



# Infanticide Act 1938

1938 CHAPTER 36 1 and 2 Geo 6

## 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, . . . <sup>F1</sup>
- (4) . . . . . <sup>F2</sup>

### Annotations:

#### Amendments (Textual)

**F1** Words repealed by [Criminal Law Act 1967 \(c. 58\), Sch. 3 Pt. III](#)

**F2** [S. 1\(4\)](#) repealed by [Criminal Law Act 1967 \(c. 58\), Sch. 3 Pt. III](#)

**Changes to legislation:**

There are outstanding changes not yet made by the legislation.gov.uk editorial team to Infanticide Act 1938. Any changes that have already been made by the team appear in the content and are referenced with annotations.

**Changes and effects yet to be applied to :**

- s. 1(1) word substituted by [2009 c. 25 s. 57\(2\)\(a\)](#)
- s. 1(1) words inserted by [2009 c. 25 s. 57\(2\)\(b\)](#)
- s. 1(2) word substituted by [2009 c. 25 s. 57\(3\)\(a\)](#)
- s. 1(2) words inserted by [2009 c. 25 s. 57\(3\)\(b\)](#)

**Commencement Orders yet to be applied to the Infanticide Act 1938:**

Commencement Orders bringing legislation that affects this Act into force:

- [S.I. 2010/816 art. 2-6 Sch.](#) commences ([2009 c. 25](#))