



ANNO VICESIMO PRIMO

GEORGII V REGIS.

A.D. 1930.

No. 1983.

An Act to amend the Maintenance Act, 1926.

[Assented to, November 20th, 1930.]

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 Amendment Act, 1930". Short title.

(2) The Maintenance Act, 1926 (which is hereinafter referred to as "the principal Act") and this Act may be cited together as the "Maintenance Acts, 1926 and 1930". No. 1780 of 1926.

2. Section 3 of the principal Act is amended by adding at the end thereof the following subsection:— Amendment of principal Act, s. 3—

(3) In every case where any maintenance order or any instrument of any kind provides that any moneys shall be paid to the State Children's Council, to the Destitute Board, or to any officer of either of those bodies, the maintenance order or instrument shall for all purposes be deemed to provide and to always have provided that payment of the said moneys shall be made to the board at Adelaide, notwithstanding that any of the said moneys became due or payable before the passing of the Maintenance Act Amendment Act, 1930. Moneys payable to old Boards.

3. Subsection (1) of section 28 of the principal Act is amended so as to read as follows:— Amendment of principal Act, s. 28—

(1) In any case where—

(a) the mother or any female relative of any child has the immediate custody and control of the child; and

Maintenance of children.

(b) the

Maintenance Act Amendment Act.—1930.

- (b) the child is without sufficient means of support; and
 (c) the mother or female relative aforesaid is unable to provide, and is unable by any available legal proceedings to obtain sufficient means of support for the child,

the mother or female relative aforesaid may, in the prescribed form, make an application in writing to the Board that a weekly sum be paid to her for or towards the maintenance of the child.

Consequential amendments of principal Act.

4. The principal Act is amended in the manner set out in the Schedule.

Amendment of principal Act, s. 59—

Liability of persons admitting sexual intercourse with mother of illegitimate child.

5. Section 59 of the principal Act is repealed and the following sections are enacted in lieu thereof:—

59. (1) If on the hearing of any complaint in respect of the maintenance of any illegitimate child, any male person over the age, or apparently over the age of eighteen years, admits or says that he had sexual intercourse with the mother of the illegitimate child at any time which is such that, in the opinion of the Court, the said male person may possibly be the father of the said illegitimate child, the Court may, upon such hearing and without complaint made for the purpose, make an order against any such male person for contribution towards the maintenance of the said illegitimate child and also, if the Court thinks fit, towards the confinement expenses in respect of the said illegitimate child; but no order shall be made as aforesaid unless the said male person is given an opportunity to be heard by the Court in respect of the making of the order. An order or orders may be made under this subsection against any number of male persons as aforesaid.

(2) If on the said hearing it is proved to the satisfaction of the Court that the defendant had sexual intercourse with the said mother at such a time as aforesaid, the Court may (without limiting the powers of the Court to make any other order which it is empowered to make by this or any other section of this Act) make an order against the defendant for contribution towards the maintenance of the said illegitimate child and also, if the Court thinks fit, towards the confinement expenses in respect of the said illegitimate child. The provisions of section 60 shall apply to the hearing with respect to the said defendant.

(3) Every order made pursuant to this section shall, for the purposes of the enforcement thereof, be deemed to be a maintenance order made under section 48 against a near relative.

(4) In every case where an application is made to the Court for the making of an order under this section and the said

Maintenance Act Amendment Act.—1930.

said application is refused by the Court, a memorandum of such refusal shall then be made by the Court.

59A. (1) A complaint may be made under this Act by or on behalf of the board or by any officer of the board against one or more male persons over the age of eighteen years at the time of the making of the complaint alleging that the said male person or persons have had sexual intercourse with the mother of an illegitimate child at a time or times which are such that the said male person or persons may possibly be the father of the illegitimate child.

Power to lay complaint for support of illegitimate child against one or more persons.

(2) Upon complaint as aforesaid, any Justice may summon the said male person or persons or any of them to appear before a Court of Summary Jurisdiction, at a time and place to be named in the summons, to show cause why he or they should not contribute towards or pay for the past or future maintenance of the illegitimate child and the confinement expenses in respect thereof.

(3) A Justice may, instead of issuing a summons, issue a warrant under his hand for the apprehension of any person against whom a complaint has been made under this section and for his detention until the hearing of the complaint, unless that person shall enter into a recognizance with one or more sureties, in such sums as the Justice directs, conditioned for his appearance at the hearing of the complaint.

(4) At the hearing of the complaint, if the Court is satisfied that any of the said male persons had sexual intercourse with the mother of the said illegitimate child at a time which is such that the said male person may possibly be the father of the illegitimate child, the Court may make an order against all or any of such male persons in respect of whom the Court is satisfied as aforesaid, for contribution towards the maintenance of the illegitimate child and also, if the Court thinks fit, towards the confinement expenses in respect thereof. The provisions of section 60 shall apply to the hearing with respect to every such male person.

(5) Every order made pursuant to this section shall, for the purposes of the enforcement thereof, be deemed to be a maintenance order made under section 48 against a near relative.

(6) In any proceedings pursuant to this section, the allegation in the complaint that any specified person was at the time of the making of the complaint over the age of eighteen years shall be deemed proved in the absence of proof to the contrary.

6. Section 77 of the principal Act is amended by inserting after the figures "41" in the first line thereof the figures "43".

Amendment of principal Act. s. 77—
Attachment of property in certain cases.

7. Section

Maintenance Act Amendment Act.—1930.

Amendment of
principal Act, s. 83—

7. Section 83 of the principal Act is amended so as to read as follows:—

Warrant to enforce
payments under
orders.

83. If any money payable under a maintenance order is in arrear for one month, a Court of Summary Jurisdiction may, upon the application of the board or any person to whom money is payable under the maintenance order, issue a warrant authorising the board or the said person to receive the whole or any part of the rents, profits, and income of the real and personal estate of the person against whom the order was made, or to take or sell the estate and interest of the said person in the said real or personal estate, or in such part thereof as the Court may direct.

Amendment of
principal Act, s. 87—

8. Section 87 of the principal Act is amended by adding at the end of subsection (1) thereof the following passage:—

Notice.

“but the Court of Summary Jurisdiction may before issuing any such warrant require such notice (whether by post, advertisement, or otherwise) to be given to the person against whom the maintenance order is made as to the Court shall seem just; and for the purpose of giving any such notice the Court may from time to time adjourn the hearing of the application for the issue of the warrant. At any such hearing the person against whom the maintenance order is made may be heard by the Court”.

Amendment of
principal Act, s.
103—

Uncontrollable and
incorrigible children.

9. Section 103 of the principal Act is amended—

- (a) by inserting after the word “years” in the third line of paragraph (a) thereof the words “or for such lesser period as the Court may order”;
- (b) by inserting after the word “years” in the third line of paragraph (b) thereof the words “or for such lesser period as the Court may order”; and
- (c) by inserting after the word “years” in the third line of paragraph (c) thereof the words “or for such lesser period as the Court may order”.

Amendment of
principal Act—

10. The principal Act is amended by inserting therein after section 103 the following section:—

Summons or
warrant for arrest
of children in certain
circumstances.

103A. (1) In any case where any complaint is made in respect of any child pursuant to section 102 or section 103, any Justice may summon the child to appear before a Court of Summary Jurisdiction, at a time and place to be named in the summons, so that the matter alleged against him may be heard and determined.

(2) A Justice may, instead of issuing a summons, issue a warrant under his hand for the arrest of the child and for his detention until the hearing of the complaint.

(3) Any

Maintenance Act Amendment Act.—1930.

(3) Any such child so arrested shall, as soon as conveniently may be, be brought before a Court of Summary Jurisdiction, so that the matter alleged against him may be heard and determined.

(4) Any child brought before a Court of Summary Jurisdiction, and charged pursuant to section 102 or section 103, may be dealt with by the Court as provided by the said sections, notwithstanding that the child has not been summoned as aforesaid or that a warrant has not been issued as aforesaid for the arrest of the child.

11. Section 128 of the principal Act is amended by inserting at the end of subsection (1) thereof the following paragraph:—

Amendment of principal Act, s. 128—

“or (c) to live and be maintained in any home or place suitable for the upbringing of the child.”

Board may place out children.

12. Section 150 of the principal Act is amended so as to read as follows:—

Amendment of principal Act, s. 150—

150. (1) The board may pay to any person in charge of any State child or to the foster parent of any State child for the care and maintenance of the child until he or she attains the age of fourteen years, such sum, not exceeding Fifteen Shillings a week, as may be prescribed: Provided that in special cases—

Payment for maintenance of State Children.

(i.) the board may pay the said sum for such period after the State child attains the age of fourteen years as to the board appears necessary;

(ii.) the Minister may authorise the payment of a greater sum.

(2) For the purposes of this section the governing authority or person in charge of any home or place at which the board has placed out any State child shall be deemed to be a person in charge of the State child.

13. Section 178 of the principal Act is amended—

Amendment of principal Act, s. 178—

(a) by striking out subsection (1) thereof and by inserting in lieu thereof the following subsection:—

Power of board to take proceedings.

(1) Any proceedings under the provisions of this Act may be taken by any officer of the board who is authorised by the board to take proceedings, and all such proceedings may be conducted by the said officer or by any other officer of the board.

(b) by striking out subsection (3) thereof.

14. Section

Maintenance Act Amendment Act.—1930.

Amendment of
principal Act,
s. 179—

14. Section 179 of the principal Act is amended by adding at the end thereof the following subsection (the preceding portion of the said section being read as subsection (1) thereof) :—

Rights of
appearance in
maintenance cases.

(2) At the hearing of any complaint or summons in respect of the making, granting, confirming, altering, varying, remitting, or enforcing of any maintenance order or provisional maintenance order the chairman or some officer of the board may appear on behalf of any person being a party to the proceedings or may appear to assist the Court, and may examine and cross-examine witnesses and be heard touching the matters before the Court. The Crown Solicitor may either personally or by counsel appear on behalf of any person being a party to the proceedings, or may appear to assist the Court on the hearing of any such complaint or summons or on the hearing of any appeal arising from any such complaint or summons, and may examine and cross-examine witnesses, and be heard touching the matters before the Court.

For the purposes of this section “maintenance order” and “provisional maintenance order” shall, without limiting the meaning thereof as defined in section 5, be deemed also to respectively include a maintenance order made pursuant to the Maintenance Orders (Facilities for Enforcement) Act, 1922, and a provisional maintenance order made under the said Act or made in a Court in a reciprocating State within the meaning of the said Act and transmitted to a Court of Summary Jurisdiction in this State as provided in the said Act.

Amendment of
principal Act—

15. The principal Act is amended by inserting therein after section 189 the following section :—

Furnishing of
confidential
information.

189A. (1) The Chairman may require any person whom he believes to be in a position to do so, to furnish to him a confidential report as to the circumstances or the financial transactions of—

- (a) any person who has applied for relief or the payment of any money by the board under this Act, whether on his own behalf or on behalf of any other person :
- (b) any person who is in receipt of any such relief or payment :
- (c) the near relative of any person who has applied for relief or payment as aforesaid or on whose behalf any such application has been made or of any near relative of any person to whom or in respect of whom any relief is granted or payment is made as aforesaid :
- (d) any person who is liable in any way to make any payments to the board either pursuant to any maintenance order or by way of refund of any relief granted or payments made by the board pursuant to this Act.

(2) Any

Maintenance Act Amendment Act.—1930.

(2) Any person who, on being required to do so, fails to furnish a report as aforesaid within a reasonable time, or furnishes a report containing any statement which is untrue in any material particular, shall be guilty of an offence against this Act and shall be liable to a penalty not exceeding Twenty Pounds.

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

A. HORE-RUTHVEN, Governor.

Maintenance Act Amendment Act.—1930.

THE SCHEDULE.

AMENDMENTS TO THE MAINTENANCE ACT, 1926.

Section or Subsection of Act Amended.	How Amended.
31	Line 5—Strike out “her” and insert “the”.
34	Line 1—Strike out “a mother” and insert “any person”.
	Line 6—Strike out “a mother” and insert “any person”.
35 (1)	Line 1—Strike out “a mother” and insert “any person”.
35 (2)	Lines 2 and 3—Strike out “the mother of any child for or towards whose maintenance any sum is being paid to such mother pursuant to this Division” and insert “any person to whom any sum is being paid pursuant to this Division for or towards the maintenance of any child”.
	Line 5—Strike out “mother” and insert “said person”.
36 (1)	Line 1—Strike out “a mother” and insert “any person”.
	Line 2—Strike out “her” and insert “a”.
36 (2)	Lines 1 to 3—Strike out “the mother of any child for or towards whose maintenance any sum is being paid pursuant to this Division” and insert “any person to whom any sum is being paid pursuant to this Division for or towards the maintenance of any child”.