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LAWS OF SAINT VINCENT AND THE GRENADINES

REVISED EDITION

LEGITIMATION ACT

CHAPTER 233

Act No. 5 of 1930

Amended by

The Court Order, 1967 Act No. 3 of 1969 Act No. 30 of 1971 Act No.
3 of 1978 Act No. 18 of 1980

SRO 38 of 1980 Act No. 12 of 1984 Act No. 20 of 1987 Act No.
21 of 1988 Act No. 39 of 1989

CHAPTER 233

LEGITIMATION ACT

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CHAPTER 233

LEGITIMATION ACT

An Act to amend the law relating to children born out of wedlock.

[Act No. 5 of 1930 amended by The Court Order, 1967, Act No. 3 of 1969, Act No. 30 of 1971, Act No. 3 of 1978, Act No. 18 of 1980, SRO 38 of 1980, Act No. 12 of 1984, Act No. 20 of 1987, Act No. 21 of 1988, Act No. 39 of 1989.]

[Date of commencement: *1st March, 1931.1* [*Gazette 24th February, 1931.1*]]

1. Short title

(1) This Act may be cited as the Legitimation Act.

(2) The provisions of this Act shall, save as herein otherwise expressly provided, extend only to Saint Vincent and the Grenadines.

2. Interpretation In this Act—

"date of legitimation" means the date of the marriage leading to the legitimation or, where the marriage occurred before the 1st March, 1931, the 1st March, 1931;

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

"intestate" includes a person who leaves a will but dies intestate as to some beneficial interest in his real or personal estate;

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

3. Legitimation by subsequent marriage of parents

(1) Subject to the provisions of this section, where the parents of a person born out of wedlock marry, or have married one another, before or after the 1st March, 1931, the marriage shall, if the father of the person born out of wedlock was, or is at the date of the marriage, domiciled in Saint Vincent and the Grenadines, render that person, if living, legitimate from the 1st March, 1931, 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 person was born if such person was born before 21st December, 1971.

(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 shall have effect with respect to the re-registration of the births of legitimated persons.

4. Declaration of legitimacy

(1) A person claiming that he or his parent or any remoter ancestor became, or has become, a legitimated person may, whether domiciled in Saint Vincent and the Grenadines or elsewhere and whether a natural born Commonwealth citizen or not, apply by petition to the High Court praying the Court for a decree declaring that the petitioner is a legitimate child of his parents; and the High Court shall have jurisdiction to hear and determine such application and to make such decree declaratory of the legitimacy or illegitimacy of such person as to the Court may seem just; and such decree shall be binding to all intents and purposes on Her Majesty and on all persons whosoever.

(2) Every petition under this section shall be accompanied by such affidavit verifying the same, and of the absence of collusion, as the Court may by rule direct.

(3) In all proceedings under this section the 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 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 the same, shall, one month at least previously to the presentation or filing of such petition, be delivered to the Attorney-General, who shall be 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 Court, such person or persons (if any) besides the Attorney-General as the 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 Court shall direct, and may be permitted to become parties of the proceedings, and oppose the application.

(6) The decree of the Court 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 or derives title under or through a person so cited or made a party; nor shall such sentence or decree of the Court prejudice any person if subsequently proved to have been obtained by fraud or collusion.

(7) 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.

(8) The Chief Justice may make rules for carrying the provisions of this section into effect. Rules made under this section shall not have any force or effect until they have been approved by the Governor-General and the House of Assembly, and when so approved shall have the same force and effect as if they formed part of this Act.

5. Rights of legitimated persons, etc., to take interest 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 come into operation, 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 come into operation. 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

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.

6. Application to person born out of wedlock dying before marriage of parents

Where a person born out of wedlock dies after the 1st March, 1931, 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 estate duty) shall apply as if such person had been a legitimated person and the date of the marriage of his parents had been the date of legitimation.

7. Personal rights and obligations of legitimated persons

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.

8. Estate duty

Where a legitimated person, or any relative of a legitimated person, takes any interest in real or personal property, any estate, 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.

9. Persons legitimated by extraneous law

(1) Where the parents of a person born out of wedlock marry, or have married, one another, whether before or after the 1st March, 1931, and the father of the person born out of wedlock was, or is, at the time of the marriage, domiciled in a country other than Saint Vincent and the Grenadines, by the law of which the person born out of wedlock became legitimated by virtue of such subsequent marriage, that person, if living, shall in Saint Vincent and the Grenadines be recognised as having been legitimated from the 1st March, 1931, 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 estate 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 Commonwealth country as well as a foreign country.

11. Saving

(1) Nothing in this Act shall affect the succession to any dignity or title of honour nor 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 1st March, 1931, or affect any rights under the intestacy of a person dying before the 1st March, 1931.

SCHEDULE

[Section 3.1

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 Registration of Births and Deaths Act, and such re-registration shall be effected in such manner and at such place as the Registrar-General may by regulations prescribe:

[Chapter 242.]

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 27 of the Registration of Births and Deaths Act;
- (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 1st March, 1931, within six months of that date;
- (b) if the marriage takes place after the 1st March, 1931, 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 his office or at any other place appointed by him, within such time, not 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 two dollars and forty cents, as may be prescribed by regulations under this Schedule.
6. Any person who fails to comply with the requirements of paragraphs 2 and 3 is guilty of an offence and liable to a fine of two hundred and fifty dollars.
7. This Schedule shall be construed as one with the Registration of Births and Deaths Act.

CHAPTER 233
LEGITIMATION ACT
SUBSIDIARY LEGISLATION
No Subsidiary Legislation