

Country Code:	LC 2008 Rev. CAP. 4.08
Title:	AFFILIATION ACT
Country:	SAINT LUCIA
Date of entry into force:	12th November, 1955
Date of Amendment:	8th September, 1983; 15th December, 1990; 30th June, 1997
Subject:	Children – Law – St. Lucia
Key words:	Child, meaning of; Single woman
Notes:	AFFILIATION MAINTENANCE ORDER under s. 15 of Act (attached to Act).
Date of entry into force:	October 17, 1992

SAINT LUCIA

CHAPTER 4.08

AFFILIATION ACT

Revised Edition

Showing the law as at 31 December 2001

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws-

AFFILIATION ACT

Act 33 of 1955 in force 12 November 1955

Amended by Act 16 of 1983 in force 8 September 1983 Amended by Act 15 of 1990 in force 15 December 1990 Amended by Act 4 of 1994 in force 30 June 1997 (S.I.53/1997)

AFFILIATION (MAINTENANCE) ORDER - SECTION 15

Statutory Instrument 7011992 in force 17 October 1992

CHAPTER 4.08

AFFILIATION ACT

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CHAPTER 4.08

AFFILIATION ACT

(Act 33 of 1955, 16 of 1983, 15 of 1990 and 4 of 1994)

AN ACT to provide for the maintenance of illegitimate children.

Commencement [12 November 1955]

1. SHORT TITLE

This Act may be cited as the Affiliation Act.

2. INTERPRETATION

In this Act-

"**child**" means an illegitimate child;

"**custodian**" of a child means a person, other than the mother or putative father of such child, who is appointed to have custody thereof under the provisions of this Act.

"**single woman**" includes a widow and also a married woman living apart from her husband.

"**Social Welfare Officer**" includes Social Workers and Family Case Workers who deal with all cases of child support. (*Inserted by Act 16 of 1983*)

3. PUTATIVE FATHER TO BE SUMMONED ON APPLICATION OF MOTHER

Any single woman who may be with child or who may be delivered of a child may-

- (a) before the birth of the child; or
- (b) at any time within 12 months from the birth of the child; or
- (c) at any time thereafter upon proof that the man alleged to be the father of the child has within 12 months next after the birth of the child paid money for its maintenance; or
- (d) at any time within the 12 months next after the return to Saint Lucia of the man alleged to be the father of the child, upon proof that he ceased to reside in Saint Lucia within the 12 months next after the birth of the child, make application to the magistrate of the district in which she may reside, for a summons to be served on the man alleged by her to be the father of the child, and if such application be made before the birth of the child the woman shall make a deposition upon oath stating who is the father of the child, and such magistrate shall thereupon issue a summons to the person alleged to be the father of the child to appear before the magistrate on some day to be named in the summons.

4. CONDITION OF ISSUE OF SUMMONS

It is lawful for the magistrate, on any application for a summons under this Act, to refuse to issue such summons if he or she is not satisfied that there is reasonable cause to believe that the man alleged to be the father of the child is in truth and in fact the father of such child, and that such application is made in good faith and not for any purpose of intimidation or extortion.

5. ORDER FOR MAINTENANCE

- (1) After the birth of such child, on the appearance of the person so summoned, or on proof that the summons was duly served on such person or left at his last place of abode 7 days or more before the hearing, the magistrate of the district in which the summons was issued shall hear the evidence of such woman and such other evidence as she may produce and shall also hear any evidence tendered by or on behalf of the person alleged to be the father, and, if the evidence of the mother be corroborated in some material particular by other evidence to the satisfaction of the magistrate, he or she may adjudge the person summoned to be the putative father of the child, and the magistrate may also, if he or she sees fit, having regard to all the circumstances of the case, proceed to make an order on the putative father for the payment to the mother of the child or to any person who may be appointed to have the custody of the child under the provisions of this Act of such a sum of money weekly not exceeding \$25¹ a week, as he or she may consider reasonable for the maintenance and education of the child, and of the expenses incidental to the birth of the child, and of the funeral expenses of the child if it has died before the making of such order, and of such costs as may have been incurred in obtaining such order; and if the application be made before the birth of the child or within 2 months after the birth of the child such weekly sum may, if the magistrate thinks fit, be calculated from the birth of the child.

¹*Editor's note: See Affiliation (Maintenance) Order later in this Chapter.*

- (2) At the hearing in a district court of any complaint made by a person against another under this Act, any social welfare officer may appear for and on behalf of either party in the said complaint and shall have the same right of examining witnesses and addressing the said court as the complainant or the defendant in the case.
- (3) If at any time after the expiration of one month from the making of such order as aforesaid, it appears to the magistrate of the district in which the order was made upon oath that any sum to be paid under such order has not been paid, the magistrate may, by warrant under his or her hand, cause the putative father to be brought before him or her, and in case such putative father neglect or refuse to make payment of the sums due from him under such order, or since any commitment for disobedience to such order as hereinafter provided, together with the costs attending such warrant, apprehension and bringing up of such putative father, the magistrate may, by warrant under his or her hand, direct the sum so appearing to be due, together with such costs, to be recovered by distress and sale of the goods and chattels of such putative father, and may order such putative father to be detained and kept in safe custody until return can be conveniently made to such warrant of distress, unless he gives sufficient security by way of recognisance or otherwise to the satisfaction of the magistrate for his appearance before the magistrate on the day which may be appointed for the return of such warrant of distress, such day not being more than 7 days from the time of taking any such security.
- (4) If upon the return of such warrant, or if by the admission of the putative father, it appears that no sufficient distress can be had, then the magistrate may, if he or she sees fit, by warrant under his or her hand, cause such putative father to be committed to prison, there to remain without bail for any term not exceeding 3 months, unless such sum or costs and all reasonable charges attending the said distress, together with the costs and charges attending the commitment and conveying to prison and of the persons employed to convey him be sooner paid and satisfied.
- (5) Despite the preceding provisions of this section, on an application for the enforcement of the payment of any sum payable under an order under this section, the magistrate shall make enquiries in the presence of the putative father as to whether his failure to pay that sum was due either to his wilful refusal or to his culpable neglect, and if the magistrate is of opinion that the failure of the

defendant to pay that sum was not due either to his wilful refusal or to his culpable neglect, a warrant of commitment to prison shall not be issued.

- (6) Any order for the payment of money made under this section may be revoked, discharged, revived or varied by a subsequent order of a magistrate.
- (7) On an application for the enforcement, variation, revocation, discharge or revival of an order made under this section, the magistrate may remit the payment of any sum due thereunder or of any part of any such sum.
- (8) Where on application for the enforcement of the payment of a sum payable under an order no warrant of commitment to prison is issued, the application may be renewed, except so far as regards any part of that sum remitted under the last foregoing subsection, on the ground that the circumstances of the person to whom the application relates have changed.

(Amended by Act 16 of 1983)

6. TIME OF CESSATION OF ORDER

An order for the maintenance and education or for contribution towards the relief of any child made under this Act is not, except for the purpose of recovering money previously due under such order, of any force or validity after the child in respect of whom it was made has attained the age of 18 years, or after the death of such child. *(Amended by Act 15 of 1990)*

7. MONEY TO BE PAID TO MOTHER OR CUSTODIAN

All moneys payable under any order as aforesaid are due and payable to the mother of the child unless a custodian has been appointed in which case all such moneys are due and payable to such custodian. However, the magistrate may, if he or she thinks fit, order that such payment be made through an officer of the court or any other person or officer specified in the order.

8. APPOINTMENT OF CUSTODIAN

- (1) Whenever under this Act an order is made against the putative father for payments in respect of a child, the magistrate may at the time of making such order, or the magistrate of any district to whom application is made may from time to time thereafter, on being satisfied that the mother of the child is not a fit and proper person to have custody of such child, appoint some person other than the mother to have custody of such child if such person is willing.

When the mother dies, or becomes of unsound mind, or is in prison, the magistrate of any district to whom application is made shall appoint some person, who is willing, to have custody of the child.

- (2) The appointment of a custodian under the provisions of the preceding subsection may be made on the application of any social welfare officer, or of the putative father, or of the mother when she is alive, or of any person having the lawful custody of the child, and such appointment may be revoked and another person appointed to have custody of the child.
- (3) A custodian shall have power to make application for the recovery of all payments in arrear or becoming due under an order made under section 5, in the same manner as the mother of the child might have done.
- (4) Upon any order of appointment or of revocation being made under this section, the magistrate may also order the child to be delivered by any person to the person appointed to have the custody thereof as aforesaid.

- (5) A magistrate may also on the application of the putative father of a child under the age of 18 years or of any social welfare officer make an order that the custody of such child be committed to the father.

(Amended by Act 15 of 1990)

9. CHILD TAKEN OUT OF CUSTODY MAY BE RETURNED

- (1) If a child, in respect of whose maintenance and education an order subsists or is sought, shall be wrongfully taken out of the custody of the mother or custodian of such child, a magistrate may on the application of the mother or custodian make an order that the custody of the child be committed to such mother or custodian.
- (2) Any person who contravenes any order made under the preceding subsection commits an offence and is liable, on summary conviction, to a fine not exceeding \$120 or to imprisonment for 3 months.

10. NEGLECT AND DESERTION OF CHILD

Every woman neglecting to maintain her child, being able wholly or in part so to do, or deserting her child, is liable, on summary conviction, to a fine not exceeding \$120 or to imprisonment for one month.

(Amended by Act 15 of 1990)

11. MISAPPLYING MONEYS OR ILL-TREATING A CHILD

Every person having the custody of a child under any order as hereinbefore provided who misapplies moneys paid by the putative father for the support of such child, or who withholds proper nourishment from such child, or who in any manner ill-treats such child is liable, on summary conviction, to a fine not exceeding \$120 or to imprisonment for one month. *(Amended by Act 15 of 1990)*

12. APPEAL AGAINST ORDER

Any order made under this Act may be appealed against either by the mother or custodian of the child or by the putative father or any Social Welfare Officer in the same manner as any other order made by a magistrate under and subject to the provisions of the Criminal Code.

13. PROCEDURE

Except as provided for or varied by this Act, all procedure, including the computation of and other matters with respect to costs, shall be as near as may be according to the procedure under the Criminal Code.

14. FORM OF WARRANT

The forms in the Schedule may, with such variations and additions as the circumstances of the particular case require, be used in the cases to which they apply and when so used shall be good and sufficient in law.

15. RULES

Cabinet may by rules published in the Gazette vary the maximum sum payable under any order under this Act. *(Amended by Act 16 of 1983)*

SCHEDULE

FORM NO. 1.

SAINT LUCIA.

IN THE

DISTRICT COURT.

Complainant. and
Defendant.

APPLICATION BY WOMAN WITH CHILD.

To of

The complaint of , single woman
residing at , in the Judicial
District, who upon oath states that she is now with child, and that of is the father of such
child, and she applies for a summons to be served upon him to answer the said complaint.

Taken and sworn before me, the day of

20 , at

Magistrate District.

FORM NO. 2.

SAINT LUCIA.

IN THE DISTRICT COURT.

Complainant.

and

Defendant.

SUMMONS ON APPLICATION BY WOMAN WITH CHILD.

To of

Complaint has been made this day by single
woman, residing at in the Judicial District, who states that she is now
with child, of which child she alleges upon oath that you are the father, and she applies for a summons to be
served on you to answer such complaint.

You are therefore hereby commanded to appear before the District
Court, sitting at , on , the day
of 20 , at the hour of a.m./p.m., to answer the
said complaint.

Dated the day of , 20

Magistrate District.

(NOTE.-If you neglect to appear as above required, the Court, upon proof that this summons has been duly served upon you, or left at your last place of abode, may proceed, if the Court thinks fit, to make an order upon you, as the putative father of the child above referred to, to pay a weekly sum for its maintenance, and other sums for costs and expenses).

FORM NO. 3.

SAINT LUCIA.

IN THE DISTRICT COURT.

Complainant.

and

Defendant.

APPLICATION FOR A SUMMONS BY A WOMAN WITHIN 12 MONTHS AFTER BIRTH OF CHILD.

To of

The complaint of , single woman
residing at , in the Judicial
District who states that she delivered of an illegitimate child, at on
the day of 20 , and alleges that
of is the father of such child, and she applies for a summons to be served upon him to
answer the said complaint.

Taken before me, the day of
20 , at

Magistrate District.

FORM NO. 4.

SAINT LUCIA.

IN THE DISTRICT COURT.

Complainant.

and

Defendant.

SUMMONS WHERE THE APPLICATION IS MADE BY WOMAN WITHIN 12
MONTHS AFTER BIRTH OF CHILD

To of

Complaint has been made this day by single woman,
residing at in the Judicial District, who states that
she was delivered of an illegitimate child at on the day
of , 20 , of which child she alleges you to be the father, and she
applies for a summons to be served upon you to answer such complaint.

You are therefore hereby commanded to appear before the District
Court, sitting at , on , the day
of 20 , at the hour of a.m./p.m., to answer the
said complaint.

Dated the day of , 20

Magistrate District.

(NOTE.-If you neglect to appear as above required, the Court, upon proof that this summons has been duly served upon you, or left at your last place of abode, may proceed, if the Court thinks fit, to make an order upon you, as the putative father of the child above referred to, to pay a weekly sum for its maintenance, and other sums for costs and expenses).

FORM NO. 5.

SAINT LUCIA.

IN THE

DISTRICT COURT.

Complainant.

and

Defendant.

APPLICATION FOR A SUMMONS BY A WOMAN AFTER BIRTH OF CHILD WHERE THE
ALLEGED FATHER HAS PAID MONEY WITH 12 MONTHS AFTER THE BIRTH

To

of

The complaint of _____ single woman,
residing at _____, in the _____ District, who states that she was
delivered of an illegitimate child on the _____ day of _____, 20_____,
and alleges that _____ of _____, in the _____
_____ of _____, is the father of such child, and
having given proof on oath that he did within the 12 months next after the birth of such child pay money for
its maintenance, she applies for a summons to be served upon him to answer the said complaint.

Taken before me, the _____ day of _____
20_____, at _____

Magistrate

District.

FORM NO. 6.

SAINT LUCIA.

IN THE DISTRICT COURT.

Complainant.

and

Defendant.

SUMMONS WHEN THE APPLICATION IS MADE BY A WOMAN AFTER BIRTH OF CHILD, WHERE
THE ALLEGED FATHER HAS PAID MONEY WITHIN 12 MONTHS AFTER THE BIRTH

To _____ of _____

Complaint has been made this day by _____, single
woman, residing at _____, in the _____ Judicial
District who states that she was delivered of an illegitimate child _____ on the
day of _____ 20____, of which child she alleges you to be the father, and for the maintenance whereof
she has given proof on oath that you did within the 12 months next after its birth pay money, and she applies
for a summons to be served upon you to answer such complaint.

You are therefore hereby commanded to appear before the _____ District
Court, sitting at _____, on _____, the _____ day of
20____ at the hour of _____ a.m./p.m., to answer the said complaint.

Dated the _____ day of _____, 20____

Magistrate District.

(NOTE.-If you neglect to appear as above required, the Court, upon proof that this summons has been duly
served upon you, or left at your last place of abode, may proceed, if the Court thinks fit, to make an order
upon you, as the putative father of the child above referred to, to pay a weekly sum for its maintenance,
and other sums for costs and expenses).

FORM NO. 7.

SAINT LUCIA.

IN THE DISTRICT COURT.

Complainant. and

Defendant.

APPLICATION FOR A SUMMONS BY A WOMAN AFTER BIRTH OF CHILD, WHERE THE ALLEGED
FATHER HAS RETURNED AFTER CEASING TO RESIDE IN SAINT LUCIA

To of

The complaint of , single woman
residing at , in the Judicial District,
who states that she was delivered of an illegitimate child at on the
day of , 20 , and alleges that

in the of , is the father of such child, and having
given proof that he did within the 12 months next after the birth of such child cease to reside in Saint Lucia
and has returned to Saint Lucia within the last 12 months, she applies for a summons to be served upon him to
answer the said complaint.

Taken before me, the day of
20 , at

Magistrate District.

FORM NO. 8.

SAINT LUCIA

IN THE

DISTRICT COURT.

Complainant.

and

Defendant.

SUMMONS WHEN THE APPLICATION IS MADE BY A WOMAN AFTER BIRTH OF CHILD,
WHERE THE ALLEGED FATHER HAS RETURNED AFTER CEASING TO RESIDE IN SAINT
LUCIA.

To _____ of _____

Complaint has been made this day by _____, single
woman, residing at _____ in the _____ Judicial District, who
states that she was delivered of an illegitimate child at _____ on the
_____ day of _____, 20____, of which child she alleges you to be the father, and
having given proof that you did within the 12 months next after the birth of such child cease to reside in Saint
Lucia, and have returned to Saint Lucia within the last 12 months, she applies for a summons to be served
upon you to answer the said complaint.

You are therefore hereby commanded to appear before the _____ District
Court, sitting at _____, on _____, the
_____ day of _____ 20____, at the hour of _____ a.m./p.m.,
to answer the said complaint.

Dated the _____ day of _____, 20____.

Magistrate District.

(NOTE:-If you neglect to appear as above required, the Court, upon proof that this summons has been duly served
upon you, or left at your last place of abode, may proceed, if the Court thinks fit, to make an order upon
you, as the putative father of the child above referred to, to pay a weekly sum for its maintenance, and
other sums for costs and expenses).

FORM NO. 9.

SAINT LUCIA.

IN THE DISTRICT COURT.

Complainant.

and

Defendant.

COMPLAINT OF MOTHER OR CUSTODIAN ON DISOBEDIENCE TO THE ORDER MADE UPON THE
PUTATIVE FATHER.

To of

The complaint of of in the
Judicial District (hereinafter called the complainant) who
upon oath states that by an order duly made on the day of
, 20 , of (therein and hereinafter called the defendant) was
adjudged to be the putative father of an illegitimate child, of which the complainant (1) was the mother and
was ordered to pay the sum of dollars and cents per week for the maintenance and education of
the said child until the said child should attain the age of . years, or if it should
die under that age until the date of its death, and it was also ordered that the defendant should pay the sum of
for the expenses incidental to the birth of the said child and the sum of for the costs
incurred

\$ c.

in obtaining the said order, and
it was further ordered that the
said sum should be paid by the

Arrears.....
Expenses.....
Costs of order.....

defendant to the (2)

Total.....

And the complainant further states that there is now in arrears for the same the sum of
being the amount due for the maintenance and education of the said child, *and also the* above-mentioned
expenses of the said birth and the above-mentioned costs *of the said order*.

Taken and sworn before me, the day of
20 .

Magistrate District.

(1) If the application is by some person other than the mother, substitute here the name of the mother.

(2) Complainant or Officer of the Court, or as the case may be.

FORM NO. 10.

SAINT LUCIA.

IN THE DISTRICT COURT.

Complainant. and

Defendant.

WARRANT OF APPREHENSION FOR DISOBEDIENCE OF ORDER

To of

Complaint has been made this day upon oath by of
in the Judicial District (hereinafter
called the complainant) that by an order duly made on the day of
, 20 , of (therein and
hereinafter called the defendant) was adjudged to be the putative father of an illegitimate child, of which the
complainant (1) was the mother, and was ordered to pay \$ and that the
payments directed to be made by the said order have not been made according thereto by the defendant, and
that there is now in arrear for the same the sum of \$, being the amount due for the maintenance
and education of the said child, *and also the above-mentioned expenses of the said birth and the above-
mentioned costs of the said order.*

\$ c.

Arrears.....	You are therefore hereby commanded
Expenses.....	forthwith to apprehend the defendant and bring
Costs of order.....	him before the District Court sitting
Warrant.....	at in order that he may answer the
Costs of execution of	said complaint (unless the said sums and al
warrant.....	

_____ 1 costs and charged be sooner paid).

Total

Dated the day of , 20 .

Magistrate District.

(1) If the application is by some person other than the mother substitute here the name of the mother.

AFFILIATION (MAINTENANCE) ORDER - Section 15

(Statutory Instrument 70/1992)

Commencement [17 October 1992]

1. SHORT TITLE

This Order may be cited as the Affiliation (Maintenance) Order.

2. INTERPRETATION

In this Order-

"Act" means the Affiliation Act.

3. MAXIMUM SUM PAYABLE

The maximum sum payable in respect of any order for maintenance under the Act is \$50 per week.