

husband, to show cause why he should not support his wife, and the justice, may, in his discretion, issue his warrant for the apprehension of the husband.

(2) Upon the day appointed for the hearing, any court of summary jurisdiction may hear and determine the matter of complaint in a summary way; and if it is satisfied that the wife is in fact without adequate means of support, and that the husband is able to maintain her, or to contribute to her maintenance, the court shall make an order in writing, directing him to pay weekly, fortnightly, or monthly, at its discretion, and to such person and in such manner for her use as the court may think fit, such sum or allowance for the past or future maintenance of the wife as it considers proper.

(3) Where any children of the family are in fact under the wife's custody and control, the court may, in fixing the amount payable to her under this section, include such amount as is reasonably necessary for the support of the children.

(4) The provisions of this section shall not limit or affect the operation of any other provision of this Act.

96. (1) When any wife leaves her husband without adequate means of support, any justice may, upon complaint made by or on behalf of the husband, issue a summons to the wife, to show cause why she should not support her husband.

Maintenance of husband by wife.

(2) Upon the day appointed for the hearing, any court of summary jurisdiction may hear and determine the matter of the complaint in a summary way; and if it is satisfied that the husband is in fact without adequate means of support and that the wife is able to maintain her husband, or to contribute to his maintenance, the court shall make an order directing her to pay weekly, fortnightly, or monthly, at its discretion, and to such person and in such manner for his use as the court may think fit, such sum or allowance for the past or future maintenance of the husband as it considers proper.

(3) The provisions of this section shall not limit or affect the operation of any other provision of this Act.

97. (1) On the complaint of any person liable upon or entitled to the benefit of any order made under this Subdivision the court may, while the order continues in force, make further inquiry as to the financial capacity and material resources of the person liable upon the order or as to the means of the person entitled to the benefit of the order, and may make an order increasing, reducing, or entirely remitting the amount so ordered to be paid.

Variation of amount payable under order.

(2) Where, upon the complaint of any person liable upon any order made under this Subdivision, it appears to the court that he has *bona fide* made to his wife an offer to maintain her adequately in his home, the court may, in its discretion, discharge the order.

PART VI
DIVISION I

Order of
liability of
near relatives
for maintenance
of any child.

98. The near relatives of any child (including a child under the care and control of the Minister) shall be liable to pay for, or contribute towards, the cost of maintenance of the child according to their financial capacity and in the following order:—

- (a) in the case of a legitimate child—father, mother, stepfather, stepmother;
- (b) in the case of an illegitimate child—father, mother's husband, mother.

Issue of
summons for
maintenance.

99. (1) Upon complaint that any persons are near relatives of any child, and are able to pay for or contribute towards the maintenance or past maintenance of the child, any justice may summon those persons or any of them to appear before a court of summary jurisdiction, at a time and place to be specified in the summons, to show cause why they or he should not pay for or contribute towards, the past or future maintenance of the child.

(2) Every complaint under this section in respect of a child under the care and control of the Minister shall be made by or on behalf of the Minister.

(3) A justice may, instead of issuing a summons issue a warrant under his hand for the apprehension of any person against whom a complaint has been made under this section, and for his detention until the hearing of the complaint, unless that person enters into a recognizance with one or more sureties, in such sums as the justice directs, conditioned upon his appearance at the hearing of the complaint.

Order for
payment of
maintenance.

100. (1) At the time and place appointed for the hearing of the complaint the court may adjourn the hearing, and may summon any other persons alleged to be near relatives to appear at the time appointed for the adjourned hearing; and may, at the original or any adjourned hearing, if it is satisfied that the persons summoned, or any of them, are near relatives of the child, and are able to pay for, or contribute towards, the past or future maintenance of the child, order payment to be made by those near relatives, or one or more of them, to the Director-General—

- (a) of such sum (which the court may order to be paid by instalments) for past maintenance of the child as the court considers sufficient;

and

- (b) of such weekly or other periodical sum for the future maintenance of the child, and for such period, as the court consider sufficient.

(2) If an order is made against two or more near relatives, the sums or proportions payable by each shall be fixed by the court.

(3) Notwithstanding any provision in any other Act to the contrary an order for the payment of money for past maintenance under this section shall not be limited to payment of money for maintenance in respect of the period of six months prior to the making of the complaint, but may also relate to the payment of money for maintenance in respect of any period prior to that period of six months.

101. (1) Where a person is a near relative of two or more children, a complaint under this Division may be made against that person in relation to the maintenance of all or any of the children; and the court may, upon that complaint, make orders in accordance with this Division for the payment of money for the maintenance of all or any of the children.

Complaints in respect of maintenance of two or more children.

(2) A separate order shall be made in respect of each child for whose maintenance a payment is ordered.

(3) A complaint under this section may be made against any number of persons alleged to be liable for the maintenance of the same children.

Subdivision 2—Orders, etc., in Affiliation Cases

102. Upon the hearing of an affiliation case, the court may, if satisfied upon the evidence that the defendant is the father of the child, adjudge him to be the father of the child.

Court may adjudge defendant to be father of illegitimate child.

103. Upon complaint made in an affiliation case, a justice may, instead of issuing a summons issue a warrant under his hand for the apprehension of any person against whom a complaint has been made under this subdivision, and for his detention until the hearing of the complaint unless that person enters into a recognizance, with one or more sureties, in such sums as the justice directs, conditioned upon his appearance at the hearing of the complaint.

Warrant may issue in lieu of summons.

104. (1) Where a court of summary jurisdiction, upon complaint made by or on behalf of a woman, is satisfied—

Order for payment of preliminary expenses.

(a) that she is pregnant by the defendant (not being her husband) or has been delivered of a child or a stillborn child of whom the defendant (not being her husband) is the father;

and

(b) that he has not made adequate provision for the payment of the preliminary expenses in respect of the confinement,

the court may order the defendant to pay to the Director-General such amount as it thinks reasonable for or towards those preliminary expenses.

(2) A complaint under this section may be made at any time during the pregnancy of the woman, or within two years after the birth of the child, but the court shall not make an order under this section before the birth of the child unless it is satisfied by the evidence, or by the certificate, of a legally qualified medical practitioner that the woman is pregnant.

(3) The court shall not receive in evidence the certificate of a legally qualified medical practitioner unless the defendant consents to the admission of that certificate.

Where order
made during
pregnancy.

105. (1) Where an order is made for payment of, or contribution towards, preliminary expenses during the pregnancy of the woman, the order shall—

(a) specify a date on which the order will cease to have effect if the woman has not then been delivered of a child;

and

(b) direct that all moneys payable for preliminary expenses shall be paid to the Director-General.

(2) Where—

(a) the woman is not delivered of a child before the date specified in the order;

or

(b) the woman is delivered of a stillborn child before the date so specified, and there is no other surviving child born to the woman during the same confinement,

the order ceases to have effect on the date specified in the order, or at the end of the third month after the delivery of the stillborn child, as the case may require.

(3) Where an order ceases to have effect on a date specified in it pursuant to the provisions of subsection (1) of this section, any moneys paid under the order and not disbursed shall be repaid to the defendant.

(4) Where an order ceases to have effect at the end of the third month after the delivery of a stillborn child any moneys paid under the order and not disbursed shall, as directed by the court—

(a) be paid to the woman;

(b) be repaid to the defendant;

or

(c) be divided between the woman and the defendant in such proportions as the court thinks fit.

(5) Where an order is made for payment of, or contribution towards, preliminary expenses during the pregnancy of a woman, the court or any justice may, at any time while the order is in force, give such directions in writing as it or he thinks proper with respect to the disbursement of any amounts paid under the order, but not so as to direct the disbursement, before the woman is delivered of a child or a stillborn child, of amounts that exceed in aggregate one-half of the amount to be paid under the order.

106. Notwithstanding any other provision of this Act, an order for preliminary expenses may be made by a court of summary jurisdiction, without any complaint in respect thereof, in any proceedings against the father for the maintenance of the child and the order may be made separately, or may be included in any other order against the father.

Order may be made, without complaint, in proceedings against father.

107. (1) Where an order for payment of, or contribution towards, preliminary expenses is made before the birth of the child to which it relates and it appears desirable to the court making the order to provide the child with adequate means of support, the court may order the father to pay such amount as it thinks reasonable for or towards the maintenance of the child from the expiration of three months after its birth.

Power of court to make order for future maintenance of child upon complaint for preliminary expenses.

(2) An order made under subsection (1) of this section shall not be enforceable under this Act and shall have no force or effect unless a certified copy of the registration of the birth of the child is produced to the clerk of the court by which the order is made.

(3) An order made under subsection (1) of this section shall not take effect if the child to whom it relates is stillborn, or dies, or is adopted before the order would otherwise take effect.

(4) An order under subsection (1) of this section shall not be made requiring a person to make payments for or towards the maintenance of a child unless—

(a) the person has consented to the making of the order;

or

(b) the person has been given notice of the complainant's intention to apply for the order.

PART VI
DIVISION 1

(5) Where a certified copy of the registration of the birth of the child in relation to whom an order has been made under subsection (1) of this section is produced to the clerk of the court, the clerk shall forthwith send by post to the defendant at his usual or last-known place of residence or business notice in writing of the name of the child (if shown in the certified copy of the registration of the birth of the child) and of the date and place of birth of the child and the date on which and the place at which the first payment under the order is required to be made.

**Compellability
of defendant as
witness in
affiliation cases.**

108. (1) On the hearing of any affiliation case, the defendant shall be compellable to give evidence, and may be summoned as a witness for that purpose.

(2) The defendant shall not be excused from giving evidence relevant to the matter of the complaint on the ground that the evidence might prove or tend to prove him guilty of the matter alleged against him.

**Liability of
persons
admitting
sexual inter-
course with
mother of
illegitimate
child.**

109. (1) If on the hearing of any complaint in respect of any affiliation case it is proved to the satisfaction of the court that the defendant, or any male person over the age, or apparently over the age, of eighteen years had sexual intercourse with the mother of the illegitimate child at any time so that, in the opinion of the court, the male person may possibly be the father of the illegitimate child, the court may, upon the hearing (and, in the case of a male person other than the defendant, without the necessity of any complaint against that person) make an order against the defendant or other male person for contribution towards the preliminary expenses in respect of the mother's confinement and also, if the court thinks fit, towards the maintenance of the illegitimate child.

(2) No order shall be made under subsection (1) of this section unless the male person has been given the opportunity of being heard by the court in respect of the making of the order.

(3) An order or orders may be made under subsection (1) of this section against any number of male persons as provided in that subsection.

(4) An order made pursuant to this section may be enforced and all further proceedings in relation to the order may be taken as if it were an order made against a near relative of the child for the payment of money for the maintenance of the child.

(5) In every case where a complaint is made to the court for the making of an order under this section and the complaint is dismissed by the court, a memorandum of dismissal shall then be made by the court.

(6) The court shall not make an order under this section if it is satisfied that at the time of the conception of the child, the mother was a common prostitute.

**PART VI
DIVISION I**

Power to
lay complaint
for support of
illegitimate
child against
one or more
persons.

110. (1) A complaint may be made under this Act by or on behalf of the Minister or by any officer of the department against one or more male persons over the age of eighteen years at the time of the making of the complaint alleging that the male person or persons have had sexual intercourse with the mother of an illegitimate child at a time or times such that the male person or any one of the male persons may possibly be the father of the illegitimate child.

(2) Upon complaint under this section, any justice may summon the male person or persons or any of them to appear before a court of summary jurisdiction, at a time and place to be specified in the summons, to show cause why he or they should not contribute towards or pay for the past or future maintenance of the illegitimate child and the preliminary expenses in respect of the confinement of the mother.

(3) A justice may, instead of issuing a summons, issue a warrant under his hand for the apprehension of any person against whom a complaint has been made under this section and for his detention until the hearing of the complaint, unless that person enters into a recognizance with one or more sureties, in such sums as the justice directs, conditioned upon his appearance at the hearing of the complaint.

(4) At the hearing of the complaint, if the court is satisfied that any one or more of the male persons had sexual intercourse with the mother of the illegitimate child at a time such that he or any of them may possibly be the father of the illegitimate child, the court may make an order against him or them for contribution towards the maintenance of the illegitimate child and also, if the court thinks fit, towards the preliminary expenses in respect of the confinement of the mother.

(5) An order made pursuant to this section may be enforced and all further proceedings in relation to the order may be taken as if it were an order made against a near relative of the child for the payment of money for the maintenance of the child.

(6) In any proceedings under this section, an allegation in the complaint that any specified person was at the time of the making of the complaint over the age of eighteen years shall be deemed proved in the absence of proof to the contrary.

111. (1) Where a person is liable or, without a complaint being made against him under this Act, admits liability to pay for or contribute towards the preliminary expenses in respect of the confinement of the mother of an illegitimate child or the maintenance of the child, the Director-General may, with the approval of the Minister, accept from that person a sum of money in full settlement of all such liability.

Power of
Director to
accept settle-
ment in full.

(2) On payment of that sum no proceedings shall be commenced or proceeded with by or on behalf of the mother or any other person in respect of the liability or expenses.

(3) Where the Director-General accepts a sum of money in settlement of liability under this section, that sum shall be retained by the Director-General and applied at his discretion for the maintenance of the illegitimate child or for the preliminary expenses in respect of the confinement, or both.

Provision for
blood tests.

112. (1) This section shall come into operation on a day to be fixed by proclamation.

(2) In this section "blood test" means a test for the purpose of ascertaining the inheritable characteristics of blood.

(3) A court of summary jurisdiction shall, at the request of the defendant in an affiliation case, direct that the illegitimate child in respect of whom the complaint was made, the mother of the child and the defendant submit to blood tests.

(4) No such direction shall be given unless the child has been born and the child, the mother and the defendant are all living.

(5) In any such direction, the court shall nominate a medical practitioner to take such blood samples as may be necessary for the purpose of making the blood tests and an analyst to make the blood tests and shall also fix a period within which the child, the mother and the defendant shall attend upon the medical practitioner to enable him to take the samples.

(6) Any period so fixed may be extended by the court from time to time as the court thinks fit.

(7) The analyst so nominated must be a person whose name is on a panel of names prepared by the Minister on the recommendation of the Director-General of Public Health and published in the *Gazette*.

(8) Subject to subsection (10) of this section, the fees of the medical practitioner and the analyst nominated in the direction and the costs and expenses in connection with the blood tests shall, in the first instance, be paid by the Minister.

(9) Where a direction has been given by a court pursuant to this section—

(a) the proceedings in connection with the affiliation case shall be stayed until the expiration of the period or extended period fixed under subsection (5) or subsection (6) of this section;

(b) if the mother and child referred to in the direction do not, or either of them does not, within that period or extended period, attend upon the medical practitioner nominated in the direction and permit him to take the necessary blood samples for the purposes of the blood tests, the complaint, if made by or on behalf of the mother, shall be dismissed, but otherwise shall be set down for hearing;

and

(c) if the defendant does not within that period or extended period attend upon the medical practitioner so nominated and permit him to take the necessary blood samples for the purposes of the blood tests, the complaint shall be set down for hearing.

(10) If, at the hearing, the court is satisfied that the facts alleged against the defendant are proved, the defendant shall reimburse the Minister to the extent of all moneys paid by the Minister under subsection (8) of this section in connection with the blood tests referred to in the direction, including the amount of the fees so paid to the medical practitioner and the analyst, and those moneys may be recovered by the Minister as a debt due to him by the defendant.

(11) The medical practitioner nominated in the direction given under this section shall, in the manner and within the time prescribed forward all blood samples taken by him pursuant to the direction to the analyst nominated in the direction and the blood tests shall be made by the analyst and the results of the tests shall be embodied in a certificate in the prescribed form signed by the analyst.

(12) The analyst shall forward the certificate to the clerk of the court that made the direction who, within seven days after the receipt by him of the certificate, shall furnish a copy thereof to the complainant and to the defendant.

(13) The certificate shall be admissible as evidence in any proceedings under this Part and shall be evidence of the facts and conclusions stated therein, but the court shall on the application of the complainant or the defendant, or may of its own motion, order the medical practitioner or the analyst to attend as a witness in the proceedings to be examined on such issues relating to the blood test and in such manner as the court thinks necessary and proper in the interests of justice.

Subdivision 3—Orders for Payment of Medical and Hospital Expenses in Connection with Lawful Termination of Pregnancy.

113. (1) Where a court of summary jurisdiction is satisfied on complaint made by or on behalf of a female person—

(a) that the complainant has been pregnant but her pregnancy has been lawfully terminated otherwise than by the birth of a child;

PART VI
DIVISION I

and

(b) that the defendant has had sexual intercourse with the complainant at such a time that the act of intercourse may have resulted in the pregnancy of the complainant, the court may order the defendant to pay such amount as it considers reasonable for or towards the medical and hospital expenses incurred by the complainant in connection with the termination of the pregnancy.

(2) The court shall not make an order under this section if it is satisfied that at the time of the act of sexual intercourse, the complainant was a common prostitute.

Subdivision 4—Orders for Funeral, Medical and other Expenses

Power to make order for funeral expenses of child.

114. (1) Where a court of summary jurisdiction—

(a) upon complaint made by or on behalf of a parent of a legitimate child or an adopted child, is satisfied that the child was a child of the family who has died and—

(i) that, at the date of the death, the complainant was entitled to receive payments from the other parent of the child for the maintenance of the child or there was in existence an order of a court against the other parent for the maintenance of the child;

(ii) that, at the date of the death, the complainant was entitled to receive payments for his or her maintenance from the other parent or there was in existence an order under which that other parent was directed to make payments for the benefit of the complainant;

or

(iii) that at the date of the death there was in existence an order directing the payment by the other parent of a nominal amount in respect of the child or the complainant;

or

(b) upon complaint made by or on behalf of a parent of a legitimate stillborn child, is satisfied that the child had quickened and that at the date of the stillbirth the complainant was entitled to receive payments for his or her maintenance from the other parent or there was in existence an order for the maintenance of the complainant by the other parent,

and the court is further satisfied that the other parent of the child has not made adequate provision for the funeral expenses of the child, the court may order the other parent to pay such amount as it thinks reasonable for or towards the funeral expenses of the child.