CHAPTER 55

An Act to consolidate the enactments relating to bastardy, with corrections and improvements made under the Consolidation of Enactments (Procedure) Act, 1949.

[31st July, 1957]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Commencement of affiliation proceedings.

1. A single woman who is with child, or who has been delivered of an illegitimate child, may apply by complaint to a justice of the peace for a summons to be served on the man alleged by her to be the father of the child.

Time for application for summons.

2.—(1) A complaint under section one of this Act, where the complainant has been delivered of an illegitimate child, may be made—

(*a*) at any time within twelve months from the child's birth, or

(*b*) at any subsequent time, upon proof that the man alleged to be the father of the child has within the twelve months next after the birth paid money for its maintenance, or

(*c*) at any time within the twelve months next after the man's return to England, upon proof that he ceased to reside in England within the twelve months next after the birth.

(2) A single woman who has been delivered of a child may, upon proof that—

(*a*) before the birth she was a party to a marriage which would have been valid but for provisions of an Act of

Parliament making it void on account of her, or the other party to the marriage, being under the age of sixteen, and

(*b*) the said other party had access to her within twelve months before the birth,

make at any time a complaint under section one of this Act against that party, notwithstanding that he may not within the twelve months next after the birth have paid money for the child's maintenance.

Venue and procedure.

3.—(1) A complaint under section one of this Act—

(*a*) shall not be made except to a justice of the peace acting for the petty sessions area (within the meaning of the Magistrates' Courts Act, 1952) in which the mother of the child resides,

(*b*) if made before the birth of the child, shall be substantiated on oath,

and the magistrates' court which, under the summons, is to hear the complaint shall be a magistrates' court for the said petty sessions area.

(2) The foregoing subsection shall have effect subject to subsection (2) of section three of the Maintenance Orders Act, 1950 (which relates to a complaint by a person residing in Scotland or Northern Ireland).

(3) If the justice to whom a complaint under section one of this Act has been made dies, or ceases to be a justice, or is unable to act, the summons may be issued by any other justice acting for the same petty sessions area.

Powers of court on hearing of complaint.

4.—(1) On the hearing of a complaint under section one of this Act the court shall hear the evidence of the mother (notwithstanding any consent or admission on the part of the defendant) and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the defendant.

(2) If the evidence of the mother is corroborated in some material particular by other evidence to the court's satisfaction, the court may adjudge the defendant to be the putative father of the child and may also, if it thinks fit in all the circumstances of the case, proceed to make against him an order (referred to in this Act as " an affiliation order ") for the payment by him of—

(*a*) a sum of money weekly, not exceeding thirty shillings a week, for the maintenance and education of the child,

(*b*) the expenses incidental to the birth of the child, and

(*c*) if the child has died before the making of the order, the child's funeral expenses.

(3) Where a complaint under section one of this Act is made before or within two months after the birth of the child, any weekly sum ordered to be paid under paragraph (*a*) of the last foregoing subsection may, if the court thinks fit, be calculated from the date of the birth.

Persons entitled to payments under affiliation order.

5.—(1) Subject to the provisions of this section and of the enactments mentioned in the following subsection, the person entitled to any payments to be made under an affiliation order shall be the child's mother, and the order shall make provision accordingly.

(2) The enactments referred to above are—

(*a*) section eighty-eight of the Children and Young Persons Act, 1933 (which provides that, where an illegitimate child is committed to the care of a fit person or is ordered to be sent to an approved school, the person entitled to receive contributions in respect of the child under section eighty-six of that Act may be given the benefit of payments under an affiliation order in respect of the child);

(*b*) the said section eighty-eight as extended by section twenty-three of the Children Act, 1948 (which applies the former section to children received into the care of a local authority under section one of the Act of 1948);

(*c*) section forty-four of the National Assistance Act, 1948 (under which the National Assistance Board or a local authority giving assistance in respect of an illegitimate child may obtain an affiliation order providing for payments thereunder being made to the Board or authority, or may apply for an existing order to be varied so as to provide as aforesaid); and

(*d*) section twenty-six of the Children Act, 1948 (which makes provision corresponding to the said section forty-four for the benefit of a local authority having an illegitimate child in their care or maintaining an illegitimate child in an approved school).

(3) An affiliation order may, on the application of a person other than the child's mother who for the time being has the custody of the child, either legally or by any arrangement approved by the court, be made or varied by a magistrates' court so as to entitle that person to any payments to be made under the order.

(4) Where an affiliation order for the time being provides for the child's mother to be entitled to any payments to be made under the order the payments shall be due under the order in respect of such time and so long as she is living and of sound mind and is not in prison, and if the mother has died, or is of unsound mind, or is in prison, any two justices of the peace may by order from time to time appoint some person (with his consent) to have the custody of the child; and a person appointed as guardian under this subsection shall be entitled to any payments to be made under the affiliation order and may make application for the recovery of any payments due thereunder in the same manner as the mother might have done.

Any two justices of the peace may revoke an appointment made under this subsection and appoint another person thereunder in place of the person formerly appointed.

(5) An affiliation order shall, in any case where payments to be made thereunder are not ordered to be made to the clerk of a magistrates' court under section fifty-two of the Magistrates' Courts Act, 1952, provide for the payments to be made to the person for the time being entitled thereto in accordance with the provisions of this Act.

Duration of orders.

6. Subject to the provisions of this Act, an affiliation order shall not, except for the purpose of recovering money previously due under the order, be of any force or validity after the child has attained the age of sixteen years or has died; and payments under the order shall not be required to be made in respect of any period after the child has attained the age of thirteen years unless the order contains a direction that payments to be made under it are to continue until the child attains the age of sixteen years.

Continuance of payments in certain cases.

7.—(1) The power under section fifty-three of the Magistrates' Courts Act, 1952, to vary or revive an affiliation order shall, notwithstanding anything in the last foregoing section, include power to vary or revive it in accordance with the following provisions of this section.

(2) If, on the application of the child's mother, it appears to the court that the child is or will be engaged in a course of education or training after attaining the age of sixteen years, and that it is expedient for that purpose for payments to be made under the order after the child attains that age, then subject to the two next following subsections the court may by order direct that payments shall be so made for such period, not exceeding two years from the date of the order, as may be specified in the order.

(3) Subject to the next following subsection, the period specified in an order made by virtue of the foregoing provisions of

this section may from time to time be extended by a subsequent order so made, but shall not in any case extend beyond the date when the child attains the age of twenty-one.

(4) Notwithstanding anything in the foregoing provisions of this section or in any order made by virtue of this section, an affiliation order shall not operate, after the child has attained the age of sixteen,—

(*a*) so as to require payments thereunder to be made either—

(i) in respect of any period during which the child is detained in an approved school, or

(ii) subject to the next following subsection, in respect of any period during which the child is in the care of a local authority under section one of the Children Act, 1948, or there is in force an order under the Children and Young Persons Act, 1933, committing the child to the care of a fit person;

(*b*) so as to entitle any person other than the child's mother to the payments.

(5) Sub-paragraph (ii) of paragraph (*a*) of the last foregoing subsection shall not apply to any part of such a period as is there mentioned during which the child is permitted to reside with his mother.

(6) Any reference in this section to a child's mother shall be taken as including a reference to any person for the time being having the custody of the child either legally or by any arrangement approved by the court, except that it shall not be taken as referring to a local authority in whose care the child is under section one of the Children Act, 1948, or a person to whose care the child is committed by an order under the Children and Young Persons Act, 1933.

Appeal.

8.—(1) An appeal shall lie to a court of quarter sessions from the making of an order under this Act, or from any refusal by a magistrates' court to make such an order, or from the revocation, revival or variation by a magistrates' court of such an order.

(2) On an appeal against an order under section four of this Act by the person adjudged to be the putative father (as well as on an appeal against a refusal to make an order under that section) the court shall hear the evidence of the mother and such other evidence as she may produce, and shall also hear any evidence tendered by or on behalf of the other party, but the court shall not confirm the order appealed against (or reverse the refusal to make an order) unless the evidence of the mother is corroborated in some material particular by other evidence to the court's satisfaction.

Duty of putative father to notify change of address.

9.—(1) A person against whom an affiliation order has been made—

(*a*) shall, if he changes his address and he is required to make any payment under the order to the clerk of a magistrates' court, give notice of the change to the clerk of that court;

(*b*) shall, in a case where the foregoing paragraph does not apply and he is required under the order to make any payments (including payments of costs) to any person, give notice of any change of address to such person (if any) as may be specified in the order.

(2) Any person failing without reasonable excuse to give a notice which he is required by this section to give shall be liable on summary conviction to a fine not exceeding two pounds.

Attachment of pension or income to satisfy affiliation order.

10.—(1) Where an affiliation order has been made against a person and there is payable to him any pension or income which is capable of being attached, the justices who made the order or a magistrates' court may—

(*a*) after giving the person an opportunity of being heard, and

(*b*) on being satisfied that the person has without reasonable cause failed to make any payments which he is required by the order to make,

order the pension or income to be attached as to the weekly amount payable under the affiliation order, or as to any lesser amount, and the amount attached to be paid to the person named by the court.

(2) An order under this section shall be an authority to the person by whom the pension or income is payable to make the payment in accordance with the order, and the receipt of the person to whom the payment is ordered to be made shall be a good discharge to the payor.

Misconduct by guardian of illegitimate child.

11. If any person appointed under subsection (4) of section five of this Act to have the custody of an illegitimate child—

(*a*) misapplies any money paid by the putative father for the child's support, or

(*b*) withholds proper nourishment from, or otherwise abuses or maltreats, the child,

he shall be liable on summary conviction to a fine not exceeding ten pounds.

Repeals and savings.

12.—(1) The enactments specified in the second column of the Schedule to this Act are hereby repealed to the extent specified in the third column of the Schedule.

(2) Any application, order, appointment or other thing made or having effect under or for the purposes of an enactment repealed by this Act and pending or in force immediately before the commencement of this Act shall be deemed to have been made under or for the purposes of the corresponding enactment in this Act; and any proceeding or other thing begun under any enactment so repealed may be continued under this Act, as if begun thereunder.

(3) So much of any enactment or document as refers expressly or by implication to any enactment repealed by this Act shall, if and so far as the nature of the subject-matter of the enactment or document permits, be construed as referring to this Act or the corresponding enactment therein, as the case may require.

(4) Nothing in this section shall be taken as prejudicing the general application of section thirty-eight of the Interpretation Act, 1889, with regard to the effect of repeals.

Short title, extent and commencement.

13.—(1) This Act may be cited as the Affiliation Proceedings Act, 1957.

(2) This Act shall not extend to Scotland or Northern Ireland.

(3) This Act shall come into force on the first day of April, nineteen hundred and fifty-eight.

Section 12.

SCHEDULE

ENACTMENTS REPEALED

Session and Chapter	Short title	Extent of repeal
7 & 8 Vict. c. 101.	The Poor Law Amendment Act, 1844.	Sections five and eight.
8 & 9 Vict. c. 10.	The Bastardy Act, 1845 ...	The whole Act.
35 & 36 Vict. c. 65.	The Bastardy Laws Amendment Act, 1872.	The whole Act.
4 & 5 Geo. 5. c. 6.	The Affiliation Orders Act, 1914.	The whole Act.
13 & 14 Geo. 5. c. 23.	The Bastardy Act, 1923 ...	The whole Act.
19 & 20 Geo. 5. c. 36.	The Age of Marriage Act, 1929.	The whole Act.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 41.	The Affiliation Orders Act, 1952.	The whole Act except section four.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.	The Magistrates' Courts Act, 1952.	Section fifty-one; subsection (4) of section eighty-three.

Table of Statutes referred to in this Act

Short Title	Session and Chapter
Children and Young Persons Act, 1933 ...	23 & 24 Geo. 5. c. 12.
National Assistance Act, 1948	11 & 12 Geo. 6. c. 29.
Children Act, 1948	11 & 12 Geo. 6. c. 43.
Consolidation of Enactments (Procedure) Act, 1949	12, 13 & 14 Geo. 6. c. 33.
Maintenance Orders Act, 1950	14 Geo. 6. c. 37.
Income Tax Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 10.
Magistrates' Courts Act, 1952	15 & 16 Geo. 6. & 1 Eliz. 2. c. 55.

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Housing Act, 1957

5 & 6 ELIZ. 2 CH. 56

ARRANGEMENT OF SECTIONS

PART I

GENERAL PROVISIONS AS RESPECTS LOCAL AUTHORITIES

Section

1. Local authorities for purposes of this Act.
2. Approval by Minister of proposals for exercise of local authorities' functions under Parts II and III.
3. Duty of local authority to inspect district and keep records.

PART II

PROVISIONS FOR SECURING THE REPAIR, MAINTENANCE AND SANITARY CONDITION OF HOUSES

Definition of Standard of Fitness

4. Matters to be taken into account in determining whether a house is unfit.
5. Prohibition of back-to-back houses.

Obligation of Lessors of Small Houses

6. Conditions to be implied on the letting of small houses.
7. Application of foregoing section to houses occupied by agricultural workers otherwise than as tenants.
8. Information to be given to tenants of working-class houses.

Unfit premises capable of repair at reasonable cost

9. Power of local authority to require repair of unfit house.
10. Enforcement of notice requiring execution of works.
11. Right of appeal.
12. Power of local authority to buy house found on appeal not to be capable of repair at reasonable cost.
13. Recovery by lessees of proportion of cost of execution of works.
14. Charging orders in favour of owner executing works.
15. Form, effect, etc. of charging orders.

Unfit premises beyond repair at reasonable cost

Section
16. Power of local authority to accept undertaking as to reconstruction or use of unfit house.
17. Duty of local authority to make demolition or closing order or to purchase house where no undertaking is accepted.
18. Power to make a closing order as to part of a building.
19. Service of notice of demolition or closing order or intention to purchase.
20. Right of appeal against demolition order, etc.
21. Content of demolition order.
22. Demolition orders: recovery of possession of building to be demolished.
23. Demolition orders: enforcement.
24. Demolition orders: power to permit reconstruction of condemned house.
25. Demolition orders: cleansing before demolition.
26. Demolition orders: substitution of closing order in case of house included in building preservation order, etc.
27. Closing orders: general provisions.
28. Closing orders: substitution of demolition order.
29. Provisions as to purchase of condemned houses.
30. Payments in respect of condemned houses which have been well maintained.
31. Temporary provisions for payments to owner-occupiers and others.
32. Payments to persons displaced.

Protection of owners

33. Provisions for protection of owners of houses.

Transitory provisions as respects existing demolition orders

34. Temporary occupation of houses subject to existing demolition orders.
35. Retention of houses subject to existing demolition orders and required to support other buildings.

Houses let in lodgings

36. Power to require execution of works or reduction of number of occupants of house.

Supplemental

37. Date of operation of notices, demands and orders subject to appeal.
38. Provisions as to appeals under Part II.
39. Interpretation of Part II.
40. Saving for certain restrictions in Part III.
41. Local authority for Part II in London.

PART III

CLEARANCE AND RE-DEVELOPMENT

Clearance areas

Section
42. Power to declare an area to be a clearance area.
43. Method of dealing with clearance area.
44. Clearance orders: general provisions.
45. Clearance orders: recovery of possession of buildings to be demolished.
46. Clearance orders: temporary retention of houses let to local authorities.
47. Treatment of land acquired by local authority.
48. Temporary retention of unfit houses acquired by local authority.
49. Provisions with respect to property originally belonging to a local authority.
50. Arrangements where acquisition of land in a clearance area found to be unnecessary.
51. Power of local authority to purchase cleared land which owners have failed to re-develop.
52. Local authority for clearance areas in London.

Transitory provisions as respects existing clearance areas

53. Temporary occupation of houses subject to existing clearance orders.
54. Power to purchase buildings subject to existing clearance orders.

Re-development areas

55. Duty of local authority to secure re-development.
56. Re-development plan.
57. Purchase of land for purposes of re-development.
58. Local authority for re-development areas in London.

General provisions as to land affected by provisions of Part III

59. Compensation for land purchased compulsorily.
60. Payments in respect of well maintained houses.
61. Temporary provisions for payments to owner-occupiers and others.
62. Power of entry on land to be purchased by agreement under Part III or appropriated for the purposes of clearance areas.
63. Power of local authority to make allowances to persons displaced.
64. Extinguishment of rights of way, easements, etc.
65. Provisions as to apparatus of statutory undertakers.
66. Power to construct streets in clearance areas in London.

Costs of opposing orders, etc.

Section
67. Provisions as to costs of persons opposing orders and as to costs of Minister.

Re-development and re-conditioning by owners

68. Re-development by owners.
69. Certificates as to condition of houses.
70. Re-development, &c., by owners: excepted cases.
71. Local authority for re-development, etc., by owners in London.

Demolition of obstructive buildings

72. Power of local authority to order demolition of obstructive building.
73. Recovery of possession of building subject to demolition order under Part III.
74. Effect of order for demolition of obstructive building.
75. Local authority for demolition of obstructive buildings in London.

PART IV

ABATEMENT OF OVERCROWDING

General Provisions

76. Duty of local authority to inspect and to make reports and proposals as to overcrowding.
77. Definition of overcrowding.
78. Offences in relation to overcrowding.
79. Power of Minister to increase the permitted number temporarily to meet exceptional conditions.
80. Power of local authority to authorise the temporary use of a house by persons in excess of the permitted number.
81. Entries in rent books, information and certificates with respect to the permitted number.
82. Information as to rights and duties as respects overcrowding.
83. Duty of landlord to inform local authority of overcrowding.
84. Right of landlord to obtain possession of overcrowded house.
85. Enforcement of Part IV.
86. Duty of medical officers to furnish particulars of overcrowding.
87. Definitions for purposes of Part IV.
88. Local authority for overcrowding in London.
89. Contributions by London County Council to expenses in relation to overcrowding.

Overcrowding in houses let in lodgings

Section
90. Overcrowding in houses let in lodgings.

PART V

PROVISION OF HOUSING ACCOMMODATION

General powers and duties of local authorities

91. Periodical review of housing conditions by local authorities.
92. Mode of provision of accommodation.
93. Supplementary powers of providing buildings or land in connection with provision of accommodation.
94. Power to provide furniture.
95. Power to provide board and laundry facilities.
96. Power of local authority to acquire land for provision of accommodation.
97. Procedure for acquiring land.
98. Continuance of tenancies of houses compulsorily acquired and to be used for housing purposes.
99. Appropriation of land for provision of accommodation.
100. Power to make allowances to persons displaced by purchase under Part V.
101. Power of entry on land to be purchased by agreement or appropriated for the purposes of Part V.
102. Land in New Forest.
103. Power to acquire water rights for houses provided.
104. Power of disposing of houses provided under Part V.
105. Other powers of dealing with land acquired or appropriated for provision of accommodation.
106. Power of Minister to impose conditions on sale of houses and land.
107. Powers relating to development of land.
108. Execution of works in connection with housing operation by local authority outside their own area.
109. Responsibility for roads constructed by local authority outside their own area.
110. Adjustment of differences between local authorities as to carrying out proposals.

Management, &c., of local authority's houses

111. General responsibility for local authority's houses.
112. Byelaws for regulation of local authority's houses.
113. Conditions to be observed in management of local authority's houses.

Section
114. Reservation of houses for agricultural population.
115. Power to establish Housing Management Commissions.

Special provisions for rural districts

116. Responsibility of county councils in respect of housing conditions in rural districts.
117. Agreements by county council for assisting rural district councils in provision of accommodation.
118. Minister's power to assist rural district councils by acquiring land and erecting houses.

Housing associations

119. Power of local authorities and county councils to promote and assist housing associations.
120. Arrangements with housing associations for provision of housing.
121. Arrangements with housing associations for improvement of housing.
122. Power of local authorities to sell furniture to persons housed by housing associations.
123. Unification of conditions affecting housing associations' houses.
124. Power of Minister to recognise central housing association.

Development corporations

125. Provision of housing accommodation by development corporations.

Miscellaneous

126. Power of county councils to provide houses for their employees.
127. Power of companies, &c., to provide houses for working classes.
128. Trusts for provision of houses for working classes.
129. Power of corporate bodies to sell or let land for housing purposes.
130. Power of water and gas companies to supply on favourable terms.
131. Exercise of Public Health Act powers for purposes of Part V.

Provisions as to London

132. Local authority for Part V in London other than City.
133. Exercise by local authorities in London of certain powers for the purposes of Part V.

Scilly Isles

Section
134. Provision of housing accommodation in Isles of Scilly.

PART VI

FINANCIAL PROVISIONS

Expenses of local authorities

135. Expenses of rural district councils and county councils.

Borrowing

136. Power of local authorities to borrow for purposes of Act.
137. Borrowing in connection with operations carried out by local authority outside its own area.
138. Power to issue local housing bonds.
139. Loans by Public Works Loan Commissioners to local authorities.
140. Power of local authorities to lend to other authorities.

Subscriptions to local savings committees

141. Subscriptions by local authorities to local savings committees.

Capital moneys

142. Application of purchase money, etc.

PART VII

GENERAL

Central Housing Advisory Committee

143. Central Housing Advisory Committee.

Re-housing

144. Re-housing obligations of undertakers.

Provisions as to building byelaws, &c.

145. Building byelaws not to apply to certain buildings.
146. Relaxation of Building Acts or byelaws in London.
147. Power of Minister to prescribe a code of byelaws for new streets.
148. Power of Minister to revoke unreasonable byelaws.

Provisions as to acquisition, &c., of land

149. Protection of amenities of locality, &c.
150. Provisions as to commons and open spaces.
151. Power of local authorities to enforce covenants against owner for the time being of land.
152. Compensation in certain cases of subsidence.
153. Donations for housing purposes.

Procedure of local authorities: Official representations

Section
154. Joint action by local authorities.
155. Buildings situated in districts of more than one local authority.
156. References by local authority to Public Health and Housing Committee.
157. Official representations.

Recovery of possession, entry, &c.

158. Recovery of possession of controlled houses.
159. Power of entry for inspection, &c.
160. Penalty for obstructing execution of Act.
161. Penalty for preventing execution of repairs, &c.

Powers of the court for housing purposes

162. Power of court to determine lease where premises demolished.
163. Power of court to authorise owner to execute works on default of another owner.
164. Power of court to authorise examination of works on unfit premises or for improvement.
165. Power of court to authorise conversion of houses into several tenements.

Notices, orders, &c.

166. Authentication of orders, notices, &c.
167. Authentication of certificates.
168. Service of notices, &c., on local authorities.
169. Service of notices, &c., on persons other than local authorities.
170. Power of local authority to require information as to ownership of premises.

Default of local authorities

171. Powers of county council and Minister in the event of default of rural district council.
172. Powers of Minister in event of default by county council in the exercise of transferred powers.
173. Power of Minister in the event of default of local authority other than rural district council.
174. Provisions as to orders directing county council to perform obligations of urban district council.
175. Provisions as to exercise by Minister of powers of a local authority.
176. Power to vary and revoke certain orders relating to defaults.
177. Power of London County Council in the event of default of metropolitan borough council.

General powers of Minister

Section
178. Power of Minister to prescribe forms, etc.
179. Dispensation with advertisements and notices.
180. Provisions as to orders made by Minister.
181. Local inquiries and reports.
182. Arrangements between the Minister and other Departments.

Miscellaneous provisions as to London

183. Relations between local authorities in London.
184. Agreements between the London County Council and other authorities in London.
185. Agreements between the London County Council and neighbouring authorities as to provision of houses.
186. Provisions as to medical officers of health in London.
187. Provisions as to City of London.

PART VIII

SUPPLEMENTAL

188. Powers of Act to be cumulative.
189. Interpretation.
190. Consequential amendments.
191. Repeal and savings.
192. Construction of references to this Act and to enactments repealed.
193. Short title, commencement and extent.

SCHEDULES—

First Schedule—Compulsory purchase of land under Part II.
Second Schedule—Payments in respect of unfit houses.
Third Schedule—Compulsory purchase of land under Part III.
Fourth Schedule—Validity and date of operation of certain orders.
Fifth Schedule—Clearance orders.
Sixth Schedule—Number of persons permitted to use a house for sleeping.
Seventh Schedule—Compulsory purchase of land under Part V.
Eighth Schedule—Local housing bonds.
Ninth Schedule—Rehousing by undertakers.
Tenth Schedule—Adaptation of references to enactments in the Housing Acts.
Eleventh Schedule—Repeals.