



Western Australia

Matrimonial Causes Ordinance 1863

Compare between:

[29 Apr 1970, 00-k0-02] and [26 Sep 1998, 00-10-05]

Matrimonial Causes Ordinance 1863

An Ordinance to regulate Divorce and Matrimonial Causes.

~~[Assented to 22nd July, 1863.]~~

[1-12.- Repealed by No. 36 of 1935 s.3.]

13. Wife deserted by husband may apply to Police Magistrate, Resident Magistrate, Justices in Petty Sessions, or to Court for protection

A wife deserted by her husband may at any time after such desertion, apply to the Police Magistrate or to the Resident Magistrate of the district wherein she resides, or if resident in any part of the country for which no such Magistrate has been appointed, to Justices in Petty Sessions, or in either case to the Court, for an order to protect any money or property in the Colony she may have acquired or may acquire by her own lawful industry, and any property she may have become possessed of or may become possessed of after such desertion, against her husband and his creditors and any person claiming under him; and such Magistrate or Justices or Court, if satisfied of the fact of such desertion, and that the same was without reasonable cause, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting all money and property in the Colony acquired or which may be acquired by her own lawful industry, and all property of which she has become possessed or may become possessed after such desertion, from her husband and all creditors and persons claiming under him, and such earnings and property shall belong to the wife as if she were a *feme sole*: Provided always, that every such order, if made by a Police

Magistrate, Resident Magistrate, or Justices at Petty Sessions, shall, within ten days after the making thereof, be entered with the clerk of the Local Court for the recovery of small debts within whose jurisdiction the wife is resident; and that it shall be lawful for the husband and any creditor or other person claiming under him, to apply to the Court or to the Magistrate or Justices by whom such order was made, for the discharge thereof: Provided also that if the husband or any creditor of or person claiming under the husband shall seize or continue to hold any property of the wife after notice of any such order, he shall be liable, at the suit of the wife, (which she is hereby empowered to bring), to restore the specific property, and also for a sum equal to double the value of the property so seized or held after such notice as aforesaid: If any such order of protection be made, the wife shall during the continuance thereof be and be deemed to have been, during such desertion of her, in the like position in all respects, with regard to property and contracts, and suing and being sued, as she would be under this Ordinance if she obtained a decree of judicial separation.

[14-66.- Repealed by No. 36 of 1935 s.3.]

67. Short title

This Ordinance may be cited as the *Matrimonial Causes Ordinance 1863*.

[Section 67 inserted by No. 10 of 1970 s.3.]

NOTES

Notes

- ¹ - This is a compilation of the *Matrimonial Causes Ordinance 1863* and includes all amendments effected by the other Acts referred to in the following Table.

Compilation table

Short title	Number and year	Assent	Commencement
	27 Vict., No. 19 (1863)	22 Jul 1863	22 Jul 1863
	34 Vict., No. 7 (1871)	2 Jan 1871	2 Jan 1871
<i>Criminal Code Act 1902</i>	1 & 2 Edw. VII, No. 14 (1902)	19 Feb 1902	1 May 1902
<i>Appellate Jurisdiction Act 1911</i>	4 of 1912	9 Jan 1912	9 Jan 1912
<i>Divorce Amendment Act 1911</i>	7 of 1912	9 Jan 1912	9 Jan 1912
<i>Divorce Amendment Act 1919</i>	33 of 1919	17 Dec 1919	17 Dec 1919
<i>Divorce Act Amendment Act 1920</i>	52 of 1920	31 Dec 1920	31 Dec 1920
<i>Divorce Amendment Act 1925</i>	23 of 1925	15 Dec 1925	15 Dec 1925
<i>Divorce Amendment Act 1929</i>	7 of 1929	7 Oct 1929	7 Oct 1929
<i>Supreme Court Act 1935</i> (section 3)	36 of 1935	3 Apr 1936	1 May 1936
<i>Statute Law Revision Act 1970</i> (section 3)	10 of 1970	29 Apr 1970	29 Apr 1970
<u>This Act was repealed by the Acts Amendment and Repeal (Family Court) Act 1997 s. 38(2) (No. 41 of 1997) as at 26 Sep 1998 (see s. 2 and Gazette 25 Sep 1998 p. 5295)</u>			

N.B:- This Act is to be read as one with 34 Vict., No. 7 (1871) and the *Divorce Amendment Act 1919*.