

THE AFFILIATION ACT

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SCHEDULE

THE AFFILIATION ACT

[26th April, 1926.]

Cap. 35.
Act
24 of 1963,
32 of 1969,
40 of 1975,
41 of 1975,
2nd Sch.
1 of 1979,
2nd Sch.
9 of 1987.

1. This Act may be cited as the Affiliation Act.

Short title.
32/1969
S. 2 (a).

2.—(1) In this Act—

Interpreta-
tion.

“affiliation order” means an order adjudging a man to be the putative father of a child, and ordering him to pay a sum of money weekly or otherwise;

32/1969
S. 2 (b).

“child” means a natural child;

“putative father” means the person adjudged by an affiliation order to be the putative father of a child;

32/1969
S. 2 (c).

“guardian” means any person who may be appointed to have the custody of a child under the provisions of this Act.

(2) In this Act, any reference—

L.N.
149/78
L.N.
64/80.

(a) to a Resident Magistrate’s Court, in so far as such reference may, apart from this subsection, relate to the Resident Magistrate’s Court—

(i) for a Corporate Area parish, shall (as respects any time on or after the 13th day of November, 1978) be construed as a reference to the Family Court—Corporate Area Region; and

(ii) for a parish within the geographical jurisdiction of a Family Court established pursuant to Part II of the Judicature (Family Court) Act, shall (as respects any time on

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or after the date on which such Court is established) be construed as a reference to that Family Court;

(b) to a Resident Magistrate, in so far as it may, apart from this subsection, relate to a Resident Magistrate—

(i) for a Corporate Area parish, shall (as respects any time on or after the 13th day of November, 1978) be construed as a reference to a Judge of the Family Court—Corporate Area Region; and

(ii) for a parish within the geographical jurisdiction of a Family Court established pursuant to Part II of the Judicature (Family Court) Act, shall (as respects any time on or after the date on which such Court is established) be construed as a reference to a Judge of that Family Court;

(c) to a Clerk, to a Deputy Clerk, or to an Assistant Clerk, of the Courts, in so far as it may, apart from this subsection, relate to Courts—

(i) of a Corporate Area parish (as respects any time on or after the 13th day of November, 1978); or

(ii) of a parish within the geographical jurisdiction of a Family Court established under Part II of the Judicature (Family Court) Act (as respects any time on or after the date on which such Court is established), shall be construed as a reference to a Clerk, Deputy Clerk or Assistant Clerk, as the case may be, assigned to a Family Court under section 7 of the Judicature (Family Court) Act.

(3) In subsection (2), "Corporate Area parish" means the parish of Kingston or the parish of Saint Andrew.

3.—(1) Any single woman who may be with child or who may be delivered of a child may—

Complaint.
32/1969
S. 3 (a).

either before the birth or at any time within twelve months from the birth of such child; or

at any time thereafter upon proof that the man alleged to be the father of such child has within the twelve months after the birth of such child paid money for its maintenance or contributed to its support; or

at any time within the twelve months next after the return to this Island of the man alleged to be the father of such child upon proof that he ceased to reside in this Island within the twelve months next after the birth of such child,

make a complaint, on oath or affirmation, before any one of the following persons, namely—

(a) the Resident Magistrate of the parish in which she may reside;

(b) a Justice resident in such parish; or

(c) the Clerk or Deputy Clerk of the Courts of the parish,

alleging some man to be the father of the child.

(2) The guardian of a child in respect of whom no affiliation order has been made on the application of its mother shall have the same right to make a complaint under subsection (1) as is conferred by that subsection upon a single woman who has been delivered of such a child, and the provisions of that subsection shall apply accordingly, so, however, that references to the parish in which such woman may reside shall be read as references to the parish in which the guardian resides.

32/1969
S. 3 (b).

4. Upon any such complaint being made as mentioned in section 3, the Resident Magistrate, the Justice or the Clerk or Deputy Clerk of the Courts, as the case may be,

Summons to
issue on
complaint.
41/1975
2nd Sch.

shall thereupon issue his summons to the person alleged to be the father of the child to appear at a Resident Magistrate's Court (vested with jurisdiction respecting the parish so mentioned) to be holden on a day specified in such summons at some place to be named in the summons:

Provided, that when a complaint is made before the birth of the child the summons shall be issued to the person alleged to be the father of the child to appear at a Resident Magistrate's Court to be holden at a time after the woman expects the child to be born, provided that if on such day the woman shall not have been delivered or the Resident Magistrate shall be satisfied that she has been delivered at so short a period before such day that she cannot appear, it shall be lawful for the Resident Magistrate to adjourn the hearing of the case until the child shall have been born and the woman shall be able to attend.

Resident
Magistrate
to decide
issue and
make
orders.
32/1969
S. 4.

5.—(1) After the birth of such child, on the appearance of the person so summoned, or on proof that the summons was duly served on such person or left at his last place of abode six days at least before the holding of the Court, the Resident Magistrate shall hear the evidence of the complainant and such other evidence as may be tendered in support of the complaint, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father and, if the evidence of the complainant be corroborated in some material particular by other evidence to the satisfaction of the Resident Magistrate, he may adjudge the man to be the putative father of such child:

Provided that—

- (a) if the complainant fails to give evidence and the Resident Magistrate is satisfied that such failure is due to the inability or unavailability of the complainant by reason of death or illness or other sufficient cause the Resident Magistrate may accept

in lieu of such evidence, the evidence of some other person who appears to the Resident Magistrate to be worthy of belief and to have sufficient knowledge of the case, and the provisions of this subsection relating to corroboration of the evidence of the complainant shall apply to any evidence accepted in lieu thereof; and

- (b) if the person alleged to be the father of such child attends the hearing and, in open Court, admits the truth of the allegation, the Resident Magistrate may thereupon adjudge that person to be the putative father of such child, whether or not the Resident Magistrate has heard the evidence of the complainant or of any other person.

(2) If the Resident Magistrate adjudges the man to be the putative father, he may also, if he sees fit, proceed to make an order (hereinafter called an affiliation order) on the putative father for the payment to the mother or guardian of the child of such sum of money weekly as having regard to the means of the putative father and all the circumstances of the case, the Resident Magistrate thinks just, for the maintenance and education of the child.

40/1975
S. 2(a)(i).

40/1975
S. 2(a)(ii).

(3) If the child has died before the making of an order under the provisions of this section, the Resident Magistrate may make an order on the said putative father for the payment of such sum of money as, having regard to the means of the putative father, the Resident Magistrate thinks just, for the expense incurred in the burial of the said child.

40/1975
S. 2(b).

(4) If the application be made before the birth of the child, or within two calendar months after the birth of the child, the weekly sum may, if the Resident Magistrate think fit, be calculated from the birth of the child, and if the child be dead may be calculated from the birth of the child up to the date of its death.

40/1975
S. 2(c).

40/1975
S. 2(d).

(5) In addition to the said weekly sum, the Resident Magistrate may, in and by the order, order payment of such sum of money as the Resident Magistrate may think just, for the expenses of the confinement.

(6) In any case the Resident Magistrate may also in and by the said order direct the putative father to pay such sum as he may see fit and name in the order for the costs incurred in obtaining the same.

(7) At any time after an affiliation order has been made the Resident Magistrate may, upon the application of the putative father or of the mother or guardian of the child, vary such order in such manner and to such extent as he may think fit, or suspend such order, or, such order having been suspended, may revive the same.

9/1987
S. 2.

(8) Subject to section 18, any affiliation order may after the expiration of one week from the making thereof be from time to time enforced in the Resident Magistrate's Court, if the payments required by it to be made or any of them shall be in arrear, in the manner prescribed by Parts I and III of the Justices of the Peace Jurisdiction Act, for the enforcing of orders of Justices requiring the payment of a sum of money, as if the same were an order for the payment of money made by the Justices under that Act:

Provided, that where by an affiliation order it is provided that payment be made to a Collecting Officer under the provisions of this Act, nothing in this section shall preclude the Collecting Officer from enforcing such order in the manner hereinafter prescribed.

Collecting
Officer to be
appointed
for each
parish by
Resident
Magistrate.

6.—(1) The Resident Magistrate of each parish shall from time to time, appoint for the purposes of this Act a Clerk or Assistant Clerk of the Courts to be Collecting Officer who shall be styled "the Collecting Officer for the parish of _____":

[The inclusion of this page is authorized by L.N. 37/1988]

Provided, that whenever it may appear to any Resident Magistrate necessary to appoint an additional Collecting Officer or Officers for his parish, the Resident Magistrate may appoint such additional Collecting Officer or Officers:

Provided, further, that in so far as the foregoing provisions of this subsection relate to the parish of Kingston, and to the parish of Saint Andrew, any appointment pursuant to such provisions may be made applicable to as respects both such parishes. 41/1975
2nd Sch.

(2) Where a Resident Magistrate makes an affiliation order he shall, upon the application of the mother or guardian of the child, either at the time of making the order or subsequently on an *ex parte* application to vary the same, provide in the order that all payments thereunder be made to the Collecting Officer, and payments made under such order shall be made to the Collecting Officer. 32/1969
S. 5 (a).

32/1969
S. 5 (b).

(3) Payment of the amount ordered may be made to the Collecting Officer in person, or by letter sent by registered post properly addressed to the Collecting Officer and posted in time to be delivered to him on the day appointed for payment.

(4) It shall be the duty of the Collecting Officer to receive all payments directed to be made to him under this Act and to make payment fortnightly to the mother of the child or to such other person as is named in the affiliation order of the sum directed to be paid under the order or such part thereof as he receives without making any deduction therefrom.

(5) Payment shall be made by the Collecting Officer directly to the mother of the child or to such other person as is named in the affiliation order at the office of the Collecting Officer if such mother or person is resident in the town in which such office is situated, or otherwise payment shall be made by the Collecting Officer sending to the post-

master at the post office of the person to whom payment is to be made an original and a duplicate order specifying the amount to be paid. It shall be the duty of the person entitled to payment to attend at the post office and sign the receipt on the original and duplicate orders in the presence of the postmaster who shall then pay out the amount.

(6) It shall be the duty of the postmaster to keep the duplicate order and to return the original to the Collecting Officer.

(7) Where by an affiliation order it is provided that payment be made to the Collecting Officer, the applicant for the order shall thereupon give her nearest post office address to the Collecting Officer.

If payment
fourteen
days in
arrear dis-
tress may
issue.

7.—(1) Where under an affiliation order, which provides that payment thereunder shall be made to the Collecting Officer, payment is fourteen clear days in arrear, the Resident Magistrate may, upon the application of the Collecting Officer, issue a warrant directing the sum due under such order or since any commitment for disobedience to such order as hereinafter provided, together with the costs attending such warrant, to be recovered by distress and sale of the goods and chattels of the putative father, and if upon the return of such warrant it shall appear that no sufficient distress can be had, the Resident Magistrate may issue a warrant to bring the putative father before him, and in case the putative father neglect or refuse without reasonable cause to make payment of the sum so due, together with such costs, the Resident Magistrate may commit him to prison for any period not exceeding three calendar months with or without hard labour unless such sum and costs, together with the costs of commitment, be sooner paid.

(2) Where a Resident Magistrate commits a putative father to prison under the foregoing provisions the provisions of section 18 (3) shall apply.

9/1987
S. 3.

(3) Notwithstanding anything to the contrary in any enactment limiting the time within which summary proceedings are to be taken to six months, such limitation shall not apply to proceedings for enforcing the payment of sums under an order made under the provisions of this Act.

8.—(1) An appeal shall lie to the Court of Appeal in Appeal. manner provided by any enactment in force for the time being regulating appeals in cases tried by a Resident Magistrate on indictment or on information in virtue of a special statutory summary jurisdiction from any order made by a Resident Magistrate under this Act, or from any refusal to make such an order, or from the revocation, revival or variation of such an order.

(2) The Court of Appeal may upon the hearing of the appeal confirm, reverse, or modify the decision of the Resident Magistrate's Court or remit the matter, with the opinion of the Court of Appeal thereon, or for rehearing 32/1969
S. 6. generally to the Resident Magistrate's Court, or may make such order as the Court of Appeal may think just, and may by such order exercise any power which the Resident Magistrate's Court might have exercised, and such order shall have the same effect and may be enforced in the same manner as if it had been made by the Resident Magistrate's Court. The Court of Appeal may also make such order as to costs to be paid by either party as the Court may think just.

9.—(1) When an affiliation order has been made, the Resident Magistrate for the time being of the parish in which the order has been made, in any case where there is any pension or income payable to the person on whom the affiliation order has been made and capable of being Pension or
income liable
to attach-
ment.
24/1963
S. 2.

attached, after giving the person to whom the pension or income is payable an opportunity of being heard, and provided that the Resident Magistrate is satisfied that such person has without reasonable cause made a default under the order, may order that such an amount each week as is specified in the affiliation order, or any part of such amount, be attached and paid to the Collecting Officer. Such order shall be an authority to the person by whom such pension or income is payable to make the payment so ordered, and the receipt of the Collecting Officer shall be a good discharge to such first-named person.

24/1963
S. 2.

(2) At any time after an order has been made under the provisions of subsection (1) the Resident Magistrate may, upon the application of the person to whom any pension or income would have been payable but for the making of the order, or of the mother or guardian of the child, vary such order in such manner and to such extent as he may think fit, or suspend such order (or revive such order if suspended) or cancel the same.

Appoint-
ment of
guardian
and noti-
fication of
orders.
32/1969
S. 7.

10.—(1) Where the mother of a child has died, or is of unsound mind, or is in prison, or is not within this Island, any Resident Magistrate, if he sees fit, may, upon the application of any person who has the actual care and custody of the child, by order under his hand appoint that person to have the custody of such child so long as such child is not a charge upon any funds in the hands of the Kingston and St. Andrew Corporation or of any Parish Council applicable to the relief of the poor.

(2) Any Resident Magistrate may at any time revoke the appointment of any such person and may upon the application of some other person, appoint that other person to have the custody of such child as aforesaid.

(3) The Clerk of the Resident Magistrate's Court making an affiliation order or appointing any person to have the custody of a child shall, as soon as practicable, send by post or otherwise a duplicate of such order or such appointment, signed by such Clerk, to the Clerk or Secretary or other officer of the Local Authority of the parish in which the complainant or, as the case may be, the person appointed to have custody of the child, resided at the time when such order or appointment was made.

(4) In subsection (3) "Local Authority" means the Parish Council or, as the case may be, the Kingston and St. Andrew Corporation.

11. Whenever a child for whose maintenance an order has been made by a Resident Magistrate on the application of the mother or guardian shall become a charge upon the funds in the hands of the Kingston and St. Andrew Corporation or of the Parish Council of any parish applicable to the relief of the poor, the Resident Magistrate for the parish may, if he shall see fit, by order under his hand from time to time, appoint the Inspector of Poor or other Relieving Officer of the said Corporation or Council on which funds such child shall be a charge as aforesaid, to receive on account of such Corporation or Council such proportion of the payment then due or becoming due under the said order as may accrue during the period for which such child is a charge as aforesaid; and such appointment shall remain in force for the period of one whole year whenever the child shall be or have become a charge as aforesaid, and may afterwards from time to time be renewed by endorsement under the hand of the Resident Magistrate; and any payment so ordered to be made shall be recoverable in the manner provided for the recovery of payments under an order obtained by the mother or guardian.

Inspector of
Poor may be
appointed
to receive
payments
for any
child who
is a charge
on the
poor relief
funds.
32/1969
S. 8.

Inspector of
Poor
empowered
to make
complaints
on behalf of
child who is
a charge on
poor relief
funds.
32/1969
S. 9.

12. When a child in respect of whom no order has been made on the application of its mother or guardian becomes a charge upon the funds in the hands of the Kingston and St. Andrew Corporation or the Parish Council of any parish applicable to the relief of the poor, the Inspector of Poor or other officer appointed by the said Corporation or Council to administer the said funds, or any other person appointed by the said Corporation or Council in that behalf, may make a complaint against the man alleged to be the father of the child before the Resident Magistrate, or a Justice resident in, or the Clerk or Deputy Clerk of the Courts of the parish and thereupon such Resident Magistrate, Justice, Clerk or Deputy Clerk shall summon such man to appear at a Resident Magistrate's Court and show cause why an order should not be made upon him to contribute towards the relief of the child, and upon his appearance, or in the event of his not appearing upon proof of due service of the summons upon him, such Resident Magistrate may, if satisfied that he is the father of the child upon such evidence as is by this Act required in the case of a summons issued upon the application of the mother or guardian, make an order upon such putative father to pay to the Collecting Officer such sum, weekly or otherwise, towards the relief of the child during such time as the child shall continue or afterwards be a charge as aforesaid, as shall appear to him to be proper; and such order shall, if the payments required by it to be made be at any time in arrear, be enforced in the same way as provided under this Act in the cases of other orders for payments:

32/1969
S. 9.

Provided as follows—

Payments
under order
only recover-
able while
child in
receipt of
relief.

- (a) that no payments shall be recoverable under such order except in respect of the time during which the child is actually in receipt of relief;

- (b) that an order under this section shall not be made, and if made shall cease except for the recovery of arrears, when the mother or guardian of the child has obtained an order under this Act; Order under this section to cease when mother obtains order under Act.
- (c) that nothing in this section shall be deemed to relieve the mother of a child from her liability to maintain such child; Mother liable to maintain child.
- (d) that there shall be the same right of appeal as in the case of an application by the mother or guardian; Right of appeal under this section.
- (e) that if after an order has been made under this section the mother shall apply for an order under this Act, the order made under this section shall be *prima facie* evidence that the man upon whom the order is made is the father of the child. Order made under this section *prima facie* evidence of parentage.

13. Subject to section 13A, no order for the maintenance and education or for contribution towards the relief of any such child made in pursuance of this Act shall, except for the purpose of recovering money previously due under such order, be of any force or validity after the child in respect of whom it was made has attained the age of sixteen years, or after the death of such child : Order to cease on child attaining age of 16 years or dying.
1/1979
2nd Sch.
40/1975
S. 3(a).

Provided, that the Resident Magistrate making the order may thereby direct that the payments to be made under it, in respect of the child, shall continue until the child attains the age of eighteen years, in which case such order shall be in force until that period. Resident Magistrate may order payments to continue until age of 18 years.
40/1975
S. 3(b).

13A.—(1) Where on the application of the mother or guardian of a child in respect of whom an order has been made for maintenance and education in pursuance of this Act, the Resident Magistrate is satisfied that the child is Order may extend payments after age attained.
1/1979
2nd Sch.

or will be engaged in a course of education or training after attaining the age at which such order ceases to have effect, and that, for the purposes of such education or training, it is expedient for payments under the order to continue after the child attains that age, the Resident Magistrate may by order direct that those payments shall continue for such period, not extending beyond the date on which the child shall have attained the age of twenty-one years, as may be specified in the order.

(2) Where a child in respect of whom an affiliation order has been made under this Act has attained the age of eighteen years—

- (a) any application for an order under subsection (1) may be made by the person in respect of whom the affiliation order was made; and
- (b) that person shall be entitled to any payments directed to be made pursuant to an order under subsection (1) for such period as may be specified in the order.

Woman neglecting to maintain child liable to conviction.

14. Every woman neglecting to maintain her child being able wholly or in part so to do, whereby such child becomes a charge on the funds applicable in any parish to the relief of the poor, shall be punishable as an idle and disorderly person under the provision of any enactment for the time being in force relating to idle and disorderly persons or vagrants; and every woman so neglecting to maintain her child after having been once before convicted of such offence, and every woman deserting her child whereby such child becomes a charge on the funds applicable in any parish to the relief of the poor, shall be punishable as a rogue and vagabond under the provisions of any enactment for the time being in force relating to rogues and vagabonds or vagrants.

15. Where by an affiliation order it is provided that payment be made to the Collecting Officer, the putative father or the mother or guardian of the child, if he or she changes his or her address, shall give notice thereof to the Collecting Officer, and on failure so to do without reasonable excuse shall be liable on summary conviction to a fine not exceeding two dollars.

Change of address to be given to Collecting Officer by putative father, mother or guardian.

16. Where application shall be made for a summons or order for maintenance, it shall be lawful to prove by affidavit in the form referred to in the Schedule or to the like effect that such summons or order has been duly served.

Proof of service of summons. Schedule.

17.—(1) The Minister may make rules and prescribe forms for carrying into effect the provisions of this Act.

Minister's power to make rules.

(2) All rules made and forms prescribed under this section shall be published in the *Gazette* and shall come into force on such publication or at such other time as may be named.

Rules and forms effective on publication in *Gazette*.

18.—(1) A person shall not be committed to prison for default in payment under an affiliation order unless the Court is satisfied that the default is due to the wilful refusal or culpable neglect of the person liable to make the payment.

Committal for non-payment. 9/1987 S. 4.

(2) For the purpose of subsection (1), if the person liable to make the payment is not before the Court, a Resident Magistrate may, if he thinks it necessary or desirable, issue a warrant to bring that person before the Court.

(3) Where a person is committed to prison for default as aforesaid, then—

- (a) unless the Resident Magistrate otherwise directs, no arrears shall accrue under the affiliation order during the time that the person is in prison; and
- (b) the committal shall not operate to discharge the liability of that person to pay the sum in respect

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of which he is so committed, but at any subsequent hearing relating to the enforcement, revocation, revival, variation or discharge of the affiliation order a Resident Magistrate may, if he thinks the circumstances justify such action, remit the whole or any part of the sum due under the order.

SCHEDULE

(Section 16)

Affidavit of Service

I, _____ make oath and say that I did,
 on the _____ day of _____ 19 _____, duly serve the
 defendant, C.D., with a summons (or order) a true copy whereof is
 herewith annexed, marked A, by delivering the same personally to the
 defendant (or by leaving the same with
 at the place of abode of the defendant).

Sworn at _____, in the parish of _____
 this _____ day of _____, 19 _____, before me

E.F.,

*Justice of the Peace for the
 parish of _____*

Endorse the copy summons (or order) thus—

This paper marked A is the paper referred to in the annexed affidavit.