

LAWS OF DOMINICA

LEGITIMATION ACT

CHAPTER 37:02

Act
L.I. 9 of 1929
Amended by
9 of 1939
12 of 1990

Current Authorised Pages

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**Note
on
Omission**

The High Court (Legitimation) Rules formerly entitled Supreme Court (Legitimation) Rules (contained in Vol. v at page 144 (1961 Ed.)) have been omitted.

CHAPTER 37:02**LEGITIMATION ACT****ARRANGEMENT OF SECTIONS****SECTION**

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CHAPTER 37:02

LEGITIMATION ACT

1961 Ed.
Cap. 196.

AN ACT relating to children born out of wedlock.

L. I. 9 of 1929.

[19th April 1929]

Commencement.

Short title.

1. This Act may be cited as the –

LEGITIMATION ACT.

Interpretation.

2. In this Act –

“date of legitimation” means the date of the marriage leading to the legitimation, or where the marriage occurred before;

“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.

Legitimation by
subsequent
marriage of
parents.
[12 of 1990].

3. (1) Subject to this section, where the parents of an illegitimate person marry or have married one another, whether before or after the commencement of this Act, the marriage shall, if the father or mother of the illegitimate person was or is at the date of the marriage domiciled in the State, render that person, if living, legitimate from the commencement of this Act 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 is hereinafter in this Act expressly provided.

Schedule.

(4) The provisions contained in the Schedule to this Act shall have effect with respect to the registration of the births 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 Dominica or elsewhere, and whether a natural born citizen of Dominica or not, apply by petition to the High Court for a decree declaring that the petitioner is the legitimated child of his parents, and the High Court shall hear and determine such application and make such decree as to the High Court seems just, and such decree shall be binding to all intents and purposes on the State and on all persons whomsoever; but the decree shall not in any case prejudice any person, unless that person has been cited or made a party to the proceedings, or that person is the heir-at-law or next of kin or the 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.

Declarations of
legitimacy of
legitimated
persons.

(2) Every petition under this section shall be accompanied by an affidavit verifying the same, 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 or not that person opposes the declaration applied for, in case the High Court considers it reasonable that such costs should be paid.

(4) A copy of every petition under this section, and of the affidavit accompanying the same, shall, one month at least previously to the presentation or filing of the petition, be delivered to the Attorney General, who shall be a respondent upon the hearing of the 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 thinks fit shall, subject to the Rules made under this section, be cited to see proceedings or be otherwise summoned in such manner as the High Court directs and may be permitted to become parties to the proceedings and oppose the application.

(6) No proceeding brought 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 this section. Such Rules shall

not have any force or effect until they have been approved by the President 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 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;
- (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 one 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 became 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) When 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 the dignity or title of honour, but the same 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 contained therein.

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.

Succession on intestacy of legitimated persons and their issue.

7. Where an illegitimate person dies after the commencement of this Act and before the marriage of his parents leaving any spouse, children or remoter issue living at the date of the 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 (including those relating to the payment of probate duty) shall apply as if the illegitimate person had been a legitimated person and the date of the marriage of his parents had been the date of legitimation.

Application to illegitimate person dying before marriage of parents.

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 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.

Personal rights and obligations of legitimated persons.

9. Where a legitimated person or any relative of a legitimated person takes any interest in any personal property as defined in the Stamp Act, any probate stamp duty in respect of such property which becomes payable after the date of the legitimation shall be payable at the same rate as if the legitimated person had been born legitimate.

Probate stamp duty.

Ch. 68:01.

10. (1) Where the parents of an illegitimate person marry or have married one another, whether before or after the commencement of this Act, and the father of the illegitimate person was or is, at the time of the marriage, domiciled in a country other than the State by the law of which the illegitimate person became legitimate by virtue of such subsequent marriage, that person, if living, shall in the State be recognised as having been so legitimated from the commencement of this Act 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.

Provisions as to persons legitimated by extraneous 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, or remoter issue of a legitimated person (including those relating to the payment of probate duty) shall apply in the case of a person recognised as having been legitimated under this section, or who would, had he survived the marriage of his parents, have been so recognised; and, accordingly, this Act shall have effect as if references therein to a legitimated person included a person so recognised as having been legitimated.

(3) For the purposes of this section, the expression “country” includes any part of the Commonwealth as well as a foreign country.

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

11. (1) Where, after the commencement of this Act, the mother of an illegitimate child, which child is not a legitimated person, dies intestate as respects all or any of her real or personal property, and does not leave any legitimate issue surviving her, 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.

(2) Where, after the commencement of this Act, an illegitimate child who is not 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.

(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.

Savings.

12. (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 the commencement of this Act, or affect any rights under the intestacy of a person dying before the commencement of this Act.

SCHEDULE

Section 3.

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 any Act, and such re-registration shall be effected in such manner and at such place as the Registrar General may by Regulations prescribe; but the 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 the commencement of this Act, within six months of such commencement;
- (b) if the marriage takes place after the commencement of this Act, within three 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 seven 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 specified above; but in any other case there shall be charged in respect of such re-registration such fees, not exceeding in the aggregate of twenty-five dollars, as may be prescribed by the Registrar General, by Regulations under this Schedule.

6. Any person who fails to comply with the requirements of paragraph 2 or 3 of this Schedule is guilty of an offence and liable on summary conviction to a fine of two hundred and fifty dollars.

SUBSIDIARY LEGISLATION

**LEGITIMATION (RE-REGISTRATION OF BIRTHS)
REGULATIONS**

ARRANGEMENT OF REGULATIONS

REGULATION

1. Short title.
2. Interpretation.
3. Attendance before registrar.
4. Form of registration.
5. Removal.
6. Entries in cases of removal.
7. Re-registration.
8. Disposal of authorities.
9. Endorsement of previous entry.
10. Application for certified copies of re-registration.
11. Fees.

SUBSIDIARY LEGISLATION

L.I. S. R. O.
32/1932.

**LEGITIMATION (RE-REGISTRATION OF BIRTHS)
REGULATIONS**

made under paragraph 1 of the Schedule to the Act

Commencement.

[28th September 1932]

Short title.

1. These Regulations may be cited as the –
**LEGITIMATION (RE-REGISTRATION OF BIRTHS)
REGULATIONS.**

Interpretation.

2. In these Regulations –

“informant” means a parent of a legitimated child whose duty it is to give information with a view to the re-registration of the birth of such child;

“registrar” means the registrar of the district in which the birth took place;

“Registrar General” means the Registrar General of the State;

“written authority” means the document containing the written authority from the Registrar General to the registrar authorising the latter to make the entry of re-registration.

Attendance
before registrar.

3. When re-registration is authorised by the Registrar General, the informant or, if there are two informants, such one of them as the Registrar General may direct shall, subject as hereinafter provided, attend personally at the office of the births and deaths of the district in which the birth took place, within such time as the Registrar General may specify, and sign the register in the presence of the registrar.

Form of
registration.

4. The registrar, on receiving written authority shall, in the presence of the informant –
 - (a) enter in the register the particulars stated to be entered in the written authority;
 - (b) enter the date on which the entry is made, followed by the words “On the authority of the Registrar General”, and sign the register and append his official description.

5. (1) With the consent of the Registrar General, and, instead of attending personally at the office of the registrar to sign the entry, an informant who before the re-registration has removed from the State –

Removal.
[12 of 1990].

- (a) to some other country within the Organisation of Eastern Caribbean States, may make and sign a declaration of the particulars to be entered in the register on the information of the informant; and in such case the registrar of the district in which the informant resides, on receipt of written authority to do so, shall attest a declaration of the informant in the terms and of the particulars stated in the authority, and return the same to the Registrar General who issued the written authority;
- (b) to some place outside the Organisation of Eastern Caribbean States, may make and sign a declaration of the particulars to be entered in the prescribed form on the information of the informant.

(2) In the case of an informant residing in –

- (a) any other Commonwealth territory, the declaration shall be made before a Judge, court, notary public, or person lawfully authorised to administer oaths in such country or place; and
- (b) any foreign country the declaration shall be made before a Dominica consular officer.

(3) The declaration shall contain the following information, but the Registrar General may require the informant to provide any additional information warranted by the circumstances of any particular case:

- (a) the name, trade or profession and present address of the informant;
- (b) a full recital of all the circumstances of the case (including the informant's reasons for not having applied for re-registration within the prescribed time, in the case of late applications);
- (c) name, baptismal name (if different), sex, time and place of birth; name, rank, profession or occupation and domicile of father; and name of mother.

(4) Upon receipt of the declaration, duly attested, the Registrar General may send it together with his written authority for re-registration to the registrar, and authorise him to enter in the relevant columns, the words "legitimate" and "married" respectively.

Entries in cases of removal.

6. The registrar on receipt of written authority for re-registration, together with a declaration made and signed in pursuance of regulation 5, shall enter the birth in the register in the manner prescribed for ordinary entries notwithstanding that no informant is present, and in the relevant column he shall write the name of the informant as signed in the declaration, followed by the description and address of the informant as stated in the written authority, and append the words "as per declaration dated" and the date on which the declaration was made and signed.

Re-registration.

7. (1) Where re-registration is authorised and no informant is living, then, if the legitimated person is an infant, his guardian may attend personally at the office of the registrar and sign the register in the place allocated for signature of informant; and if the legitimated person is not an infant, the registrar shall, if so desired by a written authority, enter in the aforementioned column "On the authority of the Registrar General" and omit such words from the column for the registrar's signature.

(2) An entry or a certified copy of an entry of a re-registered birth under the Act shall not be evidence of such birth unless the entry purports to be made on the authority of the Registrar General.

Disposal of authorities.

8. The registrar, on making the entry in the register, shall forthwith make and deliver to the Registrar General a certified copy of the entry, and shall on delivery of the certified copies of the entries of births registered by him during the preceding period prescribed for such returns, deliver to the the Registrar General all written authorities received from the Registrar General with reference to any re-registered entries contained in the certified copy.

Endorsement of previous entry.

9. (1) The Registrar General or registrar (when so directed by the Registrar General), having the custody of the register in which the birth was previously entered, shall cause the previous entry of the birth to be marked in the margin with the words "Re-registered under the Legitimation Act, Ch. 37:02" and add the date of the re-registration; and when the register is in the custody of the registrar he shall forthwith make a

certified copy of the previous entry, including a copy of the marginal note, and deliver such copy to the Registrar General.

(2) The marginal note shall be deemed to be part of the entry, and a certified copy of the entry whether given under the seal of the Registrar General or otherwise shall include the marginal note.

10. Where application is made for a certified copy of the birth of a person whose birth has been re-registered, the registrar shall supply a certified copy of the entry of re-registration; and no certified copy of the previous entry shall be given except under the directions of the Registrar General.

Application for certified copies of re-registration.

11. Where the information for the purpose of re-registration is not furnished to the Registrar General within the time specified in paragraph 2 of the Schedule to the Act, a fee of twenty-five dollars shall be paid to the Registrar General and stamps to that value affixed to the written authority and cancelled by him in the manner prescribed.

Fees.

