

MATRIMONIAL CAUSES (AMENDMENT) ACT.

Act No. 5, 1929.

George V. An Act to amend the Matrimonial Causes Act,
No. 5, 1929. 1899; and for purposes connected there-
with. [Assented to, 26th March, 1929.]

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

Short title.

1. This Act shall be construed with the Matrimonial
Causes Act, 1899, herein called the Principal Act, and
may be cited as the “Matrimonial Causes (Amendment)
Act, 1929.”

2.

2. (1) The Principal Act is amended—

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(a) by omitting section ninety-one and substituting therefor the following section :—

Amendment of Act No. 14, 1899. Sec. 91.

91. (1) The judges of the Supreme Court, or any three of them, may make general rules—

Power to make rules.

- (a) for regulating the pleading, practice, and procedure of the court, and may by such rules amend, vary, or dispense with any provisions of this Act regulating such pleading, practice, or procedure ;
- (b) for fixing the amount of all fees and allowances to officers of the court and solicitors in respect of proceedings under this Act ;
- (c) for enabling persons to sue in the court in forma pauperis, and for regulating the exercise by the registrar of the jurisdiction and powers conferred upon or delegated to the registrar under this Act, and the right of appeal from the registrar ;
- (d) generally as to all matters necessary or expedient for giving effect to the provisions of this Act.

(2) The judges of the Supreme Court or any three of them may by rules of court made in that behalf delegate to the registrar power to do such things and transact such business and to exercise any such authority and jurisdiction as is now done, transacted, or exercised by the court except in respect of the hearing of suits or in respect of matters relating to the liberty of the subject :

Provided that the registrar may in case of doubt or difficulty refer any matter to the court :

Provided also that the court may direct any matter in which an order has been made by the registrar to be re-argued before the court upon giving a direction to that effect within the prescribed time after such order has been made by the registrar.

(3)

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(3) In this section "registrar" includes a deputy-registrar.

(4) A copy of every such rule shall be laid before both Houses of Parliament within fourteen sitting days if Parliament is in session, or if not then within fourteen sitting days of the commencement of the next session.

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

Sec. 47.

(b) by omitting section forty-seven and by inserting the following section:—

Court may order payment of costs.

47. (1) The court may make any order as to the costs of any proceedings under this Act which it deems just, and except in the case of proceedings on appeal may order payment of costs as between solicitor and client.

(2) The court may by consent of all parties appearing at the hearing before the court assess the costs of any proceedings, and in the case of interlocutory proceedings may do so without the consent of the parties, and the costs so assessed shall be recoverable from the person ordered to pay the same in the same manner as if they had been duly taxed and certified by the taxing officer.

Sec. 94.

(c) (i) by inserting at the end of section ninety-four the following paragraph:—

(h) to exercise the powers and jurisdiction delegated to him under this Act.

(ii) by inserting at the end of the same section the following new subsection:—

(2) In this section "registrar" includes deputy-registrar.

(d) by inserting at the end of section eighty-three the words "or a deputy registrar."

(2) Any rule in force at the commencement of this Act shall continue in force until repealed by rules made under the power conferred by the amendment inserted in the Principal Act by subsection one of this section.

3. The Principal Act is further amended by inserting after section ninety the following section:—

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Further amend-
ment of Act
No. 14, 1899,
New s. 90A.
Summary
proceedings
to enforce
orders for
alimony or
maintenance.

90A. (1) Where the court has made an order for the payment of any monthly or weekly sum by a husband or father in respect of alimony or the maintenance of his wife or child, and any sum due under the order is unpaid, any justice, upon complaint on oath being made by the wife or by any reputable person on behalf of the wife or child that the wife or child is unable through lack of means to have the order enforced by attachment, may—

- (a) issue his summons requiring the husband or father to appear before two justices to show cause why he should not pay such sum; or
- (b) issue his warrant for the apprehension of the husband or father.

(2) The complaint shall be dealt with in like manner as a complaint under the Deserted Wives and Children Act, 1901, and the provisions of sections five and six of that Act, and of section ninety-seven of the Child Welfare Act, 1923, shall apply accordingly.

(3) Upon the hearing the justices shall inquire into the complaint, and if they are satisfied that any sum due under the order is unpaid and that the wife or child is unable through lack of means to have the order enforced by attachment, they may order the defendant to pay to such person as they may think fit the sum unpaid, together with such further sum for costs as they may deem proper, and in default of payment may order that the defendant be committed to gaol, there to remain for any period not exceeding twelve months, or until sooner payment or until compliance with any order made by the justices under this section.

(4) The justices may in and by an order made under this section do all or any of the things that justices may do under section eighty-three of the Justices Act, 1902, and that section and section eighty-four of that Act shall apply accordingly.

(5)

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(5) For the purposes of this section a certificate of the registrar or deputy-registrar in divorce that any sum which was to be paid into court has not been so paid shall be prima facie evidence of such fact.

(6) Where any order is made under the provisions of this section the justices making the order shall notify the registrar in the prescribed manner.

(7) The court may on application made in the prescribed manner amend, set aside, or vary any order made by justices under this section.

(8) In this section "husband" and "wife" include persons against whom or in whose favour the court has made an order for payment in respect of alimony or maintenance, notwithstanding that at the time of any proceedings under this section the marriage of such persons has been dissolved, and "justice" means a justice of the peace.

Further
amendment of
Act No. 14, 1899.
Sec. 73.
Jury panel.

4. The Principal Act is further amended—

(a) by omitting from subsection one of section seventy-three the word "forty-eight" and by inserting in lieu thereof the word "twelve"; and by omitting from subsection two of the same section the word "six" and by inserting in lieu thereof the word "two";

Sec. 74.
Calling
jury.

(b) by omitting from subsection three of section seventy-four the word "twelve" and by inserting in lieu thereof the word "four"; also by omitting the word "six" and by inserting in lieu thereof the word "two";

Sec. 75.
Impanelling
jury.

(c) by omitting from subsection one of section seventy-five the word "six" and by inserting in lieu thereof the word "two"; and by omitting from subsection five of the same section the word "twelve" and by inserting in lieu thereof the word "four";