

Country Code:	GD 1991 ACT 39
Title:	STATUS OF CHILDREN ACT
Country:	GRENADA
Date of entry into force:	1st January, 1992 (By 42/1991)
Date of Amendment:	29/1993
Subject:	Children – Law – Grenada
Key words:	Child born in wedlock; parent; paternity
Notes	Status of Children (Amendment) Act, 1993 attached.

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GRENADA

ACT NO. 39 OF 1991

I assent,

17th December, 1991.

PAUL SCOON
Governor-General.

An Act to remove the legal disabilities of children born out of wedlock and to give them equal status with children born in wedlock.

[20th December,
1991].

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Grenada, and by the authority of the same as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the

STATUS OF CHILDREN ACT, 1991.**Interpretation**

2. In this Act,
"Court" means the High Court;

"child born in wedlock" means a child whose parents were married to each other when the child was conceived or born or between these times, and "child born out of wedlock" or "child not born in wedlock" means any other child;

"marriage" includes a void or voidable marriage, and "married" has a corresponding meaning;

"Minister" means the Minister to whom has been assigned responsibility for Legal Affairs;

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

Cap. 253

"Registrar General" means the person for the time being holding office as Registrar General under the Registration of Births and Deaths Act and includes any person for the time being discharging the duties of that office;

"Registration Office" means the General Register Office of the Registrar General.

PART II

EQUAL STATUS OF CHILDREN

All children of equal status whether born in or out of wedlock

3.-(1) For all the purposes of the laws of Grenada the distinction known to the law prior to the commencement this Act between the status of children born in wedlock and the status of children born out of wedlock is hereby abolished; and the status, rights, privileges and obligations of a child born out of wedlock shall henceforth be identical in all respects with those of a child born in wedlock; so that all children shall, after the commencement of this Act, be of equal status.

(2) A person is the child of his natural parents and his status as their child is independent of whether the child is born in or out of wedlock.

(3) The parent and child relationship as determined accordance with subsections (1) to (2) shall for all purposes be followed in the determination of other kindred relationships flowing therefrom.

(4) The rule of construction whereby in any Act, Ordinance, Law, Will, Deed, or other Instrument words of relationship, in the absence of a contrary expression of intention, signify relationship derived only from wedlock is abolished.

(5) For the purpose of construing any instrument, words denoting a family relationship shall, in the absence of a contrary expression of intention, cease to be presumed to refer only to relationship by marriage and for the purpose of construing any instrument, in the absence of a contrary expression of intention, reference to a child includes any child whether born in wedlock or out of wedlock.

No more reference to legitimate child and illegitimate child.

(6) References in any Act, Ordinance, Law or other instrument to the phrase "legitimate child" shall be substituted by references to the clause "child born in wedlock", and references in any Act, Ordinance, Law or other instrument to the phrase "illegitimate child" shall be substituted by references to the clause "child born out of wedlock" or the clause "child not born in wedlock".

(7) Subsections (1) to (6) shall apply with respect to every person, whether born in Grenada or not, and whether or not his father or mother has ever been domiciled in Grenada.

4. (1) This Act applies to all children whether born before or after the commencement of this Act and to all dispositions and instruments executed after such commencement:

Provided that this Act shall not affect rights which became vested either in law or equity before commencement.

PART III

ESTABLISHMENT OF PATERNITY

5.-(1) Unless the contrary is proven beyond reasonable doubt, there shall be a presumption that a male person is and shall be recognised in law to be the father of a child where the person was married to the mother of the child at the time of its birth.

(2) Unless the contrary is proven beyond reasonable doubt there is a presumption that a male person is, and 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 and that marriage was terminated by death or judgment of nullity within two hundred and eighty days before the birth of the child or by divorce where the decree *nisi* was granted within two hundred and eighty days before the birth of the child;
- (b) the person marries the mother of the child after the birth of the child and acknowledges that he is the natural father;
x
- (c) 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 two hundred and eighty days after they ceased to cohabit;
- (d) the person has been adjudged or recognised in his lifetime by a court of competent jurisdiction to be the father of the child;
 - (e) the person has by affidavit sworn before a Justice of the Peace or a Notary Public or 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;
 - (f) 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;
 - (g) 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, 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;
 - (h) 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

- (i) 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:
Provided that where an application is made to the Court under this paragraph after the death of the alleged father, the application must be proven beyond reasonable doubt.

(3) Where circumstances exist that give rise to presumptions of paternity in respect of more than one father, it shall be a matter for the court on the evidence before it to decide who is the father.

Determination of paternity in void marriages

6. For the purposes of section 5, 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 (a) of subsection (2) of section 5 shall apply.

Application for declaration of paternity where presumption of paternity exists

7.-(1) Any person having an interest in a child may apply to the court for a declaratory order 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 5, and unless it is established beyond reasonable doubt 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 beyond reasonable doubt that the relationship of father 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 where no presumption of paternity exists

8.-(1) Where there is no person recognised under section 5 to be the father of a child, any person may apply to the court for a declaratory order that a male person is his father, or any male person may apply to the court for declaratory order that a person is his child: provided that where an application is made to the Court under this subsection after the death of either the child or the alleged father, the application must be proven beyond reasonable doubt.

(2) Where the court finds, beyond reasonable doubt, 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.

First Schedule

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

Acknowledgement of parentage *prima facie* proof

10. 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.

Blood tests.

11. -(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.

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

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

(a) where a 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; or

(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 will not be prejudicial to his proper care and treatment.

Scientific or medical tests other than blood tests

12.-(1) Where an application is made to the court to determine the parentage of a child, the court may give directions that such persons as the court specifies shall undergo such scientific or medical tests other than blood tests, legally and medically relevant to determining the issue of parentage, and the court may give directions that the results thereof shall be submitted in evidence.

(2) Subsections (2), (3) and (4) of section 11, as they apply in relation to section 11, shall apply in relation to this section, 12, *mutatis mutandis*.

Effect of new evidence

13. Where a declaratory order has been made under ~~wad~~ section 7 or 8 and evidence later becomes available that was not available at the previous hearing, the court may, upon application for the variation or discharge of such order, by an amending order vary or discharge such order or give such directions as are ancillary thereto.

Appeals

14. An appeal shall lie from an order or directions under section 7, 8, 11, 12, or 13 in accordance with the rules of the court.

PART IV**MISCELLANEOUS****Rules**

The Minister may make rules-

- (a) respecting blood tests for which directions are given under section 11 regarding matters 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) the designating of 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 11;
- (b) regulating scientific or medical tests other than blood tests as provided for section 12; and
- (c) generally to give effect to this Act.

Amendment of prior registration

16.-(1) Nothing in this Act shall be construed to require the Registrar General to amend any prior registration showing parentage other than in recognition of an order made under section. 7, 8, or 13, or a declaration filed under section 9.

(2) For the purposes of re-registration of a birth under the preceding subsection, the person who has applied to the court under section 7, 8, or 13, or the person who has filed a declaration under section 9, shall apply in writing to the Registrar General for such re-registration and file with such application-

- (a) in the case of an applicant who has obtained an order under section 7, 8, or 13, a certified copy of such order, and
- (b) in the case of all applicants, such evidence of his identity or other evidence as the Registrar General may require.

Existing Laws

17.-(1) The existing laws shall, as from the date commencement of this Act, be construed with such adaptations as may be necessary to bring them into conformity with this Act.

(2) For the purposes of this section, the expression "existing law" means any Act, Ordinance, Law, Rule, Regulation, Order or other instrument which had effect as

part of the Law of Grenada immediately before the commencement of this Act.

Amendment and repeals.

Second Schedule.

18. The enactments mentioned in the first column of the Second Schedule are amended in the respects specified in the second column thereto.

Commencement

19. This Act shall come into operation on such date as the Governor-General may, by notice published in the *Gazette*, appoint.

FIRST SCHEDULE

Section 9

Declaration of Paternity

I of

hereby declare that I am the father of

who was born to

Dated this day of

..... 19....

(Signed)

SECOND SCHEDULE

(Section 18)

Enactments

Amendments

Adoption Act
Cap. 5

In section 2-
(a) delete, the definition "father" and
substitute therefor the following-

"father" means the natural father";

- (b) delete the definition "relative" and substitute therefor the following-

"relative", in relation to the infant, includes a grandparent, grandchild, brother, sister, uncle or aunt, whether of the full blood, of the half-blood, or by affinity, and includes where no adoption order has been made respect of an infant or any other person

Cap. 5

under this Ordinance, any person who would be a relative of the infant within the meaning of this definition if the adopted person were the child of the adopter born in wedlock".

In section 13-

delete subsection (1) thereof and substitute thereof the following-

"(1) Where an adoption order is made, in respect of an infant, then, subject to the provisions of this section, any order for maintenance in force with respect to that infant, and any agreement whereby the father of the infant has undertaken to make payments specifically for the benefit of the infant, shall cease to have effect, but without prejudice to the recovery of any arrears which are due under the order, decree or agreement at the date of the making of the adoption order.

Enactments

Grenada Citizenship

Act 1976

Act No. 12 of 1976

Amendments

In section 2-

- (a) delete the definition "responsible parent" in subsection (1)(i) and substitute therefor the following-

"responsible parent" in relation to a child means the father; or where the father is dead, or where the custody of the child has been awarded to the mother by a court of competent jurisdiction, "responsible parent" means the mother";

- (b) delete subsection (3);
- (c) delete subsection (4).

Pensions Act.
Cap. 214.

In section 17(5)-

- (a) In clause (b) put a semi-colon immediately followed by the word "and", after the fifth word, "child", and delete all the words and symbols occurring after the said word "and", from "born" to "and";
- (b) in clause (c) replace the comma after the third word, "child", with a full-stop, and delete all the words and symbols occurring after the said word "child", from "adopted" to the colon;
- (c) delete the proviso.

Workmen's
Compensation Act.
Cap. 317.

In section 2(1) in the definition "dependants" in line 5 delete all the words and symbols after the sixth word, "dependent", and substitute therefor the following-

"whether such members of the workman's family were born in wedlock or out of wedlock."

Passed by the House of Representatives this 11th day of September, 1991.

CURTIS V. STRACHAN
Clerk to the House of Representatives.

Passed by the Senate this 5th day of November, 1991.

BASIL A. HARFORD

Clerk W the Senate.

GRENADA

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ST. GEORGE'S 1991.

GRENADA
ACT NO. 29 OF 1993

I assent,

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8th November, 1993.

An Act to amend the Status of Children Act 1991.

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Short title.

Be it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Grenada, and by the authority of the same as follows:

1. This Act may be cited as the

STATUS OF CHILDREN (AMENDMENT) ACT, 1993

39/1991

and shall be read as one with the Status of Children Act 1991 hereinafter referred to as the "principal Act".

Section 4 of principal Act amended.

2. Section 4 of the principal Act is amended by deleting the figure "(1)" appearing at the beginning of the section.

1993

Status of Children (Amendment)

Act 29

Passed by the House of Representatives this 25th day of August 1993.

BASIL A. HARFORD
*Clerk to the House of
Representatives*

Passed by the Senate this 8th day of October, 1993.

BASIL A. HARFORD
Clerk to the Senate

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