment of earnings order if the court considers it just so to make” substituted for “Notwithstanding any written law to the contrary, the court may, upon application by the person for whose maintenance the order is made or the guardian of such person, make an attachment of earnings order, if the court considers it just so to make”	paragraphs 6(1)(iii) and (xxiv)
subsection 5(1)	Words “which are” substituted for “falling”	paragraphs 6(1)(xv) and (xxiv)
subsection 5(2)	Words “the defendant” substituted for “he”	paragraphs 6(1)(xv) and (xxi)
subsection 5(3)	Words “the particulars” substituted for “they”	paragraphs 6(1)(xv) and (xxi)
subsection 5(4)	Words “of the order” substituted for “thereof”	paragraphs 6(1)(xv) and (xxi)
paragraph 6(3)(a)	Word “payable” substituted for “due”	paragraphs 6(1)(iii) and (xxiv)

Provision	Particulars of amendments	Authority for amendment
paragraph 6(3)(c)	Full stop substituted for comma	paragraph 6(1)(xvi)
subsection 6(3)	Divided into subsections 6(3) and (4) with consequential alterations made	paragraphs 6(1)(xii), (xiii) and (xxiv)
subsection 7(2)	Word “are” substituted for “fall”	paragraphs 6(1)(xv) and (xxi)
subsection 7(3)	<ol style="list-style-type: none"> 1. Comma after the words “employer” and “Act” inserted 2. Comma after the words “who” and “order” omitted 	paragraph 6(1)(xvi) paragraph 6(1)(xvi)
subsection 8(1)	Comma omitted after the word “may”	paragraph 6(1)(xvi)
subparagraph 8(1)(a)(ii)	Word “and” inserted after semicolon	paragraph 6(1)(xv)
subparagraph 8(1)(a)(iii)	Words “his employer” substituted for “an employer of his”	paragraphs 6(1)(xv) and (xxiv)
paragraph 8(1)(b)	Words “which are” substituted for “which fell”	paragraph 6(1)(xv)
subsection 9(2)	<ol style="list-style-type: none"> 1. Words “of the order” substituted for “thereof” 2. Full stop substituted for colon 3. Divided into subsections 9 (2) and (3) with consequential alterations made 	paragraph 6(1)(xxi) paragraph 6(1)(xvi) paragraphs 6(1)(xii), (xiii) and (xxiv)
subsection 10(2)	Divided into paragraphs 10(2) (a) and (b) with consequential alterations made	paragraphs 6(1)(xii), (xiii) and (xxiv)
subsection 11(1)	Words “In relation to earnings which are to be paid by the Government or out of the Consolidated Fund, the earnings shall be treated as to be paid by the chief officer of the department, office or other body concerned” substituted for “In relation to earnings falling to be paid by the Government or out of the Consolidated Fund the earnings shall be treated as falling to be paid by the chief officer for the time being of the department, office or other body concerned”	paragraphs 6(1)(xxi) and (xxiv)

Provision	Particulars of amendments	Authority for amendment
subsection 11(2)	Divided into paragraphs 11(2)(a) and (b) and subsection 11(3) with consequential alterations made	paragraphs 6(1)(xii), (xiii) and (xxiv)
subsection 11(3)	Renumbered as subsection 11(4)	paragraph 6(1)(xii)
paragraph 12(1)(a)	Word “or” after semicolon omitted	paragraph 6(1)(xvi)
paragraph 12(1)(b)	Words “gives a notice under subsection 7(4) or a statement in pursuance of an order of a court under subsection 8(1) which he knows to be false in a material particular; or” substituted for “gives such a notice as is mentioned in subsection 7(4) or a statement in pursuance of an order of a court under subsection 8(1), which notice or statement he knows to be false in a material particular; or”	paragraph 6(1)(xxi)
subsection 12(1)	Comma after the words “subsection (2)” inserted	paragraph 6(1)(xvi)
subsection 13(1)	1. Full stop substituted for semi colon 2. Divided into subsections 13(1) and (2) with consequential alterations made	paragraph 6(1)(xvi) paragraphs 6(1)(xii), (xiii) and (xxiv)
subsection 13(2)	1. Renumbered as subsection 13(3) 2. Words “the court making the order may call upon the defendant to show cause as to why he has neglected or failed to comply with the order” substituted for “the court making the order may call upon the defendant to show cause why he has neglected or failed to comply with the said order”	paragraph 6(1)(xii) paragraphs (6)(1)(iii) and (xxiv)

Provision	Particulars of amendments	Authority for amendment
subsection 13(3)	1. Renumbered as subsection 13(4) 2. Word “money” substituted for “same”	paragraph 6(1)(xii) paragraphs 6(1)(xv) and (xxi)
subsection 13(4)	1. Renumbered as subsection 13(5) 2. Words “but if the warrant is required to be executed outside the State in which it is issued, the warrant shall be endorsed by a First Class Magistrate having jurisdiction in the State in which the warrant is to be executed” substituted for “but if it is required to be executed outside the State in which it is issued, it shall be endorsed by a Magistrate of the First Class having jurisdiction in the State in which it is to be executed”	paragraph 6(1)(xii) paragraphs 6(1)(xxi) and (xxiv)
subsection 13(5)	1. Renumbered as subsection 13(6) 2. Words “is not paid” substituted for “be not paid” 3. Words “be imprisoned” substituted for “suffer imprisonment” 4. Full stop substituted for colon 5. Proviso divided into paragraphs 13(7)(a) and (b) and subsection 13(8) with consequential alterations made	paragraph 6(1)(xii) paragraph 6(1)(xv) paragraphs 6(1)(iii) and (xxiv) paragraph 6(1)(xvi) paragraphs 6(1)(xii), (xiii) and (xxiv)
section 14	1. Words “In pursuance” substituted for “It is hereby declared that in pursuance” 2. Word “authorized” substituted for “hereby authorized” 3. Word “Enactments” substituted for “enactments”	paragraphs 6(1)(iii) and (xxi) paragraphs 6(1)(iii) and (xxi) paragraph 6(1)(xxiv)
section 15	1. Words “the provisions of” omitted	paragraph 6(1)(xxi)

Provision	Particulars of amendments	Authority for amendment
	2. Words “to the maintenance orders” substituted for “thereto”	paragraph 6(1)(xxi)
	3. Word “namely” omitted	paragraph 6(1)(xxiv)
paragraph 15(b)	Word “aforesaid” omitted	paragraphs 6(1)(iii) and (xxiv)
paragraph 15(c)	1. Word “aforesaid” omitted	paragraphs 6(1)(iii) and (xxiv)
	2. Words “order, warrant or process” substituted for “same”	paragraph 6(1)(xxiv)
	3. Words “order, warrant or process” substituted for “it”	paragraph 6(1)(xxiv)
