



ANNO PRIMO

GEORGII VI REGIS.

A.D. 1937.

No. 2360.

An Act to amend the Maintenance Act, 1926-1936.

[Assented to 19th November, 1937.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Maintenance Act, 1937". Short titles.
 - (2) The Maintenance Act, 1926-1936, as amended by this Act, may be cited as the "Maintenance Act, 1926-1937".
 - (3) The Maintenance Act, 1926-1936, is hereinafter referred to as "the principal Act".
2. Subsection (1) of section 3 of the principal Act is repealed and the following subsection is enacted in lieu thereof:— Amendment of principal Act, s. 3—
 - (1) Every investigation, legal proceeding, or remedy instituted, or sought to be enforced under any of the Acts repealed by this Act, by the Destitute Board, the State Children's Council, or any officer of either of those bodies, may be continued, enforced, and completed under the provisions of this Act by the board or any officer thereof. Proceedings under repealed Acts.

Every order made under any of the Acts repealed by this Act shall be deemed to be an order made under this Act, and the appropriate provisions of this Act relating to the enforcement, variation, or discharge of maintenance orders, shall apply to all such orders made as aforesaid.
 3. Section 40 of the principal Act is amended by inserting therein after subsection (1) thereof the following subsection:— Amendment of principal Act, s. 40—
 - (1a) Any such relative who is a married woman shall be liable to relieve or maintain or contribute to the relief and maintenance of the destitute person. Duty of relations. Cf. 300, 1883-4 s. 20.

Amendment of
principal Act,
s. 43—
Maintenance of
wives.

4. Section 43 of the principal Act is amended by inserting therein after the word “weekly” in the seventh line of subsection (2) thereof the word “fortnightly”.

Amendment of
principal Act—

5. Division I. of Part III. of the principal Act is amended by inserting therein after section 43 the following section :—

Maintenance of
husband of
wife having
separate
property.
Cf. 300, 1883-4.
s. 20.

43a. (1) When any wife leaves her husband without adequate means of support, any justice may, upon complaint made by or on behalf of such husband, issue a summons to such wife, to show cause why she should not support her husband.

(2) Upon the day appointed for the hearing, any court of summary jurisdiction may hear and determine the matter of the complaint in a summary way ; and if it is satisfied that the husband is in fact without adequate means of support and that the wife is able to maintain her husband, or to contribute to his maintenance, the court shall make an order in writing directing her to pay either weekly, fortnightly, or monthly, at its discretion, and to such person and in such manner for his use as the court may think fit, such sum or allowance for the past or future maintenance of the husband as it considers proper.

(3) The provisions of this section shall not limit or affect the operation of any other provision of this Act.

(4) The provisions of subsection (2) of section 44, *mutatis mutandis*, shall apply to any order made pursuant to this section or pursuant to section 20 of the Married Women’s Property Act, 1883-4.

Amendment of
principal Act,
s. 79—
Setting aside
of notices.

6. Section 79 of the principal Act is amended—

(a) by striking out the words “or before the expiration of one month from the service of the notice, whichever first happens, obtain from any justice” in subsection (1) thereof, and by inserting in lieu thereof the words “after giving notice in writing of such application to the person by whom notice is given under section 77, apply to a court of summary jurisdiction for”; and

(b) by inserting after the word “notice” in the fifth line thereof the words “under section 77”.

Amendment of
principal Act,
s. 89—
Application of
property taken
under warrant.

7. Section 89 of the principal Act is amended by inserting therein after the word “warrant” in the second line thereof the words “and the estate or interest in any real or personal estate taken under any such warrant”.

8. Division IV. of Part III. of the principal Act is amended by inserting therein after section 93 the following section :—

Amendment of principal Act—

93a. (1) If any order (which is hereinafter referred to in this section as “ the maintenance order ”) is before or after the commencement of the Maintenance Act, 1937, made under section 43, section 43a, or Division III. of this Part, or the corresponding provision of any Act repealed by this Act, or is made for the support of a husband by a wife pursuant to section 20 of the Married Women’s Property Act, 1883-4, and—

Provision on order for divorce, &c.

- (a) an order absolute is made by the Supreme Court whereby the marriage between the husband and wife referred to in the maintenance order is finally dissolved or decreed a nullity ; or
- (b) in the course of any proceedings in the Supreme Court for the divorce of the husband and wife referred to in the maintenance order or for the declaration of the nullity of their marriage, any order is made or refused with respect to maintenance ; or
- (c) an order is made by the Supreme Court for the judicial separation of the husband and wife referred to in the maintenance order and in the course of the proceedings or in the order any order is made for maintenance,

the following consequences shall follow.

(2) If any such order is made or if any such order for maintenance as is referred to in paragraph (b) of subsection (1) is refused by the Supreme Court after the passing of the Maintenance Act, 1937, a court of summary jurisdiction shall, upon the complaint of any party to the maintenance order or the board, discharge the maintenance order, and the maintenance order shall be deemed to have been discharged from the time the order is made or refused by the Supreme Court.

(3) If in any proceedings such as mentioned in subsection (1) an order for maintenance was made by the Supreme Court before the passing of the Maintenance Act, 1937, a court of summary jurisdiction shall, upon the complaint of any party to the maintenance order or the board, discharge the maintenance order, and the maintenance order shall be deemed to have been discharged from such time as is fixed by the court of summary jurisdiction.

(4) If any such order (other than an order for maintenance) was made or if any such order for maintenance as is referred to in paragraph (b) of subsection (1) was refused by the Supreme Court before the passing of the Maintenance Act, 1937, a court of summary jurisdiction may, upon the complaint of any party to the maintenance order or the board, discharge the maintenance order, and the maintenance order, if discharged, shall be deemed to have been discharged from such time as is fixed by the court of summary jurisdiction.

(5) A court of summary jurisdiction may exercise jurisdiction under this section although it is not constituted as mentioned in section 67.

Amendment of
principal Act,
s. 98—
Proof as to
earnings.

9. Section 98 of the principal Act is amended :—

(a) by striking out the word “ Division ” in the first line thereof and by inserting in lieu thereof the word “ Act ” ;

(b) by inserting after the word “ may ” in the third line thereof the words “ in its absolute discretion ” ;

(c) by striking out the words “ document purporting to be a ” in the third line thereof ;

(d) by adding at the end of paragraph (b) of subsection (2) thereof the word “ or ” ; and

(e) by adding at the end of subsection (2) thereof the following paragraph :—

(e) by a member of the police force of this or any State in the Commonwealth or of the Commonwealth who declares as to information as to such earnings given to him by the employer of the person whose earnings are in question or by some person employed by such employer as manager, secretary, or accountant.

Amendment of
principal Act,
s. 110—
Entry into
premises.

10. Section 110 of the principal Act is amended by striking out the words “ secretary ” in the second line thereof and by inserting in lieu thereof the word “ chairman ”.

Amendment of
principal Act,
s. 126—
Extension of
period of
detention of
females.

11. Section 126 of the principal Act is amended :—

(a) by inserting after subsection (4) thereof the following subsection :—

(4a) The powers conferred upon the Governor by the preceding subsections of this section may be exercised from time to time in respect of the

same child and, except in the case of the first order in respect of any child, may be exercised notwithstanding that the child has attained the age of eighteen years.

(b) by adding at the end of subsection (5) thereof the following passage :—

The powers conferred upon the Governor by this subsection may be exercised from time to time in respect of the same female person and notwithstanding that she has attained the age of twenty-one years, but the period of supervision or detention which may be ordered at any one time shall not exceed three years.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

G. J. R. MURRAY, Lieutenant-Governor.