

Hon. Mr Webb

DESTITUTE PERSONS AMENDMENT

ANALYSIS	
Title.	
1. Short Title and commencement.	4. Separation order to cease to have effect on resumption of cohabitation.
2. Order for maintenance of child in certain cases.	5. Section 3 of Destitute Persons Amendment Act 1951 (as to vesting of tenancy) amended.
3. Order for maintenance of child receiving education up to age of eighteen years.	

A BILL INTITULED

AN ACT to amend the Destitute Persons Act 1910. Title.

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. (1) This Act may be cited as the Destitute Persons Amendment Act 1953, and shall be read together with and deemed part of the Destitute Persons Act 1910 (hereinafter referred to as the principal Act). Short Title and commencement.
- 10 (2) This Act shall come into force on the first day of January, nineteen hundred and fifty-four. See Reprint of Statutes, Vol. II, p. 896
2. The principal Act is hereby amended by inserting, after section eighteen, the following section: Order for maintenance of child in certain cases.
- 15 " 18A. (1) Where under section seventeen or section eighteen of this Act, as extended by section eight of the Domestic Proceedings Act 1939, a Magistrate makes a maintenance order or an order of guardianship in 1939, No. 13

favour of any wife or husband, the Magistrate may, if he thinks fit, having regard to all the circumstances of the case, and whether or not he makes a separation order, make a maintenance order against the defendant directing the defendant to pay towards the future maintenance of any child of the marriage a reasonable sum at such times and in such manner as the Magistrate thinks fit, until the child attains the age of sixteen years. 5

“(2) The Magistrate making an order under this section may also, in his discretion, if he is satisfied that the defendant is of sufficient ability, order the defendant to pay on account of the past maintenance of the child any sum not exceeding fifty pounds, at such time or times and in such manner as the Magistrate thinks fit. 10 15

“(3) Where a Magistrate makes a maintenance order or an order of guardianship in favour of any wife or husband as aforesaid, and any child of the marriage is dead at the time of the complaint or at the time of the order, the Magistrate may in his discretion, if he is satisfied that the defendant is of sufficient ability, and whether or not he makes a separation order, order the defendant to pay on account of the past maintenance of that child any sum not exceeding fifty pounds, at such time or times and in such manner as the Magistrate thinks fit. 20 25

1951, No. 68

“(4) The provisions of section seven of the Destitute Persons Amendment Act 1951 (which relates to the extension by Magistrates of orders for the maintenance of children so as to have effect beyond the age of sixteen) shall apply to maintenance orders made under subsection *one* of this section.” 30

Order for maintenance of child receiving education up to age of eighteen years.

3. (1) Notwithstanding anything in the principal Act, but subject to the provisions of this section, a maintenance order, including an order for past maintenance, may be made by a Magistrate, in accordance with the principal Act, in respect of any child who at the time of the making of the order has attained the age of sixteen years and has not attained the age of eighteen years in any case where, apart from this section, a maintenance order could be made in respect of the child under Part III or Part IV of the principal Act if the child were under the age of sixteen years. 35 40

(2) No order shall be made under this section unless it appears to the Magistrate—

- (a) That the child is or will be engaged in a course of education or training; and
- 5 (b) That it is expedient that payments towards the maintenance of the child should be made while the child is so engaged.

(3) Any order under this section shall be for such period as may be specified in the order, being a period
 10 not exceeding one year from the date of the order and expiring not later than the date when the child attains the age of eighteen years.

(4) The power of a Magistrate, under section thirty-nine of the principal Act, to vary any maintenance
 15 order, or to substitute a new order therefor, shall be deemed to include power to extend from time to time the period specified in any order made under this section for any further period not exceeding one year and expiring not later than the date when the child
 20 attains the age of eighteen years.

(5) Proceedings for an order under this section may be commenced in the same manner as if the child were under sixteen years of age, and the provisions of the principal Act shall accordingly apply, with the necessary
 25 modifications, to the proceedings and to any such order.

(6) The power conferred by subsection *one* of this section may be exercised in any proceedings commenced and not completed before the commencement of this Act.

4. (1) The principal Act is hereby further amended
 30 by repealing section twenty-one, and substituting the following section:

“ 21. (1) Where a separation order has been made, whether before or after the commencement of this section, and the husband and wife, with the free consent
 35 of the wife, resume cohabitation as man and wife, or, in the case of an order in force at the date of the commencement of this section, have so resumed cohabitation before that date and are so cohabiting at that date, the order shall for all purposes cease to have any
 40 force or effect on the resumption of such cohabitation or, in the last-mentioned case, at the commencement of this section.

Separation order to cease to have effect on resumption of cohabitation.

“(2) Without limiting in any way the generality of the provisions of subsection one of this section, the wife or husband, or any constable, may apply to a Magistrate for the discharge of the separation order, and on proof that the order has ceased to have effect as aforesaid 5 the Magistrate shall discharge the order.”

(2) Notwithstanding anything in this section, in any case where, before the date of the commencement of this Act, any person could have applied to a Magistrate under section twenty-one of the principal Act for the 10 discharge of a separation order made before that date, that person may apply for the discharge of that order, and the application shall be dealt with as if this Act had not been passed.

5. Section three of the Destitute Persons Amendment 15 Act 1951 is hereby amended as follows:

- (a) By omitting from subsection one the words “in favour of any person”:
- (b) By omitting from subsection one the words “vesting in that person”, and substituting 20 the words “vesting in any person, being the complainant or the defendant,”.

Section 3 of
Destitute
Persons
Amendment
Act 1951
(as to vesting
of tenancy)
amended.
1951, No. 68