

MATRIMONIAL CAUSES (AMENDMENT) BILL, 1958.

*Schedule of Amendments referred to in Legislative Council's  
Message of 26 March, 1958.*

No. 1—Page 11, clause 2, line 15. *After “may” insert “, subject to subsection five of this section,”.*

No. 2—Page 11, clause 2. *After line 18 insert—*

**“(5) (a) On the application of the person against whom the order was made or his executor or administrator, the Court, if it deems it just and proper to do so, may, whether or not proceedings to enforce the judgment have been commenced—**

**(i) order that the judgment shall not be enforced; or**

**(ii) order that the judgment be paid at such time or times and by such instalments, if any, as the Court thinks fit,**

**and, where proceedings to enforce the judgment have been commenced, may—**

**(iii) set aside or stay execution if execution has issued;**

**(iv) set aside an order made in those proceedings attaching debts due, owing or accruing to that person and order that any moneys that have already been received by the judgment creditor under the order firstmentioned in this subparagraph or that have been paid into court under the order firstmentioned in this subparagraph but have not been paid to the judgment creditor be paid to the person firstmentioned in this subparagraph or his executor or administrator;**

**(v) make such other or further order in relation to those proceedings as may be just.**

**(b) The powers conferred on a Court by this subsection shall not be construed as limiting or affecting any power possessed by the Court apart from this subsection.**

**(c) In this subsection ‘Court’ means—**

**(i) where the certificate is filed in the Supreme Court—the Supreme Court in its common law jurisdiction or a Judge of that Court exercising that jurisdiction;**

**(ii) where the certificate is filed in a District Court—a Judge of that Court.”**

No. 3—Page 12, clause 2, line 26. *Before “Rules” insert “(6)”.*

No. 4—Page 12, clause 2, line 27. *After “procedure” insert “, to be observed”.*

No. 5—Page 12, clause 2, lines 28 and 29. *After “Courts” omit “to be observed” insert “, for carrying out or giving effect to this section and, without limiting the generality of the power conferred by the foregoing provisions of this subsection, may prescribe the practice and procedure to be so observed”.*



*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

ALLAN PICKERING,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 13 March, 1958.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

J. R. STEVENSON,  
*Clerk of the Parliaments.*

*Legislative Council Chamber,  
Sydney, 26 March, 1958.*

## New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

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Act No. , 1958.

An Act to amend the law relating to alimony and maintenance; for this purpose to amend the Matrimonial Causes Act 1899, the Deserted Wives and Children Act, 1901, and certain other Acts in certain respects; and for purposes connected therewith.

BE 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  
5 the same, as follows:—

1. (1) This Act may be cited as the "Matrimonial Causes (Amendment) Act, 1958".

Short title, citation and commencement.

99969

93—A

(2)

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

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*Matrimonial Causes (Amendment).*

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(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1958.

(3) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1958.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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

(a) by inserting in section three before the definition of "The Court" the following new definitions:— Sec. 3.  
(Interpre-  
tation.)

"Alimony" includes maintenance.

15 "Marriage" includes a union which is ostensibly a marriage and which is the subject of judicial proceedings to determine its validity.

20 (b) by omitting from section five the words "other than proceedings to dissolve any marriage" and by inserting in lieu thereof the words ", other than proceedings to dissolve any marriage or proceedings under Part VIII of this Act,"; Sec. 5.  
(Court to  
act on  
principles  
of Ecclesias-  
tical  
Courts.)

25 (c) by omitting section eight, subsection two of section nine and section ten; Secs. 8,  
9 (2) and  
10.

(d) by omitting from subsection two of section twenty-three the words "the payment of permanent alimony the maintenance of children and"; (Repeal.)  
Sec. 23.  
(Application  
by re-  
spondent.)

(e)

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*Matrimonial Causes (Amendment).*

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(e) by omitting Part VIII and by inserting in lieu thereof the following Part:— Subst.  
Part VIII.

PART VIII.

ALIMONY.

5           39. (1) In any proceedings under this Act Alimony.  
          (other than proceedings for jactitation of  
          marriage), the Court may make such order as it  
          deems just and proper, having regard to the  
10           means and conduct of the parties to the  
          marriage and all other relevant circumstances,  
          for the payment of alimony to one party to the  
          marriage by the other party, or for the mainten-  
          ance of the children the marriage of whose  
15           parents is the subject of the proceedings,  
          including an order in favour of a party against  
          whom a decree in the proceedings is made.

(2) An order for alimony—

- (a) pending the hearing of a petition for  
          restitution of conjugal rights; and
- 20           (b) made before or after the commence-  
          ment of the Matrimonial Causes  
          (Amendment) Act, 1958,

25           shall, if a decree is made in favour of the  
          party in whose favour the order was made, but  
          subject to any special terms of the order, con-  
          tinue in force after the time in that behalf  
          limited by the Court for compliance with the  
          decree until varied or revoked:

30           Provided that in the case of any such order  
          made before the commencement of the Matri-  
          monial Causes (Amendment) Act, 1958, this  
          subsection applies only where the time so limited  
          expires after that commencement.

(3)

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*Matrimonial Causes (Amendment).*

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(3) An order for alimony—

(a) pending the hearing of a petition for judicial separation; and

5 (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

shall, if a decree is made in favour of the person in whose favour the order was made, but subject to any special terms of the order, continue in force after the decree until varied or revoked:

10  
15 Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where the decree in the suit is made after that commencement.

(4) An order for alimony—

(a) pending the hearing of a petition for dissolution of marriage; and

20 (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

25 shall, where that order is in force immediately before the decree *nisi* in the suit is made absolute, but subject to any special terms of the order, continue in force after the decree absolute until varied or revoked:

30 Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where the decree *nisi* is made absolute after that commencement.

(5) An order for the maintenance of a child—

35 (a) pending the hearing of a petition for restitution of conjugal rights, judicial separation, dissolution of marriage or nullity of marriage; and

(b)

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*Matrimonial Causes (Amendment).*

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(b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

5 shall, subject to any special terms of the order, but in so far only as it relates to the maintenance of the child, continue in force—

(i) in a case of restitution of conjugal rights—after the time in that behalf limited by the Court for compliance with the decree in the suit until varied or revoked;

(ii) in any other case—after the final decree or decree absolute in the suit until varied or revoked:

15 Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where—

20 (i) in a case of restitution of conjugal rights—the time so limited expires after that commencement;

(ii) in any other case—the final decree or decree absolute is made after that commencement.

25 Nothing in this subsection affects the operation of subsection two, three or four of this section.

40. (1) The Court, in exercising its powers under this Part of this Act, may—

Specific powers of Court.

30 (a) order that a gross sum or a weekly, fortnightly, monthly or other periodic sum be paid or secured and order that any security is to be in addition to or wholly or partly in substitution for a periodic payment;

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(b)

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*Matrimonial Causes (Amendment).*

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- 5 (b) order that any necessary deed or instrument be executed and that such documents of title be produced or such other things be done as are necessary to enable an order to be effectively carried out or to provide security for the due performance of an order;
- (c) settle and approve any deed or instrument so ordered to be executed;
- 10 (d) order that payments be made direct to a party to the marriage, to a trustee to be appointed or to any public authority for the benefit of a party to the marriage;
- 15 (e) order that payments of maintenance in respect of a child be made to such person as the Court may specify;
- 20 (f) make a permanent order, an order pending the disposal of the proceedings or an order for a fixed term, for a life or during joint lives;
- (g) impose terms and conditions;
- 25 (h) discharge an order if the party in whose favour the order is made marries again or if there is any other just cause for so doing;
- 30 (i) modify an order under this Part or suspend its operation wholly or in part and either until further order or until a fixed time or the happening of some future event;
- (j) revive an order wholly or in part;
- 35 (k) increase or decrease the amount payable under an order other than an order pursuant to which a gross or periodic sum is secured;

(l)



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*Matrimonial Causes (Amendment).*

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- (l) sanction an agreement for the acceptance of a gross sum or periodic sums in lieu of rights under this Part;
- 5 (m) deal with any two or more matters mentioned in this subsection in the same order;
- 10 (n) include its order under this Part in a decree *nisi*, decree absolute, or final decree, or make any order under this Part on, or at any time before or after, the pronouncement of any such decree.
- (2) Notwithstanding anything contained in this Part—
- (a) where no alimony was payable—
- 15 (i) in a case of restitution of conjugal rights, immediately before the expiration of the time limited by the Court for compliance with the decree in the proceedings; or
- 20 (ii) in any other case, immediately before the pronouncement of the decree absolute or final decree in the proceedings; or
- 25 (b) where alimony was so payable but the order therefor was not continued in force by virtue of the operation of subsection two, three or four of section thirty-nine of this Act,
- 30 the Court shall not make an order for permanent alimony in respect of the proceedings unless application therefor was or is made before, on, or, having regard to all the circumstances of the case, within a reasonable time
- 35 after, the pronouncement of the decree absolute or final decree.

(3)

*Matrimonial Causes (Amendment).*

5 (3) The Court may exercise the powers conferred by this Part in relation to an order for alimony or maintenance made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, as well as in relation to an order for alimony or maintenance made after that commencement.

10 41. (1) Where any person, directed by an order under this Part to execute any deed or other instrument or make a surrender or transfer, refuses or neglects to do so, the Court may appoint the Chief Clerk in Divorce, or some other person, to execute the deed or instrument or to make the surrender or transfer in his name, and to do all acts necessary to give validity and operation thereto.

Execution of instruments by order of Court. cf. Act No. 24, 1901, s. 90.

20 (2) The execution of the deed or instrument and the surrender or transfer so made by the person so appointed shall in all respects have the same force and validity as if it had been executed or made by the person directed by the order to execute or make it.

25 (3) The Court shall make such order as may be just touching the payment of the costs of, or attending the execution of, any such deed, transfer, surrender or instrument.

30 42. This Part applies to proceedings under this Act (other than proceedings for jactitation of marriage) pending at the commencement of the Matrimonial Causes (Amendment) Act, 1958, as well as to proceedings under this Act (other than proceedings for jactitation of marriage) instituted after that commencement.

Pending proceedings.

(f)

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*Matrimonial Causes (Amendment).*

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- (f) by omitting from the heading to Part XIII the words "AND MAINTENANCE"; Part XIII.  
Heading.
- (g) by omitting from subsection one of section sixty the word "maintenance"; Sec. 60.  
(In suits for separation, nullity or dissolution.)
- 5 (h) by omitting from section sixty-two the word "maintenance"; Sec. 62.  
(In applications for conjugal rights.)
- (i) (i) by inserting in subsection one of section 90A after the word "monthly" the word ", fortnightly"; Sec. 90A.  
(Summary proceedings to enforce orders for alimony or maintenance.)
- 10 (ii) by omitting from the same subsection the words "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
- 15 child that the wife or child is unable through lack of means to have the order enforced by attachment, may" and by inserting in lieu thereof the words "any justice may, upon complaint on oath being made by the wife
- 20 or by any reputable person on behalf of the wife or child that any sum due under the order is unpaid";
- (iii) by omitting from subsection two of the same section the words "section ninety-seven of the Child Welfare Act, 1923" and by inserting in lieu thereof the words "section twelve of the Child Welfare Act, 1939";
- 25
- (iv) by omitting from subsection three of the same section the words "and that the wife or child is unable through lack of means to have the order enforced by attachment";
- 30
- (†) (v)

*Matrimonial Causes (Amendment).*

(v) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection:—

5 (8) In this section "husband" includes a male person against whom the court has made an order for payment in respect of alimony and "wife" includes a female person in whose favour the court has made such an order, and "justice" means justice  
10 of the peace.

(j) by inserting in Part XVIII next after section 90A New sec. 90B. the following new section:—

15 90B. (1) This section applies to an order made by the Court before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958, for the payment by any person of alimony or maintenance to any other person. Enforcement of order by means of certificate of amount due and judgment thereon.

20 (2) Notwithstanding anything contained in this or any other Act an order to which this section applies made against a female shall be enforced only in the manner provided in this section. cf. Act No. 17, 1901, s. 13A.

25 (3) Where it is made to appear upon oath to the registrar or a deputy-registrar in divorce that default has, before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958, been made by a person against whom an order to which this section applies has been made in making the payments directed by the order and that an amount of more than ten pounds is due thereunder, the registrar or deputy-registrar may grant a certificate in the prescribed form stating the amount due under the order at the date of the certificate without requiring notice of the  
30 application to be given to that person.  
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(4)

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*Matrimonial Causes (Amendment).*

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5 (4) The person entitled to receive the  
money ordered to be paid may file or cause to  
be filed the certificate in the Supreme Court or  
in any District Court having jurisdiction within  
the district wherein the person against whom  
the order was made resides or wherein any real  
property of the last-mentioned person is  
situated, and the Prothonotary or the registrar  
of the District Court in which the certificate is  
10 so filed, as the case may be, shall enter judgment  
for the person so entitled for the amount stated  
to be due in the certificate together with the fees  
paid therefor and for filing the certificate and  
entering the judgment.

15 The judgment may, **subject to subsection five  
of this section**, be enforced in any manner in  
which a final judgment in an action may be  
enforced.

20 (5) (a) On the application of the person  
against whom the order was made or his executor  
or administrator, the Court, if it deems it just  
and proper to do so, may, whether or not pro-  
ceedings to enforce the judgment have been  
commenced—

25 (i) order that the judgment shall not be  
enforced; or

(ii) order that the judgment be paid at such  
time or times and by such instalments,  
if any, as the Court thinks fit,

30 and, where proceedings to enforce the judgment  
have been commenced, may—

(iii) set aside or stay execution if execution  
has issued;

35 (iv) set aside an order made in those pro-  
ceedings attaching debts due, owing or  
accruing to that person and order that  
any moneys that have already been  
received

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*Matrimonial Causes (Amendment).*

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5 received by the judgment creditor under the order firstmentioned in this subparagraph or that have been paid into court under the order firstmentioned in this subparagraph but have not been paid to the judgment creditor be paid to the person firstmentioned in this subparagraph or his executor or administrator;

10 (v) make such other or further order in relation to those proceedings as may be just.

15 (b) The powers conferred on a Court by this subsection shall not be construed as limiting or affecting any power possessed by the Court apart from this subsection.

(c) In this subsection "Court" means—

20 (i) where the certificate is filed in the Supreme Court—the Supreme Court in its common law jurisdiction or a Judge of that Court exercising that jurisdiction;

25 (ii) where the certificate is filed in a District Court—a Judge of that Court.

30 (6) Rules of court may prescribe the practice and procedure, to be observed in the Supreme Court and in District Courts to be observed, for carrying out or giving effect to this section and, without limiting the generality of the power conferred by the foregoing provisions of this subsection, may prescribe the practice and procedure to be so observed in connection with the filing of certificates and entering up of judgments thereon in pursuance of this section, and the fees to be paid.

(k)

*Matrimonial Causes (Amendment).*

(k) (i) by omitting from section one all matter Sec. 1.  
relating to Part VIII and by inserting in (Conse-  
lieu thereof the following matter:— quential.)

PART VIII.—ALIMONY—ss. 39-42.

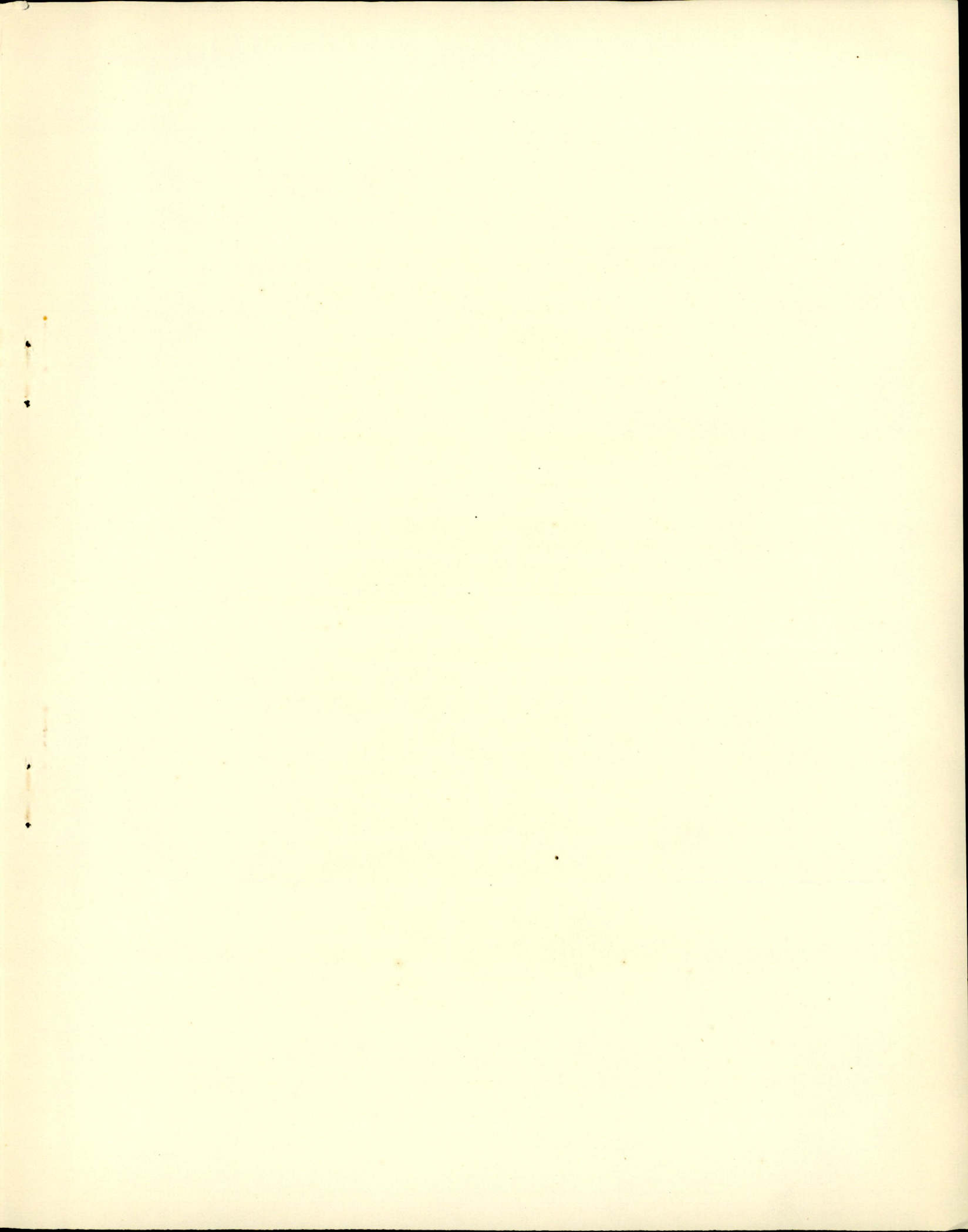
5 (ii) by omitting from the matter relating to  
Part XIII in the same section the words  
“AND MAINTENANCE”.

3. The Deserted Wives and Children Act, 1901, as Amendment  
amended by subsequent Acts, is amended by inserting in of Act No.  
10 Part II next after section 13B the following new 17, 1901.  
section:— New sec.  
13c.

15 13c. An order made under section seven of Dissolution  
this Act shall not be taken to be discharged or of marriage  
cancelled by reason only of the dissolution after not to  
the commencement of the Matrimonial Causes affect main-  
15 (Amendment) Act, 1958, of the marriage tenance  
between the husband and the wife, and for the order.  
purposes of enforcing, varying, suspending or  
20 discharging the order a reference in this Act to  
“husband” includes a reference to the person  
who before the marriage was dissolved was the  
husband and a reference in this Act to “wife”  
includes a reference to the person who before  
the marriage was dissolved was the wife.









*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

ALLAN PICKERING,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 13 March, 1958.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with  
Amendments.*

*Clerk of the Parliaments.  
Legislative Council Chamber,  
Sydney, March, 1958.*

## New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

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Act No. , 1958.

An Act to amend the law relating to alimony and maintenance; for this purpose to amend the Matrimonial Causes Act 1899, the Deserted Wives and Children Act, 1901, and certain other Acts in certain respects; and for purposes connected therewith.

BE 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  
5 the same, as follows:—

1. (1) This Act may be cited as the "Matrimonial Causes (Amendment) Act, 1958".

Short title,  
citation and  
commence-  
ment.

99969

93—A

(2)

NOTE.—The words to be omitted are ruled through; those to be inserted are printed in black letter.

*Matrimonial Causes (Amendment).*

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1958.

(3) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1958.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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

(a) by inserting in section three before the definition of "The Court" the following new definitions:— Sec. 3. (Interpretation.)

"Alimony" includes maintenance.

15 "Marriage" includes a union which is ostensibly a marriage and which is the subject of judicial proceedings to determine its validity.

20 (b) by omitting from section five the words "other than proceedings to dissolve any marriage" and by inserting in lieu thereof the words ", other than proceedings to dissolve any marriage or proceedings under Part VIII of this Act,"; Sec. 5. (Court to act on principles of Ecclesiastical Courts.)

25 (c) by omitting section eight, subsection two of section nine and section ten; Secs. 8, 9 (2) and 10. (Repeal.)

(d) by omitting from subsection two of section twenty-three the words "the payment of permanent alimony the maintenance of children and"; Sec. 23. (Application by respondent.)

(e)

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*Matrimonial Causes (Amendment).*

---

(e) by omitting Part VIII and by inserting in lieu thereof the following Part:— Subst.  
Part VIII.

PART VIII.

ALIMONY.

5           39. (1) In any proceedings under this Act Alimony.  
          (other than proceedings for jactitation of  
          marriage), the Court may make such order as it  
          deems just and proper, having regard to the  
10           means and conduct of the parties to the  
          marriage and all other relevant circumstances,  
          for the payment of alimony to one party to the  
          marriage by the other party, or for the mainten-  
          ance of the children the marriage of whose  
          parents is the subject of the proceedings,  
15           including an order in favour of a party against  
          whom a decree in the proceedings is made.

(2) An order for alimony—

(a) pending the hearing of a petition for  
      restitution of conjugal rights; and

20           (b) made before or after the commence-  
          ment of the Matrimonial Causes  
          (Amendment) Act, 1958,

          shall, if a decree is made in favour of the  
          party in whose favour the order was made, but  
25           subject to any special terms of the order, con-  
          tinue in force after the time in that behalf  
          limited by the Court for compliance with the  
          decree until varied or revoked:

30           Provided that in the case of any such order  
          made before the commencement of the Matri-  
          monial Causes (Amendment) Act, 1958, this  
          subsection applies only where the time so limited  
          expires after that commencement.

(3)

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*Matrimonial Causes (Amendment).*

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- (3) An order for alimony—
- (a) pending the hearing of a petition for judicial separation; and
  - (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,
- shall, if a decree is made in favour of the person in whose favour the order was made, but subject to any special terms of the order, continue in force after the decree until varied or revoked:
- Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where the decree in the suit is made after that commencement.
- (4) An order for alimony—
- (a) pending the hearing of a petition for dissolution of marriage; and
  - (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,
- shall, where that order is in force immediately before the decree *nisi* in the suit is made absolute, but subject to any special terms of the order, continue in force after the decree absolute until varied or revoked:
- Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where the decree *nisi* is made absolute after that commencement.
- (5) An order for the maintenance of a child—
- (a) pending the hearing of a petition for restitution of conjugal rights, judicial separation, dissolution of marriage or nullity of marriage; and
  - (b)

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*Matrimonial Causes (Amendment).*

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(b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

5 shall, subject to any special terms of the order, but in so far only as it relates to the maintenance of the child, continue in force—

10 (i) in a case of restitution of conjugal rights—after the time in that behalf limited by the Court for compliance with the decree in the suit until varied or revoked;

(ii) in any other case—after the final decree or decree absolute in the suit until varied or revoked:

15 Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where—

20 (i) in a case of restitution of conjugal rights—the time so limited expires after that commencement;

(ii) in any other case—the final decree or decree absolute is made after that commencement.

25 Nothing in this subsection affects the operation of subsection two, three or four of this section.

40. (1) The Court, in exercising its powers under this Part of this Act, may— Specific powers of Court.

30 (a) order that a gross sum or a weekly, fortnightly, monthly or other periodic sum be paid or secured and order that any security is to be in addition to or wholly or partly in substitution for a  
35 periodic payment;

(b)

---

*Matrimonial Causes (Amendment).*

---

- 5 (b) order that any necessary deed or instrument be executed and that such documents of title be produced or such other things be done as are necessary to enable an order to be effectively carried out or to provide security for the due performance of an order;
- (c) settle and approve any deed or instrument so ordered to be executed;
- 10 (d) order that payments be made direct to a party to the marriage, to a trustee to be appointed or to any public authority for the benefit of a party to the marriage;
- 15 (e) order that payments of maintenance in respect of a child be made to such person as the Court may specify;
- (f) make a permanent order, an order pending the disposal of the proceedings or an order for a fixed term, for a life or during joint lives;
- 20 (g) impose terms and conditions;
- (h) discharge an order if the party in whose favour the order is made marries again or if there is any other just cause for so doing;
- 25 (i) modify an order under this Part or suspend its operation wholly or in part and either until further order or until a fixed time or the happening of some future event;
- 30 (j) revive an order wholly or in part;
- (k) increase or decrease the amount payable under an order other than an order pursuant to which a gross or periodic sum is secured;
- 35

(1)



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*Matrimonial Causes (Amendment).*

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- (l) sanction an agreement for the acceptance of a gross sum or periodic sums in lieu of rights under this Part;
- 5 (m) deal with any two or more matters mentioned in this subsection in the same order;
- 10 (n) include its order under this Part in a decree *nisi*, decree absolute, or final decree, or make any order under this Part on, or at any time before or after, the pronouncement of any such decree.
- (2) Notwithstanding anything contained in this Part—
- (a) where no alimony was payable—
- 15 (i) in a case of restitution of conjugal rights, immediately before the expiration of the time limited by the Court for compliance with the decree in the proceedings; or
- 20 (ii) in any other case, immediately before the pronouncement of the decree absolute or final decree in the proceedings; or
- 25 (b) where alimony was so payable but the order therefor was not continued in force by virtue of the operation of subsection two, three or four of section thirty-nine of this Act,
- 30 the Court shall not make an order for permanent alimony in respect of the proceedings unless application therefor was or is made before, on, or, having regard to all the circumstances of the case, within a reasonable time
- 35 after, the pronouncement of the decree absolute or final decree.

(3)

*Matrimonial Causes (Amendment).*

5 (3) The Court may exercise the powers conferred by this Part in relation to an order for alimony or maintenance made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, as well as in relation to an order for alimony or maintenance made after that commencement.

10 41. (1) Where any person, directed by an order under this Part to execute any deed or other instrument or make a surrender or transfer, refuses or neglects to do so, the Court may appoint the Chief Clerk in Divorce, or some other person, to execute the deed or instrument or to make the surrender or transfer in his name, and to do all acts necessary to give  
15 validity and operation thereto.

Execution of instruments by order of Court.  
cf. Act No. 24, 1901, s. 90.

20 (2) The execution of the deed or instrument and the surrender or transfer so made by the person so appointed shall in all respects have the same force and validity as if it had been executed or made by the person directed by the order to execute or make it.

25 (3) The Court shall make such order as may be just touching the payment of the costs of, or attending the execution of, any such deed, transfer, surrender or instrument.

30 42. This Part applies to proceedings under this Act (other than proceedings for jactitation of marriage) pending at the commencement of the Matrimonial Causes (Amendment) Act, 1958, as well as to proceedings under this Act (other than proceedings for jactitation of marriage) instituted after that commencement.

Pending proceedings.

(f)

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*Matrimonial Causes (Amendment).*


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- (f) by omitting from the heading to Part XIII the words "AND MAINTENANCE"; Part XIII.  
Heading.
- (g) by omitting from subsection one of section sixty the word "maintenance"; Sec. 60.  
(In suits for separation, nullity or dissolution.)
- 5 (h) by omitting from section sixty-two the word "maintenance"; Sec. 62.  
(In applications for conjugal rights.)
- (i) (i) by inserting in subsection one of section 90A after the word "monthly" the word ", fortnightly"; Sec. 90A.  
(Summary proceedings to enforce orders for alimony or maintenance.)
- 10 (ii) by omitting from the same subsection the words "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" and by inserting in lieu thereof the words "any justice may, upon complaint on oath being made by the wife or by any reputable person on behalf of the wife or child that any sum due under the order is unpaid";
- 15
- 20
- 25 (iii) by omitting from subsection two of the same section the words "section ninety-seven of the Child Welfare Act, 1923" and by inserting in lieu thereof the words "section twelve of the Child Welfare Act, 1939";
- 30 (iv) by omitting from subsection three of the same section the words "and that the wife or child is unable through lack of means to have the order enforced by attachment";

(v)

*Matrimonial Causes (Amendment).*

(v) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection:—

5 (8) In this section "husband" includes a male person against whom the court has made an order for payment in respect of alimony and "wife" includes a female person in whose favour the court has made such an order, and "justice" means justice  
10 of the peace.

(j) by inserting in Part XVIII next after section 90A New sec. 90B. the following new section:—

15 90B. (1) This section applies to an order made by the Court before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958, for the payment by any person of alimony or maintenance to any other person. Enforcement of order by means of certificate of amount due and judgment thereon.

20 (2) Notwithstanding anything contained in this or any other Act an order to which this section applies made against a female shall be enforced only in the manner provided in this section. cf. Act No. 17, 1901, s. 13A.

25 (3) Where it is made to appear upon oath to the registrar or a deputy-registrar in divorce that default has, before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958, been made by a person against whom an order to which this section applies has been made in making the payments directed by the order and that an amount of more than ten pounds is due thereunder, the registrar or deputy-registrar may grant a certificate in the prescribed form stating the amount due under the order at the date of the  
30 certificate without requiring notice of the application to be given to that person.  
35

(4)

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*Matrimonial Causes (Amendment).*

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5 (4) The person entitled to receive the  
money ordered to be paid may file or cause to  
be filed the certificate in the Supreme Court or  
in any District Court having jurisdiction within  
the district wherein the person against whom  
the order was made resides or wherein any real  
property of the last-mentioned person is  
situated, and the Prothonotary or the registrar  
of the District Court in which the certificate is  
10 so filed, as the case may be, shall enter judgment  
for the person so entitled for the amount stated  
to be due in the certificate together with the fees  
paid therefor and for filing the certificate and  
entering the judgment.

15 The judgment may, **subject to subsection five  
of this section**, be enforced in any manner in  
which a final judgment in an action may be  
enforced.

20 (5) (a) On the application of the person  
against whom the order was made or his executor  
or administrator, the Court, if it deems it just  
and proper to do so, may, whether or not pro-  
ceedings to enforce the judgment have been  
commenced—

25 (i) order that the judgment shall not be  
enforced; or

(ii) order that the judgment be paid at such  
time or times and by such instalments,  
if any, as the Court thinks fit,

30 and, where proceedings to enforce the judgment  
have been commenced, may—

(iii) set aside or stay execution if execution  
has issued;

35 (iv) set aside an order made in those pro-  
ceedings attaching debts due, owing or  
accruing to that person and order that  
any moneys that have already been  
received

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*Matrimonial Causes (Amendment).*

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5 received by the judgment creditor under the order firstmentioned in this subparagraph or that have been paid into court under the order firstmentioned in this subparagraph but have not been paid to the judgment creditor be paid to the person firstmentioned in this subparagraph or his executor or administrator;

10 (v) make such other or further order in relation to those proceedings as may be just.

15 (b) The powers conferred on a Court by this subsection shall not be construed as limiting or affecting any power possessed by the Court apart from this subsection.

(c) In this subsection "Court" means—

20 (i) where the certificate is filed in the Supreme Court—the Supreme Court in its common law jurisdiction or a Judge of that Court exercising that jurisdiction;

25 (ii) where the certificate is filed in a District Court—a Judge of that Court.

30 (6) Rules of court may prescribe the practice and procedure, to be observed in the Supreme Court and in District Courts to be observed, for carrying out or giving effect to this section and, without limiting the generality of the power conferred by the foregoing provisions of this subsection, may prescribe the practice and procedure to be so observed in connection with the filing of certificates and entering up of judgments thereon in pursuance of this section, and the fees to be paid.

(k)

*Matrimonial Causes (Amendment).*

(k) (i) by omitting from section one all matter Sec. 1.  
relating to Part VIII and by inserting in (Conse-  
lieu thereof the following matter:— quential.)

PART VIII.—ALIMONY—ss. 39-42.

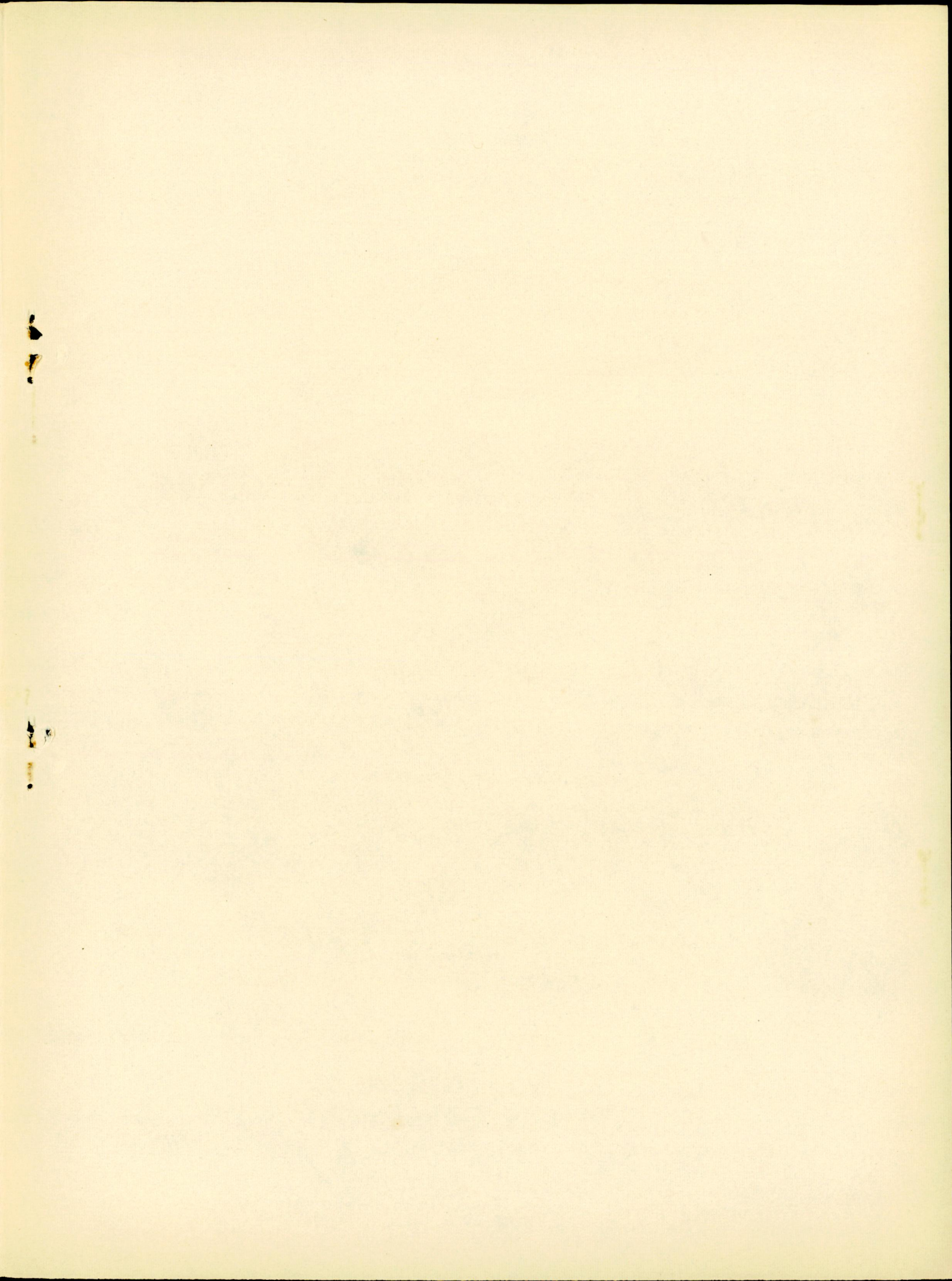
5 (ii) by omitting from the matter relating to  
Part XIII in the same section the words  
“AND MAINTENANCE”.

3. The Deserted Wives and Children Act, 1901, as Amendment  
amended by subsequent Acts, is amended by inserting in of Act No.  
10 Part II next after section 13B the following new 17, 1901.  
section:— New sec.  
13c.

15 13c. An order made under section seven of Dissolution  
this Act shall not be taken to be discharged or of marriage  
cancelled by reason only of the dissolution after not to  
the commencement of the Matrimonial Causes affect main-  
15 (Amendment) Act, 1958, of the marriage tenance  
between the husband and the wife, and for the order.  
purposes of enforcing, varying, suspending or  
20 discharging the order a reference in this Act to  
“husband” includes a reference to the person  
who before the marriage was dissolved was the  
husband and a reference in this Act to “wife”  
includes a reference to the person who before  
the marriage was dissolved was the wife.







THE UNIVERSITY OF CHICAGO

1911

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*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

ALLAN PICKERING,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 13 March, 1958.*

## New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

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Act No. , 1958.

An Act to amend the law relating to alimony and maintenance; for this purpose to amend the Matrimonial Causes Act 1899, the Deserted Wives and Children Act, 1901, and certain other Acts in certain respects; and for purposes connected therewith.

BE 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  
5 the same, as follows:—

1. (1) This Act may be cited as the "Matrimonial Causes (Amendment) Act, 1958".

Short title,  
citation and  
commence-  
ment.

*Matrimonial Causes (Amendment).*

(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1958.

(3) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1958.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

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

(a) by inserting in section three before the definition of "The Court" the following new definitions:— Sec. 3. (Interpretation.)

"Alimony" includes maintenance.

15 "Marriage" includes a union which is ostensibly a marriage and which is the subject of judicial proceedings to determine its validity.

20 (b) by omitting from section five the words "other than proceedings to dissolve any marriage" and by inserting in lieu thereof the words ", other than proceedings to dissolve any marriage or proceedings under Part VIII of this Act,"; Sec. 5. (Court to act on principles of Ecclesiastical Courts.)

25 (c) by omitting section eight, subsection two of section nine and section ten; Secs. 8, 9 (2) and 10. (Repeal.)

(d) by omitting from subsection two of section twenty-three the words "the payment of permanent alimony the maintenance of children and"; Sec. 23. (Application by respondent.)

(e)

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*Matrimonial Causes (Amendment).*

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(e) by omitting Part VIII and by inserting in lieu thereof the following Part:— Subst.  
Part VIII.

PART VIII.

ALIMONY.

5           39. (1) In any proceedings under this Act Alimony.  
(other than proceedings for jactitation of  
marriage), the Court may make such order as it  
deems just and proper, having regard to the  
10           means and conduct of the parties to the  
marriage and all other relevant circumstances,  
for the payment of alimony to one party to the  
marriage by the other party, or for the mainten-  
ance of the children the marriage of whose  
15           parents is the subject of the proceedings,  
including an order in favour of a party against  
whom a decree in the proceedings is made.

(2) An order for alimony—

- (a) pending the hearing of a petition for  
restitution of conjugal rights; and
- 20           (b) made before or after the commence-  
ment of the Matrimonial Causes  
(Amendment) Act, 1958,

shall, if a decree is made in favour of the  
party in whose favour the order was made, but  
25           subject to any special terms of the order, con-  
tinue in force after the time in that behalf  
limited by the Court for compliance with the  
decree until varied or revoked:

30           Provided that in the case of any such order  
made before the commencement of the Matri-  
monial Causes (Amendment) Act, 1958, this  
subsection applies only where the time so limited  
expires after that commencement.

(3)

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*Matrimonial Causes (Amendment).*

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(3) An order for alimony—

(a) pending the hearing of a petition for judicial separation; and

5 (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

shall, if a decree is made in favour of the person in whose favour the order was made, but subject to any special terms of the order, continue in force after the decree until varied or  
10 revoked:

Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this  
15 subsection applies only where the decree in the suit is made after that commencement.

(4) An order for alimony—

(a) pending the hearing of a petition for dissolution of marriage; and

20 (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

shall, where that order is in force immediately before the decree *nisi* in the suit is made  
25 absolute, but subject to any special terms of the order, continue in force after the decree absolute until varied or revoked:

Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this  
30 subsection applies only where the decree *nisi* is made absolute after that commencement.

(5) An order for the maintenance of a child—

35 (a) pending the hearing of a petition for restitution of conjugal rights, judicial separation, dissolution of marriage or nullity of marriage; and

(b)

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*Matrimonial Causes (Amendment).*

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(b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

5 shall, subject to any special terms of the order, but in so far only as it relates to the maintenance of the child, continue in force—

(i) in a case of restitution of conjugal rights—after the time in that behalf limited by the Court for compliance with the decree in the suit until varied or revoked;

(ii) in any other case—after the final decree or decree absolute in the suit until varied or revoked:

15 Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where—

(i) in a case of restitution of conjugal rights—the time so limited expires after that commencement;

(ii) in any other case—the final decree or decree absolute is made after that commencement.

25 Nothing in this subsection affects the operation of subsection two, three or four of this section.

40. (1) The Court, in exercising its powers under this Part of this Act, may—

Specific powers of Court.

30 (a) order that a gross sum or a weekly, fortnightly, monthly or other periodic sum be paid or secured and order that any security is to be in addition to or wholly or partly in substitution for a periodic payment;

35

(b)

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*Matrimonial Causes (Amendment).*

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- 5 (b) order that any necessary deed or instrument be executed and that such documents of title be produced or such other things be done as are necessary to enable an order to be effectively carried out or to provide security for the due performance of an order;
- 10 (c) settle and approve any deed or instrument so ordered to be executed;
- (d) order that payments be made direct to a party to the marriage, to a trustee to be appointed or to any public authority for the benefit of a party to the marriage;
- 15 (e) order that payments of maintenance in respect of a child be made to such person as the Court may specify;
- 20 (f) make a permanent order, an order pending the disposal of the proceedings or an order for a fixed term, for a life or during joint lives;
- (g) impose terms and conditions;
- 25 (h) discharge an order if the party in whose favour the order is made marries again or if there is any other just cause for so doing;
- 30 (i) modify an order under this Part or suspend its operation wholly or in part and either until further order or until a fixed time or the happening of some future event;
- 35 (j) revive an order wholly or in part;
- (k) increase or decrease the amount payable under an order other than an order pursuant to which a gross or periodic sum is secured;

(1)



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*Matrimonial Causes (Amendment).*

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- (l) sanction an agreement for the acceptance of a gross sum or periodic sums in lieu of rights under this Part;
- 5 (m) deal with any two or more matters mentioned in this subsection in the same order;
- (n) include its order under this Part in a decree *nisi*, decree absolute, or final decree, or make any order under this
- 10 Part on, or at any time before or after, the pronouncement of any such decree.
- (2) Notwithstanding anything contained in this Part—
- (a) where no alimony was payable—
- 15 (i) in a case of restitution of conjugal rights, immediately before the expiration of the time limited by the Court for compliance with the decree in
- 20 the proceedings; or
- (ii) in any other case, immediately before the pronouncement of the decree absolute or final decree in the proceedings; or
- 25 (b) where alimony was so payable but the order therefor was not continued in force by virtue of the operation of subsection two, three or four of section thirty-nine of this Act,
- 30 the Court shall not make an order for permanent alimony in respect of the proceedings unless application therefor was or is made before, on, or, having regard to all the circumstances of the case, within a reasonable time
- 35 after, the pronouncement of the decree absolute or final decree.

(3)

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*Matrimonial Causes (Amendment).*

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5 (3) The Court may exercise the powers conferred by this Part in relation to an order for alimony or maintenance made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, as well as in relation to an order for alimony or maintenance made after that commencement.

10 41. (1) Where any person, directed by an order under this Part to execute any deed or other instrument or make a surrender or transfer, refuses or neglects to do so, the Court may appoint the Chief Clerk in Divorce, or some other person, to execute the deed or instrument or to make the surrender or transfer in his name, and to do all acts necessary to give validity and operation thereto.

Execution of instruments by order of Court.  
cf. Act No. 24, 1901, s. 90.

20 (2) The execution of the deed or instrument and the surrender or transfer so made by the person so appointed shall in all respects have the same force and validity as if it had been executed or made by the person directed by the order to execute or make it.

25 (3) The Court shall make such order as may be just touching the payment of the costs of, or attending the execution of, any such deed, transfer, surrender or instrument.

30 42. This Part applies to proceedings under this Act (other than proceedings for jactitation of marriage) pending at the commencement of the Matrimonial Causes (Amendment) Act, 1958, as well as to proceedings under this Act (other than proceedings for jactitation of marriage) instituted after that commencement.

Pending proceedings.

(f)

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*Matrimonial Causes (Amendment).*

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- (f) by omitting from the heading to Part XIII the words "AND MAINTENANCE"; Part XIII.  
Heading.
- (g) by omitting from subsection one of section sixty the word "maintenance"; Sec. 60.  
(In suits for separation, nullity or dissolution.)
- 5 (h) by omitting from section sixty-two the word "maintenance"; Sec. 62.  
(In applications for conjugal rights.)
- (i) (i) by inserting in subsection one of section 90A after the word "monthly" the word ", fortnightly"; Sec. 90A.  
(Summary proceedings to enforce orders for alimony or maintenance.)
- 10 (ii) by omitting from the same subsection the words "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" and by inserting in lieu thereof the words "any justice may, upon complaint on oath being made by the wife or by any reputable person on behalf of the wife or child that any sum due under the order is unpaid";
- 15
- 20
- 25 (iii) by omitting from subsection two of the same section the words "section ninety-seven of the Child Welfare Act, 1923" and by inserting in lieu thereof the words "section twelve of the Child Welfare Act, 1939";
- 30 (iv) by omitting from subsection three of the same section the words "and that the wife or child is unable through lack of means to have the order enforced by attachment";
- 93—B (v)

*Matrimonial Causes (Amendment).*

(v) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection:—

5 (8) In this section "husband" includes a male person against whom the court has made an order for payment in respect of alimony and "wife" includes a female person in whose favour the court has made such an order, and "justice" means justice  
10 of the peace.

(j) by inserting in Part XVIII next after section 90A New sec. 90B. the following new section:—

15 90B. (1) This section applies to an order made by the Court before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958, for the payment by any person of alimony or maintenance to any other person. Enforcement of order by means of certificate of amount due and judgment thereon.

20 (2) Notwithstanding anything contained in this or any other Act an order to which this section applies made against a female shall be enforced only in the manner provided in this section. cf. Act No. 17, 1901, s. 13A.

25 (3) Where it is made to appear upon oath to the registrar or a deputy-registrar in divorce that default has, before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958, been made by a person against whom an order to which this section applies has been made in making the payments directed by the order and that an amount of more than ten pounds is due thereunder, the registrar or deputy-registrar may grant a certificate in the prescribed form stating the amount due under the order at the date of the certificate without requiring notice of the  
30 application to be given to that person.  
35

(4)

*Matrimonial Causes (Amendment).*

5 (4) The person entitled to receive the money ordered to be paid may file or cause to be filed the certificate in the Supreme Court or in any District Court having jurisdiction within the district wherein the person against whom the order was made resides or wherein any real property of the last-mentioned person is situated, and the Prothonotary or the registrar of the District Court in which the certificate is so filed, as the case may be, shall enter judgment for the person so entitled for the amount stated to be due in the certificate together with the fees paid therefor and for filing the certificate and entering the judgment.

15 The judgment may be enforced in any manner in which a final judgment in an action may be enforced.

20 Rules of court may prescribe the practice and procedure in the Supreme Court and in District Courts to be observed in connection with the filing of certificates and entering up of judgments thereon in pursuance of this section, and the fees to be paid.

25 (k) (i) by omitting from section one all matter relating to Part VIII and by inserting in lieu thereof the following matter:—

PART VIII.—ALIMONY—ss. 39-42.

30 (ii) by omitting from the matter relating to Part XIII in the same section the words "AND MAINTENANCE".

3. The Deserted Wives and Children Act, 1901, as amended by subsequent Acts, is amended by inserting in Part II next after section 13B the following new section:—

35 13c. An order made under section seven of this Act shall not be taken to be discharged or cancelled by reason only of the dissolution after the commencement of the Matrimonial Causes (Amendment)

Amendment of Act No. 17, 1901. New sec. 13c.

Dissolution of marriage not to affect maintenance order.

*Matrimonial Causes (Amendment).*

5

(Amendment) Act, 1958, of the marriage between the husband and the wife, and for the purposes of enforcing, varying, suspending or discharging the order a reference in this Act to "husband" includes a reference to the person who before the marriage was dissolved was the husband and a reference in this Act to "wife" includes a reference to the person who before the marriage was dissolved was the wife.

[1s.]

Sydney: A. H. Pettifer, Government Printer—1958.

New South Wales



ANNO SEPTIMO

ELIZABETHÆ II REGINÆ

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Act No. 22, 1958.

An Act to amend the law relating to alimony and maintenance; for this purpose to amend the Matrimonial Causes Act 1899, the Deserted Wives and Children Act, 1901, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 16th April, 1958.]

BE 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:—

1. (1) This Act may be cited as the "Matrimonial Causes (Amendment) Act, 1958".

Short title, citation and commencement.

24743

[8d.]

(2)

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*Matrimonial Causes (Amendment).*

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(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1958.

(3) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1958.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment  
of Act No.  
14, 1899.

**2.** The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended—

Sec. 3.  
(Interpre-  
tation.)

(a) by inserting in section three before the definition of "The Court" the following new definitions:—

"Alimony" includes maintenance.

"Marriage" includes a union which is ostensibly a marriage and which is the subject of judicial proceedings to determine its validity.

Sec. 5.  
(Court to  
act on  
principles  
of Ecclesias-  
tical  
Courts.)

(b) by omitting from section five the words "other than proceedings to dissolve any marriage" and by inserting in lieu thereof the words ", other than proceedings to dissolve any marriage or proceedings under Part VIII of this Act,";

Secs. 8,  
9 (2) and  
10.  
(Repeal.)

(c) by omitting section eight, subsection two of section nine and section ten;

Sec. 23.  
(Application  
by re-  
spondent.)

(d) by omitting from subsection two of section twenty-three the words "the payment of permanent alimony the maintenance of children and";

(e)



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*Matrimonial Causes (Amendment).*

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- (e) by omitting Part VIII and by inserting in lieu thereof the following Part:— Subst,  
Part VIII.

PART VIII.

ALIMONY.

39. (1) In any proceedings under this Act Alimony.  
(other than proceedings for jactitation of marriage), the Court may make such order as it deems just and proper, having regard to the means and conduct of the parties to the marriage and all other relevant circumstances, for the payment of alimony to one party to the marriage by the other party, or for the maintenance of the children the marriage of whose parents is the subject of the proceedings, including an order in favour of a party against whom a decree in the proceedings is made.

(2) An order for alimony—

- (a) pending the hearing of a petition for restitution of conjugal rights; and
- (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

shall, if a decree is made in favour of the party in whose favour the order was made, but subject to any special terms of the order, continue in force after the time in that behalf limited by the Court for compliance with the decree until varied or revoked:

Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where the time so limited expires after that commencement.

(3)

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*Matrimonial Causes (Amendment).*

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(3) An order for alimony—

- (a) pending the hearing of a petition for judicial separation; and
- (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

shall, if a decree is made in favour of the person in whose favour the order was made, but subject to any special terms of the order, continue in force after the decree until varied or revoked:

Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where the decree in the suit is made after that commencement.

(4) An order for alimony—

- (a) pending the hearing of a petition for dissolution of marriage; and
- (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

shall, where that order is in force immediately before the decree *nisi* in the suit is made absolute, but subject to any special terms of the order, continue in force after the decree absolute until varied or revoked:

Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where the decree *nisi* is made absolute after that commencement.

(5) An order for the maintenance of a child—

- (a) pending the hearing of a petition for restitution of conjugal rights, judicial separation, dissolution of marriage or nullity of marriage; and

(b)

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*Matrimonial Causes (Amendment).*

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- (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

shall, subject to any special terms of the order, but in so far only as it relates to the maintenance of the child, continue in force—

- (i) in a case of restitution of conjugal rights—after the time in that behalf limited by the Court for compliance with the decree in the suit until varied or revoked;
- (ii) in any other case—after the final decree or decree absolute in the suit until varied or revoked:

Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where—

- (i) in a case of restitution of conjugal rights—the time so limited expires after that commencement;
- (ii) in any other case—the final decree or decree absolute is made after that commencement.

Nothing in this subsection affects the operation of subsection two, three or four of this section.

40. (1) The Court, in exercising its powers under this Part of this Act, may—

Specific powers of Court.

- (a) order that a gross sum or a weekly, fortnightly, monthly or other periodic sum be paid or secured and order that any security is to be in addition to or wholly or partly in substitution for a periodic payment;

(b)

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*Matrimonial Causes (Amendment).*

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- (b) order that any necessary deed or instrument be executed and that such documents of title be produced or such other things be done as are necessary to enable an order to be effectively carried out or to provide security for the due performance of an order;
- (c) settle and approve any deed or instrument so ordered to be executed;
- (d) order that payments be made direct to a party to the marriage, to a trustee to be appointed or to any public authority for the benefit of a party to the marriage;
- (e) order that payments of maintenance in respect of a child be made to such person as the Court may specify;
- (f) make a permanent order, an order pending the disposal of the proceedings or an order for a fixed term, for a life or during joint lives;
- (g) impose terms and conditions;
- (h) discharge an order if the party in whose favour the order is made marries again or if there is any other just cause for so doing;
- (i) modify an order under this Part or suspend its operation wholly or in part and either until further order or until a fixed time or the happening of some future event;
- (j) revive an order wholly or in part;
- (k) increase or decrease the amount payable under an order other than an order pursuant to which a gross or periodic sum is secured;

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*Matrimonial Causes (Amendment).*

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- (l) sanction an agreement for the acceptance of a gross sum or periodic sums in lieu of rights under this Part;
  - (m) deal with any two or more matters mentioned in this subsection in the same order;
  - (n) include its order under this Part in a decree *nisi*, decree absolute, or final decree, or make any order under this Part on, or at any time before or after, the pronouncement of any such decree.
- (2) Notwithstanding anything contained in this Part—
- (a) where no alimony was payable—
    - (i) in a case of restitution of conjugal rights, immediately before the expiration of the time limited by the Court for compliance with the decree in the proceedings; or
    - (ii) in any other case, immediately before the pronouncement of the decree absolute or final decree in the proceedings; or
  - (b) where alimony was so payable but the order therefor was not continued in force by virtue of the operation of subsection two, three or four of section thirty-nine of this Act,

the Court shall not make an order for permanent alimony in respect of the proceedings unless application therefor was or is made before, on, or, having regard to all the circumstances of the case, within a reasonable time after, the pronouncement of the decree absolute or final decree.

(3)

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*Matrimonial Causes (Amendment).*

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(3) The Court may exercise the powers conferred by this Part in relation to an order for alimony or maintenance made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, as well as in relation to an order for alimony or maintenance made after that commencement.

Execution of instruments by order of Court.  
cf. Act No. 24, 1901, s. 90.

41. (1) Where any person, directed by an order under this Part to execute any deed or other instrument or make a surrender or transfer, refuses or neglects to do so, the Court may appoint the Chief Clerk in Divorce, or some other person, to execute the deed or instrument or to make the surrender or transfer in his name, and to do all acts necessary to give validity and operation thereto.

(2) The execution of the deed or instrument and the surrender or transfer so made by the person so appointed shall in all respects have the same force and validity as if it had been executed or made by the person directed by the order to execute or make it.

(3) The Court shall make such order as may be just touching the payment of the costs of, or attending the execution of, any such deed, transfer, surrender or instrument.

Pending proceedings.

42. This Part applies to proceedings under this Act (other than proceedings for jactitation of marriage) pending at the commencement of the Matrimonial Causes (Amendment) Act, 1958, as well as to proceedings under this Act (other than proceedings for jactitation of marriage) instituted after that commencement.

(f)

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*Matrimonial Causes (Amendment).*


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- (f) by omitting from the heading to Part XIII the words "AND MAINTENANCE"; Part XIII.  
Heading.
- (g) by omitting from subsection one of section sixty the word "maintenance"; Sec. 60.  
(In suits for separation, nullity or dissolution.)
- (h) by omitting from section sixty-two the word "maintenance"; Sec. 62.  
(In applications for conjugal rights.)
- (i) (i) by inserting in subsection one of section 90A after the word "monthly" the word ", fortnightly"; Sec. 90A.  
(Summary proceedings to enforce orders for alimony or maintenance.)
- (ii) by omitting from the same subsection the words "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" and by inserting in lieu thereof the words "any justice may, upon complaint on oath being made by the wife or by any reputable person on behalf of the wife or child that any sum due under the order is unpaid";
- (iii) by omitting from subsection two of the same section the words "section ninety-seven of the Child Welfare Act, 1923" and by inserting in lieu thereof the words "section twelve of the Child Welfare Act, 1939";
- (iv) by omitting from subsection three of the same section the words "and that the wife or child is unable through lack of means to have the order enforced by attachment";

(v)

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*Matrimonial Causes (Amendment).*

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(v) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection:—

(8) In this section “husband” includes a male person against whom the court has made an order for payment in respect of alimony and “wife” includes a female person in whose favour the court has made such an order, and “justice” means justice of the peace.

New sec.  
90B.

(j) by inserting in Part XVIII next after section 90A the following new section:—

Enforce-  
ment of  
order  
by means of  
certificate of  
amount due  
and judg-  
ment  
thereon.

cf. Act  
No. 17,  
1901, s. 13A.

90B. (1) This section applies to an order made by the Court before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958, for the payment by any person of alimony or maintenance to any other person.

(2) Notwithstanding anything contained in this or any other Act an order to which this section applies made against a female shall be enforced only in the manner provided in this section.

(3) Where it is made to appear upon oath to the registrar or a deputy-registrar in divorce that default has, before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958, been made by a person against whom an order to which this section applies has been made in making the payments directed by the order and that an amount of more than ten pounds is due thereunder, the registrar or deputy-registrar may grant a certificate in the prescribed form stating the amount due under the order at the date of the certificate without requiring notice of the application to be given to that person.

(4)



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*Matrimonial Causes (Amendment).*

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(4) The person entitled to receive the money ordered to be paid may file or cause to be filed the certificate in the Supreme Court or in any District Court having jurisdiction within the district wherein the person against whom the order was made resides or wherein any real property of the last-mentioned person is situated, and the Prothonotary or the registrar of the District Court in which the certificate is so filed, as the case may be, shall enter judgment for the person so entitled for the amount stated to be due in the certificate together with the fees paid therefor and for filing the certificate and entering the judgment.

The judgment may, subject to subsection five of this section, be enforced in any manner in which a final judgment in an action may be enforced.

(5) (a) On the application of the person against whom the order was made or his executor or administrator, the Court, if it deems it just and proper to do so, may, whether or not proceedings to enforce the judgment have been commenced—

- (i) order that the judgment shall not be enforced; or
- (ii) order that the judgment be paid at such time or times and by such instalments, if any, as the Court thinks fit,

and, where proceedings to enforce the judgment have been commenced, may—

- (iii) set aside or stay execution if execution has issued;
- (iv) set aside an order made in those proceedings attaching debts due, owing or accruing to that person and order that any moneys that have already been received

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*Matrimonial Causes (Amendment).*

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received by the judgment creditor under the order firstmentioned in this subparagraph or that have been paid into court under the order firstmentioned in this subparagraph but have not been paid to the judgment creditor be paid to the person firstmentioned in this subparagraph or his executor or administrator;

- (v) make such other or further order in relation to those proceedings as may be just.

(b) The powers conferred on a Court by this subsection shall not be construed as limiting or affecting any power possessed by the Court apart from this subsection.

(c) In this subsection "Court" means—

- (i) where the certificate is filed in the Supreme Court—the Supreme Court in its common law jurisdiction or a Judge of that Court exercising that jurisdiction;
- (ii) where the certificate is filed in a District Court—a Judge of that Court.

(6) Rules of court may prescribe the practice and procedure, to be observed in the Supreme Court and in District Courts, for carrying out or giving effect to this section and, without limiting the generality of the power conferred by the foregoing provisions of this subsection, may prescribe the practice and procedure to be so observed in connection with the filing of certificates and entering up of judgments thereon in pursuance of this section, and the fees to be paid.

(k)

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*Matrimonial Causes (Amendment).*

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- (k) (i) by omitting from section one all matter relating to Part VIII and by inserting in lieu thereof the following matter:—

PART VIII.—ALIMONY—ss. 39-42.

- (ii) by omitting from the matter relating to Part XIII in the same section the words “AND MAINTENANCE”.

**3.** The Deserted Wives and Children Act, 1901, as amended by subsequent Acts, is amended by inserting in Part II next after section 13B the following new section:—

13c. An order made under section seven of this Act shall not be taken to be discharged or cancelled by reason only of the dissolution after the commencement of the Matrimonial Causes (Amendment) Act, 1958, of the marriage between the husband and the wife, and for the purposes of enforcing, varying, suspending or discharging the order a reference in this Act to “husband” includes a reference to the person who before the marriage was dissolved was the husband and a reference in this Act to “wife” includes a reference to the person who before the marriage was dissolved was the wife.

Verfahren zur Gewinnberechnung

(1) In der ersten Phase werden die Kosten für die Herstellung der Waren ermittelt. Diese Kosten setzen sich zusammen aus den Kosten für die Rohstoffe, die Kosten für die Fertigung und die Kosten für die Vertriebs- und Verwaltungsausgaben.

(2) In der zweiten Phase werden die Kosten für die Vertriebs- und Verwaltungsausgaben ermittelt. Diese Kosten setzen sich zusammen aus den Kosten für die Vertriebs- und Verwaltungsausgaben, die Kosten für die Werbung und die Kosten für die Transport- und Lagerhaltungsausgaben.

(3) In der dritten Phase werden die Kosten für die Werbung und die Kosten für die Transport- und Lagerhaltungsausgaben ermittelt. Diese Kosten setzen sich zusammen aus den Kosten für die Werbung und die Kosten für die Transport- und Lagerhaltungsausgaben.

(4) In der vierten Phase werden die Kosten für die Transport- und Lagerhaltungsausgaben ermittelt. Diese Kosten setzen sich zusammen aus den Kosten für die Transport- und Lagerhaltungsausgaben.

(5) In der fünften Phase werden die Kosten für die Transport- und Lagerhaltungsausgaben ermittelt. Diese Kosten setzen sich zusammen aus den Kosten für die Transport- und Lagerhaltungsausgaben.

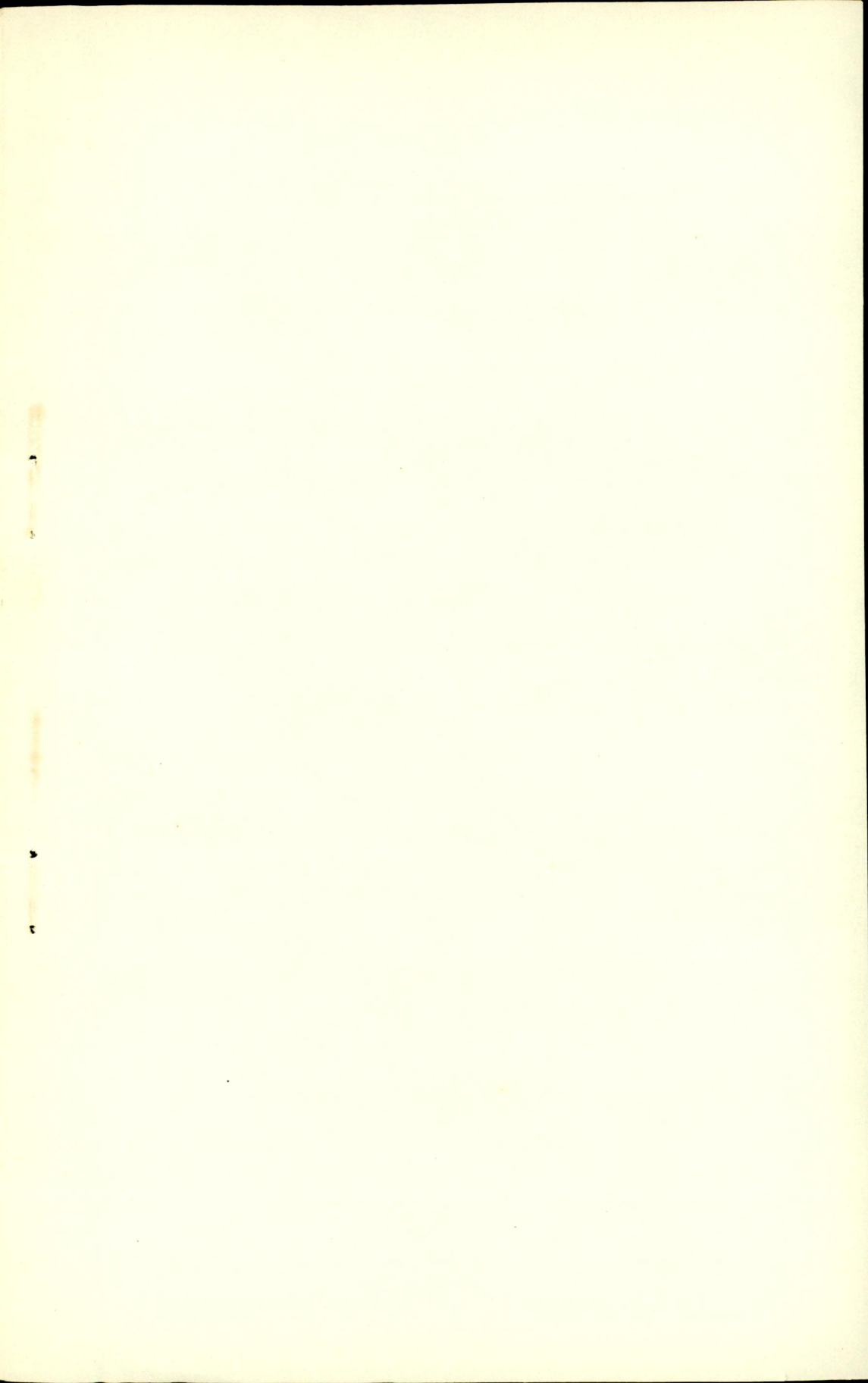
(6) In der sechsten Phase werden die Kosten für die Transport- und Lagerhaltungsausgaben ermittelt. Diese Kosten setzen sich zusammen aus den Kosten für die Transport- und Lagerhaltungsausgaben.

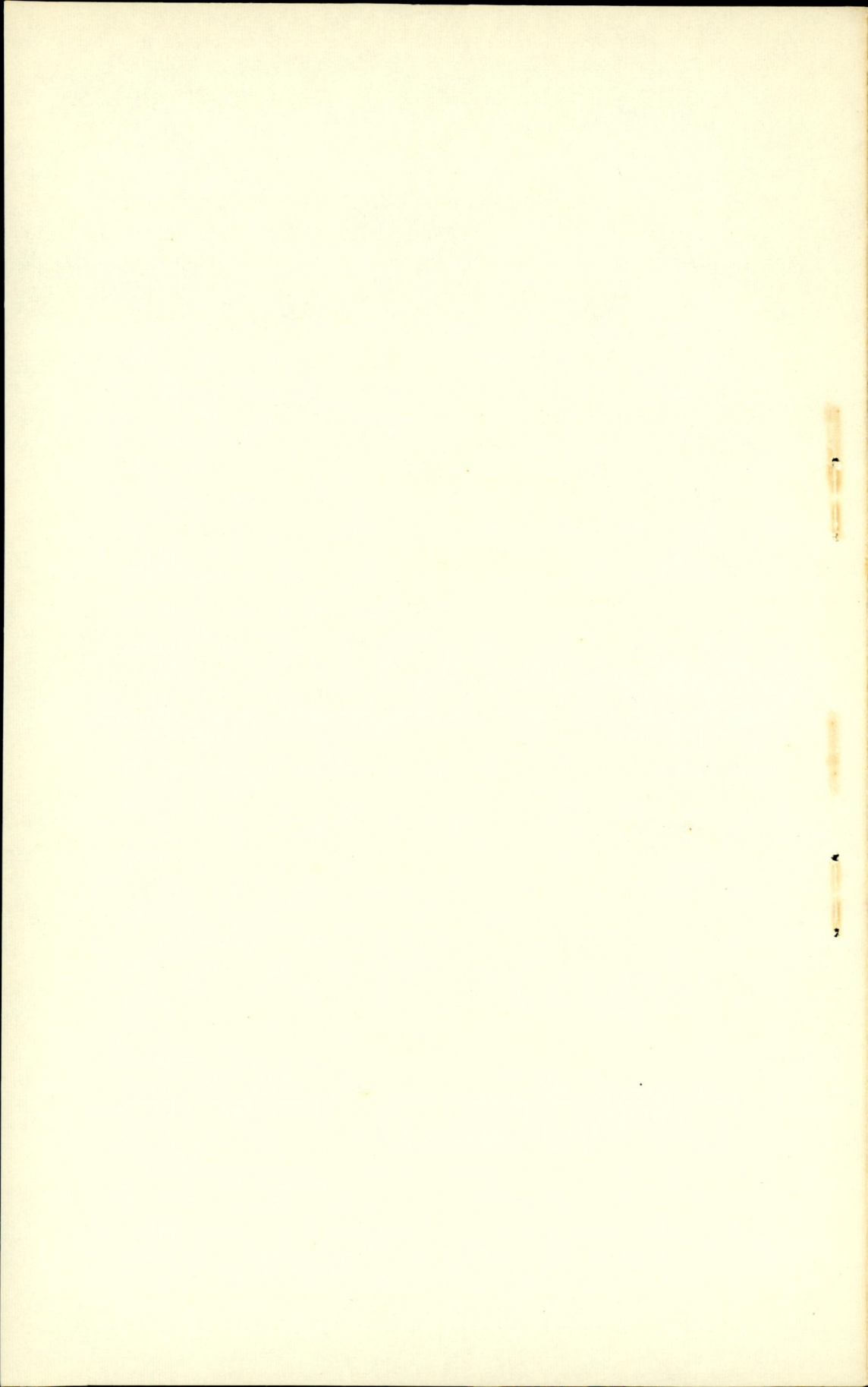
(7) In der siebten Phase werden die Kosten für die Transport- und Lagerhaltungsausgaben ermittelt. Diese Kosten setzen sich zusammen aus den Kosten für die Transport- und Lagerhaltungsausgaben.

(8) In der achten Phase werden die Kosten für die Transport- und Lagerhaltungsausgaben ermittelt. Diese Kosten setzen sich zusammen aus den Kosten für die Transport- und Lagerhaltungsausgaben.

(9) In der neunten Phase werden die Kosten für die Transport- und Lagerhaltungsausgaben ermittelt. Diese Kosten setzen sich zusammen aus den Kosten für die Transport- und Lagerhaltungsausgaben.

(10) In der zehnten Phase werden die Kosten für die Transport- und Lagerhaltungsausgaben ermittelt. Diese Kosten setzen sich zusammen aus den Kosten für die Transport- und Lagerhaltungsausgaben.





*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

ALLAN PICKERING,  
*Clerk of the Legislative Assembly.*

*Legislative Assembly Chamber,  
Sydney, 27 March, 1958.*

## New South Wales



ANNO SEPTIMO

## ELIZABETHÆ II REGINÆ

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### Act No. 22, 1958.

An Act to amend the law relating to alimony and maintenance; for this purpose to amend the Matrimonial Causes Act 1899, the Deserted Wives and Children Act, 1901, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 16th April, 1958.]

**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:—

1. (1) This Act may be cited as the "Matrimonial Causes (Amendment) Act, 1958".

Short title,  
citation and  
commence-  
ment.

(2)

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

G. BOOTH,  
*Chairman of Committees of the Legislative Assembly.*

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*Matrimonial Causes (Amendment).*

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(2) The Matrimonial Causes Act 1899, as amended by subsequent Acts and by this Act, may be cited as the Matrimonial Causes Act, 1899-1958.

(3) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1958.

(4) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Amendment  
of Act No.  
14, 1899.

**2.** The Matrimonial Causes Act 1899, as amended by subsequent Acts, is amended—

Sec. 3.  
(Interpre-  
tation.)

(a) by inserting in section three before the definition of "The Court" the following new definitions:—

"Alimony" includes maintenance.

"Marriage" includes a union which is ostensibly a marriage and which is the subject of judicial proceedings to determine its validity.

Sec. 5.  
(Court to  
act on  
principles  
of Ecclesias-  
tical  
Courts.)

(b) by omitting from section five the words "other than proceedings to dissolve any marriage" and by inserting in lieu thereof the words ", other than proceedings to dissolve any marriage or proceedings under Part VIII of this Act,";

Secs. 8,  
9 (2) and  
10.  
(Repeal.)

(c) by omitting section eight, subsection two of section nine and section ten;

Sec. 23.  
(Application  
by re-  
spondent.)

(d) by omitting from subsection two of section twenty-three the words "the payment of permanent alimony the maintenance of children and";

(e)



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*Matrimonial Causes (Amendment).*

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- (e) by omitting Part VIII and by inserting in lieu thereof the following Part:— Subst.  
Part VIII.

PART VIII.

ALIMONY.

39. (1) In any proceedings under this Act Alimony.  
(other than proceedings for jactitation of marriage), the Court may make such order as it deems just and proper, having regard to the means and conduct of the parties to the marriage and all other relevant circumstances, for the payment of alimony to one party to the marriage by the other party, or for the maintenance of the children the marriage of whose parents is the subject of the proceedings, including an order in favour of a party against whom a decree in the proceedings is made.

(2) An order for alimony—

- (a) pending the hearing of a petition for restitution of conjugal rights; and
- (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

shall, if a decree is made in favour of the party in whose favour the order was made, but subject to any special terms of the order, continue in force after the time in that behalf limited by the Court for compliance with the decree until varied or revoked:

Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where the time so limited expires after that commencement.

(3)

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*Matrimonial Causes (Amendment).*

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## (3) An order for alimony—

- (a) pending the hearing of a petition for judicial separation; and
- (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

shall, if a decree is made in favour of the person in whose favour the order was made, but subject to any special terms of the order, continue in force after the decree until varied or revoked:

Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where the decree in the suit is made after that commencement.

## (4) An order for alimony—

- (a) pending the hearing of a petition for dissolution of marriage; and
- (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

shall, where that order is in force immediately before the decree *nisi* in the suit is made absolute, but subject to any special terms of the order, continue in force after the decree absolute until varied or revoked:

Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where the decree *nisi* is made absolute after that commencement.

## (5) An order for the maintenance of a child—

- (a) pending the hearing of a petition for restitution of conjugal rights, judicial separation, dissolution of marriage or nullity of marriage; and

(b)

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*Matrimonial Causes (Amendment).*

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- (b) made before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958,

shall, subject to any special terms of the order, but in so far only as it relates to the maintenance of the child, continue in force—

- (i) in a case of restitution of conjugal rights—after the time in that behalf limited by the Court for compliance with the decree in the suit until varied or revoked;
- (ii) in any other case—after the final decree or decree absolute in the suit until varied or revoked:

Provided that in the case of any such order made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, this subsection applies only where—

- (i) in a case of restitution of conjugal rights—the time so limited expires after that commencement;
- (ii) in any other case—the final decree or decree absolute is made after that commencement.

Nothing in this subsection affects the operation of subsection two, three or four of this section.

40. (1) The Court, in exercising its powers under this Part of this Act, may—

Specific powers of Court.

- (a) order that a gross sum or a weekly, fortnightly, monthly or other periodic sum be paid or secured and order that any security is to be in addition to or wholly or partly in substitution for a periodic payment;

(b)

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*Matrimonial Causes (Amendment).*

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- (b) order that any necessary deed or instrument be executed and that such documents of title be produced or such other things be done as are necessary to enable an order to be effectively carried out or to provide security for the due performance of an order;
- (c) settle and approve any deed or instrument so ordered to be executed;
- (d) order that payments be made direct to a party to the marriage, to a trustee to be appointed or to any public authority for the benefit of a party to the marriage;
- (e) order that payments of maintenance in respect of a child be made to such person as the Court may specify;
- (f) make a permanent order, an order pending the disposal of the proceedings or an order for a fixed term, for a life or during joint lives;
- (g) impose terms and conditions;
- (h) discharge an order if the party in whose favour the order is made marries again or if there is any other just cause for so doing;
- (i) modify an order under this Part or suspend its operation wholly or in part and either until further order or until a fixed time or the happening of some future event;
- (j) revive an order wholly or in part;
- (k) increase or decrease the amount payable under an order other than an order pursuant to which a gross or periodic sum is secured;

(1)

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*Matrimonial Causes (Amendment).*

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- (l) sanction an agreement for the acceptance of a gross sum or periodic sums in lieu of rights under this Part;
- (m) deal with any two or more matters mentioned in this subsection in the same order;
- (n) include its order under this Part in a decree *nisi*, decree absolute, or final decree, or make any order under this Part on, or at any time before or after, the pronouncement of any such decree.

(2) Notwithstanding anything contained in this Part—

(a) where no alimony was payable—

(i) in a case of restitution of conjugal rights, immediately before the expiration of the time limited by the Court for compliance with the decree in the proceedings; or

(ii) in any other case, immediately before the pronouncement of the decree absolute or final decree in the proceedings; or

(b) where alimony was so payable but the order therefor was not continued in force by virtue of the operation of subsection two, three or four of section thirty-nine of this Act,

the Court shall not make an order for permanent alimony in respect of the proceedings unless application therefor was or is made before, on, or, having regard to all the circumstances of the case, within a reasonable time after, the pronouncement of the decree absolute or final decree.

(3)

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*Matrimonial Causes (Amendment).*

---

(3) The Court may exercise the powers conferred by this Part in relation to an order for alimony or maintenance made before the commencement of the Matrimonial Causes (Amendment) Act, 1958, as well as in relation to an order for alimony or maintenance made after that commencement.

Execution  
of instru-  
ments by  
order of  
Court.  
cf. Act No.  
24, 1901,  
s. 90.

41. (1) Where any person, directed by an order under this Part to execute any deed or other instrument or make a surrender or transfer, refuses or neglects to do so, the Court may appoint the Chief Clerk in Divorce, or some other person, to execute the deed or instrument or to make the surrender or transfer in his name, and to do all acts necessary to give validity and operation thereto.

(2) The execution of the deed or instrument and the surrender or transfer so made by the person so appointed shall in all respects have the same force and validity as if it had been executed or made by the person directed by the order to execute or make it.

(3) The Court shall make such order as may be just touching the payment of the costs of, or attending the execution of, any such deed, transfer, surrender or instrument.

Pending  
proceed-  
ings.

42. This Part applies to proceedings under this Act (other than proceedings for jactitation of marriage) pending at the commencement of the Matrimonial Causes (Amendment) Act, 1958, as well as to proceedings under this Act (other than proceedings for jactitation of marriage) instituted after that commencement.

(f)

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*Matrimonial Causes (Amendment).*

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- (f) by omitting from the heading to Part XIII the words "AND MAINTENANCE"; Part XIII.  
Heading.
- (g) by omitting from subsection one of section sixty the word "maintenance"; Sec. 60.  
(In suits for separation, nullity or dissolution.)
- (h) by omitting from section sixty-two the word "maintenance"; Sec. 62.  
(In applications for conjugal rights.)
- (i) (i) by inserting in subsection one of section 90A after the word "monthly" the word ", fortnightly"; Sec. 90A.  
(Summary proceedings to enforce orders for alimony or maintenance.)
- (ii) by omitting from the same subsection the words "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" and by inserting in lieu thereof the words "any justice may, upon complaint on oath being made by the wife or by any reputable person on behalf of the wife or child that any sum due under the order is unpaid";
- (iii) by omitting from subsection two of the same section the words "section ninety-seven of the Child Welfare Act, 1923" and by inserting in lieu thereof the words "section twelve of the Child Welfare Act, 1939";
- (iv) by omitting from subsection three of the same section the words "and that the wife or child is unable through lack of means to have the order enforced by attachment";
- (v)

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*Matrimonial Causes (Amendment).*

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(v) by omitting subsection eight of the same section and by inserting in lieu thereof the following subsection:—

(8) In this section “husband” includes a male person against whom the court has made an order for payment in respect of alimony and “wife” includes a female person in whose favour the court has made such an order, and “justice” means justice of the peace.

New sec.  
90B.

(j) by inserting in Part XVIII next after section 90A the following new section:—

Enforce-  
ment of  
order  
by means of  
certificate of  
amount due  
and judg-  
ment  
thereon.

cf. Act  
No. 17,  
1901, s. 13A.

90B. (1) This section applies to an order made by the Court before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958, for the payment by any person of alimony or maintenance to any other person.

(2) Notwithstanding anything contained in this or any other Act an order to which this section applies made against a female shall be enforced only in the manner provided in this section.

(3) Where it is made to appear upon oath to the registrar or a deputy-registrar in divorce that default has, before or after the commencement of the Matrimonial Causes (Amendment) Act, 1958, been made by a person against whom an order to which this section applies has been made in making the payments directed by the order and that an amount of more than ten pounds is due thereunder, the registrar or deputy-registrar may grant a certificate in the prescribed form stating the amount due under the order at the date of the certificate without requiring notice of the application to be given to that person.

(4)



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*Matrimonial Causes (Amendment).*

---

(4) The person entitled to receive the money ordered to be paid may file or cause to be filed the certificate in the Supreme Court or in any District Court having jurisdiction within the district wherein the person against whom the order was made resides or wherein any real property of the last-mentioned person is situated, and the Prothonotary or the registrar of the District Court in which the certificate is so filed, as the case may be, shall enter judgment for the person so entitled for the amount stated to be due in the certificate together with the fees paid therefor and for filing the certificate and entering the judgment.

The judgment may, subject to subsection five of this section, be enforced in any manner in which a final judgment in an action may be enforced.

(5) (a) On the application of the person against whom the order was made or his executor or administrator, the Court, if it deems it just and proper to do so, may, whether or not proceedings to enforce the judgment have been commenced—

- (i) order that the judgment shall not be enforced; or
- (ii) order that the judgment be paid at such time or times and by such instalments, if any, as the Court thinks fit,

and, where proceedings to enforce the judgment have been commenced, may—

- (iii) set aside or stay execution if execution has issued;
- (iv) set aside an order made in those proceedings attaching debts due, owing or accruing to that person and order that any moneys that have already been received

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*Matrimonial Causes (Amendment).*

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received by the judgment creditor under the order firstmentioned in this subparagraph or that have been paid into court under the order firstmentioned in this subparagraph but have not been paid to the judgment creditor be paid to the person firstmentioned in this subparagraph or his executor or administrator;

- (v) make such other or further order in relation to those proceedings as may be just.

(b) The powers conferred on a Court by this subsection shall not be construed as limiting or affecting any power possessed by the Court apart from this subsection.

(c) In this subsection "Court" means—

- (i) where the certificate is filed in the Supreme Court—the Supreme Court in its common law jurisdiction or a Judge of that Court exercising that jurisdiction;
- (ii) where the certificate is filed in a District Court—a Judge of that Court.

(6) Rules of court may prescribe the practice and procedure, to be observed in the Supreme Court and in District Courts, for carrying out or giving effect to this section and, without limiting the generality of the power conferred by the foregoing provisions of this subsection, may prescribe the practice and procedure to be so observed in connection with the filing of certificates and entering up of judgments thereon in pursuance of this section, and the fees to be paid.

(k)

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*Matrimonial Causes (Amendment).*

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- (k) (i) by omitting from section one all matter relating to Part VIII and by inserting in lieu thereof the following matter:—

PART VIII.—ALIMONY—ss. 39-42.

- (ii) by omitting from the matter relating to Part XIII in the same section the words “AND MAINTENANCE”.

3. The Deserted Wives and Children Act, 1901, as amended by subsequent Acts, is amended by inserting in Part II next after section 13B the following new section:—

13c. An order made under section seven of this Act shall not be taken to be discharged or cancelled by reason only of the dissolution after the commencement of the Matrimonial Causes (Amendment) Act, 1958, of the marriage between the husband and the wife, and for the purposes of enforcing, varying, suspending or discharging the order a reference in this Act to “husband” includes a reference to the person who before the marriage was dissolved was the husband and a reference in this Act to “wife” includes a reference to the person who before the marriage was dissolved was the wife.

*In the name and on behalf of Her Majesty I assent to this Act.*

E. W. WOODWARD,  
*Governor.*

*Government House,  
Sydney, 16th April, 1958.*

THE [illegible] OF [illegible]

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