

Matrimonial Causes

No. 102 of 1971

An Act relating to certain Purported Decrees under the *Matrimonial Causes Act 1959* or under that Act as amended.

[Assented to 17 November 1971]

BE it enacted by the Queen's Most Excellent Majesty, the Senate, and the House of Representatives of the Commonwealth of Australia, as follows:—

1. This Act may be cited as the *Matrimonial Causes Act 1971*. Short title.

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

3. In this Act, " the Matrimonial Causes Act " means the *Matrimonial Causes Act 1959* and includes that Act as amended. Interpretation.

4. This Act is incorporated, and shall be read as one, with the *Matrimonial Causes Act*. Incorporation.

- 5.—(1.) Subject to the next succeeding sub-section, this section has effect in any case in which, before the commencement of this Act— Effect of certain purported decrees.
 - (a) an officer of the Supreme Court of a State; or
 - (b) a commissioner within the meaning of section 53 of the Supreme Court Act, 1935 of the State of South Australia or of that Act as amended,

purported to make a decree (in this Act referred to as " the purported decree ")—

 - (c) in a matrimonial cause within the meaning of the *Matrimonial Causes Act*;
 - (d) under the Third Schedule to that Act;
 - (e) under provisions made by the rules as mentioned in section 107 of that Act;
 - (f) under section 108 of that Act; or
 - (g) in any other proceedings under that Act.

(2.) This section does not have effect in a case in which, after the making of the purported decree but before the commencement of this Act—

- (a) where the purported decree was made by an officer referred to in paragraph (a) of the last preceding sub-section—the Supreme Court of which the officer concerned was an officer has, whether upon an appeal or otherwise, made a decree setting aside, or in substitution for, the purported decree; or
- (b) where the purported decree was made by a commissioner referred to in paragraph (b) of that sub-section—the Supreme Court of South Australia has, whether upon an appeal or otherwise, made a decree setting aside, or in substitution for, the purported decree.

(3.) The rights, liabilities, obligations and status of all persons are, by force of this Act, declared to be, and always to have been, the same as if—

- (a) in the case of a purported decree made by an officer of the Supreme Court of a State other than a purported decree to which the next succeeding paragraph applies—the purported decree had been made by the Supreme Court of that State constituted by a single Judge;
- (b) in the case of a purported decree made by an officer of a Supreme Court of a State, being a decree that was varied on appeal by the Supreme Court of that State constituted by a single Judge—the purported decree as so varied had been made by the Supreme Court of that State as so constituted; and
- (c) in the case of a purported decree made by a commissioner referred to in paragraph (b) of sub-section (1.) of this section—the purported decree had been made by the Supreme Court of South Australia constituted by a single Judge.

(4.) All proceedings, matters, decrees, acts and things taken, made or done, or purporting to have been taken, made or done, under the Matrimonial Causes Act or any other law (whether of the Commonwealth or of a State or Territory of the Commonwealth) in relation to a party to the proceedings in which the purported decree was made are, by force of this Act, declared to have the same force and effect after the commencement of this Act, and to have had the same force and effect before the commencement of this Act, as they would have, or would have had, if the purported decree had been made as mentioned in the last preceding sub-section.

(5.) The Matrimonial Causes Act and the rules in force under that Act have effect as if—

- (a) a document embodying the purported decree were a document embodying a decree; and
- (b) a copy of a document embodying the purported decree were a copy of a document embodying a decree.