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[CONFIDENTIAL]

(Rough Draft for Consideration Only.)

No. , 1934.

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## A BILL

To make further provisions relating to persons committed to gaol for non-payment of alimony or maintenance; to validate certain orders; for these and other purposes to amend the Matrimonial Causes Act, 1899, the Prisons Act, 1899, the Justices Act, 1902, and certain other Acts; 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. This Act may be cited as the "Maintenance Short title: Confinees Act, 1934."

19423 (2)

2.

2. The Matrimonial Causes Act, 1899, as amended by subsequent Acts, is amended— Amendment  
of Act  
No. 14, 1899.

(a) by omitting from subsection three of section 90A all words after the word "gaol" and by inserting in lieu thereof the words:— Sec. 90A (3).

"for a period of one day for every four shillings or part of four shillings of the sum unpaid and of the sum awarded for costs; but no defendant shall be detained for a longer period than twelve months, and the period of detention shall in every case be subject to the provisions of section ninety-four of the Justices Act, 1902.

" Subject to the provisions of section 16A of the Prisons Act, 1899, the period of imprisonment suffered by a defendant in accordance with the provisions of this subsection shall not be deemed to discharge the sums for non-payment of which he was committed, but during such period the order for payment of the monthly or weekly sum shall be deemed to be suspended.

" No defendant shall be liable to be imprisoned a second time for non-payment of any sums for which he shall have actually suffered imprisonment as provided in this subsection, but such sums shall thereafter be a civil debt only, recoverable in any court of competent jurisdiction.

" Where it appears that the sum in respect of which the summons or warrant was issued has been paid since the service of the summons or the issue of the warrant, the justices may order the defendant to pay the costs of and incidental to the proceedings, and such costs may be recovered in a summary way under the provisions of the Justices Act, 1902."

(b)

(b) by inserting next after the same subsection the following new subsection:— New subsec. (3A).

(3A) Any process subsequent to an order made under subsection three of this section for the payment of the sum unpaid under an order of the Court may be issued, and any order consequent thereon may be made by the justices who made such first-mentioned order or by any other justices.

The justices may in and by any order made under this section do all or any of the things that justices may do under section ninety of the Justices Act, 1902, as amended by subsequent Acts, and that section of that Act shall apply accordingly.

(c) by inserting next after the same section the following new section:— New sec. 90B.

90B. (1) Where the Court commits any person to prison for his failure to comply with an order made by it for payment of costs, or of any sum due in respect of alimony or the maintenance of children, it may at the same or at any subsequent time by order authorise the Comptroller-General of Prisons to exercise in respect of such person the powers conferred by section 16A of the Prisons Act, 1899, as amended by subsequent Acts. Powers in respect of persons committed to prison.

(2) Where the justices, in pursuance of section 90A of this Act, direct that a defendant in default of payment be committed to gaol, they or a visiting justice appointed under the Prisons Act, 1899, may at any time after such defendant is so committed by order authorise the Comptroller-General of Prisons to exercise in respect of such defendant the powers conferred by section 16A of the Prisons Act, 1899, as amended by subsequent Acts.

(3) The Court may at any time upon the application of the person or defendant so committed, vary or annul any order made under this section

section. The application shall be made in the manner prescribed by rules of court.

(4) This section shall extend to a case where a person or defendant has been so committed before as well as to a case where he is so committed after the commencement of the Maintenance Confinees Act, 1934.

3. Any order made before the commencement of the Maintenance Confinees Act, 1934, under section 90A of the Matrimonial Causes Act, 1899, as amended by subsequent Acts, which would have been valid if subsection (3A) of that section had been enacted before such order was made, is hereby validated. Validation of certain orders.

4. The Prisons Act, 1899, as amended by subsequent Acts, is amended— Amendment of Act No. 27, 1899.

(a) by inserting in subsection one of section 16A after the word " under " the words " Part XVIII of the Matrimonial Causes Act, 1899, or "; Sec. 16A. (Prisoners' work.)

(b) by inserting in the same subsection after the words " class of work " the following words:—  
The Comptroller-General shall not so direct, in the case of a prisoner committed to prison under Part XVIII of the Matrimonial Causes Act, 1899, unless he is thereunto authorised by an order made pursuant to section 90B of that Act, and such order has not been annulled.

(c) by inserting at the end of subsection three of the same section the following new paragraph:—

(c) in the case of a commitment under Part XVIII of the Matrimonial Causes Act, 1899, in or towards the satisfaction of the order (if any) for the payment of sums in respect of alimony or the maintenance of wife or child of the prisoner, and subject thereto in or towards the satisfaction of any amount in respect of the non-payment whereof the prisoner has been committed to prison.

**5.** The Prisons Act, 1899, as amended by subsequent Acts, is further amended by omitting section nine and by inserting in lieu thereof the following new section:—

Further  
Amendment of  
Act No. 27,  
1899.  
Substituted  
s. 9.

9. All regulations made under section eight and all rules and regulations made under section eleven of this Act shall—

Publication  
of regula-  
tions.

- (a) be published in the Gazette;
- (b) take effect from the date of such publication or from a later date to be specified in the regulations;
- (c) be laid before both Houses of Parliament within fourteen sitting days after publication if Parliament is in session, and, if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

**6.** The Justices Act, 1902, is amended by inserting in subsection two of section eighty-two after the figures " 1901 " the figures and words " 1931, in section 90A of the Matrimonial Causes Act, 1899, as amended by subsequent Acts."

Amendment  
of Act  
No. 27, 1902,  
s. 82.