

1985

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

THE SENATE

*(Presented pursuant to leave granted and read 1^o,
5 December 1985)*

(SENATOR DURACK)

A B I L L

FOR

An Act to amend the Family Law Act 1975 with respect to
maintenance and the enforcement of decrees

BE IT ENACTED by the Queen, and the Senate and the
House of Representatives of the Commonwealth of
Australia, as follows:

Short title, &c.

5 1. (1) This Act may be cited as the Family Law
Amendment Act 1985.

 (2) The Family Law Act 1975¹ is in this Act
referred to as the Principal Act.

Commencement

2. This Act shall come into operation on the day it receives the Royal Assent.

Matters to be taken into consideration with respect to maintenance

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3. (1) Section 75 of the Principal Act is amended by adding the following sub-sections:

"(3) The Court shall not take into account, under sub-section (2), the eligibility of a party to a marriage claiming maintenance (whether in respect of the party or of a child of the marriage) for a pension, allowance or benefit under the Social Security Act 1947 or the Repatriation Act 1920 (whether in respect of the party or of a child of the marriage) but shall determine the proceedings as if there were no such eligibility.".

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"(4) In taking into account a matter referred to in paragraph (2)(e) or (m), the Court shall give such priority to the needs of a party to the marriage or of a child of the marriage over responsibilities or commitments assumed since the marriage as is just and reasonable in all the circumstances.".

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(2) The sub-sections added by this section do not apply in relation to proceedings instituted before the date of commencement of this Act.

Operation of maintenance agreements entered into in substitution for rights under Act

4. Section 87 of the Principal Act is amended by inserting the following sub-section after sub-section (1):

5 "(1A) A maintenance agreement made after the date of commencement of this sub-section shall not make provision as referred to in sub-section (1) as regards the rights of a party in respect of the maintenance of a child of the marriage."

10 **Repeal of Section 107**

5. Section 107 of the Principal Act is repealed.

Rules of Court

6. Section 123 of the Principal Act is amended by inserting the following sub-section after sub-section (1):

15 "(1A) The Rules of Court shall make reasonable provision for the enforcement of maintenance decrees by commitment to prison."

NOTES

1. No. 53, 1975, as amended by Nos. 63, 95 and 209, 1976; No. 102, 1977; No. 23, 1979; No. 2, 1982; Nos. 67 and 72, 1983; Nos. 63, 72 and 165, 1984; and No. 65, 1985.

