

WESTERN AUSTRALIA.



ANNO SECUNDO

GEORGI QUINTI REGIS,

XV.

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No. 7 of 1912.

AN ACT to amend an Ordinance to regulate  
Divorce and Matrimonial Causes, 27 Victoriae,  
No. 19.

[Reserved 9th January, 1912.]

**B**E it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the *Divorce Amendment Act*, 1911, and shall come into operation on a date to be fixed by proclamation, and shall be read and construed as one with the Ordinance 27 Victoriae, No. 19 (hereinafter called the principal Act).

Short title and commencement.

2. Section twenty-three of the principal Act is hereby repealed, and the following is substituted:—

Amendment of section 23.

23. It shall be lawful for any husband to present a petition to the said Court, praying that his marriage may be dissolved on the grounds that his wife has since the celebration thereof been guilty of adultery; and it shall be lawful for any wife to present a petition to the Court, praying that her marriage may be dissolved on the ground that since the celebration thereof her husband has been guilty of adultery, sodomy, or bestiality; and it shall be lawful for any married person to present a petition to the Court praying that his or her marriage

may be dissolved on the ground that since the celebration thereof his wife or her husband, as the case may be, has without just cause or excuse wilfully deserted him or her, and without any such cause or excuse left him or her continuously deserted for five years and upwards:—or

- (a.) On the ground that the respondent, being the petitioner's husband, has during four years and upwards been an habitual drunkard and either habitually left his wife without means of support or habitually been guilty of cruelty towards her, or being the petitioner's wife has for a like period been an habitual drunkard and habitually neglected her domestic duties or rendered herself unfit to discharge them; or
- (b.) On the ground that at the time of the presentation of the petition the respondent has been imprisoned for a period of not less than three years and is still in prison under a commuted sentence for a capital crime or under sentence of imprisonment for seven years or upwards, or being a husband has within five years undergone frequent convictions for crime and been sentenced in the aggregate to imprisonment for three years or upwards and left his wife habitually without the means of support; or
- (c.) On the ground that within one year previously the respondent has been convicted of having attempted to murder the petitioner or having assaulted him or her with intent to inflict grievous bodily harm; or
- (d.) On the ground that the respondent is a lunatic or person of unsound mind, and has been confined as such in any asylum or other institution in accordance with the provisions of the Lunacy Act, 1903, for a period or periods not less in the aggregate than five years within six years immediately preceding the filing of the petition and is unlikely to recover from such lunacy or unsoundness of mind.

and every such petition shall state as distinctively as the nature of the case permits the facts on which the claim to have such marriage dissolved is founded.

Sections 24 to 28  
not to apply to  
petition founded on  
adultery.

**3.** Sections twenty-four to twenty-eight (both inclusive) of the principal Act shall only apply to a petition for dissolution of marriage on the ground of adultery.

4. The following new section is inserted in the principal Act, immediately after section twenty-eight:—

New section inserted.

“28A. In case the Court, on the hearing of any petition for dissolution of marriage on the ground of desertion, shall find that the petitioner has condoned the desertion complained of, or that the petition is presented or prosecuted in collusion with the respondent, then the Court shall dismiss the petition, but otherwise the Court shall, if satisfied of the truth of all material allegations in the petition, pronounce a decree declaring the marriage to be dissolved.”

Dismissal or granting of petition founded on desertion.

5. If, in the opinion of the Court, the petitioner's own habits or conduct induced or contributed to the wrong complained of, the petition may be dismissed; but in all other cases under this Act, if the Court is satisfied that the case of the petitioner is established, the Court shall pronounce a decree dissolving the marriage.

Power of Court to dismiss petition.

6. A domiciled person shall, for the purposes of this Act, include a deserted wife who was domiciled in Western Australia at the time of desertion, and such wife shall be deemed to have retained her Western Australian domicile notwithstanding that her husband may have since the desertion acquired any foreign domicile. No person shall be entitled to petition under this Act who shall have resorted to the State for that purpose only.

Domicile of deserted wife.