



ANNO SEPTIMO

GEORGII VI REGIS.

A.D. 1943.

No. 29 of 1943.

An Act to amend the Testator's Family Maintenance Act, 1918.

[Assented to 16th December, 1943.]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows :

1. (1) This Act may be cited as the "Testator's Family Maintenance Act, 1943". Short titles.

(2) The Testator's Family Maintenance Act, 1918, as amended by this Act, may be cited as the "Testator's Family Maintenance Act, 1918-1943".

(3) The Testator's Family Maintenance Act, 1918, is hereinafter called "the principal Act".

2. This Act is incorporated with the principal Act and that Act and this Act shall be read as one Act. Incorporation.

3. Section 2 of the principal Act is amended by adding at the end thereof the following definitions :— Amendment of s. 2 of principal Act—

"children" includes— Interpretation.

(a) children legally adopted, whether before or after the passing of this Act and whether in the State or elsewhere; and

(b) illegitimate children—

(i.) of whom the testator is the mother or has

by an affiliation order been adjudged the father; or

(ii.) whom the testator either has by a Court been ordered to wholly or partially maintain or has in writing agreed to wholly or partially maintain; or

(iii.) who in the lifetime of the testator lived with and were maintained by the testator:

“wife” includes a woman who has been divorced, whether before or after the passing of this Act, by or from her husband, if she is at the time of his death receiving or entitled to receive maintenance from him.

Amendment of
s. 4 of
principal Act—
Time for
making
applications.

4. Section 4 of the principal Act is amended by striking out the proviso thereto and inserting in lieu thereof the following proviso:—

Provided that—

- (a) subject as hereinafter mentioned, the court or a judge after hearing such of the parties affected as it or he deems necessary may extend the time for making an application for the benefit of this Act:
- (b) the application for extension shall be made before the expiration of twelve months after the grant in this State of probate of the will or letters of administration with the will annexed of the estate of the testator, and before the final distribution of the estate:
- (c) where the application for the benefit of this Act is made more than six months after the grant in this State of probate or letters of administration as mentioned above, no distribution of any part of the estate made before that application shall be disturbed by reason of that application or any order made thereon:
- (d) an application under this Act shall be deemed to be made on the day when the summons, by which it is instituted, is served on the executor.

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5. Section 5 of the principal Act is amended by inserting at the commencement of subsection (2) thereof and after the words "Provided that" in the fourth line of subsection (2) the words "Unless the court otherwise orders".

Amendment of
s. 5 of principal
Act—
Adjustment of
burden between
beneficiaries.

In the name and on behalf of His Majesty, I hereby assent
to this Bill.

C. M. BARCLAY-HARVEY, Governor.