

# SAORSTÁT EIREANN.

BILLE NA LEANBHAI TABHARTHA (ORDUITHE  
ATHAIRIOCHTA), 1929.

ILLEGITIMATE CHILDREN (AFFILIATION ORDERS)  
BILL, 1929.

*Mar do leasúíodh ar Thuarasgabháil.*

*As amended on Report.*

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# SAORSTÁT EIREANN.

## BILLE NA LEANBHAI TABHARTHA (ORDUITHE ATHAIRIOCHTA), 1929.

### ILLEGITIMATE CHILDREN (AFFILIATION ORDERS)

BILL, 1929.

## BILL

entitled

AN ACT TO MAKE PROVISION FOR THE IMPOSITION ON THE FATHER OF AN ILLEGITIMATE CHILD OF THE OBLIGATION TO CONTRIBUTE TO THE SUPPORT OR OTHERWISE IN RESPECT OF SUCH CHILD AND FOR THE ENFORCEMENT OF SUCH OBLIGATION.

BE IT ENACTED BY THE OIREACHTAS OF SAORSTÁT EIREANN AS FOLLOWS:—

Definitions.

1.—In this Act—

the word "mother" means any of the following persons who is with child or has been delivered of an illegitimate child, that is to say, any single woman or any widow, or any married woman living separate from her husband, and includes any married woman not living separate from her husband who before her marriage was delivered of an illegitimate child; and the expression "putative father" means a person adjudged by an affiliation order made under this Act to be the putative father of an illegitimate child.

Issue of summonses.

2.—(1) Upon the application, within the time hereinafter limited, of the mother of an illegitimate child or on the application, within the time hereinafter limited, of a local body administering the relief of the poor then giving relief to the mother of an illegitimate child or to an illegitimate child and in either case upon an information in writing upon oath being made by the mother of such child identifying the father of such child the Justice of the District Court in the District in which such mother resides may issue a summons or other process requiring the person (in this Act referred to as the alleged father) identified in such information as the father of such child to appear on the hearing of an application by such mother or such local body (as the case may be) for an order (in this Act called an affiliation order) in respect of such child.

(2) An application for the issue of a summons or other process under this section may be made only—

(a) before the birth of the illegitimate child in respect of whom the application is made, or

(b) within six months after the birth of such child, or

(c) where the alleged father of such child contributed to the maintenance of such child within twelve months after its birth, at any time after such contribution, or

(d) where the alleged father of such child was not resident in Saorstát Eireann at the date of the birth of such child, at any time within twelve months after such alleged father first enters Saorstát Eireann after such date, or

(e) where the alleged father of such child was resident in Saorstát Eireann at the date of the birth of such child but ceased to be so resident within twelve months after such date, at any time within twelve months after such alleged father first enters Saorstát Eireann after such cesser, or

(f) where the child is born within twelve months before the passing of this Act, within three months after the passing of this Act.

(3) Where a summons is issued under this Section before the birth of the illegitimate child to which it relates, the date for which the alleged father is thereby summoned to the District Court shall not be earlier than fourteen days after the day on which such child is expected to be born and such (if any) adjournment of the hearing of such summons shall be made as may be necessary to enable the mother of such child to be present at such hearing.

3.—(1) On the hearing by the District Court of a summons issued under this Act the Justice, if he is satisfied in accordance with this section that the alleged father of the illegitimate child (whether born alive or still-born) to whom such summons relates is the father of such child may make an order (in this Act called an affiliation order) adjudging such alleged father to be the putative father of such child and ordering such putative father to pay the expenses, as measured by the Justice, incidental to the birth of such child, and, where such child was born alive, such of the following moneys as may be appropriate, that is to say:—

(a) if such child has died before the making of such order, the funeral expenses, as measured by the Justice, of such child to an amount not exceeding five pounds,

or  
(b) such weekly sum not exceeding twenty shillings as the Justice shall fix for the maintenance and education of such child, or

(c) where the putative father so consents, a lump sum of such amount as shall be fixed by the Justice in commutation of any weekly sum which might otherwise be payable under this Act by such putative father in respect of such child.

(2) No Justice of the District Court shall be satisfied that a person is the putative father of an illegitimate child without hearing the evidence of the mother of such child and also evidence corroborative in some material particular or particulars of the evidence of such mother.

(3) Where a Justice of a District Court by an affiliation order orders the putative father of an illegitimate child to pay a weekly sum in respect of such child he may attach such conditions as he shall think proper to the payment or to the receipt of such weekly sum.

(4) The provisions of this Act relating to the fixing of the amount of a lump sum paid in commutation of a weekly sum payable under an affiliation order and the payment, administration, and application of such lump sum shall apply to the fixing, payment, administration and application of a lump sum made payable by an affiliation order in commutation of any weekly sum which might otherwise be payable.

(5) All applications to the District Court and all cases under this Act shall be heard *in camera* and publication of such cases shall be limited to the statement of the fact that an affiliation order has been granted in a particular court against a person whose name and address shall be included.

4.—(1) Every weekly sum payable by a putative father under an affiliation order shall commence from such date as the Justice making the order shall fix in and by the order but so that such date shall not be more than twelve months before nor more than twelve months after the date of the order and shall not be previous to the date of the birth of the illegitimate child in respect of whom such weekly sum is payable.

(2) Every weekly sum payable by a putative father under an affiliation order shall, subject to any variation in the amount thereof made under this Act, continue to be payable until the happening of whichever of the following events first happens, that is to say:—

- (a) the death of the illegitimate child in respect of whom the said weekly sum is payable;
- (b) the attainment by such child of the age of sixteen years,
- (c) the commutation under this Act of such weekly sum by payment of a lump sum,
- (d) the termination of the said weekly sum by an order of the District Court under this section.

(3) Where, upon the attainment of the age of sixteen years by an illegitimate child in respect of whom a weekly sum was immediately before it attained such age payable under an affiliation order, it appears to a Justice of the District Court that such child is mentally or bodily deficient in such manner and to such degree as to render such child totally and permanently unfit for employment of any kind, such Justice may by order continue the payment of such weekly sum under such affiliation order for the life of such child.

(4) On the death of a putative father liable to pay a weekly sum under an affiliation order the liability for the payment of such weekly sum shall attach to his real and personal estate as a civil debt and such weekly sum shall be recoverable accordingly by the person to whom the same is for the time being payable.

Variation of weekly sums.

5.—(1) A Justice of the District Court may at any time on the application of the person by whom a weekly sum is payable under an affiliation order or of the person to whom such weekly sum is payable or of a person claiming to be the proper person to receive such weekly sum do all or any of the following things, that is to say:—

- (a) vary the amount of such weekly sum,
- (b) change the person to whom such weekly sum is payable,
- (c) vary all or any of the conditions relating to the payment or the receipt of such weekly sum.

(2) A Justice of the District Court may at any time, on the application of the person by whom a weekly sum is payable under an affiliation order and on being satisfied that the liability for the payment of such weekly sum has ceased under this Act or on being satisfied that justice requires that such liability should cease, terminate such weekly sum as from such date as he shall think proper but not so as to confer a right to recover any moneys paid in respect of such weekly sum before the date of the order effecting such termination.

Apprenticeship of illegitimate child.

6.—(1) Upon an application under this section in relation to an illegitimate child under the age of sixteen years in respect of whom a weekly sum is then payable under an affiliation order or in relation to an illegitimate child of the age of sixteen years in respect of whom a weekly sum was payable under an affiliation order immediately before he attained that age, a Justice of the District Court may order the putative father of such child or the personal representative of such putative father to pay such sum not exceeding fifty pounds as the Justice shall fix for the purpose of apprenticing such child to a trade.

(2) A Justice of the District Court making an order under this section shall by such order make such provision as he shall think proper to secure the due apprenticeship of the illegitimate child in respect of whom such order is made to a trade and on terms approved of by such Justice and for the due application of the sum payable under such order in or towards the discharge of the fee payable in respect of such apprenticeship.

(3) An application under this section may be made at any time after the illegitimate child to whom it relates has attained the age of fourteen years but not later than six months after such child has attained the age of sixteen years, and shall be made by the person to whom the weekly sum in respect of such child under an affiliation order is payable or, where such child has

attained the age of sixteen years, to whom such weekly sum was payable or could be paid if it still continued.

7.—Where an illegitimate child in respect of whom an affiliation order has been made dies while a weekly sum is payable in respect of it under such order, a Justice of the District Court may, upon the application within two months after the death of such child of the person to whom such weekly sum was payable, order the putative father of such child or the personal representative of such putative father to pay the funeral expenses, as measured by such Justice, of such child to an amount not exceeding five pounds.

Funeral expenses of illegitimate child.

8.—(1) A Justice of the District Court may at any time on the application of a person liable to pay a weekly sum under an affiliation order authorise such person or his personal representative to commute such weekly sum by the payment of a lump sum of such amount as shall be fixed by the Justice.

Commutation of weekly sum.

(2) Where a putative father who is liable under an affiliation order to pay a weekly sum in respect of his illegitimate child dies before the termination of such weekly sum a Justice of the District Court may at any time after the death of such putative father and before the termination of such weekly sum, on the application of the person to whom such weekly sum is payable, order the personal representative of such putative father to commute such weekly sum by the payment of a lump sum of such amount as shall be fixed by the Justice.

(3) Every lump sum fixed by a Justice of the District Court for the commutation under this section of a weekly sum shall be so fixed with a view to securing for the illegitimate child in respect of whom such weekly sum is payable benefits at least equal to those which he would derive from a continuation of such weekly sum and in so fixing such lump sum the Justice shall have regard to all the circumstances of the case and in particular shall where the circumstances so require have regard to the probability of the payment of the weekly sum being continued under this Act after such child has attained the age of sixteen years.

(4) When authorising or ordering under this section the commutation of a weekly sum the Justice shall be satisfied that proper arrangements have been made for the payment of the lump sum to a fit and proper person and for the due administration and application of such lump sum for the benefit of the illegitimate child in respect of whom the same is paid and the Justice shall so far as appears to him to be necessary provide for such payment, administration, and application in the order authorising such commutation.

(5) Upon the payment under and in accordance with an order under this section of the lump sum specified in such order the weekly sum in commutation of which such lump sum is so paid shall terminate.

9.—(1) Every affiliation order and every other order made under this Act ordering the payment of any money (other than in respect of the costs of such order) whether in one sum or periodically by the putative father of an illegitimate child shall specify the person to whom such money is to be paid and, subject to the provisions of this Act, the choice of such person shall be in the discretion of the Justice making the order.

Persons to whom weekly sum and other payments are to be paid.

(2) Whenever a Justice of the District Court by an affiliation order or any other order under this Act orders the putative father of an illegitimate child to pay any money whether in one sum or periodically such Justice may by such order require such money to be paid to a specified District Court Clerk to be applied by him in such manner as the Justice shall from time to time by order or otherwise direct for the purposes for which such money was so ordered to be paid.

(3) Every weekly sum payable by a putative father under an

affiliation order may if the illegitimate child in respect of whom such weekly sum is payable or its mother is in receipt of poor relief be made payable to the local body giving such relief.

(4) Every weekly sum payable by a putative father under an affiliation order which is not made payable to the District Court Clerk or to a local body charged with the administration of relief of the poor shall, if the illegitimate child in respect of whom the same is payable is in the custody of its mother, be made payable to such mother and, if such child is not in the custody of its mother, shall be made payable to the person whose custody such child is.

Voluntary agreements for maintenance of illegitimate children.

10.—(1) Where a person (in this section called an admitted father) who admits himself to be the father of an illegitimate child enters into an agreement with the mother of such child before an affiliation order has been made against such admitted father in respect of such child and by such agreement binds himself to make provision for and in respect of such child, such admitted father or such mother may apply to the Justice of the District Court having jurisdiction in the district in which such mother resides for his approval of such agreement and such Justice, if he approves of such agreement, may by order record such approval.

(2) Where after an affiliation order has been made in respect of an illegitimate child the putative father of such child enters into an agreement with the mother of such child whereby such putative father binds himself to make provision for and in respect of such child, such putative father or such mother may apply to a Justice of the District Court for his approval of such agreement and such Justice, if he approves of such agreement, may by order record such approval.

(2) A Justice of the District Court may approve of an agreement under this section notwithstanding that the provision made by such agreement for and in respect of the illegitimate child to whom the same relates differs wholly or partially from the benefits which could be obtained under this Act for and in respect of such child but he shall not approve of an agreement under this section unless he is of opinion and so records in his order under this section that the provision made by such agreement for and in respect of such child is substantially as beneficial to such child and its mother as the benefits which could be obtained for and in respect of such child under this Act.

(4) An order under this section recording the approval by a Justice of the District Court of an agreement shall, where no affiliation order has been made in respect of the illegitimate child to whom such agreement relates, be a complete bar to proceedings under this Act against any person in respect of such child and, where an affiliation order has been made in respect of such child, shall be a complete bar to any further proceedings under this Act in respect of such child against the putative father of such child and to all proceedings under this Act against any other person in respect of such child.

(5) Before the mother of an illegitimate child in respect of whom no affiliation order has been made under this section applies to a Justice of the District Court for his approval of an agreement she shall make an information in writing upon oath identifying the admitted father as the father of such child and the making of such information shall be a condition precedent to the making of such application by such mother.

Recovery of weekly or other sums.

11.—(1) Every weekly or other sum which is payable in respect of an illegitimate child under an affiliation order or under this Act by the putative father of such child or by any other person may be recovered by the person to whom such sum is so payable from such putative father or such other person (as the case may be) as a civil debt.

(2) Where—

- 5 (a) any illegitimate child in respect of whom a weekly sum is payable under an affiliation order is in receipt of relief from any local body administering the relief of the poor, and
- 10 (b) any such weekly sum (or any part thereof) which either fell to be paid before the commencement of the receipt of such relief or falls to be paid during the continuance of such relief remains unpaid,
- 15 a Justice of the District Court may, on the application of such local body for directions, make such order in the matter, and in particular in regard to weekly sums remaining unpaid at the date of such order, as he shall think proper.

12.—Every person by whom any weekly or other sum is payable under an affiliation order or under this Act shall if he changes his address give notice of such change to the person to whom such weekly or other sum is payable and if he fails without reasonable cause to give such notice shall be guilty of an offence under this section and shall be liable on summary conviction thereof to a fine not exceeding two pounds.

Notice of change of address.

13.—(1) Where any person by whom any weekly or other sum is payable under an affiliation order or under this Act is in receipt of any pension or income which is capable of being attached and such person makes default in the payment of such weekly or other sum or any part thereof a Justice of the District Court may upon the application of the person or body to whom such sum or the part thereof in respect of which default is made is payable and upon being satisfied of such default may make an order (in this section referred to as an attachment order) directing the payment out of such pension or income to the person named in such order of a sum equal in amount to the amount of the weekly or other sum or the part thereof in respect of which default has been made or, in the case of a continuing default, the payment out of such pension or income of such weekly or other sum as such Justice shall specify in that behalf in such order.

Attachment of pension or income.

(2) An attachment order shall be sufficient authority to the person by whom the pension or income to which such order relates is payable to make the payment specified therein and the receipt of the person to whom such payment is made in pursuance of such order shall to the extent of such payments be a good discharge for such pension or income as against the person entitled to the same.

14.—Nothing in this Act shall operate to remove or diminish the liability of the mother of an illegitimate child to maintain such child.

Liability of mother of illegitimate child.

15.—The costs of every summons, application and other proceeding under this Act shall be borne in such manner as the Court by whom such proceeding is heard shall in its discretion direct.

Cost of proceedings.

16.—The procedure and practice under this Act shall be regulated by Rules of Court.

Rules of Court.

17.—The Bastardy (Ireland) Act, 1863, is hereby repealed.

Repeal.

18.—This Act may be cited as the Illegitimate Children (Affiliation Orders) Act, 1930.

Short title.

BILLE NA LEANBHAI TABHARHTHA  
ORDUITHE ATHAIRIOCHTA, 1929.  
ILLEGITIMATE CHILDREN (AFFILIATION  
ORDERS) BILL, 1929.

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ORDUITHE ATHAIRIOCHTA), 1929.

ILLEGITIMATE CHILDREN (AFFILIA-  
TION ORDERS) BILL, 1929.

## BILLE

*mar do leasúíodh ar Thuarasgabháil  
dá ngairmtear*

chun soerú do dhéanamh chun a chur mar  
oblagáid ar athair leinbh thabhartha  
cabbhair do thabhairt chun an leaibh san  
do chothú no cabhrú leis ar shlí eile agus  
chun an oblagáid sin do chur i bhfeidhm.

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*orduíodh, ag Dáil Éireann, do chló-bhuala,  
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1-388. 575. 3/30. C.&Co. (10091).

## BILL

*as amended on Report  
entitled*

An Act to make provision for the imposition of  
the father of an illegitimate child of the  
obligation to contribute to the support or  
otherwise in respect of such child and for  
the enforcement of such obligation.

*Introduced by the Minister for Justice.*

*Ordered, by Dáil Éireann, to be printed.  
13th March, 1930.*

DUBLIN:  
PUBLISHED BY THE STATIONERY OFFICE

To be purchased through MESSRS. EASON & SON, LTD.  
40 and 41 Lower O'Connell Street,  
Dublin.

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