

Legislative Council.

No. \_\_\_\_\_, 1929.

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## A BILL

To enable the Sheriff to levy in execution of writs issued under the provisions of the Fines and Forfeited Recognizances Recovery Act, 1902, upon real estate and other property; to extend to such writs the provisions of Part III of the Judgment Creditors Remedies Act, 1901, with certain modifications, and Part XXIII of the Conveyancing Act, 1919; to amend the Fines and Forfeited Recognizances Recovery Act, 1902, and certain other Acts; and for purposes connected therewith.

[MR. BOYCE;—5 *March*, 1929.]

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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 :—

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Short title.

**1.** This Act may be cited as the "Fines and Forfeited Recognizances Recovery (Amendment) Act, 1929."

Amendment of Act No. 75, 1902.

New s. 8A.

Application of Part III of Act No. 8, 1901, and Division 1 of Part XXIII of Act No. 6, 1919, to writs of fi. fa. issued under this Act.

**2.** The Fines and Forfeited Recognizances Recovery Act, 1902, is amended by inserting next after section eight the following new section :—

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8A. (1) The Sheriff in execution of any writ of distringas and capias or fieri facias and capias issued under this Act may and shall seize and take any property real or personal of or belonging to the persons named in the copy estreat roll to which the writ is attached or to the person named in the writ as the case may be to the same extent in the same manner and subject to the same conditions as he may seize and take the same in execution of a writ of fieri facias by virtue of Part III of the Judgment Creditors Remedies Act, 1901, in all respects as if the writ issued in pursuance of this Act had been sued out of or issued by the Supreme Court by or on behalf of a judgment creditor, and the provisions of that Part shall be deemed to extend to such writ with the following modifications :—

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Certain modifications of Part III of Act No. 8, 1901.

- (a) section eight shall not apply ;
- (b) sections five and nine shall be read as if the words "the Colonial Treasurer" were inserted therein in lieu of the words "the person suing out such writ" ;
- (c) section thirteen shall not apply ;
- (d) section fifteen shall be read as if—
  - (i) the words "heretofore or" were omitted ;
  - (ii) the words "person whose property is directed to be levied upon" were inserted therein in lieu of the words "a judgment debtor" ;

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(iii)

- (iii) the word "person" were inserted in lieu of the word "debtor";
- (iv) the words "judgment and" were omitted;
- 5 (e) section sixteen shall be read as if—
- (i) from subsection one the words "legal process issues against the goods of a judgment debtor for the execution of a judgment of any Court and such goods are" were omitted and the words "a writ in pursuance of the Fines and Forfeited Recognizances Act, 1902, issues against the property, real or personal, of any person and any of the property is" were inserted in lieu thereof;
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- (ii) from the same subsection the words "such process" were omitted and the words "the writ" were inserted in lieu thereof;
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- (iii) from the same subsection the words "judgment debtor in such goods" were omitted and the words "such person in the property so subject" were inserted in lieu thereof;
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- (iv) from subsections two and three the words "the said goods" were omitted and the words "the property so subject" were inserted in lieu thereof;
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- (v) from subsection four the words "any execution creditor" were omitted and the words "the Crown" were inserted in lieu thereof;
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- (f) section seventeen shall not apply;
- 35 (g) section eighteen shall be read as if the words "out of the Supreme Court" were omitted and the words "under the provisions of the Fines and Forfeited Recognizances Recovery Act, 1902" were inserted in lieu thereof.

(2) The provisions of Division 1 of Part XXIII of the Conveyancing Act, 1919, shall extend to any writ issued in pursuance of this Act.

(3) Subject to the provisions of section one hundred and five of the Real Property Act, 1900, a writ issued under the provisions of this Act shall bind the land of the person upon whose property the writ directs a levy to be made as and from the date of the registration of the writ in the Registry of Causes, Writs, and Orders affecting land, kept at the office of the Registrar-General. 5

Further amendment of Act No. 75, 1902.

Sec. 7 (1).

**3. The Fines and Forfeited Recognizances Recovery Act, 1902, is further amended—**

(a) (i) by omitting from subsection one of section seven the words "goods and chattels" where firstly occurring and by inserting in lieu thereof the word "property, real or personal"; 15

(ii) by omitting from the same subsection the words "goods and chattels are" and by inserting in lieu thereof the words "property, real or personal, is"; 20

Sec. 8 (1).

(b) by omitting from subsection one of section eight the words "goods and chattels" and by inserting in lieu thereof the word "property, real or personal"; 25

Sec. 11.

(c) by omitting from section eleven the words "goods and chattels" and by inserting in lieu thereof the word "property, real or personal"; 30

Sec. 12 (2).

(d) by omitting from subsection two of section twelve the words "such order" and by inserting in lieu thereof the words "an order discharging the whole of a forfeited recognizance or fine or any part thereof"; 35

Sec. 14 (2).

(e) by inserting at the end of subsection two of section fourteen the words "until the amount directed to be levied has been paid notwithstanding that the person liable to pay has been taken into custody under any such writ"; 40

(f)

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- (f) (i) by omitting from the Third Schedule the words "goods and chattels" wherever occurring and by inserting in lieu thereof the word "property, real or personal";
- 5 (ii) by inserting in the same Schedule after the words "for their appearance at such sessions" the words "and otherwise in accordance with section eight of the Fines and Forfeited Recognizances Recovery Act, 1902."
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[7d.]

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