



MAINTENANCE OF DESERTED WIVES ACT

Acts Nos. 17 of 1916, 8 of 1934, 8 of 1966, 15 of 1987.

AN ACT TO PROVIDE FOR THE MAINTENANCE OF MARRIED WOMEN WHO HAVE BEEN DESERTED BY THEIR HUSBANDS

Commencement [23rd September, 1916]

1 Short title

This Act may be cited as The Maintenance of Deserted Wives Act.

2 Jurisdiction

It shall be lawful for any married woman who shall have been deserted by her husband, to summon her husband before a Magistrate's Court and thereupon the Court if satisfied that the husband has wilfully refused or neglected to maintain his wife or his wife and children and has deserted his wife may—

- (a) order the husband to pay a weekly sum to his wife or to supply his wife or his wife and children with food, clothing and other necessaries in accordance with his means; and may in addition or as an alternative to such order,
- (b) order the husband to provide accommodation for his wife or his wife and children in accordance with his means;
- (c) make any other order as in the circumstances of the case may seem just and proper:

Provided that where the Court has made an order under this section, the Court may on the application of the married woman or of her husband and upon cause being shown upon fresh evidence to the satisfaction of the Court, at any time discharge or vary the order or suspend any provision thereof temporarily and revive the operation of any provision so suspended. In exercising such powers, the Court shall have regard to all the circumstances of the case, including any increase or decrease in the means of either of the parties to the marriage. (*Substituted by Act 8 of 1966.*)

3 Effect of wife's adultery.

No order shall be made pursuant to section 2 of this Act in favour of a wife who upon evidence to the satisfaction of the Court has committed adultery unless such adultery has been condoned and any such order made as aforesaid may be discharged pursuant to section 2 of this Act upon evidence to the satisfaction of the Court that the wife since the making of such order has been guilty of adultery. (*Added by Act 8 of 1966.*)

4 Person subject to maintenance order not to leave Tonga without permission.

- (1) Every husband against whom a maintenance order has been made and who while any moneys payable under the order are in arrear and unpaid or with intent to disobey a maintenance order leaves or attempts to leave the Kingdom without the permission in writing of a Magistrate is guilty of an offence and is liable on summary conviction to imprisonment for 2 years.
- (2) In any prosecution for an offence under this section the burden of proof that the permission of the Magistrate was given is upon the accused.

(*Inserted by Act 15 of 1987.*)

5 Possession of husband's tax and town allotment may be given to wife.

- (1) If the Magistrate makes an order under section 2 and the husband refuses or neglects to obey the order or is absent from the Kingdom, the Magistrate may, in addition to or as an alternative to any other order, order that the possession for the time being of the tax and town allotment of the husband be given to the wife and the produce of tax and town allotment shall be used in support of the wife and the children, if any.
- (2) No order made under this section shall in any way relieve the husband from his obligations under the law in regard to the tax and town allotment.

(*Inserted by Act 15 of 1987.*)

6 Procedure.

The procedure governing civil cases in the Magistrate's Court and the fees payable in civil cases shall be the procedure and fees applicable under this Act:

Provided that, if upon the return of a warrant of distress issued for failure to pay money ordered to be paid, it appears that no sufficient distress can be had, or if the magistrate is satisfied that the husband has wilfully failed to comply with an order made under 2(b) or (c) hereof, then the magistrate may commit the husband to prison for a period not exceeding 3 months. (*Added by Act 8 of 1934.*)