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CYPRUS

ILLEGITIMATE CHILDREN

CHAPTER 278 OF THE LAWS

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1959

CHAPTER 278.
ILLEGITIMATE CHILDREN.

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A LAW TO CONSOLIDATE AND AMEND THE LAW RELATING TO
ILLEGITIMATE CHILDREN.

15 of 55.

[22nd April, 1955.]

PART I.

PRELIMINARY.

- Short title. **1.** This Law may be cited as the Illegitimate Children Law.
- Interpretation. **2.** In this Law, unless the context otherwise requires—
“affiliation order” means an order made by the Court under the provisions of this Law whereby the putative father of an illegitimate child is required to pay

sums of money towards the maintenance and education of the child and to make such other payments in connection with the child as may be directed by the order;

“Court” means a judicial officer of the District Court of competent jurisdiction of the District where the child has his ordinary residence;

“legitimated person” means a person legitimated under this Law;

“illegitimate child” means a child born out of lawful wedlock;

“putative father” means, in relation to an illegitimate child, a person adjudged by the Court to be the father of the child;

“will” includes codicil.

3. An illegitimate child shall have the legal status of a legitimate child in respect of his mother and her relatives by blood. Legal status of illegitimate child.

PART II.

LEGITIMATION.

Legitimation by subsequent marriage.

4. Where the parents of an illegitimate child marry one another such child shall acquire, as from the date of his birth, the legal status of a legitimate child in respect of both his father and mother and their relatives by blood. Legitimation by subsequent marriage.

5. Where an illegitimate child dies after the commencement of this Law and before the marriage of his parents leaving any spouse, children or remoter issues living at the date of such marriage then, if that child would, if living at the time of the marriage of his parents, have become a legitimated person, the provisions of this Law shall apply as if such child had been a legitimate child as from the date of his birth. Application of Law to illegitimate child dying before marriage of parents.

Legitimation by order of Court.

6. (1) An illegitimate child may be declared legitimate by an order of a Court under the provisions of this section. Legitimation by order of Court.

(2) An order under subsection (1) may be made on application to the Court by or on behalf of the father:

Provided that where the father is dead such application

may be made by the child himself if the father has recognized by his will the child as his.

- (3) No order shall be made under subsection (2) unless—
- (a) at the time of the conception of the child a marriage between the parents would not be forbidden, on account of relationship by blood or by marriage, by the family law of the religious community to which the person, who claims or is alleged to be the father, belongs;
 - (b) the father cannot adopt the child under the provisions of the Adoption Law;
 - (c) the legitimation by subsequent marriage under section 4 became impossible owing to the death of the mother or for any other reason;
 - (d) where the father is married, his wife consents to such an order being made;
 - (e) where the child is not the applicant, such child, or in case of his incapacity his guardian or the person appointed by the Court to represent the child in this respect, consents to such an order being made.

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Legal effects of legitimation by order of Court.

7. A legitimated person by an order of the Court under section 6 shall, as from the date of the birth, have the legal status of a legitimate child in respect of both his father and mother and their relatives by blood.

PART III.

AFFILIATION.

Application and summons for an affiliation order.

8. Subject to any Rules of Court—
- (a) (i) the mother of an illegitimate child, at any time before the birth of the child or at any time within five years from such birth; or
 - (ii) when the mother is dead the person having the custody of the child, or where the child is a charge on public funds a welfare officer, at any time within five years from the birth of the child,

may apply to the Court for an affiliation order:

Provided that, where such mother is a married woman, no such application shall be

made by her, unless at the time of the conception of the child and since that time she was living apart from her husband;

- (b) if the Court is satisfied that there is a *prima facie* case for the alleged father to answer, the Court shall issue a summons to him to appear before the Court on a date fixed in the summons and shall cause such summons to be served on him:

Provided that the Court shall refuse to issue a summons if satisfied that there is reasonable cause to believe that the person alleged to be the father of the child is not in truth and in fact the father of such child or that such application is not made *bona fide* but made for the purpose of intimidation or extortion.

9. (1) Subject to any Rules of Court, on the date fixed in the summons, the Court shall proceed to hear the case and, if satisfied upon the evidence that the alleged father is in truth and in fact the father of the child, the Court shall adjudge him to be the putative father of the child and make an affiliation order subject to such terms and conditions as the Court may deem fit to impose:

Making of affiliation order, etc.

Provided that the Court shall not adjudge the alleged father to be the putative father of the child unless there is evidence as to the paternity of the child implicating the alleged father and such evidence is corroborated in a material particular.

(2) The alleged father shall be deemed to be the father of the child if he has co-habited with the mother, to the exclusion of all other male persons, at any time during the period of possible conception specified in subsection (3), unless it is made to appear that it is impossible that the mother has conceived the child in consequence of such co-habitation.

(3) The period of possible conception mentioned in subsection (2) is the period between the one hundred and eighty-first day and the three hundred and second day, both inclusive, before the birth of the child.

10. Where the circumstances affecting the case have changed since the making of an affiliation order and it appears to the Court to be just and equitable, taking into

Variation of affiliation order.

consideration the change in circumstances, the Court may, upon application by any interested party, amend or vary any term or condition of the order.

Cessation or discharge of affiliation order.

11. (1) An affiliation order shall, except for the purpose of recovering money previously due thereunder, cease to have any force or validity:—

- (a) after the death of the child;
- (b) after the marriage of the putative father and the mother;
- (c) after an adoption order in respect of the child has been made under the provisions of the Adoption Law;
- (d) after the child has attained the age of sixteen years:

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Provided the Court may, when the special circumstances of the case so require, extend such period until the child attains the age of eighteen years.

(2) The Court may discharge an affiliation order—

- (a) at any time upon proof that the putative father is not the father of the child;
- (b) where the period of duration of an affiliation order has been extended under the proviso to paragraph (d) of subsection (1), the Court is satisfied that the special circumstances which led to such extension no longer exist:

Provided that no repayment of any sum paid by the putative father under the order shall be made.

Arrears of payment under affiliation order.

12. (1) In any case in which it is made to appear to the Court that any sum payable under an affiliation order has not been paid within seven days after such payment is due, the Court may issue a warrant for the putative father to be brought before the Court.

(2) If, on appearing before the Court, the putative father then unjustifiably refuses or neglects to pay all arrears due together with the costs of the proceedings, the Court may issue a writ of execution, or, in lieu thereof, the Court may order that such arrears and costs be levied and recovered as a penalty in all respects in accordance with and subject to the provisions of the Criminal Procedure Law, or any Law amending or substituted for the same, including the power

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to commit to prison in lieu of issuing a warrant for execution:

Provided that no order shall be made for the recovery of arrears falling due more than six months prior to the making of the application.

(3) No writ of execution or warrant for commitment under subsection (2) shall affect the validity and effect of an affiliation order.

(4) For the purposes of this section, a sum payable under an affiliation order shall be deemed to be in arrear if no written receipt of its payment can be adduced.

13. Any person—

Appeals.

- (a) against whom an affiliation order has been made under this Part;
- (b) who is aggrieved by any term contained in an affiliation order or by any amendment or variation of any such term or by an extension of the duration of an affiliation order;
- (c) whose application for a summons or affiliation order has been refused by the Court;
- (d) whose application for the amendment or variation of any term in an affiliation order, or for the extension of the duration of an affiliation order, has been refused by the Court,

may appeal to the Supreme Court in the manner provided by any Rules of Court for the time being regulating civil appeals.

14. The provisions of this Part shall be in addition to, and not in derogation of, any other provision in any other Law in force for the time being providing for the making of maintenance orders.

Provisions
in other
Laws
unaffected.

PART IV.

MISCELLANEOUS.

15. The Governor may, with the advice and assistance of the Chief Justice, make Rules of Court for any matter or proceeding heard or taken before any Court under the

Rules of
Court.

provisions of this Law and for prescribing the fees to be taken in respect of any matter or proceeding in any Court:

Provided that until such Rules are made, such matters and proceedings shall be regulated and such fees shall be taken as provided by the Rules of Court in force for the time being.

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16. Any legitimation made under Part IV of the Wills and Succession Law, repealed by this Law, shall not be affected.