

TANGANYIKA



No. 14 OF 1964

I ASSENT,

Julius K. Nyerere
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President

5 TH MARCH, 1964

An Act to amend the Affiliation Ordinance

ENACTED by the Parliament of Tanganyika.

1. This Act may be cited as the Affiliation Ordinance (Amendment) Act, 1964 and shall be read as one with the Affiliation Ordinance.

Short title
and
construction
Cap. 278

2. Section 2 of the Affiliation Ordinance is hereby amended by deleting the definition "child" therein, and by substituting therefor the following new definition:—

" child' means a child born out of wedlock;

3. Section 3 of the Affiliation Ordinance is hereby amended by inserting, immediately before the words "such magistrate" in the eighteenth line, the commas, words and figure ", subject to the provisions of section 4,"

Section 2 of
Cap. 278
amended

4. Section 4 of the Affiliation Ordinance is hereby repealed and replaced by the following new section:—

Section 4 of
Cap. 278
repealed
and replace

"Conditions of issue of summons 4. A magistrate shall refuse to issue a summons under section 3 of this Ordinance unless he is satisfied that there is reasonable cause to believe that-

- (a) the man alleged to be the father of the child is in truth and in fact the father of such child and that the application for a summons is made in good faith and not for any purpose of intimidation or extortion; and
- (b) the man alleged to be the father of the child has been requested by or on behalf of the applicant, to make provision for the maintenance and education of the child and for such further expenses as are referred to in subsection (1) of section 5, or for one or more of such matters, and has refused or neglected to make such provision, or has made inadequate provision therefor.

Section 5 of
Cap. 278
amended

5. Section 5 of the Affiliation Ordinance is hereby amended as follows:-

- (a) in subsection (1), by deleting the words "eighty shillings" in the sixteenth line and the words "twelve thousand shillings" in the twenty-fifth line, and by substituting therefor the words "one hundred shillings" and "fifteen thousand shillings" respectively;
- (b) by adding, immediately below subsection (1), the following new subsection:—
 - "(1A) Notwithstanding the provisions of subsection (1), no order shall be made if, since the date on which the application was made-
 - (a) the applicant has married; or
 - (b) where the applicant was a married woman living apart from her husband, she has resumed cohabitation with her husband. ;
 - (c) in subsection (4), by deleting the words "eighty shillings" in the fifth line, and by substituting therefor the words "one hundred shillings"

New section
5A added to
Cap. 278

6. The Affiliation Ordinance is hereby amended by adding, immediately below section 5, the following new section:—

^{"Discharge of orders on marriage, etc.} 5A. Where, after the commencement of the Affiliation Ordinance (Amendment) Act, 1964, an order is made under this Ordinance for payments in respect of a child, the putative father may apply to a magistrate for the discharge of the order on the grounds that, since the date on which the order was made—

- (a) the mother of the child has married; or
- (b) if the order was made on the application of a married woman living apart from her husband, she has resumed cohabitation with her husband,

and if the magistrate is satisfied that the mother of the child has married or resumed cohabitation with her husband, as the case may be, he shall discharge the order except insofar as it relates to the payment of money thereunder prior to the marriage or resumption of cohabitation:

Provided that a magistrate shall not discharge the order in any such case where a custodian of the child has been appointed and such appointment is still subsisting.

New section
12A added to
cap. 278

7. The Affiliation Ordinance is hereby amended by adding, immediately below section 12, the following new section.-

- ^{"Exclusion of public and prohibition of reports} 12A. (1) No person shall be present during the hearing or determination of any proceeding in court or before a magistrate under this Ordinance (including any proceeding on appeal), except-
- (a) a judge or magistrate and the officers of the court;

- (b) parties to the case, their advocates, witnesses, other persons directly concerned in the case and other persons whom either party desires to be present;
- (c) if the court so allows, a probation or welfare officer.

(2) Nothing in subsection (1) of this section shall affect the exercise by a court of the power to direct that witnesses shall be excluded until they are called for examination.

(3) Subject to the provisions of subsection (4), any person who prints or publishes or causes to be printed or published any book, periodical, newspaper, pamphlet, broad sheet, handbill or circular containing any report or particulars of any proceeding in a court or before a magistrate under this Ordinance or who makes any announcement thereof over any wireless or broadcasting system, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding two thousand shillings or imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(4) Nothing in subsection (3) of this section shall prohibit or make punishable the printing or publication of any report or particulars of any such proceedings from which the names of the parties have been omitted in any book or periodical of a technical character *bona fide* intended for circulation among members of the legal or medical professions."

8. Section 14 of the Affiliation Ordinance is hereby repealed and replaced by the following new section:-

"Election between remedies tinder Ordinance and remedies under customary law

14.-(I) Notwithstanding the foregoing provisions of this Ordinance, no order shall be made under section 5 in any case-

- (a) in which the applicant, or any parent, guardian or husband of the applicant, has obtained, in proceedings instituted in accordance with any relevant rule of customary law, any order for the payment of money or other provision for the maintenance or education of the child; or
- (b) in which, in any proceedings instituted in accordance with any relevant rule of customary law, the court hearing such proceedings held that it was not satisfied that the person against whom an order under section 5 is sought was the putative father -of the child.

(2) Notwithstanding any relevant rule of customary law, no person shall be entitled to make any claim, in accordance with any such relevant rule, for any contribution to the maintenance or education of an illegitimate child against-

- (a) a person against whom an order relating to that child has been made under section 5 of this Ordinance; or

Section 14 of Cap. 278 repealed and replaced

- (b) a person against whom proceedings for an order under section 5 of this Ordinance have been instituted in relation to that child, if, on the hearing of such proceedings, the magistrate held that he was not satisfied that such person was the putative father of the child; or
- (c) any other person who, in accordance with customary law, is responsible for the acts of a person described in paragraph (a) or (b) of this subsection.

(3) In this section, the expression "relevant rule" means a rule relating to the liability of the father of an illegitimate child or., of any other person who, in accordance with customary law, is responsible for his acts) to contribute towards, or make provision for, the maintenance or education of such child."

Temporary provisions where both mother and father are Africans

9. Where an unmarried woman was delivered of a child before the commencement of this Act in any case to which the Affiliation Ordinance did not apply by reason of the provisions of section 14 thereof (hereby repealed), she may make an application for a summons under section 3 of the Affiliation Ordinance—

- (a) at the times and in the circumstances set out in paragraph (b), (c) or (d) of the said section 3; or
- (b) at any time within the period of one year next after the commencement of this Act:

Provided that no order on an application, other than an application made within the times and in the circumstances set out in the said section 3, shall require the payment of a monthly sum in respect of any month prior to the month in which the order is made, or, in the case of an order for a lump sum, the payment of a sum exceeding the sum obtained by multiplying one hundred shillings by the number of whole months between the date of the order and the child's sixteenth birthday, or fifteen thousand shillings, whichever is the less:

And provided further that no order shall be made in any case to which this section applies if, since the birth of the child, the mother has married or, in the case of a married woman living apart from her husband, has resumed cohabitation with her husband.

Passed in the National Assembly on the nineteenth day of February, 1964.

Pius Msekwa
Clerk of the National Assembly