



ANNO VICESIMO SEXTO

# GEORGII V REGIS

ET ANNO PRIMO

# EDWARDI VIII REGIS

A.D. 1935-6.

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## No. 2259.

An Act to amend the Matrimonial Causes Act, 1929.

*[Reserved, 19th December, 1935.  
Royal Assent Proclaimed, 13th February, 1936.]*

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 " Matrimonial Causes Act Amendment Act, 1935 " Short title.

(2) The Matrimonial Causes Act, 1929, and this Act may be cited as the " Matrimonial Causes Acts, 1929 to 1935 ".

(3) The Matrimonial Causes Act, 1929, is hereinafter called " the principal Act " 1946, 1929.

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

3. Paragraph (i) of section 6 of the principal Act is amended so as to read as follows :—

Amendment of principal Act, s. 6—

(i) that the defendant has for a period or periods aggregating five out of the six years immediately preceding the commencement of the action been confined, on the ground of mental defect, in an institution, and is unlikely to recover from such mental defect.

Divorce on the ground of mental defect.

In this paragraph " mental defect " means any condition of the mind which would be mental defect within the meaning of the Mental Defectives Act, 1935 ; and " institution " means any institution for mental

*Matrimonial Causes Act Amendment Act.—1935.*

defectives, whether established under the Mental Defectives Act, 1913, the Mental Defectives Act, 1935, or similar enactments in any other part of His Majesty's dominions and whether situated in South Australia or elsewhere.

In computing the period of confinement for the purposes of this paragraph, confinement before the enactment of this paragraph may be taken into account.

Amendment of  
principal Act,  
s. 16—

Orders  
absolute.

4. Section 16 of the principal Act is repealed and the following section is enacted and substituted therefor:—

16. (1) After the expiration of the time limited in that behalf, the plaintiff may, in writing filed in the office of the Master, request that the order *nisi* be made absolute.

(2) If the Master is satisfied that the plaintiff is entitled to an order absolute he may make and issue that order.

(3) If the Master is not so satisfied the request shall be referred to the Court.

(4) If the plaintiff fails to apply for the order absolute the defendant may, on giving notice to the plaintiff, or upon such substituted notice as the Court allows, apply to make the order absolute, and the Court may order accordingly, and may make the order subject to such conditions as to the payment of maintenance of the plaintiff or of children and the payment of costs as it may think proper,

(5) If the Court thinks fit it may direct the order absolute to be antedated and to take effect as if it had been made on any day subsequent to the expiration of the time limited in order *nisi*.

(6) This section applies in relation to every order *nisi* whether made before or after the enactment of this section, if that order has not become absolute before the enactment of this section.

Amendment of  
principal Act,  
s. 43—

Domicile of  
wife separated  
from husband.

5. Section 43 of the principal Act is amended by adding at the end thereof the following subsection, the previous part of the section being read as subsection (1):—

(2) Where pursuant to an order of any Court or any instrument a woman and her husband live separately from each other and at the time when such separation commenced the woman was domiciled in the State, she shall for the purposes of any proceedings under this Act, be deemed to have retained her South Australian domicile, although since the commencement of the separation her husband may have acquired another domicile.

Reserved for the signification of His Majesty the King's pleasure thereon.

W. DUGAN, Governor.