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CHAPTER 220

STATUS OF CHILDREN REFORM

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SCHEDULE

CHAPTER 220**STATUS OF CHILDREN REFORM****1979-32***An Act to reform the law relating to children by providing for their equal status.***Commencement****S.I. 1979 No. 185**

[1st January, 1980.]

PART I*Citation and Interpretation***Short title**

1. This Act may be cited as the *Status of Children Reform Act*.

Definitions.

2. In this Act,

"court" means the High Court;

"parent" in relation to a father or mother, as the circumstances require, includes an adoptive father or mother;

"Registrar" means the Registrar of the Supreme Court.

PART II*Equal Status of Children***Abolition of common law status on illegitimacy**

3. For the purposes of the laws of Barbados, the distinction of at common law between the status of children born within or outside marriage is abolished, and all children shall, after 1st January, 1980, be of equal status; and a person is the child of his or her natural parents and his or her status as their child is independent of whether the child is born within or outside of marriage.

Kindred relationships

4. The parent and child relationship as determined in accordance with section 3 shall for all purposes be followed in the determination of other kindred relationships flowing therefrom.

Rule of construction

Unless a contrary intention appears, any reference in an enactment or instrument to a person or class of persons described in terms of relationships by blood or marriage to another person shall be construed to refer to or include a person who comes within the description by reason of the relationship of parent and child as determined in accordance with sections 3 and 4.

Application

6. This Act applies to all children, whether born before or after 1st January, 1980, and to all dispositions and instruments made after that date.

PART III*Establishment of Paternity***Presumptions of paternity**

(7) (1) Unless the contrary is, proven on the balance of probabilities, there is a presumption that a male person is, and paternity shall be recognised in law to be the father of a child in any one of the following circumstances

- (a) the person was married to the mother of the child at the time of its birth;
- (b) the person was married to the mother of the child 'and that marriage was terminated' by death or judgment of nullity within 280 days 'before the birth of the child, or by divorce where the decree *nisi* was granted within 280 days before the birth of the child;
- (c) the person marries the mother of the child after the birth of the child and acknowledges that he is the natural father;
- (d) the person was cohabiting with the mother of the child in a relationship of some permanence at the time of the birth of the child, or the child is born within 280 days after they ceased to cohabit;
- (e) the person has been adjudged or recognised in his lifetime by a court of competent jurisdiction to be the father of the child;
- (f) the person has, by affidavit sworn before a Justice of the Peace or a notary public or by other document duly attested and sealed, together with a declaration by the mother of the child contained in the same instrument confirming that that person is the father of the child, admitted paternity, but such affidavit or other document shall be of no effect unless it has been recorded in the Registration Office.
- (g) the person has acknowledged in proceedings for registration of the child, in accordance with the law relating to the registration of births that he is the father of the child;

- (h) the mother of the child and a person acknowledging that he is the father of the child have signed and executed a deed to this effect in the, presence of an attorney-at-law) but such a deed shall be of no effect unless it is notarised and recorded in the Registration Office prior to the death of the person acknowledging himself to be the father;
- (i) a person who is alleged to be the father of the child has given written consent to that child adopting his name in accordance with the law relating to the change of name; or
- (j) a person who is alleged to be the father of the child has by his conduct implicitly and consistently acknowledged that he is the father of the child.

(2) Where circumstances exist that give rise to presumptions of paternity in respect of more than one father, no presumption shall be made as to paternity, and no person is recognised in law to be the father.

Determinations of paternity in void marriages

8. For the purposes of section 7, where a man and a woman in good faith, go through a form of marriage that is void, they shall be deemed to be married for the period during which they cohabit, and the presumption referred to in paragraph (b) of section 7(1) applies accordingly.

Application for declaration of paternity

9. (1) Any person having an interest in a child may apply to the court for a declaration that a male or female person is recognised in law to be the father or mother, as the case may be, of that child.

(2) Where the court finds that a presumption of paternity exists under section 7, and unless it is established, on the balance of probabilities, that the presumed father is not the father of the child, the court shall make a declaratory order confirming that the paternity is recognised in law.

(3) Where the court finds on the balance of probabilities that the relationship of mother and child is established, the court may make a declaratory order to that effect.

(4) Subject to sections 13 and 14, an order made in accordance with this section shall be recognised for all purposes.

Application for declaration of paternity

10. (1) Where there is no person recognised under section 7 to the court for a paternity declaration that a male person is his father, or any male person may apply to the court for a declaration that a person is his child.

(2) An application may not be made under subsection (1) unless both persons, with respect of whom the relationship is sought to be established, are living.

(3) Where the court finds, on the balance of probabilities, that the relationship of father and child has been established, the court may make a declaratory order to that effect, and, subject to sections 13 and 14, that order shall be recognised for all purposes.

Filing of declaration of paternity. Schedule

11. Any person may file with the Registrar a declaration, in declaration in the form set out in the Schedule, affirming that he is the father of a child.

Admissibility in evidence of acknowledgement against interest

12. A written acknowledgement of parentage that is admitted in evidence in any civil proceeding against the interest of a person making the acknowledgement is *prima facie* proof of that fact.

Effect of new evidence

13. Where a declaration has been made under section 9 or 10 and evidence becomes available that was not available at the previous hearing, the court may, upon application for the variation or discharge of such declaration, vary or discharge that declaration or give such directions as are ancillary thereto.

Appeals

14. An appeal lies from a declaration under section 9 or 10 or a decision under section 13 in accordance with the rules of the court.

Blood tests

15. (1) Where an application is made, to the court to determine the parentage of a child, the court may give directions to the applicant to obtain blood tests of such persons as the court specifies and to submit the results in evidence.

(2) Any directions given under subsection (1) may be given subject to such terms and conditions as the court determines.

(3) Where directions are given under subsection (1) and a person named therein refuses to submit to the blood test, the court may draw such inferences as it thinks appropriate.

(4) A person specified in directions granting leave to obtain blood tests under subsection (1) shall be deemed to have consented

- (a) where the person is a minor, but
 - (i) understands the nature and purpose of the blood tests and consents thereto, or
 - (ii) the person having his charge consents, and
- (b) where the person is without capacity for any reason other than minority, if the person having his charge consents and a medical practitioner certifies that the giving of-a blood sample would not be prejudicial to his proper care and treatment.

PART IV

Miscellaneous

Rules.

16. The Judicial Advisory Council may make rules

- (a) respecting blood tests for which directions are given under section 15, including, without limiting the generality of the foregoing
 - (i) the method of taking blood samples and the handling, transportation and storage thereof,
 - (ii) the conditions under which a blood sample may be tested,
 - (iii) designating the persons who are authorised to conduct blood tests and the facilities that may be used in connection therewith,
 - (iv) the procedure in respect of the admission of reports of blood tests in evidence,
 - (v) the prescribed forms to be used for the purposes of section 15; and
- (b) generally to give effect to this Act.

PART V

*Transitory Provisions***Transitory provisions regarding dispositions**

(17) (1) All dispositions made before 1st January, 1980 shall be governed by the enactments and rules of law which would have applied to them if this Act had not been passed.

(2) Where any disposition to which subsection (1) applies creates a special power of appointment, nothing in this Act shall extend the class of persons in whose favour the appointment may be made, or cause the exercise of the power to be construed so as to include any person who is not a member of that class.

(3) The estates of all persons who have died intestate as to the whole or any part thereof before 1st January, 1980 shall be distributed in accordance with any enactments and rules of law which would have applied to them as if this Act had not been passed.

Cap. 249.

(4) In this section "disposition" means a disposition of real or personal property whether *inter vivos* or by will executed before 1st January, 1980 notwithstanding section 73 of the *Succession Act*.

Amendment of prior registration

18. Nothing in this Act shall be construed to require the Registrar to amend any prior registration showing parentage other than in recognition of an order made under section 9, 10 or 13.

SCHEDULE

(Section 11)

FORM A

Declaration of Paternity

I of
 hereby declare that I am the father of
 who was born to of
 on

Dated this day of, 19.....

(Signed)