

UNEMPLOYMENT HARDSHIP RELIEF ACT

Act 3 of 1983 – 1 January 1983

ARRANGEMENT OF SECTIONS

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UNEMPLOYMENT HARDSHIP RELIEF ACT

1. Short title

This Act may be cited as the Unemployment Hardship Relief Act.

2. Interpretation

In this Act—

“Awarding Officer” means a public officer entrusted by the Minister with responsibility for carrying out the duties specified in this Act;

“child”, in relation to a claimant—

- (a) means an unmarried person who is under the age of 20;
- (b) includes a stepchild or an adopted child,

who is living with the claimant;

“claimant” means a person specified in section 3 (1);

“disabled person” has the same meaning as in the Training and Employment of Disabled Persons Act;

“full-time remunerative employment” means remunerative employment which lasts or may reasonably be expected to last at least 8 hours a day;

“hardship relief” means the hardship relief payable under this Act;

“Minister” means the Minister to whom responsibility for the subject of social security is assigned;

“Permanent Secretary” means the Permanent Secretary of the Ministry;

“remunerative employment” means any employment undertaken by a person in the expectation of receiving remuneration, whether or not remuneration is actually received;

“requirements”, in relation to a claimant, means the requirements specified in section 3 (3) (a);

“resources”, in relation to a claimant, means resources specified in section 3 (3) (b);

“stepchild”, in relation to a claimant, means a child of his spouse or deceased spouse who is not his own child;

“wife”, in relation to a claimant, includes a woman who is living with the claimant as his wife.

[S. 2 amended by Act 15 of 1986; Act 34 of 1990.]

3. Hardship relief

(1) Subject to this section, every person under the age of 60—

- (a) who is unemployed;
- (b) who has a wife or a child or who is a disabled person;
- (c) who satisfies the prescribed conditions relating to residence; and
- (d) whose resources are insufficient to meet his requirements,

shall be qualified to claim hardship relief.

(2) A claimant shall—

- (a) apply for hardship relief to the Minister in the prescribed manner; and
- (b) furnish, in support of his application, such information and documents as the Minister may require.

(3) For the purpose of this section—

- (a) the requirements of a claimant shall be computed in the manner specified in Part I of the First Schedule;
- (b) the resources of a claimant shall be determined by the Awarding Officer in accordance with such criteria as may be prescribed.

(4) (a) Subject to this subsection, the hardship relief payable to a claimant shall be the amount by which the resources of the claimant fall short of his requirements, after deducting from that amount any benefit or allowance received by the claimant under the National Pensions Act or the Family Allowance Act respectively.

(b) The hardship relief payable under paragraph (a) shall not be reduced by the amount of a benefit received by the claimant under the National Pensions Act or the Social Aid Act where the claimant is a disabled person.

(c) The hardship relief payable under paragraph (a) shall not be less than the amount specified in Part II of the First Schedule.

(5) The hardship relief shall be paid to every claimant—

- (a) in respect of any prescribed period of unemployment which exceeds 30 days and in which the claimant is available for full-time remunerative employment; and
- (b) in such manner, at such times and subject to such conditions as may be prescribed.

(6) The Minister may, by regulations, specify the conditions under which a claimant may be disqualified from receiving any hardship relief for any period not exceeding 3 months.

[S. 3 amended by Act 15 of 1986; Act 34 of 1990.]

4. Hardship relief not to be assigned

(1) Notwithstanding any other enactment but subject to this section, any hardship relief under this Act shall not be assigned, transferred, ceded, pledged, delegated, attached or levied upon in any respect.

(2) Subject to such other conditions as may be prescribed, where a claimant has received under this Act hardship relief to which he is not entitled, the Awarding Officer may recover the amount of that relief from the amount of—

- (a) a benefit or allowance to which the claimant is or may become entitled under the National Pensions Act or the Family Allowance Act respectively; or
- (b) any social aid to which the claimant may become entitled under the Social Aid Act.

(3) Where a claimant—

- (a) is absent from Mauritius;
- (b) is an inmate of a medical institution; or
- (c) is in legal custody,

the amount of hardship relief due to him may be paid to his spouse, his eldest dependent child or his personal representative.

(4) On the death of a claimant—

- (a) the amount of hardship relief due to him shall be paid, in equal shares, where appropriate, to—
 - (i) the surviving spouse;
 - (ii) in the absence of a surviving spouse, the children; or
 - (iii) in the absence of a surviving spouse or child, the legal personal representative; and
- (b) where the claimant leaves no surviving spouse, child or legal personal representative, an amount not exceeding one month's hardship relief which has accrued to the claimant shall be paid to any person who furnishes satisfactory evidence to show that the funeral expenses incurred in connection with the death of the claimant have been borne by him.

(5) A person claiming to be entitled to any hardship relief under subsection (4) shall, not later than 3 months after the death of the claimant, submit a claim in writing to that effect.

[S. 4 amended by Act 15 of 1986; reprinted by Reprint 2 of 1987.]

5. Offences

(1) Any person who—

- (a) for the purpose of or in connection with a claim for any hardship relief, for himself or on behalf of any other person, knowingly—
 - (i) makes a false statement or a statement which he knows or ought to have known to be false in any material particular;
 - (ii) makes a false representation; or
 - (iii) fails to disclose a material fact; or
- (b) otherwise fails to comply with this Act or any regulations made under this Act,

shall commit an offence.

(2) Any person who commits an offence under this Act shall, on conviction, be liable to a fine not exceeding 2,000 rupees and to imprisonment for a term not exceeding one year.

6. Recovery of hardship relief

Where a person has received, under this Act, hardship relief to which he is not entitled or which he was not qualified to receive or was disqualified from receiving, the amount of that relief may, notwithstanding the restriction imposed by section 5 of the Recovery of State Debts Act, be recovered by the Minister in the manner provided for the recovery of a small State debt under that Act.

7. Summons

(1) Where a claimant is, under any enactment, entitled to be maintained by a person, the Permanent Secretary may issue to that person a summons requiring him to pay every month to the Permanent Secretary, for the benefit of the claimant, such amount as the Permanent Secretary may decide to grant to the claimant under section 3.

(2) Where a person fails to comply with a summons issued under subsection (1), the Permanent Secretary may, on behalf of the claimant, enter any action before the appropriate District Court for an order compelling that person to pay to the Permanent Secretary the amount specified in the summons issued under subsection (1) or such sum as the Court may determine.

(3) Notwithstanding any other enactment, in any proceedings under this section, the onus of proving that a person is unable or not liable to pay the amount specified in a summons issued under subsection (1) shall lie upon him.

(4) Where the Court makes an order under this section, the Court may order payment with retrospective effect on the date on which the payment should have been made in compliance with the summons issued under subsection (1).

(5) Where the Court makes an order under this section, the Permanent Secretary may, by warrant under his hand in the form set out in the Second Schedule, attach in the hands of the employer of the person against whom the order is made one third of that person's remuneration or the sum awarded by the Court, whichever is the lesser.

(6) An employer who receives an attachment under subsection (5) shall deduct from the remuneration of his employee the sum specified in the warrant and pay that sum to the Permanent Secretary.

(7) Where there is any change in the circumstances of the person on whom an order is made under this section, the Court may, on application by any interested party, vary the order.

[S. 7 inserted by s. 5 of Act 15 of 1986 w.e.f. 14 June 1986.]

8. Power to summon witnesses

(1) The Permanent Secretary may, in connection with the determination of a claim for hardship relief—

- (a) by summons under his hand, require the attendance of a person at such time and place as may be specified in the summons; and
- (b) examine a person on oath on any matter relating to the administration of this Act.

(2) Any person who, without reasonable cause or justification, fails to comply with a summons issued under subsection (1) shall commit an offence.

(3) A summons under this section shall be—

- (a) issued at least 10 days before the date on which the attendance of a person is required; and
- (b) served by registered post.

[S. 8 inserted by s. 5 of Act 15 of 1986 w.e.f. 14 June 1986.]

9. Jurisdiction

Notwithstanding any other enactment, any civil or criminal proceedings instituted under this Act shall be entered before the District Court of Port Louis.

[S. 9 amended by s. 5 of Act 15 of 1986 w.e.f. 14 June 1986.]

10. Regulations

The Minister may—

- (a) make such regulations as he thinks fit for the purposes of this Act; and
- (b) by regulations, amend the Schedules.

[S.10 amended by s. 5 of Act 15 of 1986 w.e.f. 14 June 1986.]

11. —

FIRST SCHEDULE

[Section 3 (3) (a) and (4) (c)]

PART I

	Amount per month Rs
1. Claimant's allowance	425
2. Wife's allowance (limited to one wife)	425
3. Child's allowance for every child—	
(a) under the age of 3	170
(b) aged not less than 3 nor more than the age of 10	160
(c) aged not less than 10 no more than the age of 15	195
(d) who is aged not less than—	
(i) 15 and is receiving full-time education, until the end of the school year in which the child attains the age of 20; or	270
(ii) 15 nor more than 20 and who is unable to earn a living through physical or mental disability and is not in receipt of a benefit under the National Pensions Act or of social aid under the Social Aid Act	285
4. Rent allowance 50% of the rent paid by the claimant up to a maximum of	330

PART II

Minimum Hardship Relief	245
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[First Sch. amended by GN 152 of 1984 w.e.f. 1 July 1984; GN 21 of 1986 w.e.f. 1 July 1985; s. 6 of Act 15 of 1986 w.e.f. 14 June 1986; GN 92 of 1986 w.e.f. 1 July 1986; GN 120 of 1987 w.e.f. 1 July 1987; reprinted by Reprint 2 of 1987 w.e.f. 1 July 1987; GN 135 of 1989 w.e.f. 1 July 1988; reprinted by Reprint 2 of 1989 w.e.f. 1 July 1988; amended by GN 176 of 1998 w.e.f. 1 July 1998; GN 145 of 1999 w.e.f. 1 July 1999; GN 178 of 2000 w.e.f. 1 July 2000; GN 151 of 2001 w.e.f. 1 July 2001; GN 110 of 2001 w.e.f. 1 July 2002; GN 215 of 2003 w.e.f. 1 July 2003; GN 75 of 2005 w.e.f. 1 July 2004; GN 69 of 2006 w.e.f. 1 July 2005; GN 239 of 2006 w.e.f. 1 July 2006; repealed and replaced by GN 17 of 2008 w.e.f. 1 July 2007; GN 274 of 2008 w.e.f. 1 July 2008; GN 177 of 2009 w.e.f. 1 July 2009; GN 218 of 2010 w.e.f. 1 January 2010; GN 110 of 2011 w.e.f. 1 January 2011; GN 50 of 2012 w.e.f. 1 January 2012; repealed and replaced by GN 25 of 2015 w.e.f. 1 January 2013; amended by GN 26 of 2015 w.e.f. 1 January 2014; GN 27 of 2015 w.e.f. 1 January 2015.]

SECOND SCHEDULE

[Section 7 (5)]

WARRANT

WHEREAS, the debtor, is indebted to the Permanent Secretary in the sum of rupees for the maintenance of and which sum is due by the debtor to the Permanent Secretary in virtue of an Order of the District Court of dated

NOW, THEREFORE, in order to secure and enforce payment of that sum of due by the debtor for maintenance of I, the Permanent Secretary, do hereby arrest and attach in the hands of you, the employer, the garnishee, all salary or

SECOND SCHEDULE—continued

other sum of money not exceeding the sum of rupees as may be owing by you to the debtor provided that the attachment does not exceed one third of any such sum of money to which the debtor may be entitled, warning you not to pay over that sum, or any part of that sum, to any person other than me.

AND I further order you, the garnishee, within 8 days from the service of this attachment, to make and deliver to me a declaration in writing, signed by you, specifying the amount due by you to the debtor, the nature of your debt, and payments on account, which you may have made in respect of the debt, and also any attachment which, prior to the time of this attachment upon you, may have been lodged in your hands by any third parties claiming to be creditors of the debtor.

.....
Permanent Secretary
Ministry of Social Security

Date

[Second Sch. added by Act 15 of 1986.]
