

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, 8 April, 1960, A.M.*

New South Wales



ANNO NONO

ELIZABETHÆ II REGINÆ

Act No. , 1960.

An Act to amend the law relating to the enforcement and variation of certain maintenance orders; for this purpose to amend the Interstate Destitute Persons Relief Act, 1919, 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 the same, as follows:—

1. (1) This Act may be cited as the "Interstate Destitute Persons Relief (Amendment) Act, 1960".

Short title,
citation
and com-
mencement.

99683 210—A

(2)

Interstate Destitute Persons Relief (Amendment).

(2) The Interstate Destitute Persons Relief Act, 1919, as amended by subsequent Acts and by this Act, may be cited as the Interstate Destitute Persons Relief Act, 1919-1960.

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

2. The Interstate Destitute Persons Relief Act, 1919, as amended by subsequent Acts, is amended—

Amendment
of Act No.
33, 1919.

10 (a) (i) by inserting in the definition of "State" in section four after the word "Australia," the words "a Territory of the Commonwealth of Australia or a Territory administered by the government of the Commonwealth of Australia under the trusteeship system of the United Nations,";

Sec. 4.
(Defini-
tions.)

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

(2) A reference, however expressed, in this Act—

20 (a) to a maintenance order registered, or registered by a court, in this State shall be construed as a reference to a maintenance order registered, or registered by or in a court, in this State, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under the Maintenance Orders (Facilities for Enforcement) Act, 1923;

25 (b) to a maintenance order registered, or registered by a court, in a State, other than New South Wales but being a State within the meaning of the Part of this Act in which the reference occurs, shall be construed as a reference to a maintenance order registered, or registered by

or

Interstate Destitute Persons Relief (Amendment).

- 5 or in a court, in the State concerned, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under a law of that State reciprocal to the Imperial Act entitled the Maintenance Orders (Facilities for Enforcement) Act, 1920;
- 10 (c) to a maintenance order confirmed, or confirmed by a court, in this State shall be construed as a reference to a maintenance order so confirmed, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under—
- 15 (i) the Maintenance Orders (Facilities for Enforcement) Act, 1923, where the order was registered under that Act; or
- 20 (ii) section 16A of this Act, where the order was registered under that section;
- 25 (d) to a maintenance order confirmed, or confirmed by a court, in a State, other than New South Wales but being a State within the meaning of the Part of this Act in which the reference occurs, shall be construed as a reference to a maintenance order so confirmed, whether
- 30 before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under—
- 35 (i) a law of the State concerned reciprocal to the Imperial Act entitled the Maintenance Orders (Facilities for Enforcement) Act, 1920, where the order was confirmed under that law; or
- (ii)

Interstate Destitute Persons Relief (Amendment).

5 (ii) the provisions of the law of the State concerned that correspond, or substantially correspond, with section 16A of this Act, where the order was confirmed under those provisions.

(b) by inserting in subsections one and two of section five after the words "an Act" the words "or a law";

Sec. 5. (Reciprocity.)

10 (c) (i) by omitting from section seven the words "this Act—

Sec. 7. (Summons for relief issued in another State may be served in this State.)

(a) a summons for maintenance has been issued; or

(b) a maintenance order has been made,

15 by any justice or by any court not being a court of record," and by inserting in lieu thereof the words "the Interstate Destitute Persons Relief (Amendment) Act, 1960—

20 (a) a summons for maintenance has been issued by a justice or by or out of a court; or

(b) a maintenance order has been made, registered or confirmed by a justice or by or in a court,";

25 (ii) by inserting in the same section after the word "made" where lastly occurring the words ", registered or confirmed";

30 (d) (i) by omitting from section eight the words "this Act" and by inserting in lieu thereof the words "the Interstate Destitute Persons Relief (Amendment) Act, 1960";

Sec. 8. (Summons issued and order made to defendant in another State.)

(ii) by inserting in the same section after the word "made," where firstly and secondly occurring the words "registered or confirmed,";

35 (iii) by inserting in the same section after the word "made" where lastly occurring the words ", registered or confirmed";

(e)

Interstate Destitute Persons Relief (Amendment).

- (e) (i) by inserting in section twelve of this Act after the word "made" where firstly and secondly occurring the words ", registered or confirmed";
- (ii) by omitting from the same section the words "in favour of any person resident in this State";
- (iii) by inserting in the same section after the word "made," where fourthly occurring the words "registered or confirmed,";
- (iv) by inserting in paragraph (a) of the same section after the word "made" where thirdly occurring the words ", registered or confirmed";
- (v) by omitting from the same paragraph the words "and the seal thereof";
- (vi) by inserting in paragraph (c) of the same section after the word "made" the words ", registered or confirmed";
- (f) (i) by inserting in paragraph (a) of subsection one of section thirteen after the word "made" where thirdly occurring the words ", registered or confirmed";
- (ii) by omitting from the same paragraph the words ", not being a court of record,";
- (iii) by omitting from the same paragraph the words "and the seal thereof, such order, in any case, being made in favour of any person resident in such State";
- (iv) by omitting from subsection two of the same section the words "authenticated, or sealed" wherever occurring and by inserting in lieu thereof the words "or authenticated";
- (v) by omitting from the same subsection the words "or seal";
- (g) (i) by inserting in subsection one of section fourteen after the word "made" where secondly occurring the words ", registered or confirmed";

Sec. 12.
(Documents to be sent to collector in another State.)

Sec. 13.
(Notice of intention to apply to make orders enforceable in this State.)

Sec. 14.
(Direction that order be enforced.)

(ii)

Interstate Destitute Persons Relief (Amendment).

(ii) by inserting in subsection two of the same section after the word "made," the words "registered or confirmed";

5 (h) by omitting section sixteen and by inserting in lieu thereof the following sections :—

Subst.
sec. 16
and new
sec. 16A.

16. (1) A maintenance order made enforceable, under the provisions of this Act, in this State shall—
Procedure
for enforcing
orders.

10 (a) where the order was made or registered by the Supreme Court of the other State concerned—be enforceable under section 90A or 90B of the Matrimonial Causes Act 1899, as amended by subsequent Acts, in the same manner as if it had been made or registered by the Supreme Court of this State;

15 (b) where the order was made, registered or confirmed in the other State concerned otherwise than by the Supreme Court of that State—be enforceable—

20 (i) where the order is an order in affiliation proceedings—under the Child Welfare Act, 1939, as amended by subsequent Acts, in the same manner as if it had been made under Part XVI of that Act;

25 (ii) in any other case—in the same manner as if it had been made under the Deserted Wives and Children Act, 1901, as amended by subsequent Acts;

30 (c) where it is not practicable to enforce it in any manner specified in the foregoing provisions of this section—be enforceable in the manner prescribed by the Justices Act, 1902, for enforcing an order for the payment of money.

Interstate Destitute Persons Relief (Amendment).

(2) A maintenance order made enforceable, under the provisions of this Act, in this State shall be enforceable only at the instance of—

- (a) the collector;
- 5 (b) an assistant collector; or
- (c) a person, being an officer of the Child Welfare Department or an officer of the petty sessions branch of the Department of the Attorney-General and of Justice or a member of the police force, authorised in writing in that behalf by the collector in relation to the specific case.
- 10

(3) A document purporting to be an authority of the kind referred to in subsection two of this section, and to be signed by the collector shall, for the purposes of this Act, without proof of the signature appearing on the document, be deemed to be what it purports to be, and to be duly signed, until the contrary is proved.

16A. (1) (a) Where a maintenance order made in another State (in this subsection referred to as the original order) is, by virtue of the provisions of this Act, being enforced in this State against a person in this State, that person may apply in the prescribed manner to a children's court for an order that the order being so enforced should be varied, suspended or discharged.

Power to apply in this State for variation of interstate order being enforced in this State. cf. Vict. Act No. 6116, s. 58; S.A. 1958 No. 13, s. 3.

(b) Notice of the application shall be served personally or by post not less than fourteen days before the date of the hearing of the application on—

- (i) the collector appointed in the State in which the original order was made; and
- (ii) the collector.

(c)

Interstate Destitute Persons Relief (Amendment).

5 (c) Where on the hearing of the appli-
cation it appears to the children's court that it is
just that the original order should be varied, sus-
pended or discharged, it may make such order vary-
ing, suspending or discharging the original order as
it thinks fit, but an order so made shall be provisional
only and shall have no effect until confirmed by a
court in the State in which the original order was
made that has power to vary, suspend or discharge
10 the original order.

15 (d) Where a provisional order is made
by the children's court under this section a copy of
the order certified by the clerk of the court to be a
true copy and the depositions in the matter shall be
forwarded by that clerk to the collector appointed
in the State in which the original order was made.

20 (2) (a) Where, pursuant to the provisions
in the law of another State that correspond with this
section, the collector receives a copy of an order
(certified by the proper officer of the court that
made the order to be a true copy) provisionally
varying, suspending or discharging a maintenance
order (in this subsection referred to as the original
order) made in this State and depositions made and
25 taken in the matter under those provisions, an
authorised officer shall apply on behalf of the appli-
cant in the matter to a court that has power to vary,
suspend or discharge the original order for an order
confirming the provisional order.

30 (b) Notice in the prescribed form of an
application under paragraph (a) of this subsection
shall be served by the authorised officer not less than
fourteen days before the date of the hearing of the
application on the person in whose favour the
original order was made either personally or by post
35 addressed to his last known place of residence.

(c)

Interstate Destitute Persons Relief (Amendment).

(c) Upon the hearing of the application the court may—

- (i) confirm or discharge the provisional order with or without any modification ; or
- 5 (ii) remit the provisional order to the court that made it for the purpose of taking such further evidence as the court hearing the application may request and adjourn the proceedings for the purpose.

10 (d) Any party shall have the same right of appeal against—

- 15 (i) an order confirming a provisional order as he would have had against the making of the provisional order if the provisional order had been an order made by the court confirming the provisional order ;
- 20 (ii) an order discharging a provisional order as he would have had if all proceedings on the application to vary, suspend or discharge, as the case may be, the original order had been taken in the court discharging the provisional order and the order discharging the provisional order had been an order refusing the application.

25 (e) In this subsection “authorised officer” means—

- (i) the collector ;
- (ii) an assistant collector ; or
- 30 (iii) a person, being an officer of the Child Welfare Department or an officer of the petty sessions branch of the Department of the Attorney-General and of Justice or a member of the police force, authorised in writing in that behalf by the collector in relation to the
- 35 specific case.

Interstate Destitute Persons Relief (Amendment).

5 (3) Where, pursuant to the provisions in the
law of another State that correspond with this section,
a provisional order has been remitted to a children's
court for the purpose of taking further evidence, the
court shall, after giving the prescribed notice, take
the further evidence and such other evidence as it
thinks fit and may either discharge the provisional
order or transmit the provisional order together with
10 the depositions of the further or other evidence to
the court that requested the taking of further
evidence.

15 (4) The evidence of any witness who is
examined pursuant to this section shall be put into
writing, and the deposition shall be read over to,
and signed by, the witness.

(5) Depositions taken under the provisions
in the law of another State that correspond with
this section may be received in evidence in proceed-
ings under this section.

20 (6) For the purposes of this section, a docu-
ment purporting to be signed by an officer of a
court in another State shall, until the contrary is
proved, be deemed to have been so signed without
proof of the signature or official character of the
25 person appearing to have signed it, and the officer
of a court by whom a document is signed shall, until
the contrary is proved, be deemed to have been
the proper officer of the court to sign the document.

30 (7) In this section "children's court" means
a children's court and includes a magistrate exercis-
ing the jurisdiction of a children's court.

- (i) by inserting in subsection two of section eighteen
after the word "made," the words "registered or
confirmed";
- (j) Sec. 18.
(Certificate
or affidavit
of collector
sufficient
evidence of
payment.)

Interstate Destitute Persons Relief (Amendment).

- 5 (j) (i) by omitting from subsection one of section twenty-three the word "The" where firstly occurring and by inserting in lieu thereof the words "Subject to subsection (2A) of this section, the"; Sec. 23. (Regulations and rules of court.)
- (ii) by omitting from paragraph (f) of the same subsection the word "and";
- (iii) by inserting next after the same paragraph the following new paragraph :—
- 10 (f1) the practice and procedure in respect of summary proceedings of any kind under this Act and the facilitation of communications between a court of summary jurisdiction in this State and courts in other States.
- 15
- (iv) by inserting next after subsection two of the same section the following new subsections :—
- 20 (2A) The judges of the Supreme Court or any five of them may make rules of court prescribing the practice and procedure in respect of proceedings of any kind before the Supreme Court under this Act and for facilitating communications between the Supreme Court and courts in other States.
- 25 (2B) The provisions of subsections two and three of section ninety-one of the Matrimonial Causes Act 1899, as amended by subsequent Acts, apply to and in respect of the business that may be transacted, and the authority and jurisdiction that may be exercised, under this Act by the Supreme Court in its matrimonial causes jurisdiction.
- 30
- 35 The provisions of section ninety-four of that Act apply to and in respect of any power and jurisdiction that may be delegated pursuant to the operation of this subsection.
- (v)

Interstate Destitute Persons Relief (Amendment).

- (v) by inserting in subsection three of the same section after the word "regulations" wherever occurring the words "or rules";
- 5 (vi) by inserting in subsection three of the same section after the word "regulation" wherever occurring the words "or rule";
- 10 (k) (i) by omitting from paragraph two of the Schedule the word "made" where firstly occurring and by inserting in lieu thereof the words and symbols "[made *or* registered *or* confirmed as the case may be]";
- (ii) by inserting in paragraph three of the Schedule after the words "the said order" the words "or the confirmation of the said order".

No. , 1960.

A BILL

To amend the law relating to the enforcement and variation of certain maintenance orders; for this purpose to amend the Interstate Destitute Persons Relief Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. HAWKINS;—31 *March*, 1960.]

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 "Interstate Destitute Persons Relief (Amendment) Act, 1960".

Short title,
citation
and com-
mencement.

Interstate Destitute Persons Relief (Amendment).

(2) The Interstate Destitute Persons Relief Act, 1919, as amended by subsequent Acts and by this Act, may be cited as the Interstate Destitute Persons Relief Act, 1919-1960.

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

2. The Interstate Destitute Persons Relief Act, 1919, as amended by subsequent Acts, is amended— Amendment of Act No. 33, 1919.

10 (a) (i) by inserting in the definition of "State" in section four after the word "Australia," the words "a Territory of the Commonwealth of Australia or a Territory administered by the government of the Commonwealth of Australia under the trusteeship system of the United Nations,"; Sec. 4. (Definitions.)

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

(2) A reference, however expressed, in this Act—

20 (a) to a maintenance order registered, or registered by a court, in this State shall be construed as a reference to a maintenance order registered, or registered by or in a court, in this State, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under the Maintenance Orders (Facilities for Enforcement) Act, 1923;

30 (b) to a maintenance order registered, or registered by a court, in a State, other than New South Wales but being a State within the meaning of the Part of this Act in which the reference occurs, shall be construed as a reference to a maintenance order registered, or registered by

35

or

Interstate Destitute Persons Relief (Amendment).

- 5 or in a court, in the State concerned,
whether before or after the commence-
ment of the Interstate Destitute Persons
Relief (Amendment) Act, 1960, under
a law of that State reciprocal to the
Imperial Act entitled the Maintenance
Orders (Facilities for Enforcement)
Act, 1920;
- 10 (c) to a maintenance order confirmed, or
confirmed by a court, in this State shall
be construed as a reference to a mainten-
ance order so confirmed, whether before
or after the commencement of the Inter-
state Destitute Persons Relief (Amend-
ment) Act, 1960, under—
- 15 (i) the Maintenance Orders (Facili-
ties for Enforcement) Act, 1923,
where the order was registered
under that Act; or
- 20 (ii) section 16A of this Act, where the
order was registered under that
section;
- 25 (d) to a maintenance order confirmed, or
confirmed by a court, in a State, other
than New South Wales but being a State
within the meaning of the Part of this
Act in which the reference occurs, shall
be construed as a reference to a main-
tenance order so confirmed, whether
30 before or after the commencement of the
Interstate Destitute Persons Relief
(Amendment) Act, 1960, under—
- 35 (i) a law of the State concerned
reciprocal to the Imperial Act
entitled the Maintenance
Orders (Facilities for Enforce-
ment) Act, 1920, where the order
was confirmed under that law; or
(ii)

Interstate Destitute Persons Relief (Amendment).

- 5 (ii) the provisions of the law of the State concerned that correspond, or substantially correspond, with section 16A of this Act, where the order was confirmed under those provisions.
- (b) by inserting in subsections one and two of section five after the words "an Act" the words "or a law";
- 10 (c) (i) by omitting from section seven the words "this Act—

 - (a) a summons for maintenance has been issued; or
 - (b) a maintenance order has been made,

by any justice or by any court not being a court of record," and by inserting in lieu thereof the words "the Interstate Destitute Persons Relief (Amendment) Act, 1960—

 - (a) a summons for maintenance has been issued by a justice or by or out of a court; or
 - (b) a maintenance order has been made, registered or confirmed by a justice or by or in a court,";
- 25 (ii) by inserting in the same section after the word "made" where lastly occurring the words ", registered or confirmed";
- 30 (d) (i) by omitting from section eight the words "this Act" and by inserting in lieu thereof the words "the Interstate Destitute Persons Relief (Amendment) Act, 1960";

 - (ii) by inserting in the same section after the word "made," where firstly and secondly occurring the words "registered or confirmed,";
 - (iii) by inserting in the same section after the word "made" where lastly occurring the words ", registered or confirmed";

Sec. 5. (Reciprocity.)

Sec. 7. (Summons for relief issued in another State may be served in this State.)

Sec. 8. (Summons issued and order made to defendant in another State.)

(e)

Interstate Destitute Persons Relief (Amendment).

- (e) (i) by inserting in section twelve of this Act after the word "made" where firstly and secondly occurring the words ", registered or confirmed"; Sec. 12. (Documents to be sent to collector in another State.)
- 5 (ii) by omitting from the same section the words "in favour of any person resident in this State";
- (iii) by inserting in the same section after the word "made," where fourthly occurring the words "registered or confirmed,";
- 10 (iv) by inserting in paragraph (a) of the same section after the word "made" where thirdly occurring the words ", registered or confirmed";
- (v) by omitting from the same paragraph the words "and the seal thereof";
- 15 (vi) by inserting in paragraph (c) of the same section after the word "made" the words ", registered or confirmed";
- (f) (i) by inserting in paragraph (a) of subsection one of section thirteen after the word "made" where Sec. 13. (Notice of intention to apply to make orders enforceable in this State.) thirdly occurring the words ", registered or confirmed";
- 20 (ii) by omitting from the same paragraph the words ", not being a court of record,";
- (iii) by omitting from the same paragraph the words 25 "and the seal thereof, such order, in any case, being made in favour of any person resident in such State";
- (iv) by omitting from subsection two of the same section the words "authenticated, or sealed" 30 wherever occurring and by inserting in lieu thereof the words "or authenticated";
- (v) by omitting from the same subsection the words "or seal";
- (g) (i) by inserting in subsection one of section fourteen 35 after the word "made" where secondly occurring the words ", registered or confirmed"; Sec. 14. (Direction that order be enforced.)

(ii)

Interstate Destitute Persons Relief (Amendment).

(ii) by inserting in subsection two of the same section after the word "made," the words "registered or confirmed";

5 (h) by omitting section sixteen and by inserting in lieu thereof the following sections :—
Subst. sec. 16 and new sec. 16A.
16. (1) A maintenance order made enforceable, Procedure for enforcing orders.

10 (a) where the order was made or registered by the Supreme Court of the other State concerned—be enforceable under section 90A or 90B of the Matrimonial Causes Act 1899, as amended by subsequent Acts, in the same manner as if it had been made or registered by the Supreme Court of this State;

15 (b) where the order was made, registered or confirmed in the other State concerned otherwise than by the Supreme Court of that State—be enforceable—

20 (i) where the order is an order in affiliation proceedings—under the Child Welfare Act, 1939, as amended by subsequent Acts, in the same manner as if it had been made under Part XVI of that Act;

25 (ii) in any other case—in the same manner as if it had been made under the Deserted Wives and Children Act, 1901, as amended by subsequent Acts;

30 (c) where it is not practicable to enforce it in any manner specified in the foregoing provisions of this section—be enforceable in the manner prescribed by the Justices Act, 1902, for enforcing an order for the payment of money.

(2)

Interstate Destitute Persons Relief (Amendment).

(2) A maintenance order made enforceable, under the provisions of this Act, in this State shall be enforceable only at the instance of—

- (a) the collector;
- 5 (b) an assistant collector; or
- (c) a person, being an officer of the Child Welfare Department or an officer of the petty sessions branch of the Department of the Attorney-General and of Justice or a member
- 10 of the police force, authorised in writing in that behalf by the collector in relation to the specific case.

(3) A document purporting to be an authority of the kind referred to in subsection two of this section, and to be signed by the collector shall, for the purposes of this Act, without proof of the signature appearing on the document, be deemed to be what it purports to be, and to be duly signed, until the contrary is proved.

16A. (1) (a) Where a maintenance order made in another State (in this subsection referred to as the original order) is, by virtue of the provisions of this Act, being enforced in this State against a person in this State, that person may apply in the prescribed manner to a children's court for an order that the order being so enforced should be varied, suspended or discharged.

Power to apply in this State for variation of interstate order being enforced in this State. cf. Vict. Act No. 6116, s. 58; S.A. 1958 No. 13, s. 3.

(b) Notice of the application shall be served personally or by post not less than fourteen days before the date of the hearing of the application on—

- (i) the collector appointed in the State in which the original order was made; and
- (ii) the collector.

(c)

Interstate Destitute Persons Relief (Amendment).

5 (c) Where on the hearing of the appli-
cation it appears to the children's court that it is
just that the original order should be varied, sus-
pended or discharged, it may make such order vary-
ing, suspending or discharging the original order as
10 it thinks fit, but an order so made shall be provisional
only and shall have no effect until confirmed by a
court in the State in which the original order was
made that has power to vary, suspend or discharge
the original order.

15 (d) Where a provisional order is made
by the children's court under this section a copy of
the order certified by the clerk of the court to be a
true copy and the depositions in the matter shall be
forwarded by that clerk to the collector appointed
in the State in which the original order was made.

20 (2) (a) Where, pursuant to the provisions
in the law of another State that correspond with this
section, the collector receives a copy of an order
(certified by the proper officer of the court that
made the order to be a true copy) provisionally
25 varying, suspending or discharging a maintenance
order (in this subsection referred to as the original
order) made in this State and depositions made and
taken in the matter under those provisions, an
authorised officer shall apply on behalf of the appli-
cant in the matter to a court that has power to vary,
suspend or discharge the original order for an order
confirming the provisional order.

30 (b) Notice in the prescribed form of an
application under paragraph (a) of this subsection
shall be served by the authorised officer not less than
fourteen days before the date of the hearing of the
application on the person in whose favour the
35 original order was made either personally or by post
addressed to his last known place of residence.

(c)

Interstate Destitute Persons Relief (Amendment).

(c) Upon the hearing of the application the court may—

- (i) confirm or discharge the provisional order with or without any modification; or
- 5 (ii) remit the provisional order to the court that made it for the purpose of taking such further evidence as the court hearing the application may request and adjourn the proceedings for the purpose.

10 (d) Any party shall have the same right of appeal against—

- 15 (i) an order confirming a provisional order as he would have had against the making of the provisional order if the provisional order had been an order made by the court confirming the provisional order;
- 20 (ii) an order discharging a provisional order as he would have had if all proceedings on the application to vary, suspend or discharge, as the case may be, the original order had been taken in the court discharging the provisional order and the order discharging the provisional order had been an order refusing the application.

25 (e) In this subsection “authorised officer” means—

- (i) the collector;
- (ii) an assistant collector; or
- 30 (iii) a person, being an officer of the Child Welfare Department or an officer of the petty sessions branch of the Department of the Attorney-General and of Justice or a member of the police force, authorised in writing in that behalf by the collector in relation to the
- 35 specific case.

Interstate Destitute Persons Relief (Amendment).

5 (3) Where, pursuant to the provisions in the
law of another State that correspond with this section,
a provisional order has been remitted to a children's
court for the purpose of taking further evidence, the
court shall, after giving the prescribed notice, take
the further evidence and such other evidence as it
thinks fit and may either discharge the provisional
order or transmit the provisional order together with
the depositions of the further or other evidence to
10 the court that requested the taking of further
evidence.

15 (4) The evidence of any witness who is
examined pursuant to this section shall be put into
writing, and the deposition shall be read over to,
and signed by, the witness.

(5) Depositions taken under the provisions
in the law of another State that correspond with
this section may be received in evidence in proceed-
ings under this section.

20 (6) For the purposes of this section, a docu-
ment purporting to be signed by an officer of a
court in another State shall, until the contrary is
proved, be deemed to have been so signed without
proof of the signature or official character of the
25 person appearing to have signed it, and the officer
of a court by whom a document is signed shall, until
the contrary is proved, be deemed to have been
the proper officer of the court to sign the document.

30 (7) In this section "children's court" means
a children's court and includes a magistrate exercis-
ing the jurisdiction of a children's court.

- (i) by inserting in subsection two of section eighteen
after the word "made," the words "registered or
confirmed";
- (j) Sec. 18.
(Certificate
or affidavit
of collector
sufficient
evidence of
payment.)

Interstate Destitute Persons Relief (Amendment).

(j) (i) by omitting from subsection one of section Sec. 23.
twenty-three the word "The" where firstly (Regulations
occurring and by inserting in lieu thereof the and rules
words "Subject to subsection (2A) of this sec- of court.)
tion, the";

5

(ii) by omitting from paragraph (f) of the same
subsection the word "and";

(iii) by inserting next after the same paragraph the
following new paragraph :—

10

(f1) the practice and procedure in respect of
summary proceedings of any kind under
this Act and the facilitation of communi-
cations between a court of summary
jurisdiction in this State and courts in
other States.

15

(iv) by inserting next after subsection two of the
same section the following new subsections :—

20

(2A) The judges of the Supreme Court or
any five of them may make rules of court
prescribing the practice and procedure in respect
of proceedings of any kind before the Supreme
Court under this Act and for facilitating com-
munications between the Supreme Court and
courts in other States.

25

(2B) The provisions of subsections two and
three of section ninety-one of the Matrimonial
Causes Act 1899, as amended by subsequent
Acts, apply to and in respect of the business
that may be transacted, and the authority and
jurisdiction that may be exercised, under this
Act by the Supreme Court in its matrimonial
causes jurisdiction.

30

The provisions of section ninety-four of that
Act apply to and in respect of any power and
jurisdiction that may be delegated pursuant to
the operation of this subsection.

35

(v)

Interstate Destitute Persons Relief (Amendment).

- (v) by inserting in subsection three of the same section after the word "regulations" wherever occurring the words "or rules";
- 5 (vi) by inserting in subsection three of the same section after the word "regulation" wherever occurring the words "or rule";
- 10 (k) (i) by omitting from paragraph two of the Schedule Schedule. the word "made" where firstly occurring and by inserting in lieu thereof the words and symbols "[made or registered or confirmed as the case may be]";
- (ii) by inserting in paragraph three of the Schedule after the words "the said order" the words "or the confirmation of the said order".

INTERSTATE DESTITUTE PERSONS RELIEF (AMENDMENT) BILL, 1960.

EXPLANATORY NOTE.

THE objects of this Bill are—

- (a) to enable the provisions of the Interstate Destitute Persons Relief Act, 1919, as amended, to be extended to Territories of the Commonwealth of Australia and to Trusteeship Territories of the Commonwealth of Australia ;
- (b) to enable maintenance orders registered or confirmed under the law of a State, Territory or Trusteeship Territory of the Commonwealth of Australia that is reciprocal to the Imperial Act entitled the Maintenance Orders (Facilities for Enforcement) Act, 1920, to be enforced under the Interstate Destitute Persons Relief System ;
- (c) to enable maintenance orders made by courts of record to be enforced under the Interstate Destitute Persons Relief System ;
- (d) to enable a person against whom a maintenance order is being enforced in this State under the Interstate Destitute Persons Relief System to apply to a children's court in this State for an order varying, suspending or discharging the maintenance order, the varying, suspending or discharging order being provisional only until confirmed by the proper court in the State in which the maintenance order was made.

INTERSTATE DEPT. OF HIGHWAYS & TRANSPORTATION

2011

MEMORANDUM

The purpose of this memorandum is to provide information regarding the proposed changes to the Interstate Department of Highways and Transportation. The proposed changes include the following:

- 1. The proposed changes to the Interstate Department of Highways and Transportation are intended to improve the efficiency and effectiveness of the department's operations.
- 2. The proposed changes to the Interstate Department of Highways and Transportation are intended to ensure that the department is able to meet the needs of the public in a timely and cost-effective manner.
- 3. The proposed changes to the Interstate Department of Highways and Transportation are intended to ensure that the department is able to provide the highest quality of service to the public.

The proposed changes to the Interstate Department of Highways and Transportation are intended to improve the efficiency and effectiveness of the department's operations. The proposed changes to the Interstate Department of Highways and Transportation are intended to ensure that the department is able to meet the needs of the public in a timely and cost-effective manner. The proposed changes to the Interstate Department of Highways and Transportation are intended to ensure that the department is able to provide the highest quality of service to the public.

No. , 1960.

A BILL

To amend the law relating to the enforcement and variation of certain maintenance orders; for this purpose to amend the Interstate Destitute Persons Relief Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith.

[MR. HAWKINS;—31 March, 1960.]

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 "Interstate Destitute Persons Relief (Amendment) Act, 1960".

Short title,
citation
and com-
mencement.

Interstate Destitute Persons Relief (Amendment).

(2) The Interstate Destitute Persons Relief Act, 1919, as amended by subsequent Acts and by this Act, may be cited as the Interstate Destitute Persons Relief Act, 1919-1960.

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

2. The Interstate Destitute Persons Relief Act, 1919, as amended by subsequent Acts, is amended— Amendment of Act No. 33, 1919.

10 (a) (i) by inserting in the definition of "State" in section four after the word "Australia," the words "a Territory of the Commonwealth of Australia or a Territory administered by the government of the Commonwealth of Australia under the trusteeship system of the United Nations,"; Sec. 4. (Definitions.)

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

(2) A reference, however expressed, in this Act—

20 (a) to a maintenance order registered, or registered by a court, in this State shall be construed as a reference to a maintenance order registered, or registered by or in a court, in this State, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under the Maintenance Orders (Facilities for Enforcement) Act, 1923;

30 (b) to a maintenance order registered, or registered by a court, in a State, other than New South Wales but being a State within the meaning of the Part of this Act in which the reference occurs, shall be construed as a reference to a maintenance order registered, or registered by

35

or

Interstate Destitute Persons Relief (Amendment).

- 5 or in a court, in the State concerned, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under a law of that State reciprocal to the Imperial Act entitled the Maintenance Orders (Facilities for Enforcement) Act, 1920;
- 10 (c) to a maintenance order confirmed, or confirmed by a court, in this State shall be construed as a reference to a maintenance order so confirmed, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under—
- 15 (i) the Maintenance Orders (Facilities for Enforcement) Act, 1923, where the order was registered under that Act; or
- 20 (ii) section 16A of this Act, where the order was registered under that section;
- 25 (d) to a maintenance order confirmed, or confirmed by a court, in a State, other than New South Wales but being a State within the meaning of the Part of this Act in which the reference occurs, shall be construed as a reference to a maintenance order so confirmed, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under—
- 30 (i) a law of the State concerned reciprocal to the Imperial Act entitled the Maintenance Orders (Facilities for Enforcement) Act, 1920, where the order was confirmed under that law; or
- 35 (ii)

Interstate Destitute Persons Relief (Amendment).

- 5 (ii) the provisions of the law of the State concerned that correspond, or substantially correspond, with section 16A of this Act, where the order was confirmed under those provisions.
- (b) by inserting in subsections one and two of section five after the words "an Act" the words "or a law";
- 10 (c) (i) by omitting from section seven the words "this Act—"
 - (a) a summons for maintenance has been issued; or
 - (b) a maintenance order has been made, by any justice or by any court not being a court of record," and by inserting in lieu thereof the words "the Interstate Destitute Persons Relief (Amendment) Act, 1960—"
 - 15 (a) a summons for maintenance has been issued by a justice or by or out of a court; or
 - 20 (b) a maintenance order has been made, registered or confirmed by a justice or by or in a court,";
 - 25 (ii) by inserting in the same section after the word "made" where lastly occurring the words ", registered or confirmed";
- (d) (i) by omitting from section eight the words "this Act" and by inserting in lieu thereof the words "the Interstate Destitute Persons Relief (Amendment) Act, 1960";
- 30 (ii) by inserting in the same section after the word "made," where firstly and secondly occurring the words "registered or confirmed,";
- 35 (iii) by inserting in the same section after the word "made" where lastly occurring the words ", registered or confirmed";

Sec. 5. (Reciprocity.)

Sec. 7. (Summons for relief issued in another State may be served in this State.)

Sec. 8. (Summons issued and order made to defendant in another State.)

(e)

Interstate Destitute Persons Relief (Amendment).

- (e) (i) by inserting in section twelve of this Act after the word "made" where firstly and secondly occurring the words ", registered or confirmed"; Sec. 12. (Documents to be sent to collector in another State.)
- 5 (ii) by omitting from the same section the words "in favour of any person resident in this State";
- (iii) by inserting in the same section after the word "made," where fourthly occurring the words "registered or confirmed,";
- 10 (iv) by inserting in paragraph (a) of the same section after the word "made" where thirdly occurring the words ", registered or confirmed";
- (v) by omitting from the same paragraph the words "and the seal thereof";
- 15 (vi) by inserting in paragraph (c) of the same section after the word "made" the words ", registered or confirmed";
- (f) (i) by inserting in paragraph (a) of subsection one of section thirteen after the word "made" where thirdly occurring the words ", registered or confirmed"; Sec. 13. (Notice of intention to apply to make orders enforceable in this State.)
- 20 (ii) by omitting from the same paragraph the words ", not being a court of record,";
- (iii) by omitting from the same paragraph the words "and the seal thereof, such order, in any case, being made in favour of any person resident in such State";
- 25 (iv) by omitting from subsection two of the same section the words "authenticated, or sealed" wherever occurring and by inserting in lieu thereof the words "or authenticated";
- 30 (v) by omitting from the same subsection the words "or seal";
- (g) (i) by inserting in subsection one of section fourteen after the word "made" where secondly occurring the words ", registered or confirmed"; Sec. 14. (Direction that order be enforced.)
- 35

(ii)

Interstate Destitute Persons Relief (Amendment).

(ii) by inserting in subsection two of the same section after the word "made," the words "registered or confirmed";

5 (h) by omitting section sixteen and by inserting in lieu thereof the following sections:—

Subst.
sec. 16
and new
sec. 16A.
Procedure
for enforcing
orders.

16. (1) A maintenance order made enforceable, under the provisions of this Act, in this State shall—

10 (a) where the order was made or registered by the Supreme Court of the other State concerned—be enforceable under section 90A or 90B of the Matrimonial Causes Act 1899, as amended by subsequent Acts, in the same manner as if it had been made or registered by the Supreme Court of this State;

15 (b) where the order was made, registered or confirmed in the other State concerned otherwise than by the Supreme Court of that State—be enforceable—

20 (i) where the order is an order in affiliation proceedings—under the Child Welfare Act, 1939, as amended by subsequent Acts, in the same manner as if it had been made under Part XVI of that Act;

25 (ii) in any other case—in the same manner as if it had been made under the Deserted Wives and Children Act, 1901, as amended by subsequent Acts;

30 (c) where it is not practicable to enforce it in any manner specified in the foregoing provisions of this section—be enforceable in the manner prescribed by the Justices Act, 1902, for enforcing an order for the payment of money.

(2)

Interstate Destitute Persons Relief (Amendment).

(2) A maintenance order made enforceable, under the provisions of this Act, in this State shall be enforceable only at the instance of—

- (a) the collector;
- 5 (b) an assistant collector; or
- (c) a person, being an officer of the Child Welfare Department or an officer of the petty sessions branch of the Department of the Attorney-General and of Justice or a member
- 10 of the police force, authorised in writing in that behalf by the collector in relation to the specific case.

(3) A document purporting to be an authority of the kind referred to in subsection two of this section, and to be signed by the collector shall, for the purposes of this Act, without proof of the signature appearing on the document, be deemed to be what it purports to be, and to be duly signed, until the contrary is proved.

16A. (1) (a) Where a maintenance order made in another State (in this subsection referred to as the original order) is, by virtue of the provisions of this Act, being enforced in this State against a person in this State, that person may apply in the prescribed manner to a children's court for an order that the order being so enforced should be varied, suspended or discharged.

Power to apply in this State for variation of interstate order being enforced in this State. cf. Vict. Act No. 6116, s. 58; S.A. 1958 No. 13, s. 3.

(b) Notice of the application shall be served personally or by post not less than fourteen days before the date of the hearing of the application on—

- (i) the collector appointed in the State in which the original order was made; and
- (ii) the collector.

(c)

Interstate Destitute Persons Relief (Amendment).

5 (c) Where on the hearing of the appli-
cation it appears to the children's court that it is
just that the original order should be varied, sus-
pended or discharged, it may make such order vary-
ing, suspending or discharging the original order as
it thinks fit, but an order so made shall be provisional
only and shall have no effect until confirmed by a
court in the State in which the original order was
made that has power to vary, suspend or discharge
10 the original order.

15 (d) Where a provisional order is made
by the children's court under this section a copy of
the order certified by the clerk of the court to be a
true copy and the depositions in the matter shall be
forwarded by that clerk to the collector appointed
in the State in which the original order was made.

20 (2) (a) Where, pursuant to the provisions
in the law of another State that correspond with this
section, the collector receives a copy of an order
(certified by the proper officer of the court that
made the order to be a true copy) provisionally
varying, suspending or discharging a maintenance
order (in this subsection referred to as the original
order) made in this State and depositions made and
25 taken in the matter under those provisions, an
authorised officer shall apply on behalf of the appli-
cant in the matter to a court that has power to vary,
suspend or discharge the original order for an order
confirming the provisional order.

30 (b) Notice in the prescribed form of an
application under paragraph (a) of this subsection
shall be served by the authorised officer not less than
fourteen days before the date of the hearing of the
application on the person in whose favour the
original order was made either personally or by post
35 addressed to his last known place of residence.

(c)

Interstate Destitute Persons Relief (Amendment).

(c) Upon the hearing of the application the court may—

- (i) confirm or discharge the provisional order with or without any modification; or
- 5 (ii) remit the provisional order to the court that made it for the purpose of taking such further evidence as the court hearing the application may request and adjourn the proceedings for the purpose.

10 (d) Any party shall have the same right of appeal against—

- (i) an order confirming a provisional order as he would have had against the making of the provisional order if the provisional order had been an order made by the court confirming the provisional order;
- 15 (ii) an order discharging a provisional order as he would have had if all proceedings on the application to vary, suspend or discharge, as the case may be, the original order had been taken in the court discharging the provisional order and the order discharging the provisional order had been an order refusing the application.

25 (e) In this subsection “authorised officer” means—

- (i) the collector;
- (ii) an assistant collector; or
- 30 (iii) a person, being an officer of the Child Welfare Department or an officer of the petty sessions branch of the Department of the Attorney-General and of Justice or a member of the police force, authorised in writing in that behalf by the collector in relation to the
- 35 specific case.

Interstate Destitute Persons Relief (Amendment).

5 (3) Where, pursuant to the provisions in the
law of another State that correspond with this section,
a provisional order has been remitted to a children's
court for the purpose of taking further evidence, the
court shall, after giving the prescribed notice, take
the further evidence and such other evidence as it
thinks fit and may either discharge the provisional
order or transmit the provisional order together with
10 the depositions of the further or other evidence to
the court that requested the taking of further
evidence.

15 (4) The evidence of any witness who is
examined pursuant to this section shall be put into
writing, and the deposition shall be read over to,
and signed by, the witness.

(5) Depositions taken under the provisions
in the law of another State that correspond with
this section may be received in evidence in proceed-
ings under this section.

20 (6) For the purposes of this section, a docu-
ment purporting to be signed by an officer of a
court in another State shall, until the contrary is
proved, be deemed to have been so signed without
proof of the signature or official character of the
25 person appearing to have signed it, and the officer
of a court by whom a document is signed shall, until
the contrary is proved, be deemed to have been
the proper officer of the court to sign the document.

30 (7) In this section "children's court" means
a children's court and includes a magistrate exercis-
ing the jurisdiction of a children's court.

- (i) by inserting in subsection two of section eighteen
after the word "made," the words "registered or
confirmed";
- (j) evidence of payment.)

Sec. 18.
(Certificate
of affidavit
of collector
sufficient
evidence of
payment.)

Interstate Destitute Persons Relief (Amendment).

5 (j) (i) by omitting from subsection one of section Sec. 23.
twenty-three the word "The" where firstly (Regulations
occurring and by inserting in lieu thereof the and Rules
words "Subject to subsection (2A) of this sec- of court.)
tion, the";

(ii) by omitting from paragraph (f) of the same
subsection the word "and";

10 (iii) by inserting next after the same paragraph the
following new paragraph :—

15 (f1) the practice and procedure in respect of
summary proceedings of any kind under
this Act and the facilitation of communi-
cations between a court of summary
jurisdiction in this State and courts in
other States.

(iv) by inserting next after subsection two of the
same section the following new subsections :—

20 (2A) The judges of the Supreme Court or
any five of them may make rules of court
prescribing the practice and procedure in respect
of proceedings of any kind before the Supreme
Court under this Act and for facilitating com-
munications between the Supreme Court and
courts in other States.

25 (2B) The provisions of subsections two and
three of section ninety-one of the Matrimonial
Causes Act 1899, as amended by subsequent
Acts, apply to and in respect of the business
that may be transacted, and the authority and
30 jurisdiction that may be exercised, under this
Act by the Supreme Court in its matrimonial
causes jurisdiction.

35 The provisions of section ninety-four of that
Act apply to and in respect of any power and
jurisdiction that may be delegated pursuant to
the operation of this subsection.

(v)

Interstate Destitute Persons Relief (Amendment).

- (v) by inserting in subsection three of the same section after the word "regulations" wherever occurring the words "or rules";
- 5 (vi) by inserting in subsection three of the same section after the word "regulation" wherever occurring the words "or rule";
- 10 (k) (i) by omitting from paragraph two of the Schedule Sch. the word "made" where firstly occurring and by inserting in lieu thereof the words and symbols "[made *or* registered *or* confirmed as the case may be]";
- (ii) by inserting in paragraph three of the Schedule after the words "the said order" the words "or the confirmation of the said order".

New South Wales



ANNO NONO

ELIZABETHÆ II REGINÆ

Act No. 34, 1960.

An Act to amend the law relating to the enforcement and variation of certain maintenance orders; for this purpose to amend the Interstate Destitute Persons Relief Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 28th April, 1960.]

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 "Interstate Destitute Persons Relief (Amendment) Act, 1960".

4759—A [8d.]

(2) Short title, citation and commencement.

Interstate Destitute Persons Relief (Amendment).

(2) The Interstate Destitute Persons Relief Act, 1919, as amended by subsequent Acts and by this Act, may be cited as the Interstate Destitute Persons Relief Act, 1919-1960.

(3) 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.
33, 1919.

2. The Interstate Destitute Persons Relief Act, 1919, as amended by subsequent Acts, is amended—

Sec. 4.
(Defini-
tions.)

(a) (i) by inserting in the definition of "State" in section four after the word "Australia," the words "a Territory of the Commonwealth of Australia or a Territory administered by the government of the Commonwealth of Australia under the trusteeship system of the United Nations,";

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

(2) A reference, however expressed, in this Act—

(a) to a maintenance order registered, or registered by a court, in this State shall be construed as a reference to a maintenance order registered, or registered by or in a court, in this State, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under the Maintenance Orders (Facilities for Enforcement) Act, 1923;

(b) to a maintenance order registered, or registered by a court, in a State, other than New South Wales but being a State within the meaning of the Part of this Act in which the reference occurs, shall be construed as a reference to a maintenance order registered, or registered by

or

Interstate Destitute Persons Relief (Amendment).

or in a court, in the State concerned, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under a law of that State reciprocal to the Imperial Act entitled the Maintenance Orders (Facilities for Enforcement) Act, 1920;

(c) to a maintenance order confirmed, or confirmed by a court, in this State shall be construed as a reference to a maintenance order so confirmed, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under—

(i) the Maintenance Orders (Facilities for Enforcement) Act, 1923, where the order was registered under that Act; or

(ii) section 16A of this Act, where the order was registered under that section;

(d) to a maintenance order confirmed, or confirmed by a court, in a State, other than New South Wales but being a State within the meaning of the Part of this Act in which the reference occurs, shall be construed as a reference to a maintenance order so confirmed, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under—

(i) a law of the State concerned reciprocal to the Imperial Act entitled the Maintenance Orders (Facilities for Enforcement) Act, 1920, where the order was confirmed under that law; or

(ii)

Interstate Destitute Persons Relief (Amendment).

- (ii) the provisions of the law of the State concerned that correspond, or substantially correspond, with section 16A of this Act, where the order was confirmed under those provisions.
- Sec. 5. (b) by inserting in subsections one and two of section (Reciprocity.) five after the words "an Act" the words "or a law";
- Sec. 7. (c) (i) by omitting from section seven the words "this (Summons for relief issued in another State may be served in this State.) Act—
- (a) a summons for maintenance has been issued; or
- (b) a maintenance order has been made, by any justice or by any court not being a court of record," and by inserting in lieu thereof the words "the Interstate Destitute Persons Relief (Amendment) Act, 1960—
- (a) a summons for maintenance has been issued by a justice or by or out of a court; or
- (b) a maintenance order has been made, registered or confirmed by a justice or by or in a court,";
- (ii) by inserting in the same section after the word "made" where lastly occurring the words ", registered or confirmed";
- Sec. 8. (d) (i) by omitting from section eight the words "this (Summons issued and order made to defendant in another State.) Act" and by inserting in lieu thereof the words "the Interstate Destitute Persons Relief (Amendment) Act, 1960";
- (ii) by inserting in the same section after the word "made," where firstly and secondly occurring the words "registered or confirmed,";
- (iii) by inserting in the same section after the word "made" where lastly occurring the words ", registered or confirmed";
- (e)

Interstate Destitute Persons Relief (Amendment).

- (e) (i) by inserting in section twelve of this Act after the word "made" where firstly and secondly occurring the words ", registered or confirmed"; Sec. 12. (Documents to be sent to collector in another State.)
- (ii) by omitting from the same section the words "in favour of any person resident in this State";
- (iii) by inserting in the same section after the word "made," where fourthly occurring the words "registered or confirmed,";
- (iv) by inserting in paragraph (a) of the same section after the word "made" where thirdly occurring the words ", registered or confirmed";
- (v) by omitting from the same paragraph the words "and the seal thereof";
- (vi) by inserting in paragraph (c) of the same section after the word "made" the words ", registered or confirmed";
- (f) (i) by inserting in paragraph (a) of subsection one of section thirteen after the word "made" where thirdly occurring the words ", registered or confirmed"; Sec. 13. (Notice of intention to apply to make orders enforceable in this State.)
- (ii) by omitting from the same paragraph the words ", not being a court of record,";
- (iii) by omitting from the same paragraph the words "and the seal thereof, such order, in any case, being made in favour of any person resident in such State";
- (iv) by omitting from subsection two of the same section the words "authenticated, or sealed" wherever occurring and by inserting in lieu thereof the words "or authenticated";
- (v) by omitting from the same subsection the words "or seal";
- (g) (i) by inserting in subsection one of section fourteen after the word "made" where secondly occurring the words ", registered or confirmed"; Sec. 14. (Direction that order be enforced.)

Interstate Destitute Persons Relief (Amendment).

(ii) by inserting in subsection two of the same section after the word "made," the words "registered or confirmed";

Subst.
sec. 16
and new
sec. 16A.

(h) by omitting section sixteen and by inserting in lieu thereof the following sections:—

Procedure
for enforcing
orders.

16. (1) A maintenance order made enforceable, under the provisions of this Act, in this State shall—

(a) where the order was made or registered by the Supreme Court of the other State concerned—be enforceable under section 90A or 90B of the Matrimonial Causes Act 1899, as amended by subsequent Acts, in the same manner as if it had been made or registered by the Supreme Court of this State;

(b) where the order was made, registered or confirmed in the other State concerned otherwise than by the Supreme Court of that State—be enforceable—

(i) where the order is an order in affiliation proceedings—under the Child Welfare Act, 1939, as amended by subsequent Acts, in the same manner as if it had been made under Part XVI of that Act;

(ii) in any other case—in the same manner as if it had been made under the Deserted Wives and Children Act, 1901, as amended by subsequent Acts;

(c) where it is not practicable to enforce it in any manner specified in the foregoing provisions of this section—be enforceable in the manner prescribed by the Justices Act, 1902, for enforcing an order for the payment of money.

(2)

Interstate Destitute Persons Relief (Amendment).

(2) A maintenance order made enforceable, under the provisions of this Act, in this State shall be enforceable only at the instance of—

- (a) the collector;
- (b) an assistant collector; or
- (c) a person, being an officer of the Child Welfare Department or an officer of the petty sessions branch of the Department of the Attorney-General and of Justice or a member of the police force, authorised in writing in that behalf by the collector in relation to the specific case.

(3) A document purporting to be an authority of the kind referred to in subsection two of this section, and to be signed by the collector shall, for the purposes of this Act, without proof of the signature appearing on the document, be deemed to be what it purports to be, and to be duly signed, until the contrary is proved.

16A. (1) (a) Where a maintenance order made in another State (in this subsection referred to as the original order) is, by virtue of the provisions of this Act, being enforced in this State against a person in this State, that person may apply in the prescribed manner to a children's court for an order that the order being so enforced should be varied, suspended or discharged.

Power to apply in this State for variation of interstate order being enforced in this State.
cf. Vict. Act No. 6116, s. 58; S.A. 1958 No. 13, s. 3.

(b) Notice of the application shall be served personally or by post not less than fourteen days before the date of the hearing of the application on—

- (i) the collector appointed in the State in which the original order was made; and
- (ii) the collector.

(c)

Interstate Destitute Persons Relief (Amendment)

(c) Where on the hearing of the application it appears to the children's court that it is just that the original order should be varied, suspended or discharged, it may make such order varying, suspending or discharging the original order as it thinks fit, but an order so made shall be provisional only and shall have no effect until confirmed by a court in the State in which the original order was made that has power to vary, suspend or discharge the original order.

(d) Where a provisional order is made by the children's court under this section a copy of the order certified by the clerk of the court to be a true copy and the depositions in the matter shall be forwarded by that clerk to the collector appointed in the State in which the original order was made.

(2) (a) Where, pursuant to the provisions in the law of another State that correspond with this section, the collector receives a copy of an order (certified by the proper officer of the court that made the order to be a true copy) provisionally varying, suspending or discharging a maintenance order (in this subsection referred to as the original order) made in this State and depositions made and taken in the matter under those provisions, an authorised officer shall apply on behalf of the applicant in the matter to a court that has power to vary, suspend or discharge the original order for an order confirming the provisional order.

(b) Notice in the prescribed form of an application under paragraph (a) of this subsection shall be served by the authorised officer not less than fourteen days before the date of the hearing of the application on the person in whose favour the original order was made either personally or by post addressed to his last known place of residence.

(c)

Interstate Destitute Persons Relief (Amendment).

(c) Upon the hearing of the application the court may—

- (i) confirm or discharge the provisional order with or without any modification ; or
- (ii) remit the provisional order to the court that made it for the purpose of taking such further evidence as the court hearing the application may request and adjourn the proceedings for the purpose.

(d) Any party shall have the same right of appeal against—

- (i) an order confirming a provisional order as he would have had against the making of the provisional order if the provisional order had been an order made by the court confirming the provisional order ;
- (ii) an order discharging a provisional order as he would have had if all proceedings on the application to vary, suspend or discharge, as the case may be, the original order had been taken in the court discharging the provisional order and the order discharging the provisional order had been an order refusing the application.

(e) In this subsection “authorised officer” means—

- (i) the collector ;
- (ii) an assistant collector ; or
- (iii) a person, being an officer of the Child Welfare Department or an officer of the petty sessions branch of the Department of the Attorney-General and of Justice or a member of the police force, authorised in writing in that behalf by the collector in relation to the specific case.

Interstate Destitute Persons Relief (Amendment).

(3) Where, pursuant to the provisions in the law of another State that correspond with this section, a provisional order has been remitted to a children's court for the purpose of taking further evidence, the court shall, after giving the prescribed notice, take the further evidence and such other evidence as it thinks fit and may either discharge the provisional order or transmit the provisional order together with the depositions of the further or other evidence to the court that requested the taking of further evidence.

(4) The evidence of any witness who is examined pursuant to this section shall be put into writing, and the deposition shall be read over to, and signed by, the witness.

(5) Depositions taken under the provisions in the law of another State that correspond with this section may be received in evidence in proceedings under this section.

(6) For the purposes of this section, a document purporting to be signed by an officer of a court in another State shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or official character of the person appearing to have signed it, and the officer of a court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the court to sign the document.

(7) In this section "children's court" means a children's court and includes a magistrate exercising the jurisdiction of a children's court.

(i) by inserting in subsection two of section eighteen after the word "made," the words "registered or confirmed";

(j)

Interstate Destitute Persons Relief (Amendment).

- (j) (i) by omitting from subsection one of section Sec. 23. twenty-three the word "The" where firstly (Regulations and rules of court.) occurring and by inserting in lieu thereof the words "Subject to subsection (2A) of this section, the";
- (ii) by omitting from paragraph (f) of the same subsection the word "and";
- (iii) by inserting next after the same paragraph the following new paragraph :—
- (f1) the practice and procedure in respect of summary proceedings of any kind under this Act and the facilitation of communications between a court of summary jurisdiction in this State and courts in other States.
- (iv) by inserting next after subsection two of the same section the following new subsections :—
- (2A) The judges of the Supreme Court or any five of them may make rules of court prescribing the practice and procedure in respect of proceedings of any kind before the Supreme Court under this Act and for facilitating communications between the Supreme Court and courts in other States.
- (2B) The provisions of subsections two and three of section ninety-one of the Matrimonial Causes Act 1899, as amended by subsequent Acts, apply to and in respect of the business that may be transacted, and the authority and jurisdiction that may be exercised, under this Act by the Supreme Court in its matrimonial causes jurisdiction.
- The provisions of section ninety-four of that Act apply to and in respect of any power and jurisdiction that may be delegated pursuant to the operation of this subsection.

(v)

Interstate Destitute Persons Relief (Amendment).

- (v) by inserting in subsection three of the same section after the word "regulations" wherever occurring the words "or rules";
- (vi) by inserting in subsection three of the same section after the word "regulation" wherever occurring the words "or rule";
- Schedule. (k) (i) by omitting from paragraph two of the Schedule the word "made" where firstly occurring and by inserting in lieu thereof the words and symbols "[made *or* registered *or* confirmed as the case may be]";
- (ii) by inserting in paragraph three of the Schedule after the words "the said order" the words "or the confirmation of the said order".

By Authority:

V. C. N. BLIGHT, Government Printer, Sydney, 1960

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, 13 April, 1960, A.M.*

New South Wales



ANNO NONO

ELIZABETHÆ II REGINÆ

Act No. 34, 1960.

An Act to amend the law relating to the enforcement and variation of certain maintenance orders; for this purpose to amend the Interstate Destitute Persons Relief Act, 1919, and certain other Acts in certain respects; and for purposes connected therewith. [Assented to, 28th April, 1960.]

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 "Interstate Destitute Persons Relief (Amendment) Act, 1960".
- Short title,
citation
and com-
mencement.
- (2)

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

HOWARD T. FOWLES,
Chairman of Committees of the Legislative Assembly.

Interstate Destitute Persons Relief (Amendment).

(2) The Interstate Destitute Persons Relief Act, 1919, as amended by subsequent Acts and by this Act, may be cited as the Interstate Destitute Persons Relief Act, 1919-1960.

(3) 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.
33, 1919.

2. The Interstate Destitute Persons Relief Act, 1919, as amended by subsequent Acts, is amended—

Sec. 4.
(Defini-
tions.)

(a) (i) by inserting in the definition of "State" in section four after the word "Australia," the words "a Territory of the Commonwealth of Australia or a Territory administered by the government of the Commonwealth of Australia under the trusteeship system of the United Nations,";

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

(2) A reference, however expressed, in this Act—

(a) to a maintenance order registered, or registered by a court, in this State shall be construed as a reference to a maintenance order registered, or registered by or in a court, in this State, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under the Maintenance Orders (Facilities for Enforcement) Act, 1923;

(b) to a maintenance order registered, or registered by a court, in a State, other than New South Wales but being a State within the meaning of the Part of this Act in which the reference occurs, shall be construed as a reference to a maintenance order registered, or registered by

or

Interstate Destitute Persons Relief (Amendment).

or in a court, in the State concerned, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under a law of that State reciprocal to the Imperial Act entitled the Maintenance Orders (Facilities for Enforcement) Act, 1920;

(c) to a maintenance order confirmed, or confirmed by a court, in this State shall be construed as a reference to a maintenance order so confirmed, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under—

(i) the Maintenance Orders (Facilities for Enforcement) Act, 1923, where the order was registered under that Act; or

(ii) section 16A of this Act, where the order was registered under that section;

(d) to a maintenance order confirmed, or confirmed by a court, in a State, other than New South Wales but being a State within the meaning of the Part of this Act in which the reference occurs, shall be construed as a reference to a maintenance order so confirmed, whether before or after the commencement of the Interstate Destitute Persons Relief (Amendment) Act, 1960, under—

(i) a law of the State concerned reciprocal to the Imperial Act entitled the Maintenance Orders (Facilities for Enforcement) Act, 1920, where the order was confirmed under that law; or

(ii)

Interstate Destitute Persons Relief (Amendment).

- (ii) the provisions of the law of the State concerned that correspond, or substantially correspond, with section 16A of this Act, where the order was confirmed under those provisions.
- Sec. 5.
(Reciprocity.)
- (b) by inserting in subsections one and two of section five after the words "an Act" the words "or a law";
- Sec. 7.
(Summons for relief issued in another State may be served in this State.)
- (c) (i) by omitting from section seven the words "this Act—
- (a) a summons for maintenance has been issued; or
- (b) a maintenance order has been made, by any justice or by any court not being a court of record," and by inserting in lieu thereof the words "the Interstate Destitute Persons Relief (Amendment) Act, 1960—
- (a) a summons for maintenance has been issued by a justice or by or out of a court; or
- (b) a maintenance order has been made, registered or confirmed by a justice or by or in a court,";
- (ii) by inserting in the same section after the word "made" where lastly occurring the words ", registered or confirmed";
- Sec. 8.
(Summons issued and order made to defendant in another State.)
- (d) (i) by omitting from section eight the words "this Act" and by inserting in lieu thereof the words "the Interstate Destitute Persons Relief (Amendment) Act, 1960";
- (ii) by inserting in the same section after the word "made," where firstly and secondly occurring the words "registered or confirmed,";
- (iii) by inserting in the same section after the word "made" where lastly occurring the words ", registered or confirmed";
- (e)

Interstate Destitute Persons Relief (Amendment).

- (e) (i) by inserting in section twelve of this Act after the word "made" where firstly and secondly occurring the words ", registered or confirmed"; Sec. 12. (Documents to be sent to collector in another State.)
- (ii) by omitting from the same section the words "in favour of any person resident in this State";
- (iii) by inserting in the same section after the word "made," where fourthly occurring the words "registered or confirmed,";
- (iv) by inserting in paragraph (a) of the same section after the word "made" where thirdly occurring the words ", registered or confirmed";
- (v) by omitting from the same paragraph the words "and the seal thereof";
- (vi) by inserting in paragraph (c) of the same section after the word "made" the words ", registered or confirmed";
- (f) (i) by inserting in paragraph (a) of subsection one of section thirteen after the word "made" where thirdly occurring the words ", registered or confirmed"; Sec. 13. (Notice of intention to apply to make orders enforceable in this State.)
- (ii) by omitting from the same paragraph the words ", not being a court of record,";
- (iii) by omitting from the same paragraph the words "and the seal thereof, such order, in any case, being made in favour of any person resident in such State";
- (iv) by omitting from subsection two of the same section the words "authenticated, or sealed" wherever occurring and by inserting in lieu thereof the words "or authenticated";
- (v) by omitting from the same subsection the words "or seal";
- (g) (i) by inserting in subsection one of section fourteen after the word "made" where secondly occurring the words ", registered or confirmed"; Sec. 14. (Direction that order be enforced.)

(ii)

Interstate Destitute Persons Relief (Amendment).

Subst.
sec. 16
and new
sec. 16A.

Procedure
for enforcing
orders.

(ii) by inserting in subsection two of the same section after the word "made," the words "registered or confirmed";

(h) by omitting section sixteen and by inserting in lieu thereof the following sections :—

16. (1) A maintenance order made enforceable, under the provisions of this Act, in this State shall—

(a) where the order was made or registered by the Supreme Court of the other State concerned—be enforceable under section 90A or 90B of the Matrimonial Causes Act 1899, as amended by subsequent Acts, in the same manner as if it had been made or registered by the Supreme Court of this State ;

(b) where the order was made, registered or confirmed in the other State concerned otherwise than by the Supreme Court of that State—be enforceable—

(i) where the order is an order in affiliation proceedings—under the Child Welfare Act, 1939, as amended by subsequent Acts, in the same manner as if it had been made under Part XVI of that Act ;

(ii) in any other case—in the same manner as if it had been made under the Deserted Wives and Children Act, 1901, as amended by subsequent Acts ;

(c) where it is not practicable to enforce it in any manner specified in the foregoing provisions of this section—be enforceable in the manner prescribed by the Justices Act, 1902, for enforcing an order for the payment of money.

(2)

Interstate Destitute Persons Relief (Amendment).

(2) A maintenance order made enforceable, under the provisions of this Act, in this State shall be enforceable only at the instance of—

- (a) the collector;
- (b) an assistant collector; or
- (c) a person, being an officer of the Child Welfare Department or an officer of the petty sessions branch of the Department of the Attorney-General and of Justice or a member of the police force, authorised in writing in that behalf by the collector in relation to the specific case.

(3) A document purporting to be an authority of the kind referred to in subsection two of this section, and to be signed by the collector shall, for the purposes of this Act, without proof of the signature appearing on the document, be deemed to be what it purports to be, and to be duly signed, until the contrary is proved.

16A. (1) (a) Where a maintenance order made in another State (in this subsection referred to as the original order) is, by virtue of the provisions of this Act, being enforced in this State against a person in this State, that person may apply in the prescribed manner to a children's court for an order that the order being so enforced should be varied, suspended or discharged.

Power to apply in this State for variation of interstate order being enforced in this State.
cf. Vict. Act No. 6116, s. 58; S.A. 1958 No. 13, s. 3.

(b) Notice of the application shall be served personally or by post not less than fourteen days before the date of the hearing of the application on—

- (i) the collector appointed in the State in which the original order was made; and
- (ii) the collector.

(c)

Interstate Destitute Persons Relief (Amendment).

(c) Where on the hearing of the application it appears to the children's court that it is just that the original order should be varied, suspended or discharged, it may make such order varying, suspending or discharging the original order as it thinks fit, but an order so made shall be provisional only and shall have no effect until confirmed by a court in the State in which the original order was made that has power to vary, suspend or discharge the original order.

(d) Where a provisional order is made by the children's court under this section a copy of the order certified by the clerk of the court to be a true copy and the depositions in the matter shall be forwarded by that clerk to the collector appointed in the State in which the original order was made.

(2) (a) Where, pursuant to the provisions in the law of another State that correspond with this section, the collector receives a copy of an order (certified by the proper officer of the court that made the order to be a true copy) provisionally varying, suspending or discharging a maintenance order (in this subsection referred to as the original order) made in this State and depositions made and taken in the matter under those provisions, an authorised officer shall apply on behalf of the applicant in the matter to a court that has power to vary, suspend or discharge the original order for an order confirming the provisional order.

(b) Notice in the prescribed form of an application under paragraph (a) of this subsection shall be served by the authorised officer not less than fourteen days before the date of the hearing of the application on the person in whose favour the original order was made either personally or by post addressed to his last known place of residence.

(c)

Interstate Destitute Persons Relief (Amendment).

(c) Upon the hearing of the application the court may—

- (i) confirm or discharge the provisional order with or without any modification; or
- (ii) remit the provisional order to the court that made it for the purpose of taking such further evidence as the court hearing the application may request and adjourn the proceedings for the purpose.

(d) Any party shall have the same right of appeal against—

- (i) an order confirming a provisional order as he would have had against the making of the provisional order if the provisional order had been an order made by the court confirming the provisional order;
- (ii) an order discharging a provisional order as he would have had if all proceedings on the application to vary, suspend or discharge, as the case may be, the original order had been taken in the court discharging the provisional order and the order discharging the provisional order had been an order refusing the application.

(e) In this subsection “authorised officer” means—

- (i) the collector;
- (ii) an assistant collector; or
- (iii) a person, being an officer of the Child Welfare Department or an officer of the petty sessions branch of the Department of the Attorney-General and of Justice or a member of the police force, authorised in writing in that behalf by the collector in relation to the specific case.

Interstate Destitute Persons Relief (Amendment).

(3) Where, pursuant to the provisions in the law of another State that correspond with this section, a provisional order has been remitted to a children's court for the purpose of taking further evidence, the court shall, after giving the prescribed notice, take the further evidence and such other evidence as it thinks fit and may either discharge the provisional order or transmit the provisional order together with the depositions of the further or other evidence to the court that requested the taking of further evidence.

(4) The evidence of any witness who is examined pursuant to this section shall be put into writing, and the deposition shall be read over to, and signed by, the witness.

(5) Depositions taken under the provisions in the law of another State that correspond with this section may be received in evidence in proceedings under this section.

(6) For the purposes of this section, a document purporting to be signed by an officer of a court in another State shall, until the contrary is proved, be deemed to have been so signed without proof of the signature or official character of the person appearing to have signed it, and the officer of a court by whom a document is signed shall, until the contrary is proved, be deemed to have been the proper officer of the court to sign the document.

(7) In this section "children's court" means a children's court and includes a magistrate exercising the jurisdiction of a children's court.

Sec. 18.
(Certificate
or affidavit
of collector
sufficient
evidence of
payment.)

(i) by inserting in subsection two of section eighteen after the word "made," the words "registered or confirmed";

(j)

Interstate Destitute Persons Relief (Amendment).

(j) (i) by omitting from subsection one of section ^{Sec. 23.} twenty-three the word "The" where firstly (Regulations occurring and by inserting in lieu thereof the ^{and rules} words "Subject to subsection (2A) of this ^{of court.)} section, the";

(ii) by omitting from paragraph (f) of the same subsection the word "and";

(iii) by inserting next after the same paragraph the following new paragraph :—

(f1) the practice and procedure in respect of summary proceedings of any kind under this Act and the facilitation of communications between a court of summary jurisdiction in this State and courts in other States.

(iv) by inserting next after subsection two of the same section the following new subsections :—

(2A) The judges of the Supreme Court or any five of them may make rules of court prescribing the practice and procedure in respect of proceedings of any kind before the Supreme Court under this Act and for facilitating communications between the Supreme Court and courts in other States.

(2B) The provisions of subsections two and three of section ninety-one of the Matrimonial Causes Act 1899, as amended by subsequent Acts, apply to and in respect of the business that may be transacted, and the authority and jurisdiction that may be exercised, under this Act by the Supreme Court in its matrimonial causes jurisdiction.

The provisions of section ninety-four of that Act apply to and in respect of any power and jurisdiction that may be delegated pursuant to the operation of this subsection.

(v)

Interstate Destitute Persons Relief (Amendment).

- (v) by inserting in subsection three of the same section after the word "regulations" wherever occurring the words "or rules";
- (vi) by inserting in subsection three of the same section after the word "regulation" wherever occurring the words "or rule";
- Schedule. (k) (i) by omitting from paragraph two of the Schedule the word "made" where firstly occurring and by inserting in lieu thereof the words and symbols "[made or registered or confirmed as the case may be]";
- (ii) by inserting in paragraph three of the Schedule after the words "the said order" the words "or the confirmation of the said order".

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

E. W. WOODWARD,
Governor.

*Government House,
Sydney, 28th April, 1960.*