

ANGUILLA

REVISED STATUTES OF ANGUILLA

CHAPTER L40

LEGITIMACY ACT

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LEGITIMACY ACT

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SCHEDULE: Registration of Births of Legitimated Persons

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LEGITIMACY ACT

Intepretation

1. In this Act—

"date of legitimation" means the date of the marriage leading to the legimitation, or where the marriage occurred before 4th July, 1929, then that date;

"disposition" means an assurance of any interest in property by any instrument whether *inter vivos* or by will;

"legitimated person" means a person legitimated by this Act;

"will" includes codicil.

Application

2. (1) Nothing in this Act shall affect the succession to any dignity or title of honour or render any person capable of succeeding to or transmitting a right to succeed to any such dignity or title.

(2) Nothing in this Act shall affect the operation or construction of any disposition coming into operation before 4th July, 1929, or affect any rights under the intestacy of a person dying before that date.

Legitimation by subsequent marriage of parents

3. (1) Subject to the provisions of this section, where the parents of an illegitimate person marry or have married one another, whether before or after 4th July, 1929, the marriage shall, if the father of

the illegitimate person was or is at the date of the marriage domiciled in Anguilla, render that person, if living, legitimate from 4th July, 1929, or from the date of the marriage, whichever last happens.

(2) Nothing in this Act shall operate to legitimate a person whose father or mother was married to a third person when the illegitimate person was born.

(3) The legitimation of a person under this Act does not enable him or his spouse, children or remoter issue to take any interest in real or personal property save as hereinafter in this Act expressly provided.

(4) The provisions contained in the Schedule shall have effect with respect to the re-registration of the births of legitimated persons.

Declarations of legitimacy of legitimated persons

4. (1) A person claiming that he or his parent or any remoter ancestor became or has become a legitimated person may, whether domiciled in Anguilla or elsewhere, and whether a British subject or not, apply by petition to the High Court praying the High Court for a decree declaring that the petitioner is the legitimated child of his parents; and the High Court shall have jurisdiction to hear and determine such application and to make such decree as to the High Court may seem just; and such decree shall be binding to all intents and purposes on Her Majesty and on all persons whomsoever, but such decree shall not in any case prejudice any person, unless such person has been cited or made a party to the proceedings or is the heir-at-law or next-of-kin, or other real or personal representative of or derives title under or through a person so cited or made a party; nor shall such sentence or decree of the High Court prejudice any person if subsequently proved to have been obtained by fraud or collusion.

(2) Every petition under this section shall be accompanied by such affidavit verifying the petition, and of the absence of collusion, as any rule made under this section in that behalf may direct.

(3) In all proceedings under this section, the High Court shall have full power to award and enforce payment of costs to any person cited, whether such persons shall or shall not oppose the declaration applied for, in case the High Court shall deem it reasonable that such costs should be paid.

(4) A copy of every petition under this section, and of the affidavit accompanying it, shall, 1 month at least previously to the presentation or filing of such petition, be delivered to the Attorney General who shall be a respondent upon the hearing of such petition and upon every subsequent proceeding relating thereto.

(5) Where any application is made under this section to the High Court, such person or persons (if any) besides the Attorney General as the High Court shall think fit shall, subject to the rules made under this section, be cited to see proceedings or otherwise summoned in such manner as the High Court shall direct, and may be permitted to become parties to the proceedings, and oppose the application.

(6) No proceeding to be had under this section shall affect any final judgment or decree already pronounced or made by any court of competent jurisdiction.

(7) The Chief Justice with the concurrence of the Puisne Judges may make rules for carrying out the provisions of this section. Such rules shall not have any force or effect until they have been

approved by the Governor in Council, and when they have been so approved, shall have the same force and effect as if they formed part of this Act.

Rights of legitimated persons, etc., to take interest in property

5. (1) Subject to the provisions of this Act, a legitimated person and his spouse, children or more remote issue shall be entitled to take any interest—

(a) in the estate of an intestate dying after the date of legitimation;

(b) under any disposition coming into operation after the date of legitimation; or

(c) by descent under an entailed interest created after the date of legitimation;

in like manner as if the legitimated person had been born legitimate.

(2) Where the right to any property, real or personal, depends upon the relative seniority of the children of any person, and those children include 1 or more legitimated persons, the legitimated person or persons shall rank as if he or they had been born on the day when he or they become legitimated by virtue of this Act, and if more than one such legitimated person became legitimated at the same time, they shall rank as between themselves in order of seniority.

(3) Where property, real or personal, or any interest therein, is limited in such a way that, if this Act had not been passed, it would (subject or not to any preceding limitations or charges) have devolved (as nearly as the law permits) along with a dignity or title of honour, then nothing in this Act shall operate to sever the property or any interest therein from such dignity, but it shall go and devolve (without prejudice to the preceding limitations or charges aforesaid) in like manner as if this Act had not been passed. This subsection applies, whether or not there is any express reference to the dignity or title of honour and notwithstanding that in some events the property, or some interest therein, may become severed therefrom.

(4) This section applies only if and so far as a contrary intention is not expressed in the disposition, and shall have effect subject to the terms of the disposition and to the provisions therein contained.

Succession on intestacy of legitimated persons and their issue

6. Where a legitimated person or a child or remoter issue of a legitimated person dies intestate in respect of all or any of his real or personal property, the same persons shall be entitled to take the same interests therein as they would have been entitled to take if the legitimated person had been born legitimate.

Application to illegitimate person dying before marriage of parents

7. Where an illegitimate person dies after 4th July, 1929 and before the marriage of his parents, leaving any spouse, children or remoter issue living at the date of such marriage, then, if that person would, if living at the time of the marriage of his parents, have become a legitimated person, the provisions of this Act with respect to the taking of interests in property by, or in succession to, the spouse, children and remoter issue of a legitimated person shall apply as if such person as aforesaid had been a legitimated person and the date of the marriage of his parents had been the date of legitimation.

Personal rights and obligations of legitimated persons

8. A legitimated person shall have the same rights, and shall be under the same obligations in respect of the maintenance and support of himself or of any other person as if he had been born legitimate, and subject to the provisions of this Act, the provisions of any Act relating to claims for damages, compensation, allowance, benefit, or otherwise by or in respect of a legitimate child shall apply in like manner in the case of a legitimated person.

Provisions as to persons legitimated by extraneous law

9. (1) Where the parents of an illegitimate person marry or have married one another, whether before or after 4th July, 1929, and the father of the illegitimate person was or is, at the time of the marriage, domiciled in a country, other than Anguilla, by the law of which the illegitimate person became legitimate by virtue of such subsequent marriage, that person, if living, shall in Anguilla be recognized as having been so legitimated from 4th July, 1929 or from the date of the marriage, whichever last happens, notwithstanding that his father was not at the time of the birth of such person domiciled in a country in which legitimation by subsequent marriage was permitted by law.

(2) All the provisions of this Act relating to legitimated persons and to the taking of interests in property by or in succession to a legitimated person and the spouse, children and remoter issue of a legitimated person shall apply in the case of a person recognized as having been legitimated under this section, or who would, had he survived the marriage of his parents, have been so recognized; and, accordingly this Act shall have effect as if references therein to a legitimated person included a person so recognized as having been legitimated.

(3) For the purposes of this section, "country" includes any part of Her Majesty's dominions, as well as a foreign country.

Right of illegitimate child and mother of illegitimate child to succeed on intestacy of the other

10. (1) Where, after 4th July, 1929, the mother of an illegitimate child, such child not being a legitimated person, dies intestate as respects all or any of her real or personal property, and does not leave any legitimate issue her surviving, the illegitimate child, or, if he is dead, his issue, shall be entitled to take any interest therein to which he or such issue would have been entitled if he had been born legitimate, and the provisions of the Intestates Estates Act shall not apply to any such property.

(2) Where, after 4th July, 1929, an illegitimate child, not being a legitimated person, dies intestate in respect of all or any of his real or personal property, his mother if surviving shall be entitled to take any interest therein to which she would have been entitled if the child had been born legitimate and she had been the only surviving parent, and the provisions of the Intestates Estates Act shall not apply to any such property.

(3) This section does not apply to or affect the right of any person to take by purchase or descent any entailed interest in real or personal property.

Citation

11. This Act may be cited as the Legitimacy Act, Revised Statutes of Anguilla, Chapter L40.

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SCHEDULE

(Section 3(4))

REGISTRATION OF BIRTHS OF LEGITIMATED PERSONS

1. The Registrar-General may, on production of such evidence as appears to him to be satisfactory, authorise at any time the re-registration of the birth of a legitimated person whose birth is already registered under the provisions of any Act, and such re-registration shall be effected in such manner as the Registrar-General may by regulation prescribe, but such Registrar-General shall not authorise the re-registration of the birth of any such person in any case where information with a view to obtaining such re-registration is not furnished to him by both parents, unless—

(a) the name of a person acknowledging himself to be the father of the legitimated person has been entered in the register in pursuance of any Act which provides for the entry in the register of the name of the father of an illegitimate child at the joint request of the mother and of the person acknowledging himself to be the father of such child, and for the signing of the register by such person acknowledging himself to be the father of such child;

(b) the paternity of the legitimated person has been established by an affiliation order or otherwise by a decree of a court of competent jurisdiction; or

(c) a declaration of the legitimacy of the legitimated person has been made by the High Court under section 4 of this Act.

2. It shall be the duty of the parents of a legitimated person, or, in cases where re-registration can be effected on information furnished by one parent and one of the parents is dead, of the surviving parent, within the time hereinafter specified, to furnish to the Registrar-General information with a view to obtaining the re-registration of the birth of that person; that is to say—

(a) if the marriage took place before 4th July, 1929, within 6 months of such date; and

(b) if the marriage takes place after 4th July, 1929, within 3 months after the date of the marriage.

3. Where the parents, or either of them, fail to furnish the necessary information within the time limited for the purpose, the Registrar-General may at any time after the expiration of that time require the parents of a person whose birth is registered and whom he believes to have been legitimated by virtue of this Act, or either of them, to give him such information concerning the matter as he may consider necessary, verified in such manner as he may direct, and for that purpose to attend personally either at his office or at any other place appointed by him within such time, not being less than 7 days after the receipt of the notice, as may be specified in the notice.

4. The failure of the parents, or either of them, to furnish information as required by this Schedule in respect of any legitimated person shall not affect the legitimation of that person.

5. No fee for re-registration under this Schedule shall be charged if the necessary information for the purpose is furnished within the time above specified; but in any other case there shall be charged in respect of such re-registration such fees, not exceeding in the aggregate $2.40, as may be prescribed by the Registrar-General by regulation under this Schedule.

6. Any person who fails to comply with the requirements of section 2 or 3 of this Schedule is guilty of an offence and is liable on summary conviction to a fine of $960.

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