

CHAPTER 147.

BASTARDY.

[28th March, 1903.]

[No. XIII of 1903.]

Short title.

1. This Ordinance may be cited as the Bastardy Ordinance.

Interpretation.

2. In this Ordinance, unless the context otherwise requires,—

“ district ” means a judicial district;

“ single woman ” includes a widow, and also a married woman living apart from her husband.

Complaint by mother of bastard child against putative father.

3. Any single woman who is delivered of a bastard child after the commencement of this Ordinance, or who has been so delivered within twelve months before the commencement of this Ordinance, may,—

(a) at any time within twelve months from the birth of the child; or,

(b) if the child was born within twelve months before the commencement of this Ordinance, within six months thereafter; or

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

(d) at any time within twelve months next after the return to the colony of the man alleged to be the father of the child, upon proof that he ceased to reside in the colony within twelve months next after its birth,

make a complaint on oath before the magistrate of the district in which she resides alleging some man to be the father of the child; and the magistrate shall thereupon issue his summons to the person alleged to be the father of the child

to appear before him at a time and place to be mentioned in the summons.

4.—(1) On the appearance of the person so summoned, or on proof that the summons was duly served on him, or left at his last place of abode seven days at least before the hearing, the magistrate shall hear the evidence of the woman, and any other evidence she produces, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father; and, subject to the provisions of sub-section (2) of section sixty-one of the Evidence Ordinance, the magistrate may adjudge the person summoned to be the putative father of the bastard child; and the magistrate may also, if he sees fit having regard to all the circumstances of the case, proceed to make an order on the putative father for the payment to the mother of that child, or to anyone appointed to have its custody under the provisions of this Ordinance, of a sum of money weekly, not exceeding two dollars a week, for its maintenance and education.

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(2) If the child has died before the order is made, the magistrate may make an order on the putative father for payment to the mother, or to any other person shown to have incurred expense in its burial, of a sum of money not exceeding three dollars for its burial; and if the application is made within two calendar months after the birth of the child, the weekly sum, if the magistrate thinks fit, may be calculated from the birth of the child, and if the child is dead may be calculated at a rate not exceeding the rate aforesaid from the birth of the child up to the day of its death.

(3) In addition to the weekly sum, the magistrate may in the order direct payment of a sum not exceeding five dollars for the expenses of the confinement, and in any case the magistrate may in the order direct the putative father to pay any sum he sees fit, and states in the order, for the costs incurred in obtaining the order.

5. No order made in pursuance of this Ordinance for the maintenance and education or for contribution towards the relief of a child shall be, except for the purpose of recovering money previously due under it, of any force or validity after the child in respect of whom it was made has attained the age of fourteen years, or after the death of the child:

Limitation
of time for
operation of
affiliation
order:

Provided that the magistrate, at any time after making the order, may direct that the payment to be made under it

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in respect of the child shall continue until the child attains the age of sixteen years, and in that case the order shall be in force until that period.

Payment of money under order and custody of child.

6.—(1) All money payable under any order aforesaid shall be due and payable to the mother of the bastard child in respect of that time, and so long as she lives and is of sound mind, and is not in any prison or proved to be a person unfit to have the custody of her child.

(2) At any time, and from time to time, during the continuance of the order, the magistrate, for sufficient cause, and on any terms he thinks fit, may increase or reduce the amount payable under the order, but in no case shall the amount payable under any order aforesaid be more than two dollars a week.

(3) After the death of the mother of the child, or whilst she is of unsound mind or confined in a prison, or is proved to be a person unfit to have the custody of her child, the magistrate may, if he sees fit, by order under his hand, from time to time, appoint someone, with the consent of that person, to have the custody of the bastard child.

(4) The magistrate may at any time revoke that appointment and appoint another person instead; and everyone so appointed to have the custody of a bastard child shall be empowered to make application for the recovery of all payments becoming due under any order aforesaid in the same manner as the mother of that child might have applied.

(5) Upon the making of any order of appointment or revocation of appointment under this section, the magistrate may order the bastard child to be delivered by anyone to the person appointed to have the custody thereof as aforesaid.

Mother neglecting to maintain her illegitimate child.

7.—(1) Every woman able wholly or in part to maintain her illegitimate child who neglects to do so, shall be punishable as an idle and disorderly person; and every woman who so neglects to maintain her illegitimate child after having been once before convicted of that offence, or who deserts her illegitimate child, shall be punishable as a rogue and vagabond.

(2) Everyone punishable under this section shall be punished according to the provisions of part V. of the Summary Jurisdiction (Offences) Ordinance, or of any other statute for the time being in force awarding punishment to idle and disorderly persons and to rogues and vagabonds.

8. Everyone having the custody of an illegitimate child under any order of a magistrate as hereinbefore provided who—

Guardian misapplying moneys or maltreating child.

- (a) misapplies moneys paid by the putative father for the support of the child; or
- (b) withholds proper nourishment from the child; or
- (c) otherwise abuses or ill-treats the child,

shall be guilty of an offence, and on conviction thereof shall be liable to a penalty not exceeding fifty dollars, or to imprisonment with or without hard labour for any term not exceeding three months.

Penalty.

9. When a bastard child becomes chargeable to the poor law commissioners, the commissioners or a commissary of taxation may apply to the magistrate of the district in which the child resides, and thereupon the magistrate shall issue a summons to the man alleged to be the father of the child to appear before the magistrate, at a time and place to be mentioned in the summons, to show cause why an order should not be made upon him to contribute towards the relief of the child.

When bastard child becomes chargeable to poor law commissioners, father may be summoned.

10. On the appearance of the person so summoned, or on proof that the summons was duly served on him or left at his place of abode seven days at least before the hearing, the magistrate shall hear the evidence of the mother, and any other evidence produced by her or by the commissioners or commissary of taxation, and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and, subject to the provisions of sub-section (2) of section sixty-one of the Evidence Ordinance, the magistrate may adjudge the person summoned to be the putative father of the bastard child. He may proceed to make an order upon the putative father to pay to the commissioners or commissary any sum, weekly or otherwise, towards the relief of the child, while the child continues or is afterwards chargeable, appearing to him proper, and any payment so ordered shall be recoverable by distress in manner provided by part IV of the Summary Jurisdiction (Procedure) Ordinance :

Father may be compelled to contribute towards relief of bastard child :

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Provided that—

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- (a) no payment shall be recoverable under the order except in respect of the time during which the child is actually in receipt of relief;
- (b) an order under this section shall not be made, and, if made, shall cease except for the recovery of

arrears, when the mother of the child has obtained an order under this Ordinance;

- (c) nothing in this section shall be deemed to relieve the mother of a bastard child from her liability to maintain it;
- (d) if, after an order has been made under this section, the mother applies for an order under this Ordinance, the order under this section shall be *primâ facie* evidence that the man upon whom the order is made is the father of the child;
- (e) at any time, and from time to time, during the continuance of the order, the magistrate may, for sufficient cause, and on any terms he thinks fit, increase or reduce the amount payable under the order.

Enforcement of order and procedure.

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11.—(1) Any order made under this Ordinance, if the payments required by it to be made, or any of them, is or are in arrear, may from time to time be enforced by distress in the manner prescribed in part IV of the Summary Jurisdiction (Procedure) Ordinance, and except as otherwise provided by this Ordinance, all proceedings under this Ordinance shall be, as nearly as possible according to the procedure under that Ordinance.

(2) The forms contained in the second schedule to that Ordinance with any variations and additions which the circumstances of the particular case require, may be used in proceedings under this Ordinance and, when so used, shall be good and sufficient in law.

Validity of certain defective orders.

(3) No order in bastardy made by a magistrate under this Ordinance before the sixth day of May, nineteen hundred and twenty-two, from which the words "for the maintenance and education of the child," or the words "for the relief of the child," as the case may be, or words to the like tenor or effect, were omitted shall be or shall be deemed to be invalid by reason of that omission.

