ANGUILLA

REVISED REGULATIONS OF ANGUILLA

under

LEGITIMACY ACT
R.S.A. c. L40

Showing the Law as at 15 December 2000

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Revised Regulations of Anguilla: L40-1

LEGITIMACY ACT (R.S.A. c. L40)

LEGITIMATION RULES

Note: These Regulations are enabled under section 4(7) of the Legitimacy Act, R.S.A. c. L40.

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SCHEDULE: Forms

Interpretation

1. In these Rules—

"Act" means the Legitimacy Act;

"petitioner" means a person applying for a legitimacy declaration and "petition" has a corresponding meaning.

Forms

2. The forms in the Schedule shall be used in conjunction with these Rules.

Venue

3. A petition may be filed in the High Court.

Rules of practice

4. The Rules and practice in the High Court shall so far as practicable govern all proceedings under the Act subject nevertheless to these Rules.

Contents of petition

5. (1) A petition shall be entitled "In the matter of the Legitimacy Act, and In the matter of …… *(the person to be declared legitimated)*" and shall be in Form 1 in the Schedule with such variations and additions as the circumstances may require and shall state, amongst other matters—

(a) the place and date of the marriage;

(b) the status and residence of each of the parents and the occupations and domicile of the father of the person whose legitimacy the Court is asked to declare both at—

(i) the date of his birth, and

(ii) the date of the marriage;

(c) whether there is living other issue of the parents of such person as aforesaid and the respective names and dates of birth of such issue;

(d) the persons (if any) affected by the legitimation of such person as aforesaid and the value so far as is known of the property (if any) thereby involved;

(e) whether any and if so what previous proceedings under the Act or otherwise with reference to the paternity of such person as aforesaid or the validity of the marriage leading to his legitimation have been taken in any court; and

(f) that there is no collusion.

(2) A petition shall also include an undertaking by the petitioner to pay the costs of the respondents if the Court shall so direct.

Address for service

6. If the petitioner does not reside in Anguilla, the petition shall state an address in Anguilla, at which the petitioner may be served with any summons, notice, order of Court or other process.

Security for costs

7. Where it appears on the presentation of a petition that the petitioner does not reside in Anguilla, the petition shall not be filed until security for costs by deposit of money or otherwise has been given to the satisfaction of the Registrar.

Respondents to petition

8. The respondents to a petition shall be the Attorney General and all persons whose interests may be affected by the legitimacy declaration asked for, and the Court may at any time direct any persons not made respondents to be made respondents and to be served with the petition and affidavit and may adjourn the hearing of the petition for that purpose on such terms as to costs or otherwise as may be just.

Verification of petition

9. The petition shall be accompanied by an affidavit in Form 2 in the Schedule, made by the petitioner verifying the facts of which he has personal knowledge and deposing as to his belief in the truth of the other facts alleged in the petition, and the affidavit shall be filed with the petition.

Copies of petition

10. (1) There shall be filed with the petition as many copies of the petition and the affidavit as there are respondents to be served and also 2 copies for the use of the Court.

(2) There shall be lodged with the petition every certificate of birth, death or marriage intended to be relied upon at the hearing.

Copy of petition for Attorney General

11. (1) A copy of the petition and a copy of the affidavit shall be delivered or sent by registered post by the petitioner to the Attorney General at least 1 month before the petition is filed.

(2) Any document or notice addressed to the Attorney General shall be addressed to him at his Chambers.

Service of petition

12. (1) A sealed copy of the petition and affidavit shall, unless the Court otherwise directs, be served by the Bailiff 28 days at least before the hearing on every respondent (other than the Attorney General) personally, and the petition and every copy to be served on a respondent (other than the Attorney General) shall be endorsed with a notice in Form 3 in the Schedule.

(2) At least 28 days' notice of the day whereon the petition will be heard shall be given by the Registrar to the Attorney General, which notice shall be according to Form 4 in the Schedule.

Answer

13. (1) A respondent may within 14 days after service of the petition upon him file an answer to the petition which answer shall be in Form 5 in the Schedule with such variations and additions as the circumstances may require.

(2) Every answer which contains matter other than a simple denial of the facts stated in the petition shall be accompanied by an affidavit made by the respondent verifying such other matter so far as he has personal knowledge thereof, and deposing to his belief in the truth of the rest of such other matter.

(3) There shall be filed with the answer as many copies of the answer and the affidavit (if any) as there are other parties to the petition and also 2 copies for the use of the Court.

(4) The Registrar shall, within 24 hours of receiving them, send by post 1 sealed copy of the answer and the affidavit to the petitioner, the Attorney General, and any other respondents.

Hearing

14. Evidence on the hearing of the petition shall be given orally, but the Judge may, on application made to him before or at the hearing, for good cause shown, direct that any particular fact or facts alleged in the petition or answer may be proved by affidavit.

Costs

15. The Judge may make such order as to costs as he shall think fit and such costs shall, in the absence of other direction by the Judge, be taxed according to the scale of costs for the time being in use in the High Court.

Copy of order

16. A copy of the order in Form 6 in the Schedule, made on the hearing of a petition sealed with the seal of the Court, shall be supplied by the Registrar to any party to the proceedings on payment of the prescribed fee.

Citation

17. These Regulations may be cited as the Legitimation Rules, Revised Regulations of Anguilla L40-1.

SCHEDULE

(Section 2)

FORMS

FORM 1

(Section 5)

LEGITIMATION PETITION

IN THE HIGH COURT

In the matter of the Legitimacy Act

And

In the matter of A. B. of *(state name, address and description of the person whose legitimacy the Court is asked to declare).*

To The Honourable Mr. Justice …….

The Petition of the above-named A. B. sheweth as follows—

1. Your Petitioner is of the …… sex and was born on the …… day of ……..……, 19/20 …….. at …… in ……..…… .

The birth of your Petitioner is recorded by an entry numbered ……..…….. and made on the …… day of ……, 19/20..…..…., in the Register of Births for Anguilla.

2. Your Petitioner is the natural child of C. D. ……..…… of …… in …… by E. F. ……... of …… in ……..……..……. .

3. Neither the said C. D. nor E. F. was married at the date of the birth of your Petitioner, the said C. D. was then a spinster (*or* widow) residing at ……, and the said E. F. was then a bachelor (*or* widower) residing at ……, and domiciled in …… and his occupation was then ……..…… .

4. The said C. D. and E. F. were lawfully married to one another on the …… day of ……..……, 19/20..…..., at ……..……..…… . The said C. D. and E. F. have had issue, …… children and no more, namely *(state names and dates of birth of such issue).*

5. At the date of the marriage, the said C. D. was a spinster (*or* widow) and the said E. F. was a bachelor (*or* widower) residing at …… and domiciled in ……. and his occupation was …… .

6. The following persons are affected by the legitimation as aforesaid of your Petitioner: *(state names and addresses and descriptions and relationship).*

7. The value of the property involved by the legitimation of your Petitioner, so far as is known to your Petitioner, is $…… .

8. Your Petitioner is not acting in collusion with or with the connivance of any person for the purpose of obtaining a decree and declaration of legitimacy contrary to the justice of the case.

9. No previous proceedings under the Legitimacy Act, or otherwise with reference to the paternity of your Petitioner or the validity of the marriage of the said C. D. and E. F., have been taken in any Court *(or as may be).*

10. Your Petitioner undertakes to pay the costs of the Respondents to this petition if the Court so directs.

Your Petitioner therefore prays—

That it may be decreed and declared that the said C. D. and E. F. were lawfully married at ..…… on the ……. day of ……, 19/20……..., and that by such marriage your Petitioner became legitimated as from the date of the said marriage (*or* as from the date of the commencement of the Legitimacy Act) for the purposes of the Legitimacy Act.

That the costs of the Respondents to this Petition may be taxed or otherwise ascertained.

Dated the …….. day of ……, 20…… .

Note. It is intended to serve this Petition on the Attorney General and on ……..……..… .

———————

FORM 2

(Section 9)

AFFIDAVIT IN SUPPORT OF PETITION

(Heading as in Form 1.)

I, ……..……. of ……..……. the Petitioner in the above matter, make oath and say as follows—

1. That the statements contained in paragraphs ……..……. of my Petition dated the …….. day of ……., 20……., are true.

2. That the statements contained in paragraphs …..…… of my said Petition are true to the best of my knowledge, information and belief.

Sworn, etc.

———————

FORM 3

(Section 12(1))

(To be endorsed on the Petition)

NOTICE

Take notice that the within Petition will be heard at the High Court at ……...……..…… on the …… day of ……, 20……., at ……. o'clock in the …… noon and in default of your then appearing either in person or by your Counsel or Solicitor the Court will proceed to hear the said Petition and pronounce judgment notwithstanding your absence.

If you desire to file any affidavits in answer to the Petition you must file them in the above Court within fourteen days after service on you of the within Petition.

(Signed) ……

Registrar

———————

FORM 4

(Section 12(2))

NOTICE TO ATTORNEY GENERAL

(Heading as in Form 1.)

Take Notice that the Petition in the above matter will be heard at the High Court at …… on the …… day of ……, 20…….., at …… o'clock in the …… noon.

Registrar

———————

FORM 5

(Section 13(1))

ANSWER TO LEGITIMATION PETITION

(Heading as in Form 1.)

The respondent L. M. by P. Q., his Solicitor (or in person), in answer to the Petition filed in the above matter, says—

1. That *e.g.* (the Petitioner is not the natural child of E. F. as alleged in the Petition);

2. That *e.g.* (at the time of the birth of the Petitioner, the Petitioner's mother C. D. was married to a third party namely …… *(or as may be).*

Wherefore this Respondent humbly prays that the prayer of the Petitioner may be rejected.

Dated the …….. day of ……, 20…… .

———————

FORM 6

(Section 16)

LEGITIMATION DECREE

(Heading as in Form 1.)

Upon reading the Petition of A. B., of …….. presented to this Court in the above matter and upon reading the Affidavits of …….. and the several exhibits thereto. And upon hearing …… .

And the Court being satisfied that the allegations contained in the said Petition are true and that all proper persons have been served with the said Petition.

It is decreed and declared that C. D., of ……..……. and E. F. of ……..……..……., in the said Petition mentioned were lawfully married at ……..…….. on the ……. day of ……..……, 19/20……., and that by such marriage the said A. B. was legitimated for the purposes of the Legitimacy Act, as from the …… day of ……, 19/20……., (being the date of the said marriage (*or* as from 4th July, 1929, (being the date of the commencement of the said Act)).

And it is ordered that the costs of the Respondents to the said petition be taxed by the Registrar of this Court according to the scale of costs in use in the High Court and that the said A. B. do pay to the said Registrar for the use of the said Respondents such costs within 14 days from the date of the Certificate of such taxation *(or as may be).*

———————