

New Zealand.



ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Increasing amount for which maintenance order may be made against near relative of destitute person. 3. Removing limitation as to amount for which maintenance order may be made against husband or wife. 4. Repeal. 5. Extension of liability of parents in respect of cost of maintenance of children in public or charitable institutions. 6. Section 61 of principal Act (as to procedure for enforcement of maintenance orders) amended. | <ol style="list-style-type: none"> 7. Extension of application of section 71 of principal Act, as to burden of proof in certain cases. 8. Orders for maintenance made by Supreme Court in exercise of its jurisdiction in divorce or other matrimonial proceedings may be enforced as maintenance orders under principal Act. 9. Provision for appointment of officers of Court to facilitate recovery of arrears of moneys payable under maintenance order. Repeals. 10. Court may be cleared during proceedings under principal Act. 11. Regulations for purposes of principal Act. |
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1926, No. 10.

AN ACT to amend the Destitute Persons Act, 1910.

[23rd August, 1926.]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Destitute Persons Amendment Act, 1926, and shall be read together with and deemed part of the Destitute Persons Act, 1910 (hereinafter referred to as the principal Act).

2. Section five of the principal Act is hereby amended by omitting from subsection two the words "twenty-one shillings," and substituting the words "forty-two shillings."

3. (1.) Section seventeen of the principal Act is hereby amended by omitting from subsection three the words "not exceeding three pounds a week."

(2.) Section twenty-three of the principal Act is hereby amended by omitting from subsection two the words "not exceeding three pounds a week."

4. Section twenty-two of the principal Act is hereby repealed.

5. Section fifty-one of the principal Act is hereby amended by inserting, after subsection two, the following subsection:—

"(2A.) For the purposes of the last preceding subsection the term 'child' includes any person under the age of twenty-one years."

Title.

Short Title.

Increasing amount for which maintenance order may be made against near relative of destitute person.

Removing limitation as to amount for which maintenance order may be made against husband or wife.

Repeal.

See 1910, No. 38, sec. 18 (3)

Extension of liability of parents in respect of cost of maintenance of children in public or charitable institutions.

Section 61 of principal Act (as to procedure for enforcement of maintenance orders) amended.

6. (1.) Subsection one of section sixty-one of the principal Act is hereby amended as follows:—

(a.) By omitting the words “ a fine of fifty pounds or imprisonment for six months,” and substituting the words “ imprisonment for six months and, in addition to or in lieu of imprisonment, to a fine of twenty pounds ”; and

(b.) By adding the following words: “ The warrant of commitment to prison issued to give effect to any sentence of imprisonment under this section may be suspended by the Magistrate on such terms as he thinks proper.”

(2.) Subsection three of the said section sixty-one is hereby amended as follows:—

(a.) By inserting, after the words “ at the time of sentence or,” the words “ the same or any other Magistrate may ”:

(b.) By inserting, after the words “ shall be released on payment,” the words “ of the fine (if any) and.”

Extension of application of section seventy-one of principal Act as to burden of proof in certain cases.

7. Section seventy-one of the principal Act is hereby amended by inserting, after the words “ or that the defendant is not of sufficient ability to contribute to the maintenance of any person ” in subsection one, the words “ or that the defendant had reasonable cause to make default in the payment of any money payable under a maintenance order, or had reasonable cause for failing to provide any person with adequate maintenance.”

Orders for maintenance made by Supreme Court in exercise of its jurisdiction in divorce or other matrimonial proceedings may be enforced as maintenance orders under principal Act. Cf. 1925, No. 22, sec. 44

8. Where the Supreme Court in the exercise of its jurisdiction in divorce or other causes and matters matrimonial has, whether before or after the passing of this Act, made an order for the payment of any weekly or monthly amount to or for the benefit of any wife, or husband, or any child or children, a copy of such order, under the seal of the Court, may be registered in the prescribed manner in the office of a Magistrate's Court, and thereupon and so long as such order continues in force the order may be enforced, and all proceedings may be taken thereon, in the same manner as if it were, and at all times since the making thereof had been, a maintenance order made by a Magistrate acting under the authority of the principal Act.

Provision for appointment of officers of Court to facilitate recovery of arrears of moneys payable under maintenance order,

9. (1.) There may from time to time be appointed, in connection with any Magistrate's Court, an officer of the Court, hereinafter referred to as the Maintenance Officer.

(2.) The office of Maintenance Officer may be held in conjunction with any other office not deemed inconsistent therewith.

(3.) It shall be the duty of the Maintenance Officer to take all such proceedings as may be necessary under the principal Act or any other Act for the recovery of moneys payable under any maintenance order made under the principal Act, or under any maintenance order registered or confirmed in New Zealand in terms of the Maintenance Orders (Facilities for Enforcement) Act, 1921, or otherwise for the enforcement of any such order:

Provided that the Maintenance Officer shall not take proceedings for the recovery of any moneys under a maintenance order, or otherwise for the enforcement of such order, if the complainant in the original proceedings or the person to whom or for whose benefit the moneys are payable pursuant to the order requests in writing that such proceedings shall not be taken by the Maintenance Officer.

(4.) The fact that a Maintenance Officer takes any proceedings as aforesaid shall be conclusive evidence of his authority so to do; and no person shall be concerned to inquire whether or not there has been a request under the last preceding subsection to refrain from taking proceedings, or shall question the authority of the Maintenance Officer on the ground that he may not be the Maintenance Officer whose duty it is to take the proceedings.

(5.) All proceedings for the recovery of maintenance-moneys may be taken by a Maintenance Officer in his own name with the addition of the words "acting on behalf of [*Name and description of person entitled*] pursuant to section nine of the Destitute Persons Amendment Act, 1926."

(6.) In case of the absence from duty of the Maintenance Officer appointed in connection with any Magistrate's Court (from whatever cause such absence may arise), a Magistrate exercising jurisdiction in that Court may appoint a fit person to be the deputy of that Maintenance Officer to act for him while such absence may continue. Every person so appointed as the deputy of a Maintenance Officer shall while so acting have all the powers, duties, and functions of the Maintenance Officer whose deputy he is. The fact that any person with the concurrence of the Magistrate acts as the deputy of a Maintenance Officer shall be conclusive evidence of his authority so to do, and no person shall be concerned to inquire whether the occasion has arisen requiring or authorizing him so to act.

(7.) If a Maintenance Officer has not been appointed in connection with any Magistrate's Court, a Magistrate exercising jurisdiction in that Court may appoint any person, whether an officer of the Court or not, to take any proceedings for the recovery of moneys payable under a particular maintenance order or otherwise to enforce that order; and the person so appointed may, in respect of that order, take proceedings as if he had been duly appointed as a Maintenance Officer.

(8.) Any constable may without special appointment take proceedings in respect of any maintenance order as if he were a duly appointed Maintenance Officer.

(9.) All moneys recovered by a Maintenance Officer acting under this section shall be applied—

- (a.) In payment of the legal and other expenses (if any) incident to the recovery of those moneys; and
- (b.) In payment of the balance to the person or persons entitled under the maintenance order.

(10.) No action shall lie against the Crown, or against any Maintenance Officer or other person in respect of anything omitted to be done or purporting to have been done by such Maintenance Officer, his deputy, or any other person pursuant to any authority conferred by this section.

(11.) Section nine of the Maintenance Orders (Facilities for Enforcement) Act, 1921, and section twenty-two of the Appropriation Act, 1925, are hereby repealed.

10. (1.) Where in any proceedings under the principal Act the Court is of opinion that the interests of public morality require that all or any persons should be excluded from the Court it may exclude such persons therefrom accordingly :

Repeals.

Court may be cleared during proceedings under principal Act.
Cf. 1908, No. 32, sec 432

Provided that such power shall not be exercised for the purpose of excluding the complainant, or informant, or defendant, or any counsel or solicitor, or any constable, or any accredited newspaper reporter.

(2.) The Court in any such case may also, by order, forbid the publication of any report of the proceedings or any account of the evidence therein, either as to the whole or any portion thereof; and the breach of any such order, or any colourable or attempted evasion thereof, may be dealt with as contempt of Court.

(3.) The powers conferred on the Court by this section shall be exercisable by a Magistrate exercising any jurisdiction conferred on Magistrates by the principal Act.

11. The Governor-General may from time to time, by Order in Council, make all such regulations as may be required for the purpose of giving effect to the provisions of the principal Act.

Regulations for
purposes of
principal Act.