

# THE TERRITORY FOR THE SEAT OF GOVERNMENT.

No. 16 of 1932.

## AN ORDINANCE

**To amend the Deserted Wives and Children Act, 1901,  
of the State of New South Wales, in its application  
to the Territory.**

**B**E it ordained by the Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *Seat of Government Acceptance Act 1909* and the *Seat of Government (Administration) Act 1910-1931*, as follows:—

1. This Ordinance may be cited as the *Deserted Wives and Children Ordinance 1932*. Short title.

2. Section seven of the *Deserted Wives and Children Act, 1901*, of the State of New South Wales, in its application to the Territory, is repealed and the following section inserted in its stead:—

“7.—(1.) Upon the hearing the Court shall inquire into the matter of the complaint; and Powers of Court on hearing.

(a) if it is satisfied that the wife is in fact left without means of support, it may order the defendant to pay for the use of the wife such allowance as it thinks reasonable, and in addition may commit the legal custody of any child of the marriage to the wife or such other person as it thinks proper, and order the defendant to pay for the support of such child such allowance as it thinks reasonable;

(b) if it is satisfied that any child of the defendant is in fact left without means of support it may order the defendant to pay for the support of such child such allowance as it thinks reasonable and may commit the child to the legal custody of the wife or such other person as it thinks proper.

“(2.) Any such allowance shall be paid either weekly or monthly and to such person and in such manner as the Court orders.

2500.—PRICE 3D.

"(3.) Any order for the maintenance of a child and any order committing the legal custody of a child to any person shall not have effect beyond the time when the child completes his sixteenth year.

"(4.) Notwithstanding anything contained in this section, where the complaint is by a wife against her husband, the Court may, upon reasonable cause shown for the desertion or leaving without support alleged, decline to make any order.

"(5.) Any order under this section committing a child to the legal custody of any person shall be subject to appeal under Part XI. of the *Court of Petty Sessions Ordinance (No. 2) 1930*."

Disobedience of  
order may be  
punished.

3. Section eleven of the *Deserted Wives and Children Act 1901* of the State of New South Wales, in its application to the Territory, is repealed and the following section inserted in its stead:—

"11.—(1.) On complaint on oath being made to the Court that any person has disobeyed or not complied with an order made under this Act, the Court may summon such person or issue its warrant for the apprehension of such person to answer the complaint.

"(2.) The Court may at any time in a summary way inquire into any such complaint, and may enforce compliance with the order by the committal of the offender to prison for a period of one day for every four shillings or part of four shillings found to be due, including the costs incidental to the hearing of the complaint, unless the order be complied with; but no offender shall be detained for a longer period than twelve months, and the period of detention shall in every case be subject to the provisions of section one hundred and fifty-seven of the *Court of Petty Sessions Ordinance (No. 2) 1930*.

The period of imprisonment served by an offender in accordance with the provisions of this sub-section shall not be deemed to discharge the arrears for the non-payment of which he has been committed, but during such period the order for payment of maintenance shall be deemed to be suspended.

An offender shall not be liable to be imprisoned a second time for any arrears for which he shall have actually suffered imprisonment as provided in this sub-section, but the arrears shall thereafter be a civil debt only, recoverable in any court of competent jurisdiction by the complainant to whom the arrears are due.

Where it appears that the amount of arrears has been paid since the service of the summons or the issue of a warrant the Court may order the person summoned or apprehended to pay the costs of and incidental to the proceedings, and such costs may be recovered in a summary way under the provisions of the *Court of Petty Sessions Ordinance (No. 2) 1930*.

"(3.) The Court may direct that the warrant committing the offender to prison shall lie in the office of the Court for such time as it thinks proper, or may order the amount found to be due,

and any costs awarded, to be paid, by such instalments and upon such conditions as it thinks fit, to the person to whom the amount due under the order is payable.

Upon the production of a certificate by such person that any instalment has not been paid, or that any condition of the direction has not been complied with, and of the amount then due on the order, the Court may direct that the warrant committing the offender to prison be executed.

“(4.) The Court to whom an application is made for a direction that the warrant be executed, may postpone the execution of the warrant upon such terms and conditions as it thinks fit, and if the offender breaks any term or condition upon which such a postponement is made, the Court may then direct the execution of the warrant.

“(5.) The Court may refuse to enforce an order or may enforce it to such extent as it thinks fit having regard to all the circumstances of the case, particularly with reference to the inability of the offender to obtain employment, or to comply with the order owing to continued ill health.

“(6.) Where an order made under section seven contains a provision committing the legal custody of a child to the wife or other person, every person who makes default in complying with such order shall without prejudice to any other remedy open to such wife or other person, be liable to a penalty not exceeding Fifty pounds, and to a further penalty of not exceeding One pound per day for each day he makes default in complying with the order.

Such penalty may be recovered in a summary way under the provisions of the *Court of Petty Sessions Ordinance (No. 2) 1930*.

“(7.) Where it appears that the person against whom any proceedings under sub-section six of this section are proposed to be instituted was not either directly or indirectly a party to the proceedings upon which the order under section seven was made, or would probably be unaware of the fact that such order for legal custody has been made, the Court to whom application is made for the issue of process may, if it thinks fit, or if the circumstances appear to so require, order that such person shall first be served with a copy of a minute of the order made under section seven.”.

4.—(1.) Section twenty-one of the *Deserted Wives and Children Act 1901* of the State of New South Wales, in its application to the Territory, is amended by omitting the words “for the support of any wife or child” and inserting in their stead the words “under section seven of this Act”.

Court may vary order.

(2.) The amendment effected by this section shall apply to any application for the variation of any order made by the Court prior to the commencement of this Ordinance.

Dated this twenty-eighth day of July, One thousand nine hundred and thirty-two.

ISAAC A. ISAACS

Governor-General.

By His Excellency's Command,

A. J. McLACHLAN

for Minister of State for the Interior.

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By Authority: L. F. JOHNSTON, Commonwealth Government Printer, Canberra.