

Country Code:	VG 1991 Rev. CAP. 271
Title:	LEGITIMACY ACT
Country:	VIRGIN ISLANDS
Date of entry into force:	July 4, 1929 (No. 9/1929)
Amendment:	33/1939; S.R.O. 22/1956
Subject:	Children – Law – Virgin Islands
Key words:	Child, illegitimacy; Legitimation; Paternity; young person;
Notes	Reregistration of Births (Legitimated Person) Regs. (SRO LI 32/1932)

CHAPTER 271.

LEGITIMACY

9/1929 | 4/1942 | 15/1948 | S.R.O. 22/1956

(4th July, 1929.)

Short title.

1. This Act may be cited as the Legitimacy Act.

Interpretation.

2. In this Act—

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

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

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

"will" includes codicil.

Legitimation by subsequent marriage of parents. Schedule.

3. (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 the Territory, 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 legitimization 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 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.

Declaration of legitimacy of legitimated persons.

4. (1) A person claiming that he or his parent or any remoter ancestor became or has become a legitimated person may, whether domiciled in the Territory or elsewhere, and whether a British subject or not, apply by petition to the High Court praying the High Court for a decree declaring that the petitioner is the legitimated child of his parents; and the High Court shall have jurisdiction to hear and determine such application and to make such decree as to the High Court may seem just; and such decree shall be binding to all intents and purposes on Her, Majesty and on all person whomsoever:

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

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

(3) In all proceedings under this section the High 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 High 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 a 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 High Court, such person or persons (if any) besides the Attorney General as the High 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 High Court shall direct, and may be permitted to become parties to the proceedings, and oppose the application.

(6) 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.

(7) The Chief Justice with the concurrence of the Puisne Judges may make rules for carrying out the provisions of this section. Such rules shall not have any force or effect until they have been approved by the Governor in Council, and when they have been so approved, shall have the same force and effect as if they formed part of this Act.

Rights of legitimated person etc., to take interest in property.

5. (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 legitimization;
- (b) under any disposition coming into operation after the date of legitimization;
- (c) by descent under an entailed interest created after the date of legitimization,

in like manner as if the legitimated person had been born legitimate.

(2) Where the right to any property, real or personal, depends upon 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 become 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.

Succession on intestacy of legitimated persons and their issue.

6. 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.

Application to illegitimate person dying before marriage of parents.

7. 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 payment of probate duty) 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.

Personal rights and obligations of legitimated persons.

8. 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 or Ordinance 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.

Probate stamp duty.

9. Where a legitimated person or any relative of a legitimated person takes any interest in any property as defined in section 71 of the Stamp Act [Cap. 212], any probate stamp duty in respect of such property which becomes payable after the date of the legitimation, shall be payable at the same rate as if the legitimated person had been born legitimate.

Provisions as to persons legitimated by extraneous law.

10. (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 the Territory, by the law of which the illegitimate person became legitimate by virtue of such subsequent marriage, that person, if living, shall in the Territory 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 payment of probate 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 including a person so recognised as having been legitimated.

(3) For the purposes of this section, "country" includes any part of Her Majesty's Dominions, as well as a foreign country.

Right of illegitimate child and mother of illegitimate child to success on intestacy of the other.

11. (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, and the provisions of the Intestates Estates Act [Cap. 34] shall not apply to any such property.

(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, and the provisions of the Intestates Estates Act shall not apply to any such property.

(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.

Savings.

12. (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.

SCHEDULE.

S. 3.

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 provisions of any Act or Ordinance, and such re-registration shall be effected in such manner and at such place as such Registrar-General may by regulations prescribe:

Provided that such 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 any Act or Ordinance which provides for the entry in the register of the name of the father of an illegitimate child at the joint request of the mother and of the person acknowledging himself to be the father of such child, and for the signing of the register by such person acknowledging himself to be the father of such child;

(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 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 whose birth is registered and 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 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 two dollars and forty cents, as may be prescribed by the Registrar-General by regulations under this Schedule.

6. Any person who fails to comply with the requirements of paragraphs 2 or 3 of this Schedule shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding twenty-four dollars.

CHAPTER 271.

LEGITIMACY ACT.

THE LEGITIMATION RULES, 1929, DATED JUNE 7, 1929, MADE UNDER SECTION 4 (7) OF THE LEGITIMACY ACT.

Short title.

1. These Rules may be cited as the Legitimation Rules.

Interpretation.

2. In these Rules—

"the Act" means the Legitimacy Act;

"petitioner" means a person applying for a legitimacy declaration and "petition" has a corresponding meaning.

Venue.

3. A petition may be filed in the High Court.

Rules of practice.

4. The rules and practice in the High Court shall so far as practicable govern all proceedings under the Act subject nevertheless to these rules.

Contents of petition.

5. (1) A petition shall be entitled "In the matter of the Legitimacy Act, and In the matter of *(the person to be declared legitimated)*" and shall be according to Form 1 in the Schedule with such variations and additions as the circumstances may require and shall state, amongst other matters—

- (a) the place and date of the marriage;
- (b) the status and residence of each of the parents and the occupation and domicile of the father of the person whose legitimacy the Court is asked to declare both at (1) the date of his birth and (2) the date of the marriage;
- (c) whether there is living other issue of the parents of such person as aforesaid and the respective names and dates of birth of such issue;
- (d) the persons (if any) affected by the legitimation of such person as aforesaid and the value so far as is known of the property (if any) thereby involved;
- (e) whether any and if so what previous proceedings under the Act or otherwise with reference to the paternity of such person as aforesaid or the validity of the marriage

leading to his legitimation have been taken in any Court;
(/7 that there is no collusion.

(2) A petition shall also include an undertaking by the petitioner to pay the costs of the respondents if the Court shall so direct.

Address for service.

6. If the petitioner does not reside in the Territory the petition shall state an address in the Territory at which the petitioner may be served with any summons, notice, order of Court or other process.

Security for costs.

7. Where it appears on the presentation of a petition that the petitioner does not reside in the Territory the petition shall not be filed until security for costs by deposit of money or otherwise has been given to the satisfaction of the Registrar.

Respondents to petition.

8. The respondents to a petition shall be the Attorney General and all persons whose interest may be affected by the legitimacy declaration asked for, and the Court may at any time direct any persons not made respondents to be made respondents and to be served with the petition and affidavit and may adjourn the hearing of the petition for that purpose on such terms as to costs or otherwise as may be just.

Verification of petition.

9. The petition shall be accompanied by an affidavit according to Form 3 in the Schedule, made by the petitioner verifying the facts of which he has personal knowledge and deposing as to his belief in the truth of the other facts alleged in the petition, and the affidavit shall be filed with the petition.

Copies of petition.

10. (1) There shall be filed with the petition as many copies of the petition and the affidavit as there are respondents to be served and also two copies for the use of the Court.

(2) There shall be lodged with the petition every certificate of birth, death or marriage intended to be relied upon at the hearing.

Copy of petition ... general.

11. (1) A copy of the petition and a copy of the affidavit shall be delivered or sent by registered post by the petitioner to the Attorney General at least a month before the petition is filed.

(2) Any documents or notice addressed to the Attorney General shall be addressed to him at his Chambers.

Service of petition.

12. (1) A sealed copy of the petition and affidavit shall, unless the Court otherwise directs, be served

by the bailiff twenty-eight days at least before the hearing on every respondent (other than the Attorney General) personally, and the petition and every copy to be served on a respondent (other than the Attorney General) shall be endorsed with a notice according to Form 2 in the Schedule.

(2) At least twenty-eight days' notice of the day whereon the petition will be heard shall be given by the Registrar to the Attorney General, which notice shall be according to Form 4 in the Schedule.

Answer.

13. (1) A respondent may within fourteen days after service of the petition upon him file an answer to the petition which answer shall be according to Form 5 in the Schedule with such variations and additions as the circumstances may require.

(2) Every answer which contains matter other than a simple denial of the facts stated in the petition shall be accompanied by an affidavit made by the respondent verifying such other matter so far as he has personal knowledge thereof, and deposing to his belief in the truth of the rest of such other matter.

(3) There shall be filed with the answer as many copies of the answer and the affidavit (if any) as there are other parties to the petition and also two copies for the use of the Court.

(4) The Registrar shall, within twenty-four hours of receiving them, send by post one sealed copy of the answer and the affidavit to the petitioner, the Attorney General, and any other respondents.

Hearing.

14. Evidence on the hearing of the petition shall be given orally.

Provided that the Judge may, on application made to him before or at the hearing, for good cause shown, direct that any particular fact or facts alleged in the petition or answer may be provided by affidavit.

Costs.

15. The Judge may make such order as to costs as he shall think fit and such costs shall, in the absence of other direction by the judge, be taxed according to the scale of costs for the time being in use in the High Court.

Copy of order.

16. A copy of the Order according to Form 6 in the Schedule, made on the hearing of a petition sealed with the seal of the Court, shall be supplied by the Registrar to any party to the proceedings on payment of the prescribed fee.

Forms.

17. The forms in the Schedule shall be used in conjunction with these rules.

SCHEDULE.

FORM 1.

r.5 (1).

Legitimation Petition.

In the High Court.

In the matter of the Legitimacy Act.

And

In the matter of A. B. of (state name, address and description of the person whose legitimacy the Court is asked to declare).

To The Honourable Mr. Justice

The Petition of the above named A. B. sheweth as follows-

The birth of your Petitioner is recorded by an entry numbered and made on the day of
19 , in the Register of Births for the Territory.

FORM 2.

r.12 (1).

*(To be endorsed on the Petition.)***NOTICE.**

Take notice that the within Petition will be heard at the High Court at _____ on the _____ day of _____, 19_____, at _____ o'clock in the _____ noon and in default of your then appearing either in person or by your Counsel or Solicitor the Court will proceed to hear the said Petition and pronounce judgement notwithstanding your absence.

If you desire to file any affidavits in answer to the Petition you must file them in the above Court within fourteen days after service on you of the within Petition.

(Signed)

Registrar.

FORM 3.

r.9.

*Affidavit in Support of Petition.
(Heading as in Form 1.)*

I _____ of _____ the Petitioner in the above matter, make oath and say as follows-

1. That the statements contained in paragraphs _____ of my Petition dated the _____ day of 19_____, are true.
2. That the statements contained in paragraphs _____ of my said Petition are true to the best of my knowledge, information and belief.

Sworn, etc.

FORM 4.

r.12 (2).

*Notice to Attorney General.
(Heading as in Form 1.)*

Take Notice that the Petition in the above matter will be heard at the High Court at _____ on the _____ day of _____, 19_____, at _____ o'clock in the _____ noon.

Registrar.

FORM 5.

r.13 (1).

*Answer to Legitimation Petition.
(Heading as in Form 1.)*

The respondent L. M. by P. Q, his Solicitor (or in person), in answer to the Petition filed in the above matter, says-

1. That e.g. (the Petitioner is not the natural child of E. F. as alleged in the Petition);
2. That e.g. (at the time of the birth of the Petitioner, the Petitioner's mother C.D. was married to a third party namely _____ *(or as may be)*).

Wherefore this Respondent humbly prays that the prayer of the Petitioner may be rejected.

Dated the _____ day of _____, 19_____,

FORM 6.

r.16.

*Legitimation Decree.
(Heading as in Form 1.)*

Upon reading the Petition of A. B., of matter and upon reading the affidavits of thereto. And upon hearing presented to this Court in the above and the several exhibits

And the Court being satisfied that the allegations contained in the said Petition are true and that all proper persons have been served with the said Petition.

It is decreed and declared that C. D., of [REDACTED] and E. F. of [REDACTED], in the said Petition mentioned were lawfully married at [REDACTED] on the [REDACTED] day of [REDACTED] 19 [REDACTED], and that by such marriage the said A. B. was legitimated for the purposes of the Legitimacy Act, as from the [REDACTED] day of [REDACTED], 19 [REDACTED] (being the date of the said marriage (or as from the [REDACTED] day of [REDACTED] 19 [REDACTED] (being the date of the commencement of the said Act)).

And it is ordered that the costs of the Respondents to the said Petition be taxed by the Registrar of this Court according to the scale of costs in use in the High Court and that the said A. B. do pay to the said Registrar for the use of the said Respondents such costs within 14 days from the date of the Certificate of such taxation (*or as may be*).

THE RE-REGISTRATION OF BIRTHS (LEGITIMATED PERSONS) REGULATIONS, 1932 DATED
SEPTEMBER 28, 1932, MADE BY THE REGISTRAR-GENERAL UNDER PARAGRAPH 1 OF
THE SCHEDULE TO THE LEGITIMACY ACT.

Short title.

1. These Regulations maybe cited as the Re-registration of Births (Legitimated Persons) Regulations.

Interpretation.

2. In these Regulations—

"informant" means a parent of a legitimated child whose duty it is to give information with a view to the re-registration of the birth of such child;

"Registrar" means the Registrar of the sub-district in which the birth took place;

"Registrar-General" means the Registrar-General of the Territory;

"written authority" means the document containing the written authority from the Registrar-General to the Registrar authorising the latter to make the entry of re-registration.

Attendance before Registrar.

3. When re-registration is authorised by the Registrar-General, the informant or, if there are two informants, such one of them as the Registrar-General may direct, shall, subject as hereinafter provided, attend personally at the office of the births and deaths of the sub-district in which the birth took place, within such time as the Registrar-General may specify, and sign the register in the presence of the Registrar.

Form of registration.

4. The Registrar, on receiving written authority shall, in the presence of the informant—

- (a) enter in the register the particulars stated to be entered in the written authority;
- (b) enter the date on which the entry is made, followed by the words "On the authority of the Registrar-General" and sign the register and append his official description.

Removal.

5. (1) With the consent of the Registrar-General, and, instead of attending personally at the office of the Registrar to sign the entry, an informant who, before the re-registration, has removed from the island in which the birth took place, to some place outside the Territory, may make and sign a declaration of the particulars to be entered in the prescribed form on the information of such informant.

(2) In the case of an informant residing in—

- (a) Great Britain, or in any Dominion, colony or other place under the dominion of Her Majesty, the declaration shall be made before a Judge, Court, Notary Public, or person

lawfully authorised to administer oaths in such country or place;

(b) any foreign part out of Her Majesty's Dominions the declaration shall be made before one of Her Majesty's Consuls or Vice-Consuls.

(3) The declaration shall contain the following information provided that the Registrar-General may require the informant to provide any additional information warranted by the circumstances of any particular case-

- (i) the name, trade or profession and present address of informant;
- (ii) shall recite fully all the circumstances of the case (including the informant's reason for not having applied for re-registration within the prescribed time, in the case of late applications);
- (iii) name, baptismal name (if different), sex, when born, year and day of month, where born, parents, name, rank, profession or occupation and domicile of father, name of mother.

(4) Upon receipt of the declaration, duly attested, the Registrar-General may send it, together with his written authority for re-registration, to the Registrar and authorise him to enter in the relevant columns, the words "legitimate" and "married" respectively.

Entries in cases of removal.

6. The Registrar on receipt of written authority for re-registration, together with a declaration made and signed in pursuance of regulation 5, shall enter the birth in the register in the manner prescribed for ordinary entries notwithstanding that no informant is present, and in the relevant column he shall write the name of the informant, as signed in the declaration, followed by the description and address of the informant as stated in the written authority, and append the words "as per declaration dated _____" and the date on which the declaration was made and signed.

Re-registration.

7. (1) Where re-registration is authorised and no informant is living, then, if the legitimated person is an infant, his guardian may attend personally at the office of the Registrar and sign the register, in the place allocated for the signature of informant; and if the legitimated person is not an infant, the Registrar shall, if so desired by written authority, enter in the aforementioned column "On the authority of the Registrar-General" and omit such words from the column for the Registrar's signature.

(2) An entry or a certified copy of an entry of a reregistered birth under the Act shall not be evidence of such birth unless such entry purports to be made on the authority of the Registrar-General.

Disposal of authorities.

8. The Registrar on making the entry in the register shall forthwith make and deliver to the Registrar-General a certified copy of such entry and shall on delivery of the certified copies of the entries of births registered by him during the preceding period prescribed for such returns, deliver to the Registrar-General all written authorities received from the Registrar-General with reference to any re-registered entries contained in such certified copy.

Endorsement of previous entry.

9. (1) The Registrar-General or Registrar (when so directed by the Registrar-General), having the custody of the register in which the birth was previously entered, shall cause the previous entry of birth to be marked in the margin with the words "Re-Registered under the Legitimacy Act," and add the date of the re-registration; and when the register is in the custody of the Registrar he shall forthwith make a certified copy of such previous entry, including a copy of the marginal note, and deliver such copy to the Registrar-General.

(2) Such marginal note shall be deemed to be part of such entry and a certified copy of such entry, whether given under the seal of the Registrar-General, or otherwise, shall include such marginal note.

Applications for certified copies of re-registration.

10. Where application is made for a certified copy of the birth of a person whose birth has been re-registered, the Registrar shall supply a certified copy of the entry of re-registration; and no certified copy of the previous entry shall be given except under the directions of the Registrar-General.

Fees.

11. Where the information for the purpose of re-registration is not furnished to the Registrar-General within the time specified in paragraph 2 of the Schedule to the Legitimacy Act, a fee of \$2.40 shall be paid to the Registrar-General and stamps to that value affixed to the written authority and cancelled by him in the manner prescribed.

