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ST CHRISTOPHER AND NEVIS

CHAPTER 12.14

STATUS OF CHILDREN ACT

and Subsidiary Legislation

Revised Edition

showing the law as at 31 December 2002

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This edition contains a consolidation of the following laws:

Status of Children Act

Act 19 of 1983 in force 8th November, 1983

Amended by Act 21 of 1998

Status of Children (Forms and Fees) Order — SRO 11 of 1984 — Section 13

CHAPTER 12.14

STATUS OF CHILDREN ACT

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CHAPTER 12.14

STATUS OF CHILDREN ACT

AN ACT to give effect to section 15 of the Constitution by removing the legal disabilities of children born out of wedlock; and to provide for related or incidental matters.

1. Short title.

This Act may be cited as the Status of Children Act.

2. All children of equal status.

(1) Subject to subsection 4 and to sections 5 and 14, for all the purposes of the law of Saint Christopher and Nevis, 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 out of wedlock.

(2) The rule of construction whereby in any instrument words of relationship signify only legitimate relationship in the absence of a contrary expression of intention is abolished.

(3) Subject to subsection (4), this section shall apply in respect of every person, whether born before or after the commencement of this Act, and whether born in Saint Christopher and Nevis or not, and whether or not his or her father or mother has ever been domiciled in Saint Christopher and Nevis.

(4) Nothing in this section shall affect or limit in any way any rule of law relating to

- (a) the domicile of any person;
- (b) the citizenship of any person;
- (c) the provisions of the Adoption of Children Act, Cap. 12.01 which determine the relationship to any other person of a person who has been adopted;
- (d) the construction of the word "heir" or of any expression which is used to create an entailed interest in real or personal property.

3. Protection of personal representatives, etc.

(1) For the purposes of the administration or distribution of the estate of a deceased person or of any other property held upon trust or for any other purposes, a personal representative or trustee shall, whenever it is material in the circumstances, make honest and reasonable inquiries as to the existence of any person who could claim an interest in the estate or other property by reason only of this Act, but shall not be obliged to pursue such inquiries further than he or she honestly and reasonably believes to be necessary.

(2) No action shall lie against such personal representative or trustee, by any person who could claim an interest in such estate or other property by reason only of this Act, to enforce any claim arising by reason of the fact that the personal representative or trustee has made any distribution of the estate or property or otherwise acted in the administration of the estate or property disregarding the claims of that person where, at the time of making the distribution

or otherwise so acting, the trustee, having made such inquiries as are required under subsection (1), had no notice of the relationship on which the claim is based.

(3) Nothing in this section shall prejudice the right of any person claiming an interest in such estate or property (which interest is alleged by the claimant to have existed at the time the trustee made the distribution or otherwise acted as aforesaid) to follow such estate or property, or any property representing it, into the hands of any person, other than a purchaser, who may have received it.

4. Presumptions as to parenthood.

(1) Subject to subsections (2) and (3), a child born to a woman during her marriage (which expression in this section includes a void marriage), or within ten months after it has been dissolved by death or otherwise, shall, in the absence of evidence to the contrary, be presumed to be the child of its mother and her husband, or former husband, as the case may be.

(2) Subsection (1) shall not apply if, during the whole of the time within which the child must have been conceived, the mother and her husband were living apart under an oral or written agreement for separation, or under a decree or order of separation, or decree nisi of divorce, made by a competent Court or authority in Saint Christopher and Nevis or elsewhere.

(3) Subsection (1) shall not apply where a child is born within ten months after the dissolution of the marriage of its mother by death or otherwise, and after she has married again, and in such case there shall be no presumption as between the husband of the mother and her former husband that either is the father of the child, and the question shall be determined on the balance of probabilities in each case.

5. Recognition of paternity required.

(1) The relationship of father and child, and any other relationship traced in any degree through that relationship shall, for any purpose related to succession to property or to the construction of a will or other testamentary disposition or of an instrument creating a trust, be recognized only if

- (a) the father and the mother of the child were married to each other at the time of its conception or at some subsequent time; or
- (b) paternity has been admitted by or established during the lifetime of the father (whether by one or more of the types of evidence specified by section 6 or otherwise):

Provided that, if such purpose is for the benefit of the father, there shall be the additional requirement that paternity has been so admitted or established during the lifetime of the child or prior to its birth.

(2) In any case where by reason of subsection (1) the relationship of father and child is not recognized for certain purposes at the time the child is born, the occurrence of any act, event or conduct which enables that relationship, and any other relationship traced in any degree through it, to be recognized shall not affect any estate, right or interest in any real or personal property to which any person has become absolutely entitled, whether beneficially or otherwise, before the act, event, or conduct occurred.

6. Evidence and proof of paternity.

(1) Where, pursuant to section 14 of the Registration of Births, Deaths and Marriages Act, Cap. 12.09 or to the corresponding provisions of any former enactment, the name of the father of the child to whom the entry relates has been entered in the register of births (whether before or after the commencement of this Act), a certified copy of the entry given in accordance with section 13 of that Act shall be *prima facie* evidence that the person named as the father is the father of the child.

(2) Any instrument signed by the mother of a child and by any person acknowledging that he is the father of the child shall, if executed as a deed or by each of those persons in the presence of a barrister and solicitor, Justice of the Peace, magistrate, registered medical practitioner, minister of the Christian religion, marriage officer, registered midwife or headmaster of a public school as defined in the Education Act, Cap. 13.01 be *prima facie* evidence that the person named as the father is the father of the child.

(3) An order made under section 124 of the Magistrate's Code of Procedure Act, Cap. 3.17 shall be *prima facie* evidence of paternity in any subsequent proceedings, whether or not between the same parties.

(4) Subject to subsection (1) of section 5, a declaration made under section 11 shall, for all purposes be conclusive proof of the matters contained in it.

(5) An order made in any country outside Saint Christopher and Nevis declaring a person to be the father of a child, being an order to which this subsection applies pursuant to subsection (6), shall be *prima facie* evidence that the person declared the father is the father of the child.

(6) The Attorney-General may, by Order, declare that subsection (5) applies with respect to orders made by any court or public authority in any specified country outside Saint Christopher and Nevis or by any specified court or public authority in any such country.

(7) A child whether born in or out of wedlock shall use the surname of his or her father on any document obtained by the child where

- (a) the name of the father is entered in the register of births in accordance with the provisions of sections 14 and 15, of the Registration of Births, Deaths and Marriages Act, Cap. 12.13; or
- (b) a court makes an order as to the paternity of the child.

[Inserted by Act 21/1998]

7. Instruments may be filed with Registrar-General.

(1) Any instrument of the kind described in sub-section (2) of section 6, or a duplicate or attested copy of any such instrument, shall in the prescribed manner and on payment of any prescribed fee be filed with the Registrar-General.

(2) The Registrar-General shall cause indices of all instruments and duplicates and copies of instruments filed with him or her under subsection (1) to be made and kept in his or her office, and shall, upon the request of any person and on receipt of any prescribed fee, cause a search of any index to be made, and shall permit such person to inspect any such instrument or any such duplicate or copy.

(3) Where the High Court makes a declaration of paternity under section 11 or where a magistrate makes an order under section 124 of the Magistrate's Code of Procedure Act, Cap. 3.17 the High Court or magistrate (as the case

may be) shall cause a copy of such declaration or order to be forwarded to the Registrar-General for filing as if it were an instrument of the kind described in subsection (2) of section 6.

8. Power of court to require blood tests.

(1) In any civil proceedings in which the paternity of any person (hereinafter referred to as "the subject") falls to be determined by the court hearing the proceedings, the court may, on an application by any party to the proceedings, give a direction for the use of blood tests (which expression in this Act means tests carried out, and includes any test made, with the object of ascertaining the inheritable characteristics of the blood) to ascertain whether such blood tests show that a party to the proceedings is or is not thereby excluded (which expression in this section means excluded subject to the occurrence of mutation) from being the father of the subject and, within a period to be specified in the direction, for blood samples to be taken for the purpose of blood tests, from the subject, the mother of the subject and any party alleged to be the father of the subject, or any two of them.

(2) A court may at any time revoke or vary a direction previously given by it under this section.

(3) The person responsible for carrying out blood tests taken for the purpose of giving effect to a direction under this section shall make to the court by which the direction was given a report stating

- (a) the results of such blood tests;
- (b) whether the person to whom the report relates is or is not excluded (as defined in subsection (1)) by the results from being the father of the subject; and
- (c) if that person is not so excluded, the value, if any, of the results in determining whether that person is the subject's father,

and the report shall be received by the court as evidence in the proceedings of the matters stated therein.

(4) The court, or any party to the proceedings with the leave of the court, may require the person responsible for carrying out the blood tests to provide a written explanation or amplification of any statement made in the report, and such explanation or amplification shall be deemed for the purposes of this section to form part of the report made to the court.

(5) A party to the proceedings shall not, unless the court otherwise directs, be entitled to call as a witness the person responsible for carrying out the blood tests taken for the purpose of giving effect to a direction given under this section, or any person by whom anything necessary for the purpose of enabling those blood tests to be carried out was done, unless within fourteen days after receiving a copy of the report he or she serves notice on the other parties to the proceedings, or on such of them as the court may direct, of his or her intention to call that person; and where any such person is called as a witness the party who called him or her shall be entitled to cross-examine him or her.

(6) The party on whose application the direction is given shall pay the cost of taking and testing blood samples for the purpose of giving effect to the direction (including any expenses reasonably incurred by any person in taking any steps required of him or her for the purpose) and of making a report to the court under this section, but the amount paid shall be treated as costs incurred by him or her in the proceedings.

(7) In this section, civil proceedings include any proceedings under Part V of the Magistrate's Code of Procedure Act, Cap. 3.17.

9. Consents e.t.c. required.

(1) Subject to subsections (3) and (4) and without prejudice to section 10, a blood sample which is required to be taken from any person for giving effect to a direction under section 8 shall not be taken from that person except with his or her consent.

(2) The consent of a minor who has attained the age of sixteen years to the taking from himself or herself of a blood sample shall be as effective as it would be if he or she were of full age; and where a minor has by virtue of this subsection given an effective consent to the taking of such a sample it shall not be necessary to obtain any consent for it from any other person.

(3) A blood sample may be taken from a person under the age of sixteen years, not being such a person as is referred to in subsection (4), if the person who has the care and control of him or her consents.

(4) A blood sample may be taken from a person who is suffering from mental disorder and is incapable of understanding the nature and purpose of a blood test if the person who has the care and control of him or her consents and the medical practitioner in whose care he or she has certified that the taking of such a sample from him or her will not be prejudicial to his or her proper care and treatment.

10. Failure to comply with directions.

(1) Where a court gives a direction under section 8 and any person fails to take any step required of him or her for the purpose of giving effect to the direction, the court may draw such inference, if any, from that fact as appears proper in the circumstances.

(2) Where in any proceedings in which the paternity of any person falls to be determined by the court hearing the proceedings the presumption of law set out in section 4 arises, then if

- (a) a direction is given under section 8 in those proceedings; and
- (b) any party who is claiming any relief in the proceedings and who for the purpose of obtaining that relief is entitled to rely on the presumption fails to take any step required of him or her for the purpose of giving effect to the direction;

the court may adjourn the hearing for such period as it thinks fit to enable that party to take that step, and if at the end of that period he or she has failed without reasonable cause to take it the court may, without prejudice to subsection (1), dismiss his or her claim for relief notwithstanding the absence of evidence to rebut the presumption.

(3) Where any person named in a direction under section 8 fails to consent to the taking of a blood sample from himself or herself or from any person named in the direction of whom he or she has the care and control, he or she shall be deemed for the purposes of this section to have failed to take a step required of him or her for the purpose of giving effect to the direction.

11. Declaration of paternity.

(1) Any person who

- (a) being a woman, alleges that any named person is the father of her child;
- (b) alleges that the relationship of father and child exists between himself or herself and any other person; or
- (c) being a person having a proper interest in the result, wishes to have it determined whether the relationship of father and child exists between two named persons;

may apply to the High Court in the prescribed manner for a declaration of paternity, and if it is proved to the satisfaction of the Court that the relationship exists the Court may make a declaration of paternity whether or not the father or the child or both of them are living or dead.

(2) An application for a declaration under this section may be made to the Magistrate's Court and if the Magistrate is satisfied there are no issues which are in dispute, the Magistrate may make a declaration and such a declaration shall be in effect the same as if it had been made by the High Court.

(3) Where a declaration of paternity under subsection (1) or (2) is made after the death of the father or of the child, the Court may at the same or any subsequent time make a declaration determining, for the purposes of paragraph (b) of subsection (1) of section 5, whether any of the requirements of that paragraph have been satisfied.

(4) The Chief Justice may make rules prescribing the manner (including the prescription of fees and forms) in which applications may be made to the High Court under section 11 and providing for such matters as are necessary to give full effect thereto.

12. Offence of personation at blood tests.

Where, for the purpose of providing a blood sample for a blood test required to give effect to a direction under section 8, a person personates another, or proffers a child knowing that it is not the child named in the direction, he or she commits an offence and is liable, on summary conviction, to a fine not exceeding one thousand dollars or to imprisonment for a term not exceeding twelve months.

13. Regulations.

The Attorney-General may make regulations

- (a) making provision as to the manner of giving effect to a direction under section 8 and, in particular, regulating the charges that may be made for the taking and testing of a blood sample and for the making of a report under that section;
- (b) prescribing fees and forms for the purposes of this Act;
- (c) providing for such matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

14. Transitional and saving provisions.

- (1) All dispositions made before the commencement of this Act shall be governed by the law which would have

applied to them if this Act had not been passed.

(2) Where a disposition to which subsection (1) applies creates a special power of appointment, nothing in this Act shall extend the class of person 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 estate of a person who died intestate as to the whole or any part thereof before the commencement of this Act shall be distributed in accordance with the law which would have applied if this Act had not been passed.

(4) In this section, "disposition" means a disposition, including an oral disposition, of real or personal property whether *inter vivos* or by will or codicil; and notwithstanding any rule of law, a disposition made by will or codicil executed before the date of commencement of this Act shall, notwithstanding any provision in the Wills Act, not be treated for the purposes of this section as made on or after that date by reason only that the will or codicil is confirmed by a codicil executed on or after that date.

(5) The provisions of this Act do not in any way affect the freedom of testamentary disposition whether before, on or after this Act comes into force in relation to Wills, Codicils and other dispositions.

SCHEDULE

(Section 13)

Status of Children (Forms and Fees) Order

1. **Short title.**

This Order may be cited as the Status of Children (Forms and Fees) Order.

2. **Prescribed Forms.**

The Forms set out in Schedule I to this Order, and all instructions contained therein, shall be deemed to be part of this Order, and such forms or forms which are substantially the same shall be used in all cases to which they refer with such variations as the circumstances may require.

3. **Fees.**

The fees set out in Schedule 2 to this Order are hereby prescribed.

SCHEDULE 1 TO THE ORDER

(Section 8)

FORM I

APPLICATION FORM

The Status of Children Act, Cap 12.20

IN THE MAGISTRATE'S COURT

.....
v
.....

Complaint No.

(Full name and date of

birth of persons to be tested.)

.....
.....
.....
.....
.....
.....
(Signature of Applicant)

.....
(Date)

PART 1 — NOTIFICATION OF DIRECTION

I hereby direct that blood tests be carried out in respect of the persons whose names are set out below for the purpose of ascertaining the paternity of and that blood samples be taken from the persons named below on or before the day of 20..... or such other day as may be agreed.

The aforementioned persons have consented to the blood sample being taken by affixing of their names, addresses, ages and signature below.

I hereby consent to a blood sample being taken from me

Name	Addresses	Age	Signature
.....			
.....			
.....			
.....			
.....			

.....

Magistrate

District

day of, 20.....

PART II — REQUEST TO DISTRICT MEDICAL OFFICER

DISTRICT NO.

TO:

You are hereby requested to cause a blood sample to be taken from each of the following persons listed below.

You are further requested to send the results of such tests to the MAGISTRATE DISTRICT "....." under CONFIDENTIAL COVER.

NAME OF PERSONS FROM WHOM SAMPLE WILL BE TAKEN

.....
.....
.....
.....
.....

.....

FORM NO. II**PART I****REPORT BY DISTRICT MEDICAL OFFICER**

TO: Magistrate District "....."

.....

V

.....

This is to certify that a blood group investigation (the details of which are given in Part II of this Report) of the persons named in the DIRECTION has been carried out.

From the results obtained Mr. is excluded/is not excluded from possible paternity of

Reasons for conclusion:

PART II**BLOOD GROUPING REPORT**

Name	Group
.....	
.....	
.....	
.....	

.....

Signature of District Medical Officer

District No.

DECLARATION OF NATURAL PARENTS/APPLICATION FOR REGISTRATION OF FATHER'S NAME

FORM III

SAINT CHRISTOPHER AND NEVIS A. D. 20

(Section 6)

In the Matter of the Registration of Births, Deaths and Marriages Act
and

In the Matter of the Status of Children Act

and

In the Matter of

(Name of Child)

WE, of

(Name of Father)

Address)

and of

(Name of Mother)

(Address)

hereby declare as follows:

1. We are the natural parents of

(Name of Child)

2. On the day of, 20..... in the Parish of in the island of in Saint Christopher and Nevis the second named declarant being a single woman gave birth to a child to whom she gave the names.""

The Certificate of Birth (No) exhibited herewith and marked 'A' refers to the birth of the said child.

3. The natural father of the said child is

(Name of Father)

the first named declarant hereto and under and in accordance with section 6 subsection 2 of the Status of Children Act, we hereby apply for registration of the name of the father of the said child and hereby respectfully request the Registrar-General to effect the said registration.

4. We hereby declare that the contents of this document are true and correct.

Signed by the said)

(Name of Father))

in the presence of:)

.....)

(Name and office of witness))

.....)

Signed by the said)

(Name of Mother))

in the presence of:)

.....)

.....)

(Name and office of witness))

N.B. This document if signed in St. Christopher and Nevis, must be signed in the presence of one of the following: a Barrister and Solicitor, a Justice of the Peace, a Magistrate, Registered Medical Practitioner, Minister of

Christian Religion, Marriage. Officer, Registered Midwife, or Headmaster of a public school.

N.B. If this document is signed abroad, it must be signed in the presence of one of the following: a St. Christopher and Nevis Consular Officer, a British Consular Officer or a Notary Public.

FORM IV

(Sections 7 and 11)

DECLARATION OF PATERNITY
SAINT CHRISTOPHER AND NEVIS

District " "

IN THE MAGISTRATE'S COURT

.....

V

.....

the day of 20.....

On hearing the application of is (hereby adjudged and declared to be the putative father) (hereby declared the paternal parent) of the male/female child of the said born on the day of 20..... (or with which the said is pregnant).

And it is ordered that the said pay to the said the sum of \$ on the day of 20..... (or on the day after the birth of the said child with which the said is pregnant), and for every succeeding seven (7) days until the said child attains the age of (fourteen) (sixteen)* years or this order is discharged or varied or the child sooner dies and a further sum of money for expenses incidental to the birth of such child and also a sum of \$ for costs to be paid forthwith (or on or before the day of 20.....), and in default to be imprisoned at Her Majesty's Prison and there kept to hard labour for a space of unless the said sum and costs be sooner paid.

Or sum of \$ for the payment of funeral expenses of the child of the said and also a sum of \$ for costs to be paid forthwith or on or before the day of 20....., and in default to be imprisoned at Her Majesty's Prison and there kept to hard labour for a space of unless the said sum and costs be sooner paid.

.....

District Magistrate

*(Delete where applicable)

SCHEDULE 2 TO THE ORDER

(a)	For the taking of a blood test	\$30.00
(b)	For a report on a blood test	\$15.00
(c)	For a declaration under section 6 of the Act	\$2.00
		(payable by way of stamps.)