



Legitimacy Act 1926

1926 CHAPTER 60

An Act to amend the law relating to children born out of wedlock. [15th December 1926.]

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 Legitimation by subsequent marriage of parents

- (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 the commencement of this Act, the marriage shall, if the father of the illegitimate person was or is at the date of the marriage domiciled in England or Wales, 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.
- (4) The provisions contained in the Schedule to this Act shall have effect with respect to the re-registration of the births of legitimated persons.

2 Declarations of legitimacy of legitimated persons

- (1) A person claiming that he or his parent or any remoter ancestor became or has become a legitimated person may, whether domiciled in England or elsewhere and whether a natural-born British subject or not, present a petition under the Legitimacy Declaration Act, 1858, and that Act, subject to such necessary modifications as may be prescribed by rules of court, shall apply accordingly.

- (2) A petition under the said Act may be presented by any such person as aforesaid to the county court instead of to the High Court, and the county court on such a petition being presented shall have all such jurisdiction as by the said Act is conferred upon the High Court:

Provided that, where a petition is presented to the county court, the county court, if it considers that the case is one which owing to the value of the property involved or otherwise ought to be dealt with by the High Court, may, and if so ordered by the High Court shall, transfer the matter to the High Court, and on such transfer the proceeding shall be continued in the High Court as if it had been originally commenced therein.

3 Rights of legitimated persons, & c, to take interests in property

- (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;
 - (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 on 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) 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 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 therein contained.

4 Succession on intestacy of legitimated persons and their issue

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.

5 Application to illegitimate person dying before marriage of parents

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 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 (including those relating to the rate of death duties) 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.

6 Personal rights and obligations of legitimated persons

- (1) 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.
- (2) Where the marriage leading to the legitimation of a child took place before the fourth day of January, nineteen hundred and twenty-six, and the father of the child died before that date, the child shall, for the purpose of determining rights to pension or additional allowance under the Widows', Orphans' and Old Age Contributory Pensions Act, 1925, be deemed to have been a child of the marriage living at that date:

Provided that nothing in this subsection shall confer any right to claim any payment in respect of any period prior to the date of legitimation.

7 Death duties

Where a legitimated person or any relative of a legitimated person takes any interest in real or personal property, any succession, legacy or other duty which becomes leviable after the date of legitimation shall be payable at the same rate as if the legitimated person had been born legitimate.

8 Provisions as to persons legitimated by extraneous law

- (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 England or Wales, by the law of which the illegitimate person became legitimated by virtue of such subsequent marriage, that person, if living, shall in England and Wales 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.
- (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 (including those relating to the rate of death duties) 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 Scotland and any other part of His Majesty's Dominions, as well as a foreign country.

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

- (1) Where, after the commencement of this Act, 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.
- (2) Where, after the commencement of this Act, 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.
- (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.
- (4) Subsections (1) and (2) of this section shall apply to Scotland with the substitution of " heritable " for "real" and "moveable" for "personal", and the expression ".intestate" therein occurring shall have the same meaning as in the Intestate Moveable Succession (Scotland) Act, 1855, provided always that nothing in this section shall affect the right of any person to succeed under any entail.

10 Savings

- (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.

11 Interpretation

For the purposes of this Act, unless the context otherwise requires:—

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

The expression " date of legitimation " means the date of the marriage leading to the legitimation, or where the marriage occurred before the commencement of this Act, the commencement of this Act;

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

The expression " intestate " has the same meaning as in the Administration of Estates Act, 1925, and " will " includes " codicil " ;

The expression " entailed interest " has the same meaning as in the Law of Property Act, 1925.

12 Short title and commencement

- (1) This Act may be cited as the Legitimacy Act, 1926.
- (2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-seven.
- (3) The provisions of this Act shall, save as therein otherwise expressly provided, extend only to England and Wales.

SCHEDULE

Section 1.

REGISTRATION OF BERTHS 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 Births and Deaths Registration Acts, 1836 to 1901, and such re-registration shall be effected in such manner and at such place as the Registrar-General may by regulations prescribe :
- Provided that 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 section seven of the Births and Deaths Registration Act, 1874 ; or
 - (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 under the Legitimacy Declaration Act, 1858, as amended by 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 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 a registrar's 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 above specified; but in any other case there shall be charged in respect of such re-registration such fees, not exceeding in the aggregate ten shillings, as may be prescribed by regulations under this schedule.
- 6 This schedule shall be construed as one with the Births and Deaths Registration Acts, 1836 to 1901.