



ANNO DUODECIMO

ELIZABETHAE II REGINAE

A.D. 1963

No. 40 of 1963

An Act to amend the Maintenance Act, 1926-1958,
and for other purposes.

[Assented to 28th November, 1963.]

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

Short titles.

1. (1) This Act may be cited as the "Maintenance Act
Amendment Act, 1963".

(2) The Maintenance Act, 1926-1958, as amended by this
Act may be cited as the "Maintenance Act, 1926-1963".

(3) The Maintenance Act, 1926-1958, is hereinafter referred
to as "the principal Act".

Incorporation.

2. This Act is incorporated with the principal Act, and that
Act and this Act shall be read as one Act.

Amendment of
principal Act,
s. 24.

3. Sub-section (2) of section 24 of the principal Act is amended
by inserting after the word "relief" (first occurring) therein
the words "and that such circumstances exist as to make
repayment desirable".

Amendment of
principal Act,
s. 34.

4. Sub-section (2) of section 34 of the principal Act is amended
by striking out the word "two" therein and inserting in lieu
thereof the word "four".

Enactment of
principal Act,
s. 35a.

5. The following section is inserted in the principal Act
after section 35 thereof—

35a. In the assessing, in any application under this Part, of applicants' means— Matters to be taken into account.

(a) account may be taken *inter alia* of entitlement to any payment for Social Service Benefit or Pension by the Commonwealth of Australia ;

(b) account shall not be taken of gifts of food or the loan of household goods or chattels to an applicant by any person.

6. Section 38 of the principal Act is struck out and the following section is inserted in the principal Act in lieu thereof :— Amendment of principal Act, s. 38—

38. The board shall not deduct from moneys in its hands received as payments of maintenance for or on behalf of any person any sum or sums for repayment to it of assistance paid under this Part except upon the written authority of that person or upon the order of a court of summary jurisdiction made on complaint of the board that the means of the said person are sufficient to allow the deduction to be made without hardship. No deductions without order of Court.

7. The following section is inserted in the principal Act after section 61 thereof— Enactment of principal Act, s. 61a—

61a. (1) This section shall commence upon a day to be proclaimed. Provision for blood tests.

(2) In this section "blood test" means a test made for the purpose of ascertaining the inheritable characteristics of blood.

(3) (a) A court of summary jurisdiction shall, at the request of a defendant in an affiliation case, direct that the illegitimate child in respect of whose maintenance the complaint was laid, the mother of the child and the defendant submit to blood tests. No such direction shall be given unless the child has been born and the child the mother and the defendant are all living ;

(b) When any such direction is given the court shall in and by the direction nominate a medical practitioner to take such blood samples as may be necessary for the purpose of making the blood tests and a pathologist to make the blood tests and shall also fix a period within which the child, the mother and the defendant shall attend such medical practitioner for the purpose of taking such samples. Any period so fixed may be extended from time to time as the court may think fit. The pathologist so

nominated shall be a legally qualified medical practitioner whose name is on a panel of names of medical practitioners authorized to carry out blood tests under this section which panel shall be prepared by the Minister on the recommendation of the Director of Health.

(4) When a direction has been given by the court pursuant to this section :—

- (a) proceedings shall be stayed until the expiration of the period or extended period fixed under subsection (3) of this section ;
- (b) if the mother and child referred to in the direction or either of them does not within such period or extended period attend the medical practitioner nominated in the direction and permit him to take blood samples, the complaint shall be dismissed ;
- (c) if the defendant does not within such period or extended period attend the medical practitioner nominated in the direction and permit him to take blood samples the complaint shall be set down for hearing ;
- (d) the fee of the medical practitioner nominated in the direction and the costs and expenses payable in connection with the making of the blood test shall be paid by the defendant in the event of his conviction.

(5) The medical practitioner nominated in a direction given under subsection (3) of this section shall in the manner and within the time prescribed forward all blood samples taken by him pursuant to the direction to the pathologist nominated in the direction. The blood tests shall be made by that pathologist and the results of the tests shall be embodied in a certificate in the prescribed form.

(6) The certificate given under subsection (5) of this section shall be forwarded to the clerk of the court concerned, who within seven days of the receipt by him of the certificate shall furnish a copy thereof to the complainant and the defendant.

(7) A certificate given under subsection (5) of this section shall be admissible as evidence in any proceedings under this Part and shall be evidence of the facts and conclusions stated therein.

(8) Regulations shall prescribe all matters necessary and convenient for carrying out or giving effect to this section.

8. The following section is inserted in the principal Act after section 79 thereof—

Enactment of
principal Act,
s. 79a—

79a. (1) The Court may upon making an order on complaint laid under sections 41, 43, 43a, 47, 53, 66 and 91 of this Act order that the earnings of the defendant be attached in the hands of his employer to the extent necessary to satisfy any order for periodic payments of maintenance.

Attachment of
earnings.

(2) The employer concerned shall be served with a copy of the order and after service thereof shall pay or cause to be paid out of the earnings of the defendant so long as the defendant shall remain in his employ the periodic amounts directed in the order to the board on behalf of the person in respect of whose maintenance the order is made.

(3) Regulations shall prescribe all matters and forms necessary to give effect to this section.

9. Section 80 of the principal Act is amended by inserting after the passage "section 77" therein the passage "or an attachment of earnings order under section 79a. hereof".

Amendment o
principal Act,
s. 80.

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

EDRIC BASTYAN, Governor.