

# MARRIED WOMEN'S PROTECTION.

13° GEO. V., No. X.

No. 28 of 1922.

(as amended by No. 14 of 1926\*).

## AN ACT relating to the Summary Protection of Married Women.

[Assented to 7th December, 1922.]

BE 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 *Married Women's Protection Act, 1922.* Short title.

2. Any married woman whose husband during the preceding six months shall have been guilty of—  
(a) cruelty to her or any of her children; or  
(b) adultery; or  
(c) desertion; or  
(d) wilful neglect to provide reasonable maintenance for her or any of her children,  
may apply for summary protection under this Act, and the same may be ordered accordingly.

Summary relief to married women. S.A., No. 664, s. 2.

3. In this Act "children" means "children under the age of eighteen years."

Application of Act to children. *Ibid.*, sec. 3.

4. All courts of summary jurisdiction shall have jurisdiction under this Act, but no order shall be made under this Act unless a police, resident, or special magis-

Constitution of Court. See *Ibid.*, sec. 4.

\*Assented to 25th October, 1926. Amendments to have effect as from the commencement of the principal Act. Cf ss. 2 (2) and 3 of the Act No. 14 of 1926.

trate, and at least one justice of the peace shall join in the hearing of the application and the making of the order.

Provisions of orders.

5. Any order for protection under this Act may—
- (a) relieve the applicant from any obligation to cohabit with her husband;
  - (b) grant to the applicant the legal custody of her children;
  - (c) direct the husband to pay to the applicant personally, or for her use, to any officer of the court, or third person on her behalf, such weekly or other periodical sum as the court shall, having regard to the means both of the husband and the wife, consider reasonable for the maintenance of herself and also of all children (if any) whose custody is granted to her, such sum to be secured in such manner (if any) as may be directed by the court.

Extent of orders.

*Ibid.*, sec. 6.

6. Any one or more of the matters mentioned in sections two and five may be dealt with in or by the same complaint or order, but costs may be ordered against any complainant in respect of any matter charged in the complaint and not established at the hearing.

No order to be made if married woman guilty of adultery.  
*Ibid.*, sec. 7.

7. No order shall be made under this Act on the application of a married woman if the adultery complained of has been condoned and not revived, or if it shall be proved that the applicant is of drunken habits or has committed adultery: Provided that the husband has not condoned, or connived at, or, by his cruelty, wilful neglect, or misconduct, conduced to such adultery or drunken habits.

Not to affect orders of superior Courts.  
*Ibid.*, sec. 8.

8. No order under this Act shall affect the order of any court of superior jurisdiction.

Orders not to affect marriage.  
*Ibid.*, sec. 9.

9. No order under this Act shall dissolve any marriage.

Orders to have effect of judicial separation.  
*Ibid.*, sec. 10.

10. Every order for relief from the obligation to cohabit whilst in force shall have the effect in all respects of a *decree* of judicial separation.

11. On proof, on any application under this Act, that the husband has omitted to supply reasonable maintenance wilful neglect shall be presumed, unless the husband shall prove the contrary.

Proof of wilful neglect. *Ibid.*, sec. 11.

12. Any court of summary jurisdiction constituted as hereinbefore mentioned may, on the due application of a married woman or of her husband, and upon cause being shown, upon fresh evidence to the satisfaction of such court, at any time alter, vary, or discharge any such order, and may, upon any such application, increase or diminish the amount of any payment ordered.

Court may vary or discharge order. *Ibid.*, sec. 12.

13. If any married woman upon whose application an order shall have been made under this Act shall voluntarily resume cohabitation with her husband, or shall commit adultery, such order shall, upon application and proof, be ordered to be discharged.

Order to be discharged on proof of adultery or resumption of cohabitation. *Ibid.*, sec. 13.

14. Applications under this Act shall be made by complaint, and the provisions of all laws relating to summary proceedings before justices shall apply to all such applications and informations, and to the enforcement of orders and the recovery of penalties under this Act, and to all proceedings in respect thereof, except as modified by this Act or any prescribed form.

Procedure. *Ibid.*, sec. 14.

Provided that when an order made under this Act directs any person to make periodical payments, and such person is at any time in default in respect of more than one such periodical payment, such person shall be liable, in respect of the aggregate amount in payment whereof he is so in default as aforesaid, to such process of execution and period of imprisonment, or to such imprisonment only, as he would be liable to, if he were in default in respect of one payment equal to the said aggregate amount.

Inserted by No. 14 of 1926, s. 2.†

15. In case of the conviction of a husband in any court for any offence involving cruelty to his wife or children, an application for protection under this Act may, by leave of the court, be heard immediately after such conviction without any summons.

Immediate order for relief. *Ibid.*, sec. 15.

†To have effect as from the commencement of the principal Act.

Penalty for disobedience of order. *Ibid.*, sec. 16.

16. If any husband shall fail to comply with any order for maintenance under this Act, or shall molest or interfere or attempt to molest or interfere with his wife in her manner of living contrary to any order for relief from cohabitation, or shall molest or interfere or attempt to molest or interfere with any child contrary to any order for custody, he shall be guilty of an offence against this Act, punishable by a fine not exceeding ten pounds, or by imprisonment with or without hard labour not exceeding two calendar months.

Inserted by No. 14 of 1926, s. 3.†

This section is without prejudice to the enforcement of orders in manner indicated in section fourteen: provided that no person shall be liable to proceedings both under this section and by way of enforcement in respect of the same default.

Appeal.

17. There shall be an appeal from any order, or any order varying or discharging any order, or refusal of an order under this Act, to the Supreme Court under the provisions of Part VIII. of the Justices Act, 1902-20.

Forms.

18. The forms in the schedule may be used in accordance with the notes thereto, and shall be valid and sufficient for the purposes of this Act.

Minute.

19. No minute of any order need be served on any defendant for the purposes of this Act.

Repeal

20. The Summary Jurisdiction (Married Women) Act, 1896, and the Summary Jurisdiction (Married Women) Act Amendment Act, 1902, are hereby repealed.

### THE SCHEDULE.

Western [Royal Arms] Australia.

THE MARRIED WOMEN'S PROTECTION ACT, 1922.

#### *Complaint.*

The complaint of \_\_\_\_\_ states that her husband (a) has been guilty of—

i. Cruelty to complainant on the \_\_\_\_\_ day of \_\_\_\_\_ 19, at (d) and on the \_\_\_\_\_ day of \_\_\_\_\_ 19, at (d):

ii. Cruelty to (b) and (b) children of the complainant, on the \_\_\_\_\_ day of \_\_\_\_\_ at (d) and on the \_\_\_\_\_ day of \_\_\_\_\_ 19, at (d):

†To have effect as from the commencement of the principal Act.

*Married Women's Protection.*

- iii. Adultery with (c) on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ ,  
at (d), and with (c) on the \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_ , at (d):
- iv. Desertion on the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_ :
- v. Wilful neglect to provide reasonable maintenance for complainant  
on the \_\_\_\_\_ day of \_\_\_\_\_ :
- vi. Wilful neglect to provide reasonable maintenance for complainant's children (b) and (b) on the \_\_\_\_\_ day of  
19 \_\_\_\_\_ :

And the complainant applies for summary protection under the Act.  
[Signature of Complainant.]

Made before me at \_\_\_\_\_ , this \_\_\_\_\_ day of \_\_\_\_\_ ,  
19 \_\_\_\_\_ , Justice of the Peace.

NOTE—

- (a) Fill in name, address, and occupation of husband.
- (b) Fill in names of children.
- (c) Fill in, if known, the names of persons with whom the adultery is charged.
- (d) Fill in places.

Strike out all references to matters of complaint which are not intended to be established.

Western [Royal Arms] Australia.

THE MARRIED WOMEN'S PROTECTION ACT, 1922.

*Summons.*

To \_\_\_\_\_ of \_\_\_\_\_  
As complaint has been laid by your wife that you have been guilty of  
[here copy the matter of complaint], you are summoned to appear on  
\_\_\_\_\_ at \_\_\_\_\_ at \_\_\_\_\_ o'clock, before the  
Court of Summary Jurisdiction there sitting to answer an application for  
protection under the Act.  
Given under my hand at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_  
19 \_\_\_\_\_ , before me

J.P.

Western [Royal Arms] Australia.

THE MARRIED WOMEN'S PROTECTION ACT, 1922.

*Order.*

On the application of (a) for protection under this Act, the Court finds that her husband (b) has been guilty of—

- Cruelty to her on the (d) day of \_\_\_\_\_
- Cruelty to her children on the (d) day of \_\_\_\_\_
- Adultery on the (d) day of \_\_\_\_\_
- Desertion on the \_\_\_\_\_ day of \_\_\_\_\_
- Wilful neglect to provide reasonable maintenance for her on  
the \_\_\_\_\_ day of \_\_\_\_\_
- Wilful neglect to provide reasonable maintenance for her children  
(c) on the \_\_\_\_\_ day of \_\_\_\_\_

The Court doth [here set out Order in one or more of following paragraphs, as the case may require]—

- i. Relieve the complainant from any obligation to cohabit with the said [here set out Christian and surname of husband].

*Married Women's Protection.*

- ii. Grant to complainant the legal custody of her children (c):
- iii. Direct the said [*Christian and surname of husband*] to pay to [*here set out complainant or name of other person to whom money is to be paid*] the sum of [*here set out amount*] per [*here set out week or other period*], such sum to be paid to the said [*name of person to whom money is to be paid*] on [*here set out day on which money is to be paid, if so ordered*] for the maintenance of the said complainant [*and, if custody of children granted, add "and of her children whose custody is granted to her"*].

Dated at                      this                      day of                      19                      .Magistrate.

## NOTE—

- (a) Fill in name and address of complainant.  
 (b) Fill in name, address, and occupation of husband.  
 (c) Fill in names of children.  
 (d) Fill in dates and places.