

[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1923.

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# A BILL

To amend the Deserted Wives and Children Act, 1901; and for purposes connected therewith.

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**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows :—

**1.** (1) This Act shall be construed with the Deserted <sup>Short title,</sup> Wives and Children Act, 1901, as amended by <sup>&c.</sup> subsequent Acts, and may be cited as the "Deserted Wives and Children (Amendment) Act, 1923."

(2) The Deserted Wives and Children Act, 1901, as so amended is hereinafter referred to as the Principal Act.

**2.** The Principal Act is amended as follows:—By inserting after section twenty-four the following new section:—

Amendment of Principal Act.

New s. 25.

Right of appeal.

25. Any person feeling aggrieved by any order made, or by the refusal of any application under Parts II or VI of this Act shall be entitled to an appeal, upon the terms and in the manner provided by section one hundred and twenty-two of the Justices Act, 1902, in respect of appeals to Courts of Quarter Sessions.

**3.** The Principal Act is further amended as follows:—

Amendment of Principal Act.

- (a) By omitting from section two the words "child includes illegitimate child";
- (b) by omitting from section four the words "or (b) any mother of an illegitimate child has deserted it or left it without means of support" occurring before the words "any justice";
- (c) by inserting in the same section before the word "father" where such word secondly, thirdly, and fourthly occurs the word "or";
- (d) by omitting from the same section the words "or mother" following the word "father" where such last mentioned word secondly, thirdly, and fourthly occurs;
- (e) by inserting in section thirteen before the word "father" wherever it occurs the word "or";
- (f) by omitting from the same section the words "or mother" wherever they occur, and by inserting after the word "father" where such word firstly occurs the words "cannot be found or";
- (g) by inserting in the same section after the word "thereof" the words "or has so removed."

Sec. 2.

Sec. 4.

Sec. 4.

Sec. 4.

Sec. 13.

Sec. 13.

Sec. 13.

**4.** The Principal Act is further amended—

Amendment of s. 5 (as to service of summons).

- (a) by omitting from subsection one of section five the words "found then" and by inserting in lieu thereof the words "conveniently met with by leaving the same";
- (b)

- (b) by adding at the end of the same subsection the words "with some person apparently of or above the age of sixteen years";
- (c) by omitting from subsection two of the same section the word "found" and by inserting in lieu thereof the words "conveniently met with."

**5.** The Principal Act is further amended by omitting section eight and by inserting the following sections in lieu thereof:—

Amendment of Principal Act, s. 8.

8. (1) When an order under the last preceding section is made for the support of any wife or child any two justices may, from time to time, while the order remains in force, require the defendant to enter into a recognisance with sureties for the due performance for a period not exceeding twelve months at any one time of such order.

Security for payment of amount may be ordered.

(2) In default of the defendant immediately entering into the recognisance with the required sureties the justices may commit the defendant to gaol, there to remain for any period not exceeding twelve months or until the recognisance has been entered into or the said order complied with to the extent of the period specified in the recognisance.

8A. (1) When an order under section seven is made for the support of a wife the justices making the order may, instead of or in addition to any other relief or remedy hereunder, authorise and direct some person to demand and receive any annuity or other income payable to the husband, or any moneys received or receivable or held by any person in trust to be paid periodically or by instalments or otherwise, to or for such husband, or such portion of such annuity or income or other moneys as the justices think fit, and to appropriate the proceeds towards such sum or allowance in such manner as they may direct.

Justices may attach annuity.

(2) While an order under section seven for the support of a wife remains in force any two justices may, from time to time, upon application made by the wife, by their order give the like authority and direction as is referred to in the last preceding subsection.

(3)

(3) Notice of the application shall be given in such manner as the justices shall direct to all parties to be affected thereby.

(4) Every payment made in pursuance of any such direction or order shall be as valid as if made to the husband or by his authority, and such direction or order shall protect and indemnify any person acting in pursuance thereof.

**6.** The Principal Act is further amended by adding the following subsection to section nine:—

Amendment of Principal Act, s. 9.

(2) While an order under section seven for the support of a wife or child remains in force any two justices may, if they are satisfied that the defendant has deserted such wife or child, from time to time upon application made by the wife or child, and upon notice given in such manner as the justices shall direct to all parties to be affected thereby, by their order give the like authority and direction as is referred to in the last preceding subsection.

**7.** The Principal Act is further amended—

Amendment of s. 11.

(a) by the addition at the end of section eleven of the words “but so that the offender shall not be detained for a longer period than twelve months”;

(b) and by the addition to the same section of the following new paragraph:—

The justice may, if the circumstances of the case seem to him to require it, issue his warrant for the apprehension of the offender.

**8.** The Principal Act is further amended by the insertion of the following new section next after section thirteen:—

New s. 13A.

13A. Where a deserted wife is with child, the Children’s Court or justices may in addition to the orders authorised to be made by section seven, make such and the like orders as a magistrate may make under Part II of the Infant Protection Act, 1904, in the case of a single woman with child, and the provisions of that Part shall be deemed to apply to any such order.

Power to make orders for confinement expenses, &c.

**9.** The Principal Act is further amended by the New s. 13B. insertion at the end of Part II of the following new section:—

13B. Orders may be made and enforced under this Act, notwithstanding that proceedings may have been instituted under the Matrimonial Causes Act, 1899, by a husband or a wife or that an order has been made in the proceedings: Jurisdiction not ousted by proceedings in divorce, &c.

Provided that no order shall be made under this Act for the maintenance or support of a wife who at the date of the application is entitled to payment of alimony under an order made by the Supreme Court in its Matrimonial Causes jurisdiction or where at the date of the application a petition for alimony has been filed and is then pending.

**10.** The Principal Act is further amended by Amendment of s. 21. omitting from section twenty-one the words "section seven" and by inserting in lieu thereof the words "Part II of this Act."