

DOMESTIC PROCEEDINGS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Domestic Proceedings Act 1968.

Clause 1 relates to the Short Title.

Clause 2 re-enacts in an amended form paragraph (a) of section 19 (1) of the principal Act, which at present specifies as a ground on which the Court may make a separation order that there is a state of serious disharmony between the parties of such a nature that it is unreasonable to require the applicant for the order to continue or resume cohabitation with the defendant, and that the parties are unlikely to be reconciled.

The new paragraph (a) provides that the Court may make a separation order on the ground that there is a state of serious disharmony between the parties of such a nature that it is unreasonable to require them to continue or resume cohabitation with each other, and that they are unlikely to be reconciled.

This amendment is proposed because of the fact that the grounds set out in paragraph (a) are, unlike the provisions in the 1910 Act, not based on the fault of either party, but the wording of the present paragraph (a) implies that the defendant is at fault.

Clause 3: Section 25 of the principal Act provides that an application for a maintenance order made by a married woman may be made either by herself or by an agent authorised by her in writing.

This amendment provides that where she is incapable of authorising an agent to make the application, the application may be made by the manager of her estate under the Mental Health Act 1969 or under the Aged and Infirm Persons Protection Act 1912, or, where there is no such manager, by her next friend.

Clause 4 is a similar provision in cases of an application for maintenance by a married man who is incapable of authorising an agent to make the application.

Clause 5: Under section 35 (3) of the principal Act, the Court may make a maintenance order for the maintenance of any child against the step-parent of the child on the application of the mother or father, subject to the existence of certain conditions set out in that subsection. The application cannot be made by any other person, and, where the mother or father is dead or cannot be found, no application can be made.

This clause enables an application to be made by any person having the lawful care of the child or by a Child Welfare Officer for a maintenance order against the step-parent if the parents are dead or cannot be found or are incapable of providing proper maintenance for the child and the child has at any time lived with the step-parent as a member of the step-parent's family.

Clause 6: Section 38 of the principal Act provides that a maintenance order for the maintenance of a child born outside marriage may not be made against any person as the father of the child unless paternity has been established in one of the ways set out in that section.

Subclause (1) provides that the Court may make a maintenance order against any person as the father of the child in any case where a Court has appointed him a guardian of the child or has declared him to be the guardian of the child by reason of his being the father of the child.

Subclause (2) provides that paternity may also be established by the production of a birth certificate of the child showing the defendant as the father. Under section 18 of the Births and Deaths Registration Act 1951 the defendant must have acknowledged that he was the father before his name could be entered as such in the register. A similar provision appears in section 8 of the Status of Children Act 1969.

Clause 7: Section 43 of the principal Act provides that where proceedings for a separation order are pending no party shall dispose of or remove any furniture in the matrimonial home without the consent of a Magistrate or Registrar or the consent of the other party. If either party does so, he or she commits an offence.

The effect of this amendment is that an offence is committed only if the party knew that proceedings were pending.

Clause 8: Section 48 of the principal Act fixes time limits for the making of applications for paternity orders. An application must be made within 6 years from the birth of the child, but, if the defendant has admitted paternity or has contributed to the maintenance of the child or has since the birth of the child lived with the mother as man and wife, an application for a paternity order may be made after the expiration of the 6-year period if the defendant has done any of the things mentioned within the 12 months preceding the making of the application.

This clause provides that an application for a paternity order may also be made at any time after the expiration of the 6-year period if the defendant has at any time admitted paternity expressly or by implication. In the other cases covered by the present section 48, the period of 12 months is extended to 2 years.

Clause 9 includes in the definition of "maintenance agreement" in section 54 (1) of the principal Act a written agreement by the father of a child born outside marriage to make payments towards the maintenance of the mother. The effect of this is that the agreement may be registered in a Magistrate's Court under Part VII of the principal Act, and may be enforced as if it were a maintenance order.

Under subclause (2), proceedings for the enforcement of any such agreement are limited to maintenance payments due within 5 years after the birth of the child.

Clause 10: Section 57 of the principal Act provides that so long as a maintenance agreement is in force, no maintenance order shall be made against the party liable under the agreement in favour of the other party.

Doubts have arisen as to whether this provision would debar a wife from applying for a maintenance order for her own maintenance where she is a party to a maintenance agreement providing for payment of maintenance for the children or for a maintenance order for the maintenance of the children where she is a party to a maintenance order providing for her own maintenance.

This amendment makes it clear that she would not be debarred from applying in such a case.

Clause 11: Section 64 (7) of the principal Act provides that where a provisional Commonwealth maintenance order is confirmed, the Court may order the defendant to pay an amount not exceeding \$100 on account of the maintenance of the person or persons in whose favour the provisional order was made between the date of the making of the order and its confirmation.

This clause increases that amount to \$200.

Clause 12: Section 75 (1) of the principal Act provides that the amounts payable under an overseas maintenance order registered or confirmed in New Zealand are to be converted into New Zealand currency at the rate of exchange prevailing at the date of the making of the order of the original Court.

This amendment provides that the amount payable is to be converted into New Zealand currency at the rate of exchange prevailing at the date of the registration or confirmation of the order, which is the date used in the corresponding Australian legislation.

Clause 13: This clause enables the Court to order that payments under a maintenance order shall be made to a Maintenance Officer at any place specified in the order.

Clause 14: Section 30 (3) of the principal Act provides that a maintenance order shall be deemed to be suspended while there is in force an interim order made by the Supreme Court for maintenance relating to the same parties, and shall be deemed to be discharged by a final order for maintenance relating to the same parties.

Doubts have arisen as to whether this provision applies to a maintenance order providing for payments to a parent for the maintenance of a child where an interim order is made for the maintenance of that parent. This clause makes it clear that it applies only to a maintenance order so far as it provides for payments for the maintenance of a party to the proceedings.

Clause 15 re-enacts in an amended form section 82 of the principal Act, which at present provides that where a maintenance order is made for the payment of a periodical sum in favour of a person who is a mentally disordered person and is receiving care and treatment in a psychiatric hospital or institution, the order may provide for payment of a periodical sum while that person is in an institution and a different sum while that person is not in an institution.

The new section is to the same effect as the present section 82, but includes some drafting changes necessary resulting from the provisions of the Mental Health Act 1969.

Clause 16 inserts a new section 84A in the principal Act providing that where a payment is made of part of the total amount owing under 2 or more maintenance orders and the person making the payment does not specify how it is to be apportioned, the amount of the payment is to be applied proportionately to the amounts owing under the several orders.

Clause 17: Subsections (2) and (3) of section 85 of the principal Act enable the Court to vary or extend maintenance orders and to cancel, vary, or extend registered maintenance agreements on the ground of change of circumstances. There are doubts as to whether the relevant starting point in cases where an order or agreement has already been varied is the date of the last variation.

Subclause (1) re-enacts these provisions with the following changes:

- (a) The Court is empowered to discharge a maintenance order and make a new order in its place. A similar provision appears in section 47 of the Matrimonial Proceedings Act 1963.
- (b) The Court is empowered to cancel a registered maintenance agreement and make a maintenance order in its place.
- (c) It is made clear that where a maintenance order or registered agreement has already been varied, the starting point is the date of the last variation.

Subclause (2) enables the Court to suspend the payment in whole or in part of any arrears due under a maintenance order or registered maintenance agreement. At present, section 85 (6) empowers the Court to remit arrears but not to suspend them.

Clause 18: Section 88 of the principal Act provides that where the Supreme Court makes a final order of maintenance under the Matrimonial Proceedings Act 1963, any maintenance order made in respect of the same parties under the principal Act will cease to have effect.

Doubts have arisen as to the position where a maintenance order under the principal Act provides for payment of maintenance in respect of any child in addition to payment of maintenance in respect of a party to the marriage and a maintenance order is made by the Supreme Court for the maintenance of some only of the persons provided for in the order made under the principal Act.

This clause makes it clear that in such a case the maintenance order made under the principal Act will cease to have effect only in respect of those persons for whose maintenance payments are to be made under the order of the Supreme Court.

Clause 19 transfers to section 93 of the principal Act provisions which at present appear in rule 61 of the Domestic Proceedings Rules 1969 (S.R. 1969/262), as being more appropriate to the Act than the rules.

The effect of those provisions is that where a Magistrate directs that no warrant be issued in respect of any arrears of maintenance, or withdraws any warrant of distress or warrant of commitment for any arrears, or issues any such warrant for a sum less than the arrears due, the arrears or, as the case may be, the difference between the amount of the arrears and the amount for which the warrant is issued will not be deemed to have been remitted.

Clause 20 makes it clear that an information for the offence of disobeying a maintenance order may include more than 1 such offence alleged to have been committed by the defendant. The amendment is retrospective to the commencement of the principal Act.

Clause 21 inserts a new section 108A in the principal Act re-enacting in an amended form section 108 (2) of that Act, which prescribes the manner in which proof as to the arrears of maintenance may be given in proceedings for an offence of disobeying a maintenance order. That subsection, which applies only in cases where the information for the offence is filed in a Court other than that in which the information is required to be heard, enables prima facie proof of the arrears to be given by a certificate endorsed on the information by the Registrar of the Court in which the information is filed.

The new section 108A is not restricted to cases where the information is filed in a Court other than that in which the information is to be heard, and provides that a certificate as to the arrears may be endorsed on the information by the Registrar of any Magistrate's Court or by any Registrar or Deputy Registrar or Assistant Registrar of Social Security.

Clause 22: Section 111 (3) of the principal Act provides that subject to section 27 of the Guardianship Act 1968 and section 7 of the Matrimonial Property Act 1963, where any other proceedings are heard together with any proceedings under the principal Act, the provisions of section 111 (2) (which restricts the persons who may be present during the hearing of any proceedings under the principal Act) shall, unless the Court otherwise determines, apply as if the whole of the proceedings were proceedings under the principal Act.

Doubts have arisen as to the effect of this provision, particularly in cases where proceedings under the Guardianship Act 1968 and under the Matrimonial Property Act 1963 and under the principal Act are all heard together, because of the fact that the provisions of section 27 of the Guardianship Act 1968 are not the same as those of section 7 of the Matrimonial Property Act 1963. Under section 27 of the Guardianship Act all proceedings under that Act must, unless the Court otherwise directs, be heard in private, and under section 7 of the Matrimonial Property Act the proceedings are to be heard in private if either party so desires.

This clause clarifies the position as follows:

- (a) Where proceedings under the Guardianship Act are heard together with proceedings under the principal Act (whether or not proceedings under the Matrimonial Property Act are also heard), all the proceedings are to be held in private, unless the Court otherwise directs.
- (b) Where proceedings under the Matrimonial Property Act are heard together with proceedings under the principal Act and either party requests that they be heard in private, all proceedings are to be held in private.
- (c) Where proceedings under the Matrimonial Property Act are heard together with proceedings under the principal Act and neither party requests that they be heard in private, section 111 (2) of the principal Act is to apply to the whole of the proceedings and the restrictions in that subsection as to the persons entitled to be present will apply.

Clause 23 corrects a clerical error in section 119 (1) (b) of the principal Act.

Clause 24: Section 125 (1) of the principal Act provides that every maintenance agreement shall bind the parties and, so long as it continues in force, no party to the agreement shall, unless it contains an express provision whereby any person undertakes not to register the agreement in the Court, be entitled to apply under the principal Act for a maintenance order against any other party to the agreement.

Doubts have arisen as to the effect of this provision in cases where a maintenance agreement provides for the payment of maintenance in respect of the children but not of the wife or in respect of the wife but not of the children, and whether in such a case the wife is debarred from applying for a maintenance order for her own maintenance or, as the case may be, for the maintenance of the children.

The effect of this provision is to make it clear that the wife is not debarred from applying for a maintenance order for the maintenance of any person whose maintenance is not provided for in the agreement.

Clause 25 is intended to remove doubts as to the status and effect of existing maintenance orders and registered maintenance agreements which make provision for the maintenance of more than one person without specifying the amount payable in respect of each person.

The clause validates such orders and agreements, and enables application to be made to the Court to amend any such order or agreement by apportioning the total periodical sum payable among the persons for whose benefit maintenance is payable under the order or agreement.

Hon. Mr Riddiford

DOMESTIC PROCEEDINGS AMENDMENT

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A BILL INTITULED

An Act to amend the Domestic Proceedings Act 1968

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

No. 93—1

1. Short Title—This Act may be cited as the Domestic Proceedings Amendment Act 1971, and shall be read together with and deemed part of the Domestic Proceedings Act 1968* (hereinafter referred to as the principal Act).

2. Court may make separation orders—Section 19 of the principal Act is hereby amended by repealing paragraph (a) of subsection (1), and substituting the following paragraph:

“(a) That there is a state of serious disharmony between the parties to the marriage of such a nature that it is unreasonable to require the parties to continue, or, as the case may be, to resume, cohabitation with each other, and that the parties are unlikely to be reconciled; or”.

3. Application by wife for maintenance order—Section 25 of the principal Act is hereby amended by adding, as subsection (2), the following subsection:

“(2) If a married woman is incapable of authorising an agent to make any such application,—

“(a) The manager of her estate under Part VII of the Mental Health Act 1969 or under the Aged and Infirm Persons Protection Act 1912 may make the application:

“(b) Where there is no such manager, her next friend may make the application.”

4. Application by husband for maintenance order—Section 25 of the principal Act is hereby amended by adding the following subsection:

“(3) If a married man is incapable of authorising an agent to make an application under subsection (1) of this section,—

“(a) The manager of his estate under Part VII of the Mental Health Act 1969 or under the Aged and Infirm Persons Protection Act 1912 may make the application:

“(b) Where there is no such manager, his next friend may make the application.”

*1968, No. 62

Amendment: 1970, No. 60

5. Maintenance order against step-parent of child—

(1) Section 36 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

5 “(1A) The Court may, if it thinks fit, make a maintenance order for the maintenance of any child against the step-parent of the child, on application made by any person having the lawful care of the child or by a Child Welfare Officer, if the Court is satisfied that—

10 “(a) The parents of the child are dead or cannot be found or are incapable of providing proper maintenance for the child; and

“ (b) The child has at any time lived with the step-parent as a member of the step-parent’s family.”

15 (2) Section 36 of the principal Act is hereby further amended by omitting from paragraph (a) of subsection (3) the words “parents including their”, and substituting the words “parents or, as the case may be, the step-parent, including their or his”.

6. Maintenance of child born outside marriage—

20 (1) Section 38 of the principal Act is hereby amended by inserting in paragraph (b) of subsection (1), after the words “the child”, the words “or a Court has appointed him a guardian of the child, or declared him to to be a guardian of the child, by reason of his being the father of the child”.

25 (2) Section 38 of the principal Act is hereby further amended by inserting in subsection (1), after paragraph (c), the following paragraph:

30 “(ca) Pursuant to section 18 of the Births and Deaths Registration Act 1951, his name has at any time (whether before or after the commencement of this paragraph) been entered in the Register of Births as the father of the child; or”.

7. Furniture not to be disposed of—

35 (1) Section 43 of the principal Act is hereby amended by inserting in subsection (1), after the words “no party”, the words “knowing that the proceedings are pending”.

8. Time limit on application for paternity order—

40 (1) Section 48 of the principal Act is hereby amended by repealing subsection (2), and substituting the following subsections:

“(2) If the defendant has contributed to or made provision for the maintenance of the child, or has since the birth of the child lived with the mother as man and wife, an application for a paternity order may, subject to subsection (3) of this section, be made at any time after the expiration of the period prescribed by subsection (1) of this section if the defendant has done any of the things mentioned within 2 years immediately preceding the making of the application. 5

“(2A) Notwithstanding anything in subsection (2) of this section, if the defendant has admitted paternity of the child, expressly or by implication, an application for a paternity order may be made at any time.” 10

(2) Section 48 of the principal Act is hereby further amended by omitting from subsection (1) the words “subsection (2)”, and substituting the words “subsections (2) and (2A)”. 15

9. Meaning of “maintenance agreement”—(1) Section 54 of the principal Act is hereby amended by inserting in subsection (1), after paragraph (b), the following paragraph: 20

“(ba) Any written agreement made between the mother of a child and a man acknowledging himself to be the father of the child, and providing for the periodical payment by the man of sums of money towards the maintenance of the mother, where the mother is a person to whom— 25

“(i) He is not married; and

“(ii) He has never been married, or to whom he has been married but the marriage was dissolved before the conception of the child; or”.

(2) Section 55 of the principal Act is hereby amended by adding to subsection (2) the following proviso: 30

“Provided that in the case of a maintenance agreement within the meaning of paragraph (ba) of subsection (1) of section 54 of this Act proceedings shall not be taken under this Act for its enforcement in respect of any money payable under the agreement in respect of any period after the expiration of 5 years from the birth of the child.” 35

10. Registered maintenance agreement to operate as bar to order—Section 57 of the principal Act is hereby amended by inserting, before the words “shall be made”, the words “for the maintenance of any person in respect of whom maintenance is payable under the agreement”. 40

11. Confirmation of provisional Commonwealth orders—
Section 64 of the principal Act is hereby amended by omitting from subsection (7) the words “one hundred dollars”, and substituting the expression “\$200”.

5 **12. Conversion of currency—**(1) Section 75 of the principal Act is hereby amended by inserting in subsection (1), after the words “the date”, the words “of registration or, as the case may be, confirmation”.

10 (2) This section shall apply only with respect to maintenance orders registered or confirmed on or after the date of the passing of this Act and to variations registered or confirmed on or after that date of maintenance orders registered or confirmed before that date.

13. Person to whom money payable under maintenance order—(1) Section 78 of the principal Act is hereby amended by inserting in subsection (1), after the words “specified in the order”, the words “or to a Maintenance Officer at the place specified in the order”.

20 (2) Section 84 of the principal Act is hereby amended—
(a) By inserting, after the words “Magistrate’s Court” where they first occur, the words “or to a Maintenance Officer”:

25 (b) By inserting in subsection (1), after the words “specified in the order”, the words “or to a Maintenance Officer at a place other than that specified in the order”.

14. Order for maintenance where matrimonial proceedings pending—Section 80 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

30 “(3) A maintenance order, so far as it provides for the payment of maintenance in respect of any person, shall—

35 “(a) Be deemed to be suspended while there is in force an interim order for maintenance relating to the same parties and providing for the payment of maintenance in respect of the same person; and

40 “(b) Be deemed to be discharged by a final order for maintenance relating to the same parties and providing for the payment of maintenance in respect of the same person.”

15. Maintenance order in favour of person in psychiatric hospital or institution—The principal Act is hereby further amended by repealing section 82, and substituting the following section:

“82. Where a maintenance order is made for the payment of a periodical sum in favour of a person who at the date of the making of the order is receiving care and treatment in a hospital within the meaning of the Mental Health Act 1969, the order may, if the Court thinks fit, provide for the payment of a periodical sum in respect of periods while that person is receiving care and treatment in such a hospital and a different periodical sum in respect of periods when that person is not receiving care and treatment in such a hospital.”

16. Apportionment of maintenance payments—The principal Act is hereby further amended by inserting, after section 84, the following section:

“84A. Where any person by whom maintenance is payable under 2 or more maintenance orders makes any payment of part only of the total amount for the time being payable under those orders and does not specify the manner in which the amount of the payment is to be apportioned to the amounts payable under the several orders, the amount of the payment shall be deemed to have been apportioned in the proportions that the amounts payable under the several orders bear to the total amount payable under all those orders.”

17. Discharge, variation, or suspension of orders—(1) Section 85 of the principal Act is hereby amended by repealing subsections (2) and (3), and substituting the following subsections:

“(2) The Court may from time to time—
 “(a) Vary or extend any maintenance order in such manner as the Court thinks fit; or
 “(b) Temporarily suspend any such order as to the whole or any part of the money ordered to be paid; or
 “(c) Discharge any such order and substitute in its place a new order, whether of the same kind or not,—
 if the Court is of the opinion that since the making of the order, or, as the case may be, the last variation of the order, the circumstances have so changed that the order ought to be varied, extended, or suspended, or, as the case may be, discharged and a new order substituted.

“(3) The Court may from time to time make an order—
“(a) Varying or extending any maintenance agreement registered under Part VII of this Act; or
“(b) Cancelling any such agreement; or
5 “(c) Cancelling any such agreement and making a maintenance order in its place; or
“(d) Temporarily suspending any such agreement as to the whole or part of the money payable thereunder,—
if the Court is of the opinion that at the date of the agree-
10 ment, or, as the case may be, the date of the last agreed variation, its provisions were unfair or unreasonable, or that since the date of the agreement, or, as the case may be, the date of the last variation of the agreement, the circumstances have so changed that the agreement ought to be varied,
15 extended, cancelled, or suspended, or, as the case may be, that it ought to be cancelled and a maintenance order made in its place.”

(2) Section 85 of the principal Act is hereby further amended by inserting in subsection (6), after the words
20 “maintenance agreement”, the words “or suspend on such terms and conditions as it thinks fit the payment of the whole or part of any such arrears”.

18. Maintenance order to cease to have effect on making of maintenance order by Supreme Court—Section 88 of the
25 principal Act is hereby amended by inserting, after the word “shall”, the words “so far as it provides for the payment of maintenance in respect of any person for whose maintenance provision is made in the final order”.

19. Warrant to collect and warrant of distress—(1) Section
30 93 of the principal Act is hereby amended by adding the following subsection:

“(3) The provisions of subsection (7) of section 88 of the Summary Proceedings Act 1957 shall not apply in any case where, pursuant to subsection (5) of that section (as applied
35 by subsection (2) of this section), a Magistrate directs that no warrant be issued in respect of any amount in arrear and unpaid under a maintenance order, or withdraws any warrant, or issues a warrant for a sum less than the amount due.”

(2) Rule 61 of the Domestic Proceedings Rules 1969 is
40 hereby consequentially revoked.

20. Disobedience of maintenance order—Section 107 of the principal Act is hereby amended as from its commencement by inserting, after subsection (1), the following subsection:

“(1A) Notwithstanding anything in the Summary Proceedings Act 1957, any information for an offence against this section may include more than 1 such offence alleged to have been committed by the defendant, and any conviction, order, summons, warrant, or other process may relate to more than 1 offence accordingly.”

21. Proof of default—(1) The principal Act is hereby further amended by inserting, after section 108, the following section:

“108A. Where an information is laid for an offence against section 107 of this Act, the following provisions of this section shall apply, subject to any rules of procedure made under this Act:

“(a) The Registrar of any Magistrate’s Court or any Registrar of Social Security (including any Deputy Registrar or Assistant Registrar of Social Security), on being satisfied as to the amount unpaid under the maintenance order referred to in the information, shall endorse on the information a certificate setting out the amount so unpaid and the date or dates when it became due under the order:

“(b) The certificate endorsed on the information shall, in the absence of proof to the contrary, be sufficient evidence of the statements contained therein and that the default has been made without reasonable cause, and it shall not be necessary for the informant to appear or be represented at the hearing of the information.”

(2) Section 108 of the principal Act is hereby amended by repealing subsection (2).

22. Sittings of Court—Section 111 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Notwithstanding anything in subsection (2) of this section,—

“(a) Where—

“(i) Proceedings under the Guardianship Act 1968; or

“(ii) Proceedings under that Act and proceedings under the Matrimonial Property Act 1963—

are heard together with proceedings under this Act, then, unless the Court otherwise directs, the whole of the proceedings shall be heard in private:

5 “(b) Subject to paragraph (a) of this subsection, where proceedings under the Matrimonial Property Act 1963 are heard together with proceedings under this Act, the whole of the proceedings shall be heard in private if any party to the proceedings so requests:

10 “(c) Subject to paragraph (a) of this subsection, where proceedings under the Matrimonial Property Act 1963 are heard together with any proceedings under this Act, and no party to the proceedings requests that they be heard in private, the provisions of subsection (2) of this section shall, unless the Court otherwise determines, apply as if the whole of the proceedings were proceedings under this Act.”

20 **23. Proceedings where defendant is absent from New Zealand or cannot be found**—Section 119 of the principal Act is hereby amended by omitting from paragraph (b) of subsection (1) the words “any matter”, and substituting the words “any manner”.

25 **24. Maintenance agreements to bind parties**—Section 125 of the principal Act is hereby amended by inserting in subsection (1), after the words “party to the agreement”, the words “for the payment of maintenance in respect of any person for whose maintenance provision is made in the agreement”.

25. Enforceability of certain orders and agreements—(1) Notwithstanding anything in the principal Act or in any enactment repealed by the principal Act,—

35 (a) An order for maintenance made, or an agreement for maintenance registered, under the principal Act or any such repealed enactment before the commencement of this section shall not in any proceedings under the principal Act be held to be invalid or unenforceable by reason only of the fact that it makes provision for the maintenance of more than one person and does not apportion among those persons the total periodical sum payable; and

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(b) Every such order or agreement shall be deemed to have been a valid maintenance order, or, as the case may be, a properly registered maintenance agreement from the date of its making or registration unless its making or registration was invalid or defective on some other ground. 5

(2) Any person liable to pay maintenance under any such order or agreement as aforesaid may at any time apply to the Court for an apportionment of the total periodical sum among all the persons to whom or for whose benefit maintenance is payable under the order or agreement, and the Court may, if it thinks fit, apportion the total periodical sum accordingly in such amounts as it thinks proper. The order or agreement shall thereupon have effect as so amended. 10

(3) Notwithstanding that there has been no change of circumstances, every application under subsection (2) of this section shall proceed as if it were an application for variation under section 85 of the principal Act, and the provisions of that section and of any rules of practice and procedure made under the principal Act shall have effect in relation to any such application, as far as applicable and with the necessary modifications. 15
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