

No. 5757.

An Act to amend the Administration and Probate Acts the County Court Acts the Employers and Employés Acts the *Fences Act* 1928 the Imprisonment of Fraudulent Debtors Acts the Instruments Acts the Melbourne and Metropolitan Tramways Acts the Property Law Acts the Transfer of Land Acts the Wrongs Acts and the Companies Acts and for other purposes relating to the said Acts.

[22nd December, 1953.]

BE it enacted by the Queen's Most Excellent Majesty by and with the advice and consent of the Legislative Council and the Legislative Assembly of Victoria in this present Parliament assembled and by the authority of the same as follows (that is to say) :—

1. This Act may be cited as the *Statutes Amendment Act* 1953. Short title.

2. (1) In section forty-five of the *Administration and Probate Act* 1928 as amended by any Act for the words "One thousand pounds" (wherever occurring) there shall be substituted the words "Five thousand pounds". Amendment of No. 3632 s. 45 as amended by No. 4191 s. 2. Rights of inheritance of widow of intestate who leaves no issue.

(2) In sub-section (1) of section three of the *Administration and Probate (Amendment) Act* 1948 for the words "One hundred pounds" there shall be substituted the words "Five hundred pounds". Amendment of No. 5277 s. 3. Payment to widow, &c., of distributive shares of children.

(3) This section shall apply in respect of the estates of persons who die after the commencement of this Act. Application.

(4) This

Construction
and citation.

Nos. 3632, 4141,
4483, 4486, 4918
s. 2, 5123 s. 3,
5277, 5286 s. 9,
5590.

(4) This section shall be read and construed as one with the *Administration and Probate Act 1928* and any Act and enactment amending the same all of which Acts and enactments and this section of this Act may be cited together as the *Administration and Probate Acts*.

Amendment of
No. 3663 s. 54
as re-enacted
by No. 5627
s. 3 (1).

Contempt of
county court.

3. (1) In paragraph (c) of sub-section (1) of section fifty-four of the *County Court Act 1928* as re-enacted by section three of the *County Court (Amendment) Act 1952* for the words "and at the same time having been paid or tendered his expenses on the scale prescribed by the rules" there shall be substituted the words "and having been paid or tendered a reasonable sum for travelling expenses and subsistence".

Construction
and citation.

Nos. 3663, 3890
s. 3, 4355, 5145
s. 3, 5403 Part
II., 5627, 5732
s. 3.

(2) This section shall be read and construed as one with the *County Court Act 1928* and any Act and enactment amending the same all of which Acts and enactments and this section of this Act may be cited together as the *County Court Acts*.

Amendment of
No. 3673
ss. 66, 67, 68.

Persons against
whom garnishee
proceedings
may be
brought.

4. (1) In section sixty-six of the *Employers and Employés Act 1928* for the word "Workman" there shall be substituted the word "Worker".

(2) For sections sixty-seven and sixty-eight of the *Employers and Employés Act 1928* there shall be substituted the following sections:—

"67. No order shall be made by any court judge justice or clerk of petty sessions for the attachment of the wages—

(a) of any male worker or of any unmarried female worker, except as hereinafter provided; or

(b) of any married female worker.

68. (1) If the amount of wages, however payable, of a married male worker exceeds the rate of Eleven pounds seventeen shillings per week any surplus above that rate shall be liable to attachment according to the law in force apart from this Part and (except as provided in the next succeeding sub-section) not otherwise.

(2) If

(2) If the amount of wages, however payable, of an unmarried male worker or of an unmarried female worker or (in relation to any order under the Maintenance Acts) of a married male worker exceeds the rate of Seven pounds per week any surplus above that rate shall be liable to attachment according to the law in force apart from this Part but not otherwise.

(3) No costs or expenses of any attachment referred to in this section shall be chargeable against the worker except in cases where the total amount of his wages exceeds a rate of Two pounds above the appropriate rate referred to in sub-section (1) or (as the case requires) sub-section (2) of this section."

(3) No alteration of rates which is made by this section shall operate in respect of any attachment of wages the order *ex parte* for which was made before the coming into operation of this section.

Transitory provision.

(4) This section shall come into operation on a day to be fixed by proclamation of the Governor in Council published in the *Government Gazette*.

Commencement.

(5) This section shall be read and construed as one with the *Employers and Employés Act 1928* and the Act amending the same which Acts and this section of this Act may be cited together as the *Employers and Employés Acts*.

Construction and citation.
Nos. 3673, 5090.

5. (1) At the end of section five of the *Fences Act 1928* there shall be inserted the following sub-section:—

Amendment of No. 3679 s. 5.
No contracting out of No. 3679 Part I.

“(2) Save as otherwise expressly provided in this Part of this Act the provisions of this Part of this Act shall have effect notwithstanding any stipulation to the contrary whether made before or after the commencement of the *Statutes Amendment Act 1953* and no contract or agreement made or entered into either before or after the commencement of that Act shall operate to annul or vary or exclude any of the provisions of this Part of this Act or to indemnify any person against any claims made under this Part of this Act.”

(2) This section shall be read and construed as one with the *Fences Act 1928* which Act and this section of this Act may be cited together as the *Fences Acts*.

Construction and citation.
No. 3679.

6. (1) Notwithstanding

Judgment need not necessarily be served before fraud summons under No. 3700 Parts I., II., and III. See *R. v. Casey* 12 V.L.R. 525.

6. (1) Notwithstanding any rule of law to the contrary, in any proceeding under Part I. or Part II. or Part III. of the *Imprisonment of Fraudulent Debtors Act* 1928 it shall not be necessary for the judgment debtor to be served with the judgment or copy thereof in respect of which the proceedings are brought before the issue of the fraud summons (that is to say the summons requiring him to attend the court to be examined touching his estate effects property and means of paying and discharging the debt) but if he has not previously been served personally with the judgment or copy thereof the judgment or copy thereof shall be served on the judgment debtor together with the fraud summons.

Construction and citation. Nos. 3700, 4878.

(2) This section shall be read and construed as one with the *Imprisonment of Fraudulent Debtors Act* 1928 and the Act amending the same which Acts and this section of this Act may be cited together as the *Imprisonment of Fraudulent Debtors Acts*.

Amendment of No. 3706 s. 34. Cavents against filing bills of sale.

7. (1) In section thirty-four of the *Instruments Act* 1928 after the words "Any creditor of the grantor" there shall be inserted the words "or of any one or more of the grantors".

Construction and citation. Nos. 3706, 3998, 4370, 4428, 4464, 4608, 4660, 4747, 5741 s. 17.

(2) This section shall be read and construed as one with the *Instruments Act* 1928 and any Act amending the same all of which Acts and this section of this Act may be cited together as the *Instruments Acts*.

New section substituted for No. 3732 s. 123.

8. (1) For section one hundred and twenty-three of the *Melbourne and Metropolitan Tramways Act* 1928 there shall be substituted the following section:—

Service of notices, &c., on M. & M.T.B.

"123. Any summons or notice or writ or other proceeding requiring to be served upon the Board may be served—

(a) by being given personally to the chairman or secretary; or

(b) by registered letter through the post addressed to the chairman or secretary at the head office of the Board."

Construction and citation. Nos. 3732, 3902, 4598, 4710, 4806, 5108, 5160, 5206, 5233, 5342, 5367, 5645 s. 2, 5695, 5756.

(2) This section shall be read and construed as one with the *Melbourne and Metropolitan Tramways Act* 1928 and any Act and enactment amending the same all of which Acts and enactments and this section of this Act may be cited together as the *Melbourne and Metropolitan Tramways Acts*.

9. (1) In

9. (1) In clauses three and four of the Fourth Schedule to the *Property Law Act 1928*—

Amendment of
No. 3754
Fourth
Schedule.
Conditions of
sale.

(a) for the words “fourteen days” (wherever occurring) there shall be substituted the words “twenty-eight days”;

(b) for the words “seven days” (wherever occurring) there shall be substituted the words “fourteen days”.

(2) Clause seven of the Fourth Schedule to the *Property Law Act 1928* is hereby repealed.

(3) This section shall be read and construed as one with the *Property Law Act 1928* and the Act and enactment amending the same which Acts and enactment and this section of this Act may be cited together as the *Property Law Acts*.

Construction
and citation.
Nos. 3754, 4222,
4265 Part I.

10. (1) In clauses two and three of the Twenty-fifth Schedule to the *Transfer of Land Act 1928*—

Amendment of
No. 3791
Twenty-fifth
Schedule.

(a) for the words “fourteen days” (wherever occurring) there shall be substituted the words “twenty-eight days”;

Conditions
of sale.

(b) for the words “seven days” (wherever occurring) there shall be substituted the words “fourteen days”.

(2) Clause six of the Twenty-fifth Schedule to the *Transfer of Land Act 1928* is hereby repealed.

(3) This section shall be read and construed as one with the *Transfer of Land Act 1928* and any Act and enactment amending the same all of which Acts and enactments and this section of this Act may be cited together as the *Transfer of Land Acts*.

Construction
and citation.
Nos. 3791, 3839,
4164, 4265 Part
II., 4689, 4693,
4813, 5314, 5553.

11. (1) Section fourteen of the *Wrongs Act 1928* as amended by any Act is hereby amended as follows:—

Amendment of
No. 3807 s. 14
as amended by
No. 4380 s. 2.

(a) For the interpretations of “Child” and “Parent” there shall be substituted the following interpretations:—

Interpretation
of “Child” and
“Parent”.

“ ‘Child’ includes son daughter grandson granddaughter stepson and stepdaughter.

‘Parent’ includes father mother grandfather grandmother stepfather and stepmother”;

(b) At

(b) At the end of the section there shall be inserted the following sub-section :—

Comp. 24 and
25, Geo. V.
c. 41 s. 2.

Nos. 3605, &c.

“(2) For the purposes of this Part a person shall be deemed to be the parent or child of the deceased person notwithstanding that he was related to him illegitimately or in consequence of adoption under the Adoption of Children Acts; and accordingly in deducing any relationship which under the provisions of this Part is included within the meaning of ‘parent’ and ‘child’ any illegitimate person and any adopted person shall be treated as being or as having been the legitimate offspring of his mother and reputed father or (as the case may be) of his adopter.”

Construction
and citation.
Nos. 3807, 4070,
4380, 5382, 5594,
5704.

(2) This section shall be read and construed as one with Part III. of the *Wrongs Act* 1928 and any Act amending the same all of which Acts and this section of this Act may be cited together as the *Wrongs Acts*.

Amendment of
No. 4602 s. 62.
Numbering of
shares.
Comp. 11 and
12 Geo. VI.
c. 38 s. 74.

12. (1) At the end of sub-section (2) of section sixty-two of the *Companies Act* 1938 there shall be inserted the following proviso :—

“Provided that if at any time all the issued shares in a company or all the issued shares therein of a particular class are fully paid up and rank *pari passu* for all purposes, none of those shares need thereafter have a distinguishing number so long as it remains fully paid up and ranks *pari passu* for all purposes with all shares of the same class for the time being issued and fully paid up.”

Consequential
amendment of
No. 4602 s. 95.

(2) In paragraph (a) of sub-section (1) of section ninety-five of the *Companies Act* 1938 after the word “number” there shall be inserted the expression “(if any)”.

Amendment of
No. 4602 s. 320.
Registration of
charges by
certain
marketing
boards.
Nos. 4337, &c.

(3) In sub-paragraph (i) of paragraph (b) of sub-section (2) of section three hundred and twenty of the *Companies Act* 1938 after the words “previous enactment” there shall be inserted the words “and any Board within the meaning

of the Marketing of Primary Products Acts and the Australian Barley Board referred to in the Barley Marketing Acts ”.

Nos. 5320, &c.

(4) This section shall be read and construed as one with the *Companies Act* 1938 and any Act amending the same all of which Acts and this section of this Act may be cited together as the Companies Acts.

Construction
and citation.Nos. 4602, 4621,
4790.