



# Infanticide Act 1938

## 1938 CHAPTER 36

An Act to repeal and re-enact with modifications the provisions of the Infanticide Act, 1922. [23rd June 1938]

BE IT ENACTED by the King'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 :—

### **1 Offence of infanticide.**

- (1) Where a woman by any wilful act or omission causes the death of her child being a child under the age of twelve months, but at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then, notwithstanding that the circumstances were such that but for this Act the offence would have amounted to murder, she shall be guilty of felony, to wit of infanticide, and may for such offence be dealt with and punished as if she had been guilty of the offence of manslaughter of the child.
- (2) Where upon the trial of a woman for the murder of her child, being a child under the age of twelve months, the jury are of opinion that she by any wilful act or omission caused its death, but that at the time of the act or omission the balance of her mind was disturbed by reason of her not having fully recovered from the effect of giving birth to the child or by reason of the effect of lactation consequent upon the birth of the child, then the jury may, notwithstanding that the circumstances were such that but for the provisions of this Act they might have returned a verdict of murder, return in lieu thereof a verdict of infanticide.
- (3) Nothing in this Act shall affect the power of the jury upon an indictment for the murder of a child to return a verdict of manslaughter, or a verdict of guilty but insane, or a verdict of concealment of birth, in pursuance of section sixty of the Offences against the Person Act, 1861, except that for the purposes of the proviso to that section a child shall be deemed to have recently been born if it had been born within twelve months before its death.

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*Status: This is the original version (as it was originally enacted).*

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- (4) The said section sixty shall apply in the case of the acquittal of a woman upon an indictment for infanticide as it applies upon the acquittal of a woman upon an indictment for murder.

**2 Short title, extent and repeal.**

- (1) This Act may be cited as the Infanticide Act, 1938.
- (2) This Act shall not extend to Scotland or Northern Ireland.
- (3) The Infanticide Act, 1922, is hereby repealed.