

TASMANIA.

THE MAINTENANCE ACT, 1921.

ANALYSIS.

1. Short title.
2. Repeal.
3. Interpretation.
4. Division of Act.

PART I.—MARRIED AND OTHER PERSONS AND THEIR CHILDREN.

5. Application of this part.
6. Grounds of complaint.
7. Complaint on behalf of deserted child.
8. Complaint to be sworn.
9. Mother and child may be joined in one complaint.
10. Powers of court.
11. Means of both parties to be considered.
12. Order against wife for maintenance.
13. Limitation of powers.
14. Discharge of order in certain cases.
15. If child in institution, maintenance to be paid to superintendent, &c.
16. Court may refuse order if case more fit for Supreme Court.

PART II.—ORDERS OF AFFILIATION.

17. Single woman with child may take proceedings against father.
Complaint to be corroborated.
If child has not quickened defendant may be bound over to appear.
18. Court may order payment of preliminary expenses.
19. Order after birth of child.
20. Complaint against father of illegitimate child.
21. Powers of court.
Mother's evidence to be corroborated.
22. Proceedings where child has died.
23. Mother may be compelled to testify.
24. Order for funeral expenses.
25. Mother may be ordered to contribute to maintenance.
26. Notice of birth or death of illegitimate child.

PART III.—RECIPROCITY WITH OTHER STATES.

27. Establishment of reciprocity by proclamation.
28. Summons for relief issued in another State may be served in this State.
29. Summons for relief against defaulter in another State.
30. Evidence in support of application for summons.
31. Time and place for hearing summons.
32. Service of summons and proof thereof.
33. Complaints, how heard.
34. Powers of court.
35. Appointment of officers.
36. Application for making order for relief enforceable in this State.
37. Order to be endorsed if defaulter resident in this State.
38. Collector of this State to serve copy of endorsed order.
39. After service all moneys to be payable to the Collector.
40. Other powers and duties of Collector of this State.
41. Collector of this State to forward orders for relief for service in other States.
42. Affidavit or certificate of Collector sufficient proof of payment.
43. Onus of proof of identity.
44. Enforcement of orders.
45. Form and manner of making affidavits, &c.
46. Punishment for false affidavit or declaration.
47. Audit of Collector's accounts.
48. Salaries and expenses paid out of moneys provided by Parliament.

PART IV.—RECIPROCITY WITH ENGLAND AND IRELAND.

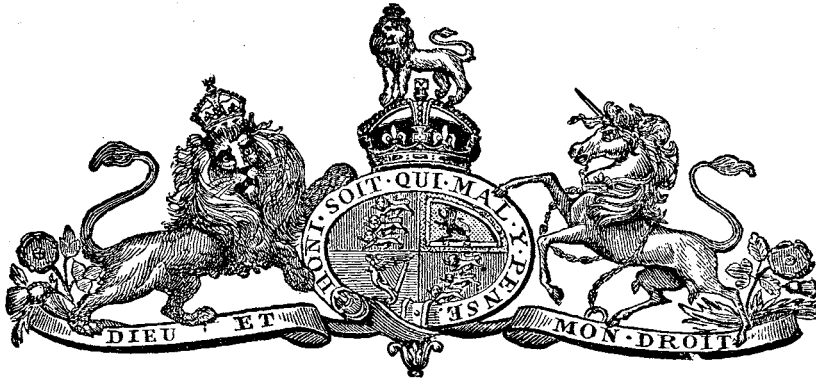
49. Enforcement in this State of orders made in England and Ireland.
50. Transmission of maintenance orders made in this State.

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| <p>51. Power to make provisional maintenance orders against persons resident in England or Ireland.
Depositions to be taken.</p> <p>52. Power of court to confirm order made in England or Ireland.</p> <p>53. Mode of enforcing orders.</p> <p>54. Depositions to be evidence.</p> <p>55. Provisions of this part not to apply to orders of affiliation.</p> | <p>64. Persons in possession of goods, &c., may be ordered to give them up.</p> <p>65. Securing proper application of moneys.</p> <p>66. Persons in default leaving State guilty of a misdemeanour.</p> <p>67. Wilful desertion a misdemeanour.</p> <p>68. Offences by separated persons.</p> <p>69. General penalty.</p> <p>70. Punishment not to affect orders.</p> <p>71. Agreement not to bar jurisdiction in certain cases.</p> <p>72. Orders may be varied, &c.</p> <p>73. Period for which orders may be made.</p> <p>74. Documents from other countries.</p> <p>75. Power to order costs.</p> <p>76. Governor may proclaim areas where justices may act as court.</p> <p>77. Governor may make regulations. Penalty for infringement.</p> <p>78. Procedure. Limitation removed in certain cases.</p> <p>79. Application of Section 27 of Children's Charter.</p> |
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PART V.—GENERAL.

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| <p>56. Warrant may issue in first instance.</p> <p>57. Cost of bringing defendant back in certain cases to be borne by the State.</p> <p>58. Service of process.</p> <p>59. Proceedings <i>ex parte</i>.</p> <p>60. Orders under repealed Acts.</p> <p>61. Security for compliance with order.</p> <p>62. Non-compliance with order may be punished.</p> <p>63. Seizure of defendant's goods, &c.</p> | <p>74. Documents from other countries.</p> <p>75. Power to order costs.</p> <p>76. Governor may proclaim areas where justices may act as court.</p> <p>77. Governor may make regulations. Penalty for infringement.</p> <p>78. Procedure. Limitation removed in certain cases.</p> <p>79. Application of Section 27 of Children's Charter.</p> |
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T A S M A N I A.



1921.

ANNO DUODECIMO

GEORGII V. REGIS.

No. 40.

AN ACT to consolidate and amend the Law relating to the Maintenance of Deserted Wives and Children and Other Persons, and to provide for and facilitate the Obtaining and Enforcing of Maintenance Orders in Tasmania and Other Countries in which Reciprocal Provisions are in force, and for other purposes. A.D. 1921.

[30 January, 1922.]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

- 1 This Act may be cited as "The Maintenance Act, 1921." Short title.
- 2 The Acts set forth in Schedule (1) to this Act are hereby repealed. Repeal.

Maintenance.

A.D. 1921.

Interpretation.

*Vide Sec. 76,
infra.*

- 3 In this Act, unless the context otherwise indicates or requires—
- “Certified copy” used in Part IV. in relation to an order of any court, means a copy of the order certified by the proper officer of the court to be a true copy :
- “Child” means any child, whether legitimate or illegitimate, under the age of Sixteen years :
- “Commissioner” means the Commissioner of Police for the State of Tasmania :
- “Court” means a police magistrate sitting as, and exercising the functions of, a court of petty sessions :
- “Expectant mother” means any pregnant woman by whom or on whose behalf a complaint has been made under this Act :
- “Expected child” means a child with whom any such woman is pregnant :
- “Interstate collector” means an officer appointed in another State, whose duties, or part of whose duties, are similar to those of the collector of this State appointed under this Act :
- “Maintenance” includes lodging, feeding, clothing, teaching, training, nursing, and medical and surgical attendance :
- “Maintenance order” means an order or judgment whereby any person is ordered, adjudged, or directed to pay money, whether in one sum or by instalments, or to pay money periodically, for or towards the maintenance of any person :
- “Preliminary expenses” includes the expenses of the maintenance of the mother or expectant mother of an illegitimate child during a period of Two months immediately preceding the birth of her child, reasonable medical and nursing expenses attendant upon her confinement, and the maintenance of the mother and child for a period of Two months immediately succeeding his birth :
- “Order” includes a maintenance order, an order for preliminary expenses, and an order under this Act for the payment of any costs or expenses of or incidental to any such order as aforesaid or the proceedings antecedent thereto :
- “Order of affiliation” means an order made under this Act in respect of an illegitimate child :
- “Other State” means—
- (1) In Division II. of Part III.—
 - (a) Any State in the Commonwealth, or
 - (b) The Dominion of New Zealand—
 concerning which a proclamation under Subsection (1) of Section Twenty-seven has been published, and is in force for the time being, and

Maintenance.

(2) In Division III. of Part III.—

A.D. 1921.

(a) Any state in the Commonwealth, or

(b) The Dominion of New Zealand—

concerning which a proclamation under Subsection (2) of Section Twenty-seven has been published and is in force for the time being:

“Secretary of State” means one of His Majesty’s principal Secretaries of State:

“Summons for relief” means a summons to show cause why a person should not support, or should not contribute towards the support of, another person:

“The Collector of this State” means the person appointed under this Act as collector for the purposes of this Act.

4 This Act is divided into parts, as follows:—

Division of Act.

Part I.—Married and Other Persons and Their Children.

Part II.—Orders of Affiliation.

Part III.—Reciprocity with Other States.

Part IV.—Reciprocity with England and Ireland.

Part V.—General.

PART I.

Part I.

MARRIED AND OTHER PERSONS AND THEIR CHILDREN.

5—(1) This part shall be applicable as well in respect of any wife as of any woman with whom any man is proved to have cohabited for a period of Twelve months immediately prior to the commission of the act of which she complains; and such woman shall, for the purposes of this part, and of Part V., be deemed to be the wife of such man; and

(2) The word “adultery” used in relation to any such woman as last aforesaid shall, for the purposes of this part, extend to and include any act which would amount to adultery if such woman were legally married to such man.

Application of this part
37 Vict. No. 14,
s. 1.
Cf. 10 Geo. V.
No. 62, s. 4, III.

6 Upon complaint—

i.—(a) That any wife has been left by her husband—

(b) That any child has been left by his father or mother—
without means of support: or

ii. By any wife that her husband has been convicted of an aggravated assault upon her within the meaning of Section Forty of the Act 27 Victoriae No. 5: or

iii. By any husband or wife that his or her wife or husband has—

(a) Deserted him or her;

(b) Been guilty of such cruelty or misconduct towards him or her as to render it unjust that the complainant should be longer compelled to live with the defendant;

Grounds of complaint.
37 Vic. No. 14,
s. 2.
Cf. Vic. No.
2691, 1915, s. 83
N.Z., 1 Geo. V.
No. 38, s. 17.
10 Geo. V. No.
62, s. 4 (a).
Ib., s. 4 (b).
Ib., s. 4 (c).

Maintenance.

A.D. 1921.

Part I.
Ib., s. 4 (d).
Ib., s. 4 (e).

- (c) Been guilty of habitual drunkenness;
 (d) Been guilty of adultery, unless the complainant has condoned or connived at, or by his or her neglect or misconduct conduced to, such adultery—

any justice may issue a summons directed to the defendant named in such complaint to appear before a court to show cause why an order or orders should not be made under this part.

Complaint on behalf of deserted child.

Ib., s. 4, II.

Complaint to be sworn.

Cf. Vic. No. 2691, s. 83.

Mother and child may be joined in one complaint.

Powers of court.
 10 Geo. V. No. 32, s. 6.

7 Any reputable person may make a complaint under this part on behalf of any child.

8 All complaints under this part shall be upon oath.

9 In any complaint under Subsection (1) (a) of Section Six the defendant may be charged in the one complaint with having left both his wife and also any child without means of support notwithstanding that there may be two offences charged in such complaint.

10 Upon the hearing of any complaint under this part the court may make any one or more of the orders following which may be applicable, and which the circumstances of the case may require:—

- i. That the complainant and defendant shall live apart and such order, hereinafter called a "separation order," while in force shall have the effect in all respects of a decree of judicial separation on the ground of cruelty;
- ii. That the legal custody of all or any of the children of the marriage between the parties shall be committed to the complainant;
- iii. That the defendant shall pay to the complainant or to the clerk of petty sessions, or to some third person, for the use of the person by whom or on whose behalf the complaint was made, such weekly or other periodical sum as the court may deem just and reasonable for the maintenance of such person; and in the case of a complaint under the provisions of Section Nine such order may provide for the maintenance of each of the persons on whose behalf such complaint is made.

Means of both parties to be considered.

11 In every order made under Section Ten on behalf of a wife, the court shall have regard to the means both of the complainant and of the defendant.

Order against wife for maintenance.
 N.Z., 1 Geo. V. No. 38, s. 23.

12—(1) Upon complaint by any husband, or any reputable person on his behalf, that such husband is unable, either permanently or temporarily, to support himself by his own means or labour, and that his wife is of sufficient ability by her means or labour to contribute to his maintenance, and that she has left him without adequate means of support, a justice may issue a summons to such wife to appear before a court to show cause why an order should not be made against her.

Maintenance

(2) The court hearing such complaint, if satisfied of the truth thereof, may in its discretion, having regard to all the circumstances, order such wife to pay to such husband or to the clerk of petty sessions, or to some third person, for the use of such husband, such weekly or other periodical sum as the court shall deem just and reasonable.

A.D. 1921.

Part I.

13 No order shall be made under Section Ten or Section Twelve of this Act in favour of any complainant who is proved to have committed an act of adultery, unless the defendant has condoned, or connived at, or by his or her wilful neglect or misconduct conduced to, such act of adultery.

Limitation of powers.
10 Geo. V. No. 62, s. 7.

14 If any party upon whose application an order shall have been made under this part of the Act—

Discharge of order in certain cases.
Ib., s. 8.

- i. Voluntarily resumes cohabitation with the defendant: or
- ii. Commits an act of adultery—

such order shall, upon proof thereof, be discharged: Provided that any moneys due under such order at the date of such application may be recovered in the same manner as if such order had not been discharged: Provided also that so much of any such order as relates to any child shall not be discharged or affected upon any application under Paragraph ii. of this section.

15 If any child for whose maintenance an order is made under this Act is at any time thereafter placed in an institution for neglected children, under the provisions of "The Children's Charter," then and in every such case the amount ordered to be paid for such child's maintenance shall be paid to the superintendent, secretary, or manager of such institution, as the case may be, in the same manner in all respects as if such superintendent, secretary, or manager had been named in such order instead of the person therein named; and all proceedings may be had and taken for enforcing payment to such superintendent, secretary, or manager of the sum ordered to be paid as fully and effectually as if the superintendent, secretary, or manager had been named in such order.

If child in institution, maintenance to be paid to superintendent, &c.

10 Geo. V. No. 62, s. 10.

9 Geo. V. No. 15.

16 If, in the opinion of the court, any of the matters in question between the parties, being married persons, would be more properly dealt with by the Supreme Court, the court may refuse to make an order under this part of the Act, and in such case no appeal shall lie from such decision.

Court may refuse order if case more fit for Supreme Court.
10 Geo. V. No. 62, s. 11.

Maintenance.

A.D. 1921.

Part II.

PART II.

ORDERS OF AFFILIATION.

Proceedings Begun Before Birth.

Single woman with child may take proceedings against father.
Ib., s. 13.

17—(1) Where any single woman is with child by any man who has made no provision for—

- i. The payment of preliminary expenses in respect of her expected child : or
- ii. The future maintenance of such child—

she or (with her consent) the Commissioner, or any reputable person on her behalf, may in either of such cases make complaint thereof upon oath under this part ; and any such complaint may be in respect of both of the matters referred to in Paragraph i. and Paragraph ii. hereof notwithstanding that two offences may be charged therein.

(2) Every complaint under this part shall be supported by other sworn evidence which tends to establish the truth of the allegations made by the expectant mother.

Complaint to be corroborated.

(3) Upon any such complaint a justice may issue a summons directed to the defendant named in such complaint to appear before a court and show cause why an order should not be made under this part.

If child has not quickened defendant may be bound over to appear.
Ib., s. 13 (2).

(4) If the complainant be pregnant, but the child has not quickened when the complaint comes on for hearing, the court may adjourn the hearing from time to time, and for such time, as may appear necessary ; and upon any such adjournment the court in its discretion may commit the defendant to gaol, or may suffer him to go at large, or may discharge him upon recognisance to appear at the hearing of such complaint.

Court may order payment of preliminary expenses.
Ib., s. 14.

18—(1) Upon the hearing or the adjourned hearing, as the case may be, of any complaint under Section Seventeen, the court shall hear and determine so much of the complaint as relates to the paternity of the expected child, and may—

- i. Order the defendant to deposit with the clerk of the court a sum not exceeding Twenty Pounds for preliminary expenses, or to make such other provision for the payment of the preliminary expenses as the court deems satisfactory : and
- ii. Further order the defendant to pay any expenses that may have been incurred in or relative to securing his appearance to answer the complaint : and
- iii. Order that the defendant shall be discharged upon his entering into a recognisance to appear within Three months after the birth of the expected child and on such day as the court determines, and of which at least Seven days' notice shall be given to the defendant by or on behalf of the complainant, to show cause why he should not be ordered to pay for the maintenance of such child after it has reached the age of Two months. Every such order shall specify a date,

Vide 10 Geo. V.
No. 55, s. 58.

Maintenance.

not later than Six months thereafter, when the order shall lapse if the expected child has not been born, and if upon such date the expected child has not been born the order shall lapse, and the defendant and his surety or sureties shall be deemed to be released from their recognisances, and the unexpended portion of any moneys paid by the defendant as preliminary expenses shall be repaid to him.

A.D. 1921.

Part II.

(2) No order shall be made under Subsection (1) hereof against the defendant—

- i. Unless it be proved by the evidence of some legally-qualified medical practitioner that the child has quickened :
- ii. Unless the evidence of the expectant mother is supported by other evidence which tends to establish the truth of the evidence given by her :
- iii. If the court is satisfied that at the the time the infant was begotten the mother was a common prostitute.

(3) In default of compliance with any order under this section, the court may commit the defendant to prison for any term not exceeding Twelve months : Provided that, upon compliance with such order at any time during such term of imprisonment, the defendant shall be released from prison.

19—(1) Upon the day upon which the defendant is bound to show cause, or upon any later day to which the proceedings are adjourned, if it is proved to the satisfaction of the court that the expected child has been born and is still alive, the court may—

Order after birth of child.
Cf. *ib.*, ss. 15 and 16.

- i. If the defendant appears, make a maintenance order against him for the maintenance of the child :
- ii. If the defendant does not appear—
 - (a) Make an order that the recognisances entered into by the defendant and his surety or sureties (if any) shall be forfeited, and that the moneys thereby secured shall be applied in such manner as the court may direct for the maintenance of the child ; and
 - (b) Make a maintenance order against the defendant for the maintenance of the child, to take effect from the date on which the moneys mentioned in the preceding clause shall have been exhausted.

(2) If upon such day or later day mentioned in Subsection (1) it is proved that the child has been still-born, or has died after birth, the court may, subject to any order which may be made under Section Twenty-four, order the repayment to the defendant of the unexpended portion of any moneys paid by him as preliminary expenses.

Maintenance.

A. D. 1921.

Part II.

Complaint
against father of
illegitimate child
Ib., s. 17.
Cf. 35 and 36
Vic., Cap. 65,
s. 3.

*Proceedings Begun After Birth.***20** In any case where an illegitimate child has been left—

- i. By his father : or
- ii. By his mother—

without means of support, the mother of such child, or the Commissioner, or any reputable person on behalf of such child, may make a complaint thereof upon oath, and thereupon any justice may issue a summons directed to the defendant named in such complaint to appear before a court to answer such complaint.

Powers of court.
10 Geo. V. No.
62, s. 18.
Cf. N.S.W., No.
27, 1904, s. 9.

21—(1) Upon the hearing of a complaint under the last preceding section the court may make all or any of the following orders against the defendant—

- i. An order for the payment of any expenses that may have been incurred in or about securing his appearance to answer such complaint : and
- ii. A maintenance order for the maintenance of the child : and— if such complaint shall have been made within Twelve months after the birth of the child—
- iii. An order for payment of preliminary expenses not exceeding Twenty Pounds.

Mother's evidence
to be corroborated.

(2) No man shall be deemed to be the father of any illegitimate child upon the evidence of the mother of such child, unless the same is supported by other evidence which tends, to the satisfaction of the court, to establish the truth of the allegations of the mother of such child.

Proceedings
where child has
died.

22 In any case where an illegitimate child has died within Six months after his birth, the mother of such child may, if no proceedings shall have been instituted before the death of such child, make a complaint under Section Twenty, and upon any such complaint the court may make such order under this Part as the circumstances of the case require, and if a child has been still-born the court may, upon complaint that the preliminary expenses have not been paid, make an order for the payment thereof by the defendant.

Orders of Affiliation Generally.

Mother may be
compelled to
testify.
10 Geo. V. No.
62, s. 19.
Cf. N.S.W., No.
27, 1904, s. 10.

23—(1) In any case where a complaint has been made under this part of this Act by any woman or by the Commissioner, or any other reputable person with her consent, and such complaint alleges that any man is the father of the illegitimate child or expected child of such woman, she may at the hearing of such complaint be compelled to give evidence.

(2) The admissions of a woman in giving evidence under this section shall not be used against her in any criminal prosecution, except for perjury committed while so giving evidence.

Maintenance.

24—(1) When the mother of an illegitimate child has died during parturition, or in consequence of, and within Two months after, parturition, the father of such child may be ordered to pay the funeral expenses of such mother. A.D. 1921.

Part II.

Order for funeral expenses.
Cf. 10 Geo. V. No. 62, s. 20.

(2) When an illegitimate child has been still-born, or has died after birth, his father may be ordered to pay the funeral expenses of such child.

(3) The Commissioner or any reputable person may make a complaint under this section.

25 If it appears to the court that both the father and mother of an illegitimate child are able to contribute to the maintenance or expenses mentioned in the preceding sections, the court, in making any order, may direct the payment of such maintenance or expenses by both the father and mother in such proportions and in such manner as it thinks fit; and if it appears to the court that the mother only is able to make any such payment, it may direct the payment by her alone. Mother may be ordered to contribute to maintenance.
Ib., s. 22.

26—(1) The occupier of every house or place in which an illegitimate child is born shall, within Three days after the birth of such child, give notice thereof in writing to the registrar or deputy-registrar of births and deaths for the district. Notice of birth or death of illegitimate child.
Ib., s. 29.

(2) The occupier of every house or place in which an illegitimate child under the age of Five years dies, or to which the body of an illegitimate child who has died under the age of Five years is brought, shall, within Twenty-four hours after the death of such child or the reception of his body, give notice in writing of such death to the registrar or a deputy-registrar of births and deaths for the district.

(3) If such house or place is not situated within any city or town, then such notice may be given either to the registrar or deputy-registrar, or to the officer in charge of the nearest police-station, and may be given at any time within One week after the birth or death of such child or the reception of his body, as the case may be.

(4) If the occupier of such house or place is the mother of the new-born child, such notice may be given at any time within Three weeks after the birth of the child.

(5) If any notice under this section is sent by post, it shall be posted at such time as to allow it in ordinary course of post to be delivered within the time hereinbefore specified.

(6) Nothing in this section shall be construed to impose any liability on such occupier if the court is of opinion that such occupier did not believe the illegitimate child to be illegitimate.

(7) Nothing in this section shall be construed to repeal or otherwise affect the provisions of "The Registration of Births and Deaths Act, 1895," or any amendment thereof. 59 Vict. No. 9

Maintenance.

A.D. 1921.

Part III.

Establishment of
reciprocity by
proclamation
1 Geo. V. No.
55, s. 5.
Cf. Vic., 6 Geo.
V. No. 2673, s. 4.

PART III.
RECIPROCITY WITH OTHER STATES.

Division I.—*Preliminary.*

27—(1) When in any State of the Commonwealth or in the Dominion of New Zealand an Act is in force containing provisions substantially similar to those contained in, or for carrying out objects substantially similar to the objects of, Section Twenty-eight, the Governor may by proclamation declare that Division II. of this Part shall be in force as regards such State or Dominion, and such State or Dominion shall thereafter be a State within the meaning of Division II. of this part.

(2) When in any State of the Commonwealth or in the Dominion of New Zealand an Act is in force containing provisions substantially similar to those contained in, or for carrying out objects substantially similar to the objects of, Division III. of this Part, and Sections Forty-three to Forty-six, both inclusive, the Governor may by proclamation declare that Division III. of this part shall be in force as regards such State or Dominion, and such State or Dominion shall thereafter be a State within the meaning of Division III.

(3) Notwithstanding anything in this section, if at any time after the publication of any proclamation under this section neither the provisions in consequence of which such proclamation was published nor any similar provisions are in force in the State or Dominion regarding which such proclamation was published, such proclamation shall cease to be in force upon the publication in the "Gazette" of a proclamation by the Governor revoking the former proclamation, and such State or Dominion shall thereupon cease to be a State within the meaning of Division II. or Division III., as the case may be.

(4) A proclamation under Subsection (1) or Subsection (2) shall be deemed to be in force until a proclamation revoking the same is proved.

1 Geo. V. No. 55.

(5) All proclamations published under Section Five of "The Interstate Destitute Persons' Relief Act, 1910," and in force when this Act comes into operation, shall have the same force and effect as proclamations published under this section, and shall continue in force until revoked under this Act.

(6) Two or more proclamations under this Section regarding the same State may be in the same document.

(7) Production of a copy of the "Gazette," purporting to contain a proclamation under this section, shall be sufficient evidence of the validity, contents, and publication of such proclamation, and shall be conclusive evidence of the existence of all conditions precedent to the valid making thereof.

Division II.—*Summons for Maintenance Against Person in Another State.***28** Whenever in any other State—

I.—(a) Any person alleged to be liable to support, or to contribute towards the support of, another person leaves such other person without adequate means of support; or

Summons for
relief issued in
another State
may be served
in this State.
Ib., s. 6.

Maintenance.

- (b) An order has been made by any justice or justices or by any court, ~~not being a court of record~~, and such order remains unsatisfied wholly or in part :

A.D. 1921.

Part III.

and in any such case—

- ii. The person so alleged to be liable as aforesaid, or the person by such order adjudged, ordered, or directed to pay or make provision (each of whom is hereinafter referred to in this part as “ the defaulter ”), comes to reside or resides, either temporarily or permanently, in this State—

any summons for relief or any process to enforce such order granted or issued in any other State by any justice or justices or out of any court (~~not being a court of record~~), upon application made by or on behalf of the person so left, or by or on behalf of the person for whose support such order was made, and against or directed to the defaulter, may be served in this State.

29 Whenever in this State—

- i.—(a) Any person alleged to be liable to support, or contribute towards the support of, another person leaves such other person without adequate means of support ;
or

- (b) An order has been made by any justice or justices or by any court (~~not being a court of record~~), and such order remains unsatisfied, wholly or in part :

Summons for relief against defaulter in another State. *Ib.*, s. 7.

and in any such case—

- ii. The person so alleged to be liable as aforesaid, or the person by such order adjudged, ordered, or directed to pay or make provision (each of whom is hereinafter referred to in this part as the “ defaulter ”), goes to reside or resides, either temporarily or permanently, in any other State—

any justice may, upon complaint thereof made by or on behalf of the person so left, or by or on behalf of the person for whose support such order was made (each of whom is hereinafter referred to as “ the complainant ”), sign and issue a summons directed to the defaulter, to show cause why he should not support or should not contribute towards the support of the complainant, or should not pay any moneys due and to become due under such order, as the case may require.

30—(1) No summons shall be issued under Section Twenty-nine unless the application therefor is supported by an affidavit or statutory declaration made by or on behalf of the complainant, in the form contained in the Schedule (2), or to the like effect, and stating the matters indicated in the said schedule.

Evidence in support of application for summons. *Ib.*, s. 8.

(2) A justice upon issuing a summons under Section Twenty-nine shall retain the affidavit or declaration whereon the same was made, and shall, as soon as practicable, deliver or send it to the clerk of the nearest court of petty sessions, who shall file the same in the office of his court.

Maintenance.

A.D. 1921.

(3) Such affidavit or declaration may be sworn or made before a justice.

Part III.

Time and place for hearing summons.
Ib., s. 9.

31 Every summons issued under Section Twenty-nine shall state a place and a time after service for the hearing thereof, which shall be fixed by the justice issuing the summons, regard being had in fixing such time to the distance of the alleged place of residence of the defaulter from the place fixed for the hearing.

Service of summons and proof thereof.
Ib., s. 10.

32—(1) A summons issued under Section Twenty-nine may be served either in this State or any other State.

(2) Service of such summons, or the steps taken in attempting to serve the same, shall be proved by affidavit or declaration sworn or made before any person authorised to take affidavits in this State or in the State wherein service was effected or attempted.

Complaints, how heard.
Cf. ib., s. 11.

33 All complaints under Section Twenty-nine shall be heard and determined by a court.

Powers of court.
Ib., s. 12.

34 Upon the hearing of a complaint under Section Twenty-nine, if it is proved—

- i. That the summons has been served : or
- ii. That a reasonable attempt has been made to serve the summons, and that the defendant has intentionally evaded service thereof—

the court may proceed to hear and determine the complaint, and, if satisfied that the defendant is liable and able to support or contribute to the support of the complainant, may make a maintenance order against him.

Division III.—*Enforcing Order for Maintenance Made in Another State.*

Appointment of officers.
Ib., s. 13.

35—(1) The Governor shall appoint a Collector for the purposes of this Act, and may appoint such assistant-collectors and other officers as he deems necessary for such purposes.

(2) The official title of the Collector shall be “Collector for Interstate Destitute Persons,” and the official title of an assistant-collector shall be “Assistant-Collector for Interstate Destitute Persons.”

Application for making order for relief enforceable in this State.
Ib., s. 14.

Cf. Vic., 6 Geo. V. No. 2673, s. 14.

Vide Section 74 infra.

36 The Collector of this State, upon receiving from an interstate collector the following documents namely—

1. The original or duplicate of an order made in favour of any person by a justice or justices in any other State, signed by him or them, or a copy of such order, certified as correct under the hand or hands of the justice or justices by whom such order was made, or a copy of an order made in favour of any person by a court of such State, certified as correct under the hand of the clerk or other proper officer of such court, or a certificate of such last-mentioned order under the hand of such clerk or other proper officer

Maintenance.

- ii. An affidavit in the form in the Schedule (3), or to the like effect, and stating the particulars indicated in the said schedule, sworn by such collector before any person authorised to take affidavits in such State: and

A.D. 1921.

Part III.

iii. A request that the order be made enforceable in this State— shall attend before a justice and apply to have such original or duplicate order, certified copy, or certificate endorsed as provided by Section Thirty-seven.

37 Upon such application being made to a justice, and upon production of the original or duplicate order, certified copy, or certificate and the affidavit referred to in Section Thirty-six, the justice, if satisfied that the defaulter is resident, either temporarily or permanently, within this State, shall endorse such original or duplicate order, certified copy, or certificate with a fiat directing that the order be enforced within this State, and shall sign such endorsement.

Order to be endorsed if defaulter resident in this State.

Ib., s. 15.

38—(1) Upon obtaining the endorsement referred to in Section Thirty-seven the Collector of this State shall serve, or cause to be served, a copy of such order, certified copy, or certificate, and of the endorsement thereon, certified as correct under his hand, upon the defaulter; and such order shall thereupon be and continue to be enforceable in this State.

Collector of this State to serve copy of endorsed order.

Ib., s. 16.

(2) The service required by this section may be affected by delivering the document to the person to be served, or by posting the same by registered letter addressed to him at his last known place of residence.

39 When an original or duplicate order, certified copy, or certificate has been endorsed pursuant to Section Thirty-seven, and a copy thereof has been served pursuant to the immediately preceding section, all moneys by the order adjudged, ordered, or directed to be paid shall be payable to the Collector of this State, who is hereby authorised to collect and receive the same, and to take all such steps for the recovery thereof as might be taken by the person in whose favour the order was made; and the receipt of the Collector of this State for any such money shall be a valid discharge of the liability to pay the same.

After service all moneys to be payable to the Collector.

Ib., s. 17.

40 In addition to the powers and duties hereinbefore conferred and imposed upon him it shall be the duty of the Collector of this State—

Other powers and duties of Collector of this State.

Ib., s. 18.

- i. To collect all moneys payable to him as provided by the immediately preceding section, and give receipts for sums so collected:
- ii. To keep proper accounts of all moneys collected and received by him and of all moneys remitted and paid by him:
- iii. To file in his office, and keep proper records of, all documents received by him as mentioned in Section Thirty-six:

Maintenance.

A.D. 1921.

Part III.

- iv. Once at least in every month, or as often as prescribed, to remit to the Interstate Collector of each State all moneys collected and received by him in respect of orders received from such State, less the costs and expenses of collection and remittance, together with proper accounts showing in respect of what orders the various moneys were collected and received and the costs and expenses deducted in respect of such various moneys :
- v. To pay the various moneys received by him from the Interstate Collectors in other States to the persons on whose behalf such moneys are respectively received, less any costs and expenses connected with the receipt and payment thereof respectively : and
- vi. To exercise such other powers and discharge such other duties as are conferred or imposed upon him by regulation.

Collector of this State to forward orders for relief for service in other States.
Ib., s. 19.

41 When an order has been made and signed by a justice or justices, or an order has been made by a court of this State (~~not being a court of record~~) in favour of any person resident in this State, and the defaulter goes to reside or is resident, either temporarily or permanently, in another State, the Collector of this State shall, upon application made by or on behalf of the person in whose favour such order was made, send to the interstate collector in such other State the following documents, namely:—

- i. The original or a duplicate of the said order made by a justice or justices signed as aforesaid, or a copy of such order certified as correct under the hand or hands of the justice or justices by whom such order was made, or a certificate of the said order made by a court under the hand of the clerk or other proper officer of such court :
- ii. An affidavit in the form in the Schedule (3), or to the like effect, and stating the particulars indicated in the said schedule, sworn by the Collector of this State before any person authorised to take affidavits in this State.
- iii. A Statement of such information as the Collector of this State is able to obtain for the purpose of enabling the interstate collector to whom the documents are sent to identify and discover the whereabouts of the defaulter : and
- iv. A request that the order be made enforceable in such other State.

Affidavit or certificate of Collector sufficient proof of payment.
Ib., s. 20.

42—(1) A certificate under the hand of the Collector of this State or of an interstate collector, or an affidavit sworn by either of such collectors, stating that any sum or sums therein specified has or have been paid in respect of an order therein mentioned, shall be sufficient evidence of such payment in any proceedings before any court, justice, or other tribunal.

Maintenance

(2) Upon production of such certificate or affidavit to the clerk of the court in which such order was made, such clerk shall enter up satisfaction of such order to the extent of the amount by such certificate or affidavit stated to have been paid.

A.D. 1921.

Part III.

Division IV.—*Miscellaneous.***43** When—

I. A summons or other process by this part made servable: or
 II. A summons issued under this part: or
 III. A copy of an original or duplicate order, or of a certified copy of an order, or of a certificate of an order—
 is served upon any person in manner prescribed by this part, an affidavit or declaration of service by the person by whom such process was so served, stating that he believes the person so served to be the defaulter shall, until the contrary is proved, be evidence that the person so served is the defaulter.

Onus of proof of identity.

Cf. *ib.*, s. 21.

44—(1) An order made under this part may be enforced, and any money thereby adjudged, ordered, or directed to be paid may be raised and levied, or payment thereof may be otherwise enforced, at the instance of any person in whose favour such order was made or of any other person in his behalf: and

Enforcement of orders.

Cf. *ib.*, s. 22.

(2) An order made enforceable in this State by virtue of the provisions of this part shall be enforced, and any money thereby adjudged, ordered, or directed to be paid shall be raised and levied, or payment thereof shall be otherwise enforced, only at the instance of the Collector of this State or of an assistant-collector.

45 If any affidavit or other document or writing required for the purposes of this part complies, as to the form and the manner of making thereof, either with the law of the State where the same was made or with the law of this State, such affidavit or other document or writing shall, as to the form and the manner of making thereof, be deemed sufficient in all proceedings under this part and for all the purposes of this part.

Form and manner of making affidavits, &c.
Ib., s. 23.

46 Any person who wilfully and corruptly makes any affidavit or declaration for any purpose of this part, knowing the same to be untrue in any material particular, shall be guilty of a misdemeanour, and shall be liable, upon conviction thereof, to be imprisoned for any term not exceeding Three years.

Punishment for false affidavit or declaration.

Ib., s. 24.

47—(1) The accounts of the Collector of this State shall, once at least in every year, and also whenever directed by the Governor, be audited by the Auditor-General.

Audit of Collector's accounts.

Ib., s. 25.

(2) The Auditor-General shall, in respect of such accounts, have all the powers conferred upon him by "The Audit Act, 1918," and any Act for the time being in force relating to the audit of public accounts.

9 Geo. V. No. 3.

Maintenance.

A.D. 1921.

Part III.

Salaries and expenses paid out of moneys provided by Parliament.
Ib., s. 26.

48 The salaries of officers appointed under this part, and the other expenses of administering this part, shall be paid out of moneys provided by Parliament for that purpose.

Part IV.

Enforcement in this State of orders made in England and Ireland.
10 and 11 Geo. V., c. 33, s. 1.

PART IV.**RECIPROCITY WITH ENGLAND AND IRELAND.**

49—(1) Where a maintenance order has been made against any person by any court in England or Ireland, whether before or after the passing of this Act, and a certified copy of such order has been transmitted by the Secretary of State to the Governor, the Governor shall send a copy of such order to the prescribed officer of a court of petty sessions or of the Supreme Court of this State, as the case may require, for registration; and on receipt thereof the order shall be registered in the prescribed manner, and shall from the date of such registration have the same force and effect, and, subject to the provisions of this Act, all proceedings may be taken on such order as if it had been an order originally obtained in the court in which it is so registered; and that court shall have power to enforce the order accordingly.

(2) The court in which an order is to be so registered shall, if the court by which the order was made was a court of superior jurisdiction, be the Supreme Court, and if the court was not a court of superior jurisdiction, be a court of petty sessions.

Transmission of maintenance orders made in this State.
Ib., s. 2.

50 Where a maintenance order has been made under this Act or in any proceedings in the Supreme Court against any person, and it is proved to the Court making such order that the person against whom such order was made is resident in England or Ireland, the court making such order may send to the Governor for transmission to the Secretary of State a certified copy of such order.

Power to make provisional maintenance orders against persons resident in England or Ireland.
Ib. s. 3.

51—(1) Where an application is made for a maintenance order against any person under this Act, and it is proved that that person is resident in England or Ireland, the court may, in the absence of that person and although no summons shall have been served on the defendant, if after hearing the evidence it is satisfied of the justice of the application, make any such order as it might have made if a summons had been served on the defendant and he had failed to appear; but in such case the order shall be provisional only, and shall be of no force or effect unless and until confirmed by a competent court in England or Ireland.

Depositions to be taken.

(2) The evidence of any witness who is examined on any such application shall be put into writing, and such depositions shall be read over to and signed by him.

Maintenance.

(3) Where such an order is made the court shall send to the Governor for transmission to the Secretary of State the depositions so taken and a certified copy of the order, together with a statement of the grounds on which the making of the order might have been opposed if the person against whom the order is made had been duly served with a summons and had appeared at the hearing, and such information as the court possesses for facilitating the identification of that person and ascertaining his whereabouts.

A.D. 1921.

Part IV.

(4) Where any such provisional order has come before a court in England or Ireland for confirmation, and the order has by that court been remitted to the court of summary jurisdiction which made the order for the purpose of taking further evidence, that court or any other court of summary jurisdiction sitting and acting for the same place shall, after giving the prescribed notice, proceed to take the evidence in like manner and subject to the like conditions as the evidence in support of the original application.

If upon the hearing of such evidence it appears to the court that the order ought not to have been made, the court may rescind the order, but in any other case the depositions shall be sent to the Governor and dealt with in like manner as the original depositions.

(5) The confirmation of an order made under this section shall not affect any power of a court of summary jurisdiction to vary or rescind that order: Provided that on the making of a varying or rescinding order the court shall send a certified copy thereof to the Governor for transmission to the Secretary of State; and that in the case of an order varying the original order, the order shall not have any effect unless and until confirmed in like manner as the original order.

(6) The applicant shall have the same right of appeal, if any, against a refusal to make a provisional order as he would have had against a refusal to make the order had a summons been duly served on the person against whom the order is sought to be made.

52—(1) Where a maintenance order has been made by a court in England or Ireland, and the order is provisional only unless and until confirmed by a court in this State, and a certified copy of the order, together with the depositions of the witnesses and a statement of the grounds on which the order might have been opposed, have been transmitted to the Governor, and it appears to the Governor that the person against whom the order was made is resident in this State, the Governor may send the said document to the prescribed officer of a court of petty sessions, with a requisition that a summons be issued calling upon such person to show cause why that order should not be confirmed, and upon receipt of such documents and requisition the court shall issue such a summons and cause it to be served upon such person.

Power of court
to confirm order
made in England
or Ireland.
Ib., s. 4.

(2) A summons so issued may be served in this State in the same manner as if the proceedings had been originally commenced in this State.

Maintenance.

A D. 1921.

Part IV.

(3) At the hearing it shall be open to the person on whom the summons was served to raise any defence which he might have raised in the original proceedings had he been a party thereto, but no other defence, and the certificate from the court which made the provisional order stating the grounds on which the making of the order might have been opposed if the person against whom the order was made had been a party to the proceedings shall be conclusive evidence that those grounds are grounds on which objection may be taken.

(4) If at the hearing the person served with the summons does not appear, or, on appearing, fails to satisfy the court that the order ought not to be confirmed, the court may confirm the order either without modification or with such modifications as to the court, after hearing the evidence, may seem just.

(5) If the person against whom the summons was issued appears at the hearing, and satisfies the court that for the purpose of any defence it is necessary to remit the case to the court which made the provisional order for the taking of any further evidence the court may so remit the case and adjourn the proceedings for that purpose.

(6) Where a provisional order has been confirmed under this section, it may be varied or rescinded in like manner as if it had originally been made by the confirming court, and where on an application for rescission or variation the court is satisfied that it is necessary to remit the case to the court which made the order for the purpose of taking any further evidence, the court may so remit the case and adjourn the proceedings for that purpose.

(7) Where an order has been so confirmed, the person bound thereby shall have the same right of appeal, if any, against the confirmation of the order as he would have had against the making of the order had the order been an order made by the court confirming the order.

Mode of enforcing orders.
Cf. *ib.*, s. 6.

53 All orders made under this part in this State shall, where applicable to this State, have the same force and effect, and shall be enforceable in the same manner, as orders made under other parts of this Act.

Depositions to be evidence.
Ib., s. 9.

54 Depositions taken in a court in England or Ireland for the purposes of this part may be received in evidence in all proceedings under this part.

Provisions of this part not to apply to orders of affiliation.
Cf. *ib.*, s. 10.

55 This part shall not apply to orders of affiliation.

Maintenance.

PART V.

GENERAL.

Proceedings Generally.

A.D. 1921.

Part V.

56—(1) In any case where a justice is authorised by this Act to issue a summons, he may, if satisfied by evidence upon oath that the circumstances so require, issue a warrant in the first instance for the apprehension of the defendant.

Warrant may
issue in first
instance.
10 Geo. V. No.
62, s. 5.
Ib., s. 13.
Ib., s. 17.
Ib., s. 26.

(2) Where an order has been made under this Act against any person any justice, upon being satisfied by evidence upon oath that the defendant has failed to comply with such order and is about to remove out of Tasmania, or to remote parts thereof, to defeat any of the provisions of this Act or such order, may issue his warrant for the apprehension of such defendant to be dealt with under this Act.

57—(1) In any case under this Act where—

- i. A complaint has been made that any wife has been left by her husband, or that any child has been left by his father, without means of support : and
- ii. A summons has been duly served upon such husband or father out of Tasmania directing him to appear before a court, to show cause why he should not support his wife or child : and
- iii. An application is made for a warrant to apprehend the defendant in consequence of his failing to attend in obedience to the summons so served upon him as aforesaid—

Cost of bringing
defendant back
in certain cases to
be borne by the
State.
10 Geo. V. No.
62, s. 30.

and the justice decides to issue such warrant, the justice, if satisfied after making inquiry upon evidence upon oath that there is a *prima facie* case against the defendant, may certify to the Attorney-General that the expenses relative to securing the appearance of the defendant to answer the complaint should in his opinion be borne by the State. Every such certificate shall be accompanied by a copy of the evidence.

(2) In any case under Subsection (1) hereof the expenses therein mentioned shall be borne by the State unless within fourteen days after receiving such certificate the Attorney-General shall have stated in writing to such justice his reasons for deciding that they shall not be so borne.

58—(1) Where not otherwise provided, every summons, notice, or order under any part of this Act may be served on the defendant personally, or, if he cannot be found, by leaving the same at his last or most usual place of residence.

Service of
proc. ss.
Ib., s. 39.

(2) The person serving the summons, notice, or order, may make an affidavit stating the mode, time, and place of such service, and such affidavit may be received by any court of justice as proof of the due service of the summons, notice, or order.

Maintenance.

A.D. 1921.

Part V.
 Proceedings
ex parte.
Ib., s. 38.

59—(1) If from any cause any summons issued under this Act has not been served upon the defendant, and it is made to appear to the satisfaction of the court by the oath of some credible person that every effort has been made to serve such summons, it shall be lawful for such court to hear *ex parte* and determine any complaint under this Act, and to make any such order as the court may deem fit.

(2) If a defendant against whom a summons has been issued does not appear in accordance therewith, the court upon proof of the service of the summons, may issue a warrant for his apprehension, or may proceed in the case *ex parte*.

(3) In every case where a warrant has been issued, and the defendant cannot, after strict inquiry and search, be found to be taken thereon, the court may in like manner proceed in the case *ex parte*.

Enforcement of Orders.

Orders under
 repealed Acts.

60 All orders made under any repealed Act or Acts dealing with any of the matters provided for by this Act shall, if in force when this Act comes into operation, be enforceable under the provisions of this Act in the same manner as if originally made under this Act.

Security for
 compliance with
 order.
Ib., s. 32.
 Cf. 37 Vict., No.
 14, s. 6.

61—(1) When any order is made under this Act the court may, if it thinks fit, immediately upon pronouncing its decision, require the defendant to enter into a recognisance, with or without a surety or sureties for due compliance with such order.

(2) In default of the defendant entering into such recognisance, with such surety or sureties as the court requires, immediately upon his being ordered so to do or within such time as the court may allow him for that purpose, the court may commit him to some gaol to be imprisoned in the discretion of the court until such recognisance has been entered into.

(3) No person shall be imprisoned under this section for a longer period than Six months.

Non-compliance
 with order may
 be punished.
 10 Geo. V. No.
 62, s. 37.
 Cf. N.S.W., No.
 27 of 1904, s. 18.

62 The court may at any time in a summary way enquire into any alleged non-compliance with any order made under this Act, and for such purpose may summon all proper parties and witnesses, and may enforce compliance, or may punish non-compliance, with any such order by committal of the offender for any period not exceeding Six months (unless the order being for the payment of money is sooner complied with) or by the infliction of a penalty not exceeding Fifty Pounds.

Seizure of defend-
 ant's goods, &c.
 10 Geo. V. No.
 62, ss. 33 and 36.
 37 Vict. No. 14,
 ss. 7 and 8.

63—(1) Upon the making of any order under this Act, or at any time thereafter, the court may further order, authorise, and direct some person to seize and sell the defendant's goods, and to demand and receive his rents, annuity, or other income, or any money received or receivable or held in trust by any person to be paid periodically, or by instalments or otherwise, to or for the defendant, or such portion thereof respectively as the court thinks fit.

Maintenance.

(2) Where a complaint has been made, and the court is satisfied by evidence upon oath that the defendant therein named has left the State without making due provision for the person on whose behalf the complaint is made, the court may make the like order as mentioned in Subsection (1) hereof, although no summons or warrant may have been issued.

A.D. 1921.

Part V.

(3) Upon making an order under this section the court may further order that the moneys to be received thereunder, or so much thereof as the court may direct, shall be appropriated and applied for the maintenance of the person on whose behalf the proceedings have been taken and the payment of all costs and expenses of and incidental to such order and the proceedings relating thereto

(4) Every payment made in pursuance of an order under this section shall be as valid as if made to the defendant, and shall protect and indemnify every person acting in pursuance of such order.

64 When under this Act the court authorises and directs some person to seize and sell the defendant's good and chattels, or to demand and receive any rents, annuity, or other income, or any moneys payable to or for the defendant, then upon proof of the possession by any person of any goods or chattels, or of any moneys or income belonging to the defendant, it shall be lawful for such court, by an order in writing to direct the person in whose possession the same then are to surrender such goods and chattels, or to pay such moneys or any part thereof, to the person authorised and directed by such court to receive the same.

Persons in possession of goods, &c., may be ordered to give them up.
10 Geo. V. No. 62, s. 34.
37 Vict. No. 14, s. 9. a

65 It shall be lawful for the court by which any order under this Act was made, or for any other court, from time to time, with or without any application for that purpose, to make such orders in writing as the court thinks necessary for better securing the payment and regulating the receipt and disbursement of the moneys payable under such order, or for investing and applying the proceeds of the goods or rents, annuity or other income, if any, directed to be sold or collected, or for ensuring the due appropriation of such moneys for the proper maintenance and benefit of the person on whose behalf such order was made.

Securing proper application of moneys.
Cf. 10 Geo. V. No. 62, ss. 24 and 35.

Offences.

66 Every person who wilfully refuses or neglects to comply with an order made against him under this Act, and goes or attempts or makes preparation to go beyond Tasmania, or to reside either permanently or temporarily beyond Tasmania, shall be guilty of an offence.

Persons in default leaving State guilty of a misdemeanour.
Ib., s. 27.

Penalty : Twelve months imprisonment.

Maintenance.

A.D. 1921.

Part V.
Wilful desertion a
misdemeanour.
Ib., s. 40.
37 Vict. No. 14,
s. 14.

67—(1) Any person who, being of sufficient means, shall, without lawful or reasonable cause or excuse—

i. Desert his wife or child : or

ii. Leave his wife or child without means of support for a period of Three consecutive months—

shall be guilty of an offence.

Penalty : Twelve months imprisonment.

(2) Proof of want of sufficient means, and of the existence of reasonable cause or excuse, shall be upon the person charged with an offence under this section.

(3) In any criminal proceeding instituted against a husband for an offence under this section, his wife shall be a competent witness against him, any statute or rule of law to the contrary notwithstanding.

(4) The provisions of this section shall be applicable to the mother of any child where the father is dead or cannot be found.

Offences by
separated persons.
Cf. 10 Geo. V.
No. 62, s. 37.
Cf. N.Z., 1 Geo.
V. No. 38, s. 19.

68 Any person against whom a separation order under this Act is in force who—

i. Commits any trespass by entering or remaining upon or in any land, house, shop, or other building in which his or her wife or husband dwells : or

ii. Assaults, threatens, abuses, or otherwise molests or annoys his or her wife or husband—

shall be guilty of an offence.

Penalty : Twenty Pounds.

General penalty.
10 Geo. V. No.
62, s. 41.

69 Any person who by any act or omission is guilty of any contravention of any of the provisions of this Act shall be guilty of an offence, and where no other penalty is expressly provided, upon conviction in a summary way, shall be liable to a penalty not exceeding Twenty-five Pounds, or to be imprisoned for any period not exceeding Six months.

Punishment not
to affect orders.
Ib., s. 28.

70 The punishment of any person for an offence against this Act shall not prevent the making or operation of any order which may be lawfully made under this Act for the payment of any money or the doing of any act by such person.

Orders Generally.

Agreement not
to bar jurisdiction
in certain cases
Ib., s. 6 (4) II.

71 The fact that the complainant and defendant have entered into any contract or agreement regarding any of the matters in respect of which a complaint is made under this Act shall not be a bar to the jurisdiction of the court to make any order authorised by this Act if such contract or agreement has not been observed by the defendant, or if in the opinion of the court the payments thereby provided are inadequate.

Maintenance.

72 The court may at any time—

- i. Upon application by or on behalf of the complainant or of the defendant : and
- ii. Upon such notice being given to all parties to be thereby affected as the court may direct : and
- iii. Upon sufficient cause being shown to the satisfaction of the court—

alter, vary, or discharge any order made or enforceable under this Act and may upon any such application, increase or diminish the payments to be made under such order.

73—(1) All maintenance orders under this Act may be made to take effect from a date not earlier than Three months prior to the date of the making of the order.

(2) Every order made under this Act for the maintenance of a child shall, unless the court otherwise orders, be of full force and validity until such child attains the age of Sixteen years or (if a female) marries, whichever event first happens.

(3) All arrears of payments under an order which has expired shall be recoverable in the same manner as if such order were still of full force and effect.

Documentary Evidence.

74 For the purposes of this Act, where any document is produced in any proceeding under this Act purporting to be signed, or signed and sealed, by a judge or officer of a court of any other state or of England or Ireland, such document, until the contrary is proved, shall, without proof, be evidence—

- i. That the document is what it purports to be : and
- ii. That the document has been duly signed, or signed and sealed, by the proper officer of the court from which it purports to have been issued.

Costs.

75 In making any order or upon dismissing any complaint under this Act, the court may order the payment of such court fees, costs, and expenses, and by such person or persons, as the court may deem just and reasonable.

Miscellaneous.

76—(1) The Governor may from time to time, by proclamation published in the "Gazette," appoint and define any area or areas in Tasmania or the dependencies thereof within which any Two or more justices in petty sessions may exercise the powers conferred by this Act upon police magistrates, and from and after the publication of any such proclamation the word "court" used in this Act shall, except where the context otherwise requires, extend to and include any such Two or more justices within the area defined by such proclamation.

(2) The Governor may at any time revoke any proclamation made under this Section.

A.D. 1921.

Part V.

Orders may be varied, &c.
Ib., ss. 8 and 25.

Period for which orders may be made.

Ib., ss. 9 and 23.
Cf. 62 Vict. No. 46, s. 3.

10 Geo. V. No. 62, s. 23.

Documents from other countries.
Cf. 1 Geo. V. No. 53, s. 14.
10 and 11 Geo. V. c. 33, s. 8.

Power to order costs.
10 Geo. V. No. 62, ss. 21 and 6 (4).

1 Geo. V. No. 55, s. 12, III.

Governor may proclaim areas where justices may act as court.

Maintenance.

A. D. 1921.

Part V.

Governor may
make regulations.
10 Geo. V. No.
62, s. 42.
1 Geo. V. No. 55,
s. 27.
10 and 11 Geo.
V., c. 33, s. 5.

77—(1) The Governor may from time to time make such regulations as may be deemed necessary for the purposes of this Act, and such regulations may prescribe—

- i. The duties of the Collector of this State and other officers appointed under this Act :
- ii. The methods to be adopted by the Collector of this State and other officers in the exercise and discharge of their powers and duties :
- iii. The accounts, records, and books to be kept by the Collector of this State and other officers, and the methods of keeping the same :
- iv. The collection, remittance, and payment of moneys by the Collector of this State :
- v. Generally such matters and things as may be necessary or convenient to enable the Collector of this State and other officers to exercise and discharge their powers and duties :
- vi. The forms of any documents to be used for the purposes of this Act, either in addition to or in variation of the forms in the schedules to this Act :
- vii. The manner in which a case may be remitted by a court authorised to confirm a provisional order to the court which made such order, and generally for facilitating communications between such courts :
- viii. The officers by whom any duties imposed by this Act are to be carried out :
- ix. All such other matters and things as may be necessary or convenient for giving effect to this Act and for carrying out its objects.

Penalty for
infringement.

(2) Such regulations may impose a penalty not exceeding Twenty Pounds for any breach thereof.

Procedure.
10 Geo. V. No.
62, s. 41.

78—(1) Subject to the provisions of this Act, all proceedings under this Act in respect of offences against the provisions of this Act, or for or in respect of any order that may be made under this Act, or the payment of any money thereby made payable, shall be taken, heard, determined, enforced, and recovered in manner prescribed by "The Justices' Procedure Act, 1919."

10 Geo. V. No.
55.

Limitation
removed in
certain cases.
Cf 10 Geo. V
No. 62, s. 41.

(2) The provisions of Section Thirty-two of "The Justices' Procedure Act, 1919," shall not apply to proceedings for the recovery of any maintenance due under any order enforceable under this Act.

Application of
Section 27 of
Children's
Charter.
Ib., s. 43.
9 Geo. V. No. 15.

79 Notwithstanding anything contained in Section Twenty-seven of "The Children's Charter," the jurisdiction, powers, and authority of a children's court shall be exercisable with respect to, or under any of the provisions of, this Act only when such court consists of or includes a police magistrate.

Maintenance.

A. D. 1921.

SCHEDULES.

(1)

Section 2.

Date and Number of Act.	Title of Act.	Extent of Repeal.
1 Geo. V. No. 55	"The interstate Destitute Persons' Relief Act, 1910"	The whole Act
10 Geo. V. No. 62	"The Maintenance Act, 1919"	The whole Act

(2)

Section 30.

Form of Affidavit or Declaration in Support of Summons for Relief for Service Out of the Jurisdiction.

[Tasmania.]

[Full Christian name and surname of Complainant]

Complainant.

against

[Full Christian name and surname of Defaulter]

Defendant.

I, [full Christian name and surname] of [address and occupation], make oath and say (or do solemnly and sincerely declare) as follows:—

1. The abovenamed defendant is [here state relation of defendant to complainant], (or On the day of an order was made by [here state name of justice or court] whereby the abovenamed defendant was ordered to [here state effect of the order made for or towards the support of the complainant]).

2. To the best of my knowledge and belief the said defendant is now residing at in the State of and has been residing there since about [here state the time so far as known or believed.]

3. The said defendant left me without adequate means of support (or There is now due and unpaid under the said order the sum of)

4. The said defendant [here state, so far as known or believed, what means the defendant has, and whether employed or not, and if employed, how employed].

5. I desire to avail myself (or I desire that the complainant may have the benefit) of "Part III." of "The Maintenance Act, 1921."

[If a declaration add: I make this solemn declaration by virtue of Section 132 of "The Evidence Act, 1910."]

Sworn [or declared] at the

day of

before me

Maintenance.

A.D. 1921.

(3)

Sections 36 and 41.

Form of Affidavit to support Application to Enforce Order Outside the Jurisdiction.

[Name of State where Affidavit sworn.]

[Full Christian name and surname of person in whose favour the order was made.]

Complainant.

against

[Full Christian name and surname of person against whom the order was made.]

Defendant.

I, _____ of _____ in the State of _____, do hereby make oath and say as follows:—

1. I am the Collector for Interstate Destitute Persons [or as the official title may be] appointed for the said State under [short or other title of Act].

2. On the _____ day of _____ an order was made by [state by whom or by what court] whereby the abovenamed defendant was ordered to [state effect of the order and how payments were ordered to be made].

3. The period for appealing against the said order has expired, and the said order is still in force.

4. The following amount has been paid under the said order, namely [state the amount (if any) paid, and when paid, and, in case payable by instalments or periodically, up to what time payments have been made] (or No amount has been paid under the said order).

5. There is now remaining due and unsatisfied under the said order the sum of _____ being for _____ weeks [or as the case may be] at _____ per week [or as the case may be].

6. To the best of my knowledge and belief the said defendant is now residing at _____ in the State of _____, and has been residing there since about [state the time so far as known or believed].

Sworn at _____ in the

State of

the

day or

before me