

NORWAY
1970

Norwegian Joint Committee
on International Social Policy,
P. O. 8011 — OSLO DEP.

ACT

of 9 December 1955

respecting

Recovery of Maintenance Allowance¹⁾

with amendments last of 19 June 1969.

1. The regulations contained in this Act shall apply to recovery of the following:

1. Maintenance allowances payable in accordance with the marriage laws and laws regarding children born in and out of wedlock.
2. Other money contributions payable in accordance with the laws regarding children born in and out of wedlock.
3. Maintenance allowances fixed in a court in connection with paternity cases under the Disputes Act.
4. Money contributions payable in accordance with other laws or refundable by a person liable for maintenance where the Act concerned contains a special ruling to that effect.

2. Allowances for a spouse and allowances and other money contributions for children which are awarded to a spouse or children by a legal verdict that can be enforced, or by a ruling on the part of a chief county administrative officer or the Ministry, shall be recovered through the bailiff when this is claimed by the person entitled to the allowance or the person responsible for maintenance of the same. This also applies to allowances fixed by written agreement provided the husband and wife are separated or legally divorced or cohabitation has otherwise ceased.

¹⁾ For the purposes of this Act the following definitions are used in the English translation:

«Ministry»: Ministry of Social Affairs («Sosialdepartementet»);

«County»: («Fylke»), the largest administrative unit in Norway. There are 20 such counties.

«Commune»: the smaller administrative units («Kommuner») within the counties.

3. Allowances or other money contributions payable by one of the parents or a person liable for the child's maintenance in accordance with the laws respecting children born out of wedlock, shall be recovered through the bailiff unless recovery is deemed unnecessary in accordance with the rulings contained in Section 5.

Recovery can not be made until paternity or liability for maintenance has been established by admission or verdict or because no legal action has been taken before the expiry of the prescribed time. Until a verdict becomes legally valid, the sums recovered shall be put aside and payment postponed until the question of paternity or maintenance liability has been finally settled.

The above ruling applies similarly if legal action is taken in accordance with section 15 of the Act of 10 April, 1915, in respect of children whose parents have not entered into marriage with each other, or if an appeal for an earlier case to be taken up again is granted.

4. Maintenance allowances and other money contributions mentioned in section 1, paragraph 3 and 4, shall be recovered through the bailiff if required by the person entitled to them.

5. If the parent in charge of the child requests that recovery as stated in section 3 shall not be undertaken, and proves that the child's upbringing is assured in some other way, the bailiff may refrain from recovering the maintenance allowance in so far as he regards this as justifiable. If a guardian has been appointed for the child, the former must have been given the opportunity to express an opinion first. If recovery of the allowance is claimed later, only sums becoming due for payment after the claim has been made can be recovered. Subject to the Chief County Administrative Officer's consent, however, sums that have become due for payment up to one year before the claim is made can also be recovered.

On application by the person liable for maintenance, the bailiff may — if the person entitled to maintenance agrees — allow payment to be made direct to the person entitled to maintenance without his intervention. The bailiff's consent to this shall no longer apply if the allowance is not paid when due or at the request of the person entitled to maintenance.

The bailiff shall keep the debtor, the person entitled to maintenance and the guardian, if such has been appointed, informed of decisions in accordance with this section.

The bailiff's decision shall not deprive the public authorities of any claim to the allowance.

6. Recovery shall be made by the bailiff at the place of residence of the person entitled to maintenance, if necessary through the bai-

liff at the place of residence of the person liable for maintenance or his employer's place of work or any other place where the debtor may have some capital or income. If the person entitled to maintenance is resident abroad, recovery shall be made by the bailiff at the place of residence of the person liable for maintenance, if necessary through the bailiff at his employer's place of work or any other place where the debtor may have some capital or income. Recovery by deduction from the pay of seamen in foreign waters shall be made through the Seamen's Central Deduction Office in accordance with detailed regulations fixed by the Crown.

7. The person liable for maintenance shall, without having received notice, pay allowance to the bailiff at his place of residence.

If the allowance is not paid when due, the person liable shall, with a maximum of 8 days, inform the bailiff of the reason for the omission and at the same time give an account of his situation with regard to income and employment. Any change in place of residence or work shall be notified to the bailiff within a maximum of 8 days.

Any infringement of the above rulings shall be punished by fine or imprisonment up to 3 months. Anyone deliberately or inadvertently giving the bailiff false information regarding his place of residence, employment and income shall receive similar punishment.

8. If the allowance is not paid when due, the bailiff shall immediately recover it by means of distraint or deduction from wages etc., cf. sections 9—15.

9. The rulings contained in the Enforcement Act of 13 August, 1915 (section 17 and 101, point 1) shall not apply to distraint in respect of claims made under this Act.

10. The bailiff may demand the deduction of sums not paid when due from the wages of the person liable for maintenance or from other payment he receives for work in the service of another person, including commission, fees, percentages etc., pension installments, annuities and similar forms of income, shares in fishing or hunting, commission for buying and selling, money-collecting, insurance agency, collecting advertisements and similar work as a middleman.

Allowance for which a person employed by his parents is liable can be claimed from the parents. Allowances for which a person employed by his spouse is liable can be claimed by the spouse. In both cases the allowances can be recovered by distraint.

11. The method of deduction is for the bailiff to instruct the employer or other person responsible for wages or other payment to reserve a certain sum each time the wages or other payment

become due. Deduction must be made in such a way that enough of the income is left to provide the debtor and his household with the bare means of subsistence.

In cases where the debtor has failed to pay allowance for which he is liable, and does not provide security, deduction for allowance not yet due may also be ordered.

The bailiff may require the sums deducted to be sent in monthly or quarterly. Until the money is sent, it shall be kept separately or put into a separate account at a bank.

If deduction is not made as ordered, or if sums deducted are not forwarded to the bailiff, the employer or other person instructed to make the deduction shall be personally responsible for the sum. It may be recovered by distraint if it is not paid.

The part of the wages etc. that is to be held back can not be included in the debtor's insolvent estate, nor can it be made the object of distraint or other compulsory measures on the part of other claimants.

The Crown may issue further regulations concerning deduction from wages etc. to cover allowance claims.

12. Instructions regarding the recovery of allowances through the employer may also be issued in cases where the man who does the work collects his own payment (commission, tips etc.). Anyone collecting payments in such a way shall in connection with collection of the refundment pay the employer the maintenance allowance to be deducted in accordance with the instruction. The employer is personally responsible for this being done. The rules in section 11 apply similarly to deduction in accordance with this section.

13. Any employer or other person who, in spite of instructions regarding deduction or claims in accordance with sections 11 or 12, pays wages or makes other payment without at the same time paying the sums due for deduction into a separate cashbox or separate account at a bank, or who omits to pay such sums to the bailiff, in spite of instructions to that effect, shall be fined, unless the situation is such that more severe punishment may be inflicted. No punishment shall be inflicted, however, if the sum is nevertheless paid to the bailiff at the right time.

14. If instructions have been given regarding allowance deductions from the same person's pay for more than one person entitled to maintenance, and the sum that can be withheld is insufficient to cover all current allowances, the sum shall be divided in proportion to the size of the individual allowances unless special circumstances make another method of distribution reasonable. Allowances

for children over 16 years of age should as a rule be given precedence to other allowances.

15. The bailiff may order the employer or other person responsible for deduction in accordance with sections 11 or 12 to supply information regarding the wages or income of a person owing any of the allowance for which he is liable.

The employer or other person instructed to make a deduction for an allowance shall, without waiting to receive notice, inform the bailiff when the debtor stops working for him. If possible the bailiff shall at the same time be informed of the new place of work, and, in case of removal, the new address.

If requested, the insurance authority shall supply the bailiff with information regarding a member's employer and wages or income. If requested, the insurance authority shall also give notice to the bailiff when the debtor enters fresh employment.

The Central Seamen's Register shall be charged with the duties stated in paragraph 3.

On the request of the bailiff, the tax authorities shall supply information regarding a debtor's capital and income according to both earlier assessments and the latest declaration, including how these assessments have been arrived at.

The bailiff can instruct insurance companies, banks and others with capital in their keeping to supply information regarding a debtor's means.

16. If the place of residence of a person owing money for maintenance is unknown, the bailiff may ask the police to trace him, if necessary by advertisement in the Police Times.

17. Any person deliberately or inadvertently omitting to pay allowances or other money contributions payable in accordance with this Act while in possession of the means of payment or in a position to acquire such means, shall be sentenced to fine or imprisonment up to 6 months, unless the case is one for which a more severe sentence is prescribed. Infringement will, regardless of the extension of punishment, be considered as offence.

The punishment mentioned in paragraph 1 shall not apply in cases where allowances are recovered before a legal verdict has been obtained.

18. If any person liable for allowances or other money contributions payable in accordance with this Act is about to leave the country in circumstances such that his intention of returning to this country may be regarded as uncertain, he shall, before leaving the country, besides paying or guaranteeing sums that have already become payable, guarantee sums due for payment later, unless the

Chief County Administrative Officer grants him total or partial exemption from this. If no better guarantee can be obtained, the bailiff may accept an advance promise of guarantee from two reliable, solvent persons. Contributions embraced by the promise may be recovered from the sureties if necessary, in accordance with the rulings contained in sections 10—12.

Before the Chief County Administrative Officer grants a person owing maintenance full or partial exemption from providing security, the person entitled to an allowance or the bailiff at the debtor's place of residence shall as a rule be given an opportunity to express an opinion.

19. If there is reason to believe that the debtor intends to leave the country without paying allowances or providing a guarantee as required in section 18, the chief of police may, on request of the person entitled to allowance, the bailiff or the Social Welfare Board, forbid him to leave and confiscate his property. The chief of police may also rule that no passport shall be issued to the debtor. Any valid passport already in his possession may be confiscated. The chief of police shall immediately report any rulings in accordance with the first, second or third periods of this section to the Chief County Administrative Officer, who shall decide whether such measures shall be upheld.

If the chief of police refuses to grant the requests mentioned in the first paragraph, the matter may be put before the Chief County Administrative Officer.

If the measures are upheld, the Chief County Administrative Officer may further rule that sums not yet due for payment shall be recovered by distraint, and that the sum obtained by compulsory recovery shall be placed in a savings bank.

If liability for maintenance ceases before the sum put aside has been paid out, the remainder shall be returned to the person liable for maintenance, with deduction for medical and funeral expenses if cessation is due to the death of the person entitled to an allowance.

20. The rulings contained in sections 18 and 19 similarly apply if there is reason to believe that a person not ordered to pay a maintenance allowance will, by leaving the country, leave the spouse or children without making provision according to his ability for their maintenance. In such a case the Chief County Administrative Officer shall fix the size of the allowance.

21. The rulings contained in sections 18 and 19 may also be applied to the person named by the mother as the possible father

of a child born out of wedlock, without the question of paternity or maintenance liability having been finally settled. If he is finally acquitted, he may apply for compensation from the mother in accordance with the rulings contained in section 261 of the Enforcement Act unless it must be assumed that the mother has acted in good faith.

22. Anyone intending to emigrate may, in accordance with further regulations issued by the Crown, be instructed to prove that he is not responsible for any allowances payable under this Act.

Emigration agents or others helping out of the country a person who, in accordance with sections 18—20, is not entitled to leave, shall be responsible for the claims made on him if they have been acquainted with the true facts or have acted in gross negligence. If necessary, recovery may be effected from the security given in accordance with the Act of 22 May, 1869. The rulings contained in sections 7 and 9 of the above-mentioned Act apply where appropriate.

23. If a person has left the country although this has or could have been forbidden in accordance with sections 18—21, the Chief County Administrative Officer at the place where he had his last ordinary venue may, at the request of the person entitled to allowance, the bailiff or the Social Welfare Board, rule that any property he has in this country shall be confiscated. The Chief County Administrative Officer may also rule that distraint shall take place to cover payments not yet due. The rulings contained in section 19, third and fourth paragraphs, and section 20, second period, similarly apply.

Nothing shall be paid out until it has been finally established whether the person concerned is liable for maintenance.

The rulings contained in this section may also be applied to any person named as the father in a paternity case after leaving the country.

24. In accordance with regulations issued by the Crown, the local authorities shall pay the bailiff for his work in connection with recovery of allowances. The local authority may claim refundment of this payment by the person liable for maintenance. Refundment shall be recovered in the same way as the allowance. When refundment takes place, however, the local authority's claims shall yield priority to any allowance installments that are still unpaid.

The same fee shall be paid for an injunction to effect deduction for maintenance allowances as for public announcement, cf. Act in respect of Payment for Legal Charges, section 69.

The fee mentioned in sub-section 2 shall be paid by the person owing maintenance. The same applies to payment for distraint, in accordance with section 8. These sums may be recovered in the same way as the allowance. If it is impossible to obtain them from the person liable for maintenance, they shall be paid by the exchequer in accordance with regulations fixed by the Ministry.

25. (Repealed by Act of December 18, 1959, no. 11, section 95.)

26. The exchequer shall carry the cost of special account books, cash books, correspondence books, copy books etc. to be kept by the bailiff in accordance with the regulations drawn up by the Ministry.

27. The Ministry may issue rules regarding supervision of the recovery of allowances and auditing of the bailiff's accounts. It may instruct the bailiff to send in an annual report on this.

The Chief County Administrative Officer may rule that the bailiff shall provide security.

28. Decisions made by the bailiff under this Act, against which no complaint can be lodged in the distress court, may be referred to the Chief County Administrative Officer without delaying effect.

Decisions made by the Chief County Administrative Officer under this Act, including decisions with regard to complaints as in paragraph 1, may be referred to the Ministry concerned without delaying effect. The Chief County Administrative Officer's ruling regarding exemption (section 18) shall, however, become invalid when referred to the Ministry.

The appeal authority may go beyond the claims of the parties and may also have recourse to measures other than those previously invoked or employed.

29. This Act came into operation 1 January 1957.