

THE IMPRISONMENT FOR CIVIL DEBT (ABOLITION) BILL
(No. XXV of 2006)

Explanatory Memorandum

1. The object of this Bill is to remove from our statute book the provisions of the law which enable our Courts to order a defendant in a civil case to be imprisoned so as to enforce a judgment.
2. The Bill accordingly amends the Courts (Civil Procedure) Act and the District and Intermediate Courts (Civil Jurisdiction) Act for that purpose.

J. VALAYDEN
*Attorney-General and Minister of
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03 November 2006

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ARRANGEMENT OF CLAUSES

Clause

1. Short title
 2. Courts Act amended
 3. Courts (Civil Procedure) Act amended
 4. District and Intermediate Courts
(Civil Jurisdiction) Act amended
 5. Transitional provision
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A BILL

To provide for the abolition of imprisonment of a defendant in a civil case

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Imprisonment for Civil Debt (Abolition) Act 2006.

2. Courts Act amended

The Courts Act is amended in section 135, by repealing subsection (2).

3. Courts (Civil Procedure) Act amended

The Courts (Civil Procedure) Act is amended –

- (a) by repealing sections 21 to 25, 27 to 32 and 34 to 36;
- (b) in section 26 –
 - (i) by deleting subsection (4) and replacing it by the following subsection –
 - (4) Where the debtor -
 - (a) does not attend the first or any subsequent sitting of the Court;
 - (b) refuses to disclose any fact on which he is examined;
 - (c) does, in the opinion of the Court, have the means to pay the debt, including payment by instalments; or
 - (d) has in the opinion of the Court, secreted or disposed of any of his property in such a manner as to defraud his creditor,

the Court may make such order as it thinks fit to satisfy the debt, including an order that any property of the debtor or any amount due or likely to be due to him shall be attached in the hands of the debtor or in those of any other person and be available to satisfy the debt.

- (ii) by adding after subsection (4), the following new subsection –

(5) Any person who, after having been served with an order pursuant to subsection (2), secretes or disposes of any of his property in such a manner as to defraud his creditor shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 2 years.

4. District and Intermediate Courts (Civil Jurisdiction) Act amended

The District and Intermediate Courts (Civil Jurisdiction) Act is amended –

- (a) in section 30 -

- (i) by deleting the heading and replacing it by the following heading–

Failure to pay a judgment debt

- (ii) by deleting subsection (4) and replacing it by the following subsection –

(4) Where the debtor –

- (a) does not attend the first or any subsequent sitting of the Court;
- (b) refuses to disclose any fact on which he is examined;
- (c) does, in the opinion of the Court, have the means to pay the debt, including payment by instalments; or
- (d) has, in the opinion of the Court, secreted or disposed of any of his property in such a manner as to defraud his creditor,

the Court may make such order as it thinks fit to satisfy the debt, including an order that any property of the debtor or any amount due or likely to be due to him shall be attached in the hands of the debtor or in those of any other person and be available to satisfy the debt.

(iii) by adding after subsection (4), the following new subsection –

(5) Any person who, after having been served with an order pursuant to subsection (2), secretes or disposes of any of his property in such a manner as to defraud his creditor shall commit an offence and shall, on conviction, be liable to imprisonment for a term not exceeding 2 years.

(b) by repealing sections 31 to 33.

5. Transitional provision

Notwithstanding section 17 of the Interpretation and General Clauses Act, this Act shall apply to any proceedings following the issue of a summons after unsatisfied judgment that are, at the commencement of this Act, pending before any Court.