

Act No. 50, 1899.

JUSTICES (FINES).          An Act to make better provision for the payment and recovery of moneys adjudged by justices of the peace to be paid, and with regard to imprisonment awarded by such justices. [29th December, 1899.]

**B**E it enacted by the Queen'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:—

Payment by instalments of, or security taken for payment of money.  
42 & 43 Vic., c. 49, s. 7.

1. Any justice or justices, by whose conviction or order any sum is adjudged to be paid, may do all or any of the following things, namely—

- (1) allow time for the payment of the said sum; and
- (2) direct payment to be made of the said sum by instalments; and

(3)

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- (3) direct that the person liable to pay the said sum shall be at liberty to give to the satisfaction of the justice or justices, or such other justice or justices, or such person as may be specified by the first-mentioned justice or justices, security, with or without a surety or sureties, for the payment of the said sum or of any instalment thereof; and such security may be given and endorsed in manner provided by this Act.

Where a sum is directed to be paid by instalments, and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

Any justice or justices directing the payment of a sum, or of an instalment of a sum, may direct such payment to be made at such time or times, and in such place or places, and to such person or persons as may be specified by the justice or justices; and every person to whom any such sum or instalment is paid, when not the clerk of the court presided over by the said justice or justices, shall, as soon as may be, account for and pay over the same to that clerk.

2. (1) A person shall give the security mentioned in the last preceding section, whether as principal or surety, either by the deposit of money with the clerk of the court presided over by the justice or justices authorising the security, or by an oral or written acknowledgment of the undertaking or condition by which, and of the sum for which, he is bound, in such manner and form as may be directed by rules made under this section, and evidence of such security may be provided by such entry thereof as may be directed by a rule made as aforesaid.

Security taken in pursuance of preceding section.  
42 & 43 Vic., c. 49, s. 23.

(2) Any sum which may become due in pursuance of a security under this Act from a surety may be recovered as a debt due to Her Majesty in any court of competent jurisdiction at the suit of any person appointed by and under the hands and seals of the justice or justices authorising the security.

(3) Any justice or justices may enforce payment of any sum due by a principal in pursuance of a security under this Act, which appears to such justice or justices to be forfeited, in like manner as if that sum were adjudged by a justice or justices to be paid as a fine which the statute provides no mode of enforcing, provided that before a warrant of distress for the sum is issued, such notice of the forfeiture shall be served on the said principal, and in such manner as may be directed by rules made under this section, and subject thereto by the justice or justices authorising the security, or by any justice or justices to whom application is made for the issue of the warrant.

(4) Any sum paid by a surety on behalf of his principal in respect of a security given in pursuance of this Act, together with all costs,

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costs, charges, and expenses incurred by such surety in respect of that security, shall be deemed a civil debt due to him from the principal, and may be recovered in any court of competent jurisdiction.

(5) Where security is given under this Act for the payment of a sum of money, the payment of such sum shall be enforced by means of such security in substitution for other means of enforcing such payment.

(6) The Governor may make rules as to any matter which this section provides shall be done as directed by rules made thereunder, and any rule purporting to be made under this section shall, on publication in the Gazette, have the force of law, and shall be laid before both houses of Parliament within one month after such publication, if Parliament be then sitting, or if not then sitting, within one month after the commencement of the then next session of Parliament.

Scale of imprisonment for non-payment of money. 42 & 43 Vic., c. 49, s. 7.

3. The period of imprisonment imposed by a justice or justices under any Act, in respect of the non-payment of any sum of money adjudged to be paid by a conviction or order, or in respect of the default of a sufficient distress to satisfy any such sum, shall, notwithstanding any enactment to the contrary in any past Act, be such period as in the opinion of the justice or justices will satisfy the justice of the case, but shall not in any case exceed the maximum fixed by the following scale, that is to say:—

Where the amount of the sum or sums of money adjudged to be paid by a conviction or order as ascertained by the conviction or order—	The said period shall not exceed—
Does not exceed ten shillings ... ..	Seven days.
Exceeds ten shillings, but does not exceed one pound ... ..	Fourteen days.
Exceeds one pound, but does not exceed five pounds ... ..	One month.
Exceeds five pounds, but does not exceed twenty pounds ... ..	Two months.
Exceeds twenty pounds ... ..	Three months.

And such imprisonment shall be without hard labour, except where hard labour is authorised by the Act on which the conviction or order is founded, in which case the imprisonment may, if the justice or justices think that the justice of the case requires it, be with hard labour, so that the term of hard labour awarded do not exceed the term authorised by the said Act.

Special provisions as to warrants of commitment for non-payment of sums of money, and as to warrants of distress. *Ibid.* s. 21.

4. (1) A justice or justices to whom application is made, either to issue a warrant of distress for any sum adjudged to be paid by a conviction or order, or to issue a warrant for committing a person to prison for non-payment of a sum of money adjudged to be paid by a conviction or order, or for default of sufficient distress to satisfy any such

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such sum, may if the justice or justices deem it expedient so to do, postpone the issue of such warrant until such time and on such conditions, if any, as to the justice or justices may seem just.

(2) Where on application to a justice or justices to issue a warrant for committing a person to prison for non-payment of a sum adjudged to be paid by a conviction or order of any justice or justices, or for default of sufficient distress to satisfy any such sum, it appears to the justice or justices to whom the application is made that either by payment of part of the said sum, whether in the shape of instalments or otherwise, or by the net proceeds of the distress, the amount of the sum so adjudged has been reduced to such an extent that the unsatisfied balance, if it had constituted the original amount adjudged to be paid by the conviction or order, would have subjected the defendant to a maximum term of imprisonment less than the term of imprisonment in which he is liable under such conviction or order, the justice or justices shall, by his or their warrant of commitment, revoke the term of imprisonment and order the defendant to be imprisoned for a term not exceeding such less maximum term, instead of for the term originally mentioned in the conviction or order.

**5.** Where a person is committed to prison for non-payment of a sum adjudged to be paid by the conviction or order of any justice or justices, or for default or in lieu of sufficient distress to satisfy any such sum, then on payment to the gaoler or keeper of the prison, under conditions prescribed by prison rules, of any sum in part satisfaction of the sum so adjudged to be paid, and of any charges for which the prisoner is liable, the term of imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days for which the prisoner is sentenced as the sum so paid bears to the sum for which he is so liable, and the said gaoler or keeper shall, on the expiration of the term so reduced, discharge the prisoner if he is in custody for no other matter.

**6.** The expression, "sum adjudged to be paid by a conviction or order," includes any costs adjudged to be paid by the conviction or order, as the case may be, of which the amount is ascertained by such conviction or order.

**7.** This Act shall be construed with the Act eleventh and twelfth Victoria, chapter forty-three (as adopted and applied by the Act of Council fourteenth Victoria number forty-three), and any Acts amending the same, and may be cited as the "Justices (Fines) Act, 1899."