



National Assistance Act 1948

1948 CHAPTER 29

PART IV

GENERAL AND SUPPLEMENTARY.

Recovery of Expenses.

42 Liability to maintain wife or husband, and children.

- (1) For the purposes of this Act—
 - (a) a man shall be liable to maintain his wife and his children, and
 - (b) a woman shall be liable to maintain her husband and her children.
- (2) The reference in paragraph (a) of the last foregoing subsection to a man's children includes a reference to children of whom he has been adjudged to be the putative father, and the reference in paragraph (b) of that subsection to a woman's children includes a reference to her illegitimate children.
- (3) In the application of subsection (2) of this section to Scotland, for the reference to children of whom a man has been adjudged to be the putative father there shall be substituted a reference to children his paternity of whom has been admitted or otherwise established.

43 Recovery of cost of assistance from persons liable for maintenance.

- (1) Where assistance is given or applied for by reference to the requirements of any person (in this section referred to as a person assisted), the Board or the local authority concerned may make a complaint to the court against any other person who for the purposes of this Act is liable to maintain the person assisted.
- (2) On a complaint under this section the court shall have regard to all the circumstances and in particular to the resources of the defendant, and may order the defendant to pay such sum, weekly or otherwise, as the court may consider appropriate.

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (3) For the purposes of the application of the last foregoing subsection to payments in respect of assistance given before the complaint was made, a person shall not be treated as having at the time when the complaint is heard any greater resources than he had at the time when the assistance was given.
- (4) In this section the expression " assistance " means an assistance grant, assistance in kind or assistance given under section ten of this Act (hereinafter referred to as " assistance under Part II of this Act "), or the provision of accommodation under Part III of this Act (hereinafter referred to as " assistance under Part III of this Act "); and the expression " the court " means a court of summary jurisdiction- having jurisdiction in the place where the assistance was given or applied for.
- (5) Payments under subsection (2) of this section shall be made—
- (a) to the Board or the local authority concerned, in respect of the cost of assistance, whether given before or after the making of the order, or
 - (b) to the applicant for assistance or any other person being a person assisted, or
 - (c) to such other person as appears to the court expedient in the interests of the person assisted,
- or as to part in one such manner and as to part in another, as may be provided by the order.
- (6) The payments to be made to the Board or a local authority under this section shall (irrespective of the recipient thereof) be applied as follows, that is to say—
- (a) payments in respect of any period during which the person assisted was in receipt of assistance both under Part II of this Act and also under Part III thereof shall inure for the benefit of the Board up to an amount equal to the cost of the assistance under Part II of this Act, and the balance, if any, shall inure for the benefit of the local authority giving the assistance under Part III of this Act,
 - (b) payments in respect of any other period shall inure for the benefit of the Board or local authority giving assistance,
- and such adjustments shall be made between the Board and local authorities as may be requisite for giving effect to the foregoing provisions of this subsection.

44 Affiliation orders.

- (1) The following provisions of this section shall have effect where—
- (a) assistance is given under Part II of this Act by reference to the requirements of an legitimate child, or
 - (b) accommodation is provided for an illegitimate child by, or by arrangement with, a local authority under Part III of this Act,
- and the provisions of the last foregoing section shall not apply in relation to the father of the child.
- (2) If no affiliation order is in force, the Board or local authority may within three years from the time when the assistance was given or accommodation provided make application to a court of summary jurisdiction having jurisdiction in the place where the mother of the child resides for a summons to be served under section three of the Bastardy Laws Amendment Act, 1872.
- (3) In any proceedings on an application under the last foregoing subsection the court shall hear such evidence as the Board or local authority may produce, in addition to

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

the evidence required to be heard by section four of the said Act of 1872, and shall in all other respects, but subject to the provisions of the next following subsection, proceed as on an application made by the mother under the said section three.

- (4) An order under section four of the said Act of 1872 made on an application under subsection (2) of this section may be made so as to provide that the payments, or a part of the payments, to be made thereunder shall, in lieu of being made to the mother or a person appointed to have the custody of the child, be made to the Board or local authority or to such other person as the court may direct.
- (5) On an application by the Board or local authority in any proceedings under the said section three brought by the mother of the child an order under the said section four may be made so as to provide as aforesaid.
- (6) Any order under the said section four, whether made before or after the commencement of this Act, may on the application of the Board or local authority be varied so as to provide as aforesaid; and any order under the said section four which provides as aforesaid may on the application of the mother of the child be varied so as to provide that the payments thereunder shall be made to the mother or a person appointed to have the custody of the child.
- (7) In the application of this section to Scotland, subsection (1) shall have effect as if all the words after " Part III of this Act " were omitted and the following provisions shall have effect in substitution for the five last foregoing subsections:—
 - (a) the Board or the local authority shall have the like right as the mother to raise an action of affiliation and aliment concluding for payment of aliment for the child;
 - (b) where in any action of affiliation and aliment in respect of the child, whether at the instance of the Board or the local authority under the last foregoing paragraph or at the instance of the mother, the court grants or has granted decree against any person for payment of aliment for the child, the court may, at the time of granting the decree or at any subsequent time, on the application of the Board or the local authority, order that the sums due under the decree or any part thereof shall in lieu of being paid to the mother of the child be paid to the Board or the local authority or such other person as the court may direct;
 - (c) the Board, or local authority or other person in whose favour any such order as aforesaid is made shall have the like right to enforce the decree (so far as relating to the said sums) by diligence, including the right to take proceedings under the Civil Imprisonment (Scotland) Act, 1882, as if the decree were a decree in favour of the Board or authority or person.
- (8) Subsection (6) of the last foregoing section shall apply to payments recovered by the Board or local authority under an order made in pursuance of subsections (4) to (7) of this section as it applies to payments recovered by the Board or local authority under that section.
- (9) The Secretary of State may issue such new or altered forms of proceedings as he may deem necessary or expedient for giving effect to the foregoing provisions of this section, so far as they apply to England and Wales.

45 Recovery in cases of misrepresentation or non-disclosure.

- (1) If, whether fraudulently or otherwise, any person misrepresents or fails to disclose any material fact, and in consequence of the misrepresentation or failure—

Status: This is the original version (as it was originally enacted). This item of legislation is currently only available in its original format.

- (a) the Board or a local authority incur any expenditure under Part II or Part III of this Act, or
- (b) any sum recoverable under this Act by the Board or a local authority is not recovered,

the Board or authority shall be entitled to recover the amount thereof from the said person.

- (2) If any question arises, whether in or in connection with any legal proceedings or otherwise, as to the amount which the Board are entitled in any case to recover under the last foregoing subsection, the question shall be referred to the Appeal Tribunal.
- (3) On any reference under the last foregoing subsection a certificate signed by the clerk of the Appeal Tribunal setting forth the decision of the Tribunal upon the question referred shall be conclusive evidence of the amount recoverable under subsection (1) of this section.
- (4) For the purposes of this section, any certificate purporting to be signed by the clerk of the Appeal Tribunal shall be deemed to be so signed unless the contrary is proved.