



Number 13 of 1931

LEGITIMACY ACT 1931

REVISED

Updated to 8 February 2012

This Revised Act is an administrative consolidation of the *Legitimacy Act 1931*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975 (3/1975)* to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Water Services (Amendment) Act 2012 (2/2012)*, enacted 2 February 2012, and all statutory instruments up to and including *European Communities (Official Controls on the Import of Food of Non-Animal Origin for Pesticide Residues) (Amendment) Regulations 2012 (S.I. No. 46 of 2012)*, made 8 February 2012, were considered in the preparation of this Revised Act.

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Introduction

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Births and Deaths Registration Acts 1863 to 1996: this Act is one of a group of Acts previously included in this collective citation, to be construed together as one (*Registration of Births Act 1996* (36/1996), s. 7(2)). The provisions of this Act included in the collective citation (s. 1(4) and the schedule) were repealed (5.12.2005) by *Civil Registration Act 2004* (3/2004), s. 4 and sch. 2, S.I. No. 764 of 2005, subject to transitional provisions in s. 5.

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available. A list of legislative changes to any Act, and to statutory instruments from 2000, may be found in the Legislation Directory at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

- *Adoption Act 2010* (21/2010)
- *Civil Liability and Courts Act 2004* (31/2004)
- *Civil Registration Act 2004* (3/2004)
- *Births and Deaths Registration Acts 1863 to 1996*
- *Registration of Births Act 1996* (36/1996)
- *Status of Children Act 1987* (26/1987)
- *Courts Act 1971* (36/1971)

- *Adoption Act 1952 (25/1952)*

All Acts up to and including *Water Services (Amendment) Act 2012 (2/2012)*, enacted 2 February 2012, were considered in the preparation of this revision.

Statutory instruments, orders and regulations which affect or previously affected this revision

- *Registration of Births (Amendment) Regulations 2002 (S.I. No. 493 of 2002)*
- *Registration of Births Regulations 1988 (S.I. No. 123 of 1988)*

All statutory instruments up to and including *European Communities (Official Controls on the Import of Food of Non-Animal Origin for Pesticide Residues) (Amendment) Regulations 2012 (S.I. No. 46 of 2012)*, made 8 February 2012, were considered in the preparation of this revision.



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ARRANGEMENT OF SECTIONS

Section

1. Legitimation by subsequent marriage of parents.
2. Declarations of legitimacy of legitimated persons.
3. Rights of legitimated persons, etc., to take interest in property.
4. Succession on intestacy of legitimated persons and their issue.
5. Application to illegitimate persons dying before marriage of parents.
6. Personal rights and obligations of legitimated persons.
7. Death duties.
8. Provisions as to persons legitimated by extraneous law.
9. Right of illegitimate child and mother of illegitimate child to succeed on intestacy of the other.
10. Saving.
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SCHEDULE.

REGISTRATION OF BIRTHS OF LEGITIMATED PERSONS

ACT REFERRED TO

Courts of Justice Act, 1924

No. 10 of 1924



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AN ACT TO AMEND THE LAW RELATING TO CHILDREN BORN OUT OF WEDLOCK. [19th May, 1931.]

BE IT ENACTED BY THE OIREACHTAS OF SAORSTÁT EIREANN AS FOLLOWS:—

Annotations

Modifications (not altering text):

- C1** Application of Act restricted and confirmed (1.11.2010) by *Adoption Act 2010* (21/2010), s. 59(1), S.I. No. 511 of 2010.

Subsequent marriage of birth parents.

59. —(1) Subject to subsection (2)—

(a) the validity of an adoption order in relation to a child born of parents not married to each other and the provisions of this Act in regard to the effects of the order are not affected by the subsequent marriage of the child's birth parents, and

(b) the Legitimacy Act 1931 does not apply to the child unless the order is set aside.

(2) Subsection (1) does not apply where the child has been adopted by one of his or her birth parents and their subsequent marriage to each other would, apart from that subsection, legitimate the child.

(3) In that case, the Legitimacy Act 1931 applies and the adoption order ceases to be in force

...

Editorial Notes:

- E1** The *Social Welfare (Miscellaneous Provisions) Act 2002* (8/2002), s. 16 and schedule, part 6 provide for an amendment to *Registration of Births Act 1996* (36/1996), s. 1 to allow for a change of surname, where jointly agreed by the parents, of children whose births are being re-registered under the *Registration of Births and Deaths Acts 1863 to 1996* or the *Legitimacy Act 1931*. The *Registration of Births Regulations 1988* (S.I. No. 123 of 1988) as amended (15.10.2002) by *Registration of Births (Amendment) Regulations 2002* (S.I. No. 493 of 2002) give further effect to these provisions.

- E2** Previous affecting provision: Act previously included in collectively cited *Births and Deaths Registration Acts 1863 to 1996* (1.10.1997) by *Registration of Births Act 1996* (36/1996), s. 7(2), S.I. No. 45 of 1997; the provisions included in the collective citation (s. 1(4) and the schedule) were repealed (5.12.2005) by *Civil Registration Act 2004* (3/2004), s. 4 and sch. 2, S.I. No. 764 of 2005, subject to transitional provisions in s. 5.
- E3** Previous affecting provisions: application of Act restricted and confirmed (1.01.1953) by *Adoption Act 1952* (25/1952), s. 29(1); subsequently repealed (1.11.2010) by *Adoption Act 2010*, s. 7 and sch. 1 part 1, S.I. No. 511 of 2010.

Legitimation by subsequent marriage of parents.

1.—(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 Saorstát Eireann, render that person, if living, legitimate from the commencement of this Act, or from the date of the marriage, whichever is the later.

(2) F1[...]

(3) F2[...]

(4) F3[...]

Annotations

Amendments:

- F1** Repealed (14.06.1988) by *Status of Children Act 1987* (26/1987), s. 7(1), commenced as per s. 1(2)(b).
- F2** Repealed (14.06.1988) by *Status of Children Act 1987* (26/1987), s. 32(f), commenced as per s. 1(2)(b).
- F3** Repealed (5.12.2005) by *Civil Registration Act 2004* (3/2004), s. 4 and sch. 2, S.I. No. 764 of 2005, subject to transitional provisions in s. 5.

Modifications (not altering text):

- C2** Application of Act modified (14.06.1988) by *Status of Children Act 1987* (26/1987) s. 7(2), commenced as per s. 1(2). "this Part" referred to below commenced on 14.06.1988.

Amendment of the Act of 1931

7.— ...

(2) In the case of a person to whom this section relates, the Act of 1931 shall have effect as if for the references in sections 1(1) and 5 of that Act to the commencement of that Act there were substituted a reference to the commencement of this Part.

Editorial Notes:

- E4** Previous affecting provision: application of subs. (4) restricted (1.10.1997) by *Registration of Births Act 1996* (36/1996) s. 1(6), S.I. No. 45 of 1997, subject to transitional provision in s. 1(7).

Declarations of legitimacy of legitimated persons.

2.—(1) A person claiming that he is or that any of his parents or remoter ancestors is or was a legitimated person may, whether he is or is not domiciled in Saorstát Eireann and whether he is or is not a natural-born British subject within the meaning of the Legitimacy Declaration Act (Ireland), 1868, institute proceedings under that Act, and that Act shall apply accordingly.

F4[(1A) A person claiming that a child of his is or was a legitimated person may, whether the child is or is not domiciled in the State and whether the child is or is not a natural-born British subject within the meaning of the Legitimacy Declaration Act (Ireland), 1868, institute proceedings under that Act praying for a decree that the child is the legitimate child of his parents, and that Act shall apply accordingly.

(1B) Proceedings instituted by virtue of this section shall be heard in chambers.]

(2) The Circuit Court shall have and may exercise jurisdiction in proceedings instituted by virtue of this section under the Legitimacy Declaration Act (Ireland), 1868, and section 25 and the provisoes to section 48 of the Courts of Justice Act, 1924 (No. 10 of 1924), shall apply in respect of all such proceedings.

(3) The jurisdiction conferred by this section on the Circuit Court shall be exercised by the Judge of that Court for the time being assigned to the Circuit in which the person instituting the proceedings is residing or, where such person does not reside in Saorstát Eireann, to the Circuit which includes the City of Dublin.

Annotations

Amendments:

- F4** Inserted (15.12.1971) by *Courts Act 1971* (36/1971), s. 20, commenced on enactment.

Modifications (not altering text):

- C3** Application of subs. (1B) restricted (31.03.2005) by *Civil Liability and Courts Act 2004* (31/1004), s. 40, S.I. No. 544 of 2004 as amended (1.08.2008) by *Civil Law (Miscellaneous Provisions) Act 2008* (14/2008), s. 31, S.I. No. 274 of 2008.

Proceedings heard otherwise than in public.

40.—(1) In this section “court” includes the Master of the High Court.

(2) For the purposes of this section each of the following shall be a “relevant enactment”—

(a) section 2(1B) (inserted by section 20 of the Courts Act 1971) of the Legitimacy Act 1931;

...

(3) Nothing contained in a relevant enactment shall operate to prohibit—

(a) the preparation by a barrister at law or a solicitor or a person falling within any other class of persons specified in regulations made by the Minister and publication of a report of proceedings to which the relevant enactment relates, or

(b) the publication of the decision of the court in such proceedings,

in accordance with rules of court, provided that the report or decision does not contain any information which would enable the parties to the proceedings or any child to which the proceedings relate to be identified and, accordingly, unless in the special circumstances of the matter the court, for reasons which shall be specified in the direction, otherwise directs, a person referred to in *paragraph (a)* may, for the purposes of preparing [such a report—

(i) attend the proceedings, and

(ii) have access to any relevant documents,

subject to any directions the court may give in that behalf.]

(4) Nothing contained in a relevant enactment shall operate to prohibit a party to proceedings to which the enactment relates from supplying copies of, or extracts from, orders made in the proceedings to such persons and in accordance with such conditions (if any) as may be prescribed by order of the Minister.

(5) Nothing contained in a relevant enactment shall operate to prohibit a party to proceedings to which the enactment relates from being accompanied, in such proceedings, in court by another person subject to the approval of the court and any directions it may give in that behalf.

(6) Nothing contained in an enactment that prohibits proceedings to which the enactment relates from being heard in public shall operate to prohibit the production of a document prepared for the purposes or in contemplation of such proceedings or given in evidence in such proceedings, to—

(a) a body or other person when it, or he or she, is performing functions under any enactment consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter, or

(b) such body or other person as may be prescribed by order made by the Minister, when the body or person concerned is performing functions consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter as may be so prescribed.

(7) Nothing contained in an enactment that prohibits proceedings to which the enactment relates from being heard in public shall operate to prohibit the giving of information or evidence given in such proceedings to—

(a) a body or other person when it, or he or she, is performing functions under any enactment consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter, or

(b) such body or other person as may be prescribed by order made by the Minister, when the body or person concerned is performing functions consisting of the conducting of a hearing, inquiry or investigation in relation to, or adjudicating on, any matter as may be so prescribed.

(8) A court hearing proceedings under a relevant enactment shall, on its own motion or on the application of one of the parties to the proceedings, have discretion to order disclosure of documents, information or evidence connected with or arising in the course of the proceedings to third parties if such disclosure is required to protect the legitimate interests of a party or other person affected by the proceedings.

(9) A hearing, inquiry or investigation referred to in *subsection (6) or (7)* shall, in so far as it relates to a document referred to in *subsection (6)* or information or evidence referred to in *subsection (7)*, be conducted otherwise than in public and no such document, information or evidence shall be published.

(10) This section shall apply to proceedings brought, and decisions of a court made, whether before or after the commencement of this section.

[(11) In subsection (3), 'relevant documents', in relation to any proceedings referred to in that subsection—

(a) subject to paragraph (b), means—

(i) the petition, summons or other originating document in the proceedings,

(ii) pleadings and other documents (including the terms of settlement, if any) produced to or lodged with the court, or included in the book of pleadings, in the course of the proceedings, and

(iii) any order made by the court in the proceedings,

(b) does not include any document the contents of which are expressed to be without prejudice or in terms having a like effect.]

Editorial Notes:

- E5** The *Courts of Justice Act 1924* (10/1924), s. 48 mentioned in subs. (2) was repealed (29.09.1961) by *Courts (Supplemental Provisions) Act 1961* (39/1961), s. 3 and first sch., commenced as per s. 1(2) and S.I. No. 217 of 1961.

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

3.—(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 estate in tail 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 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 or title of honour, 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 sub-section 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.

Annotations

Modifications (not altering text):

- C4** Application of Act restricted (14.06.1988) by *Status of Children Act 1987* (26/1987) s. 27(2), commenced as per s. 1(2).

Construction of dispositions, etc.

27.—(1) ...

(2) The following provisions of section 3 of the Legitimacy Act, 1931, namely—

(a) subsection (1) (b) (which relates to the effect of dispositions where a person has been legitimated),

(b) subsection (1) (c) (which relates to the effect of legitimation on entailed estates), and

(c) subsection (2) (which provides that, where the right to any property depends on the relative seniority of the children of any person, legitimated persons shall rank as if born on the date of legitimation),

shall not apply—

(i) in the case of the said subsection (1) (b), to a disposition made after the commencement of this Part,

(ii) in the case of the said subsection (1) (c), in relation to any entitlement under an entailed estate created by a disposition made after the commencement of this Part, and

(iii) in the case of the said subsection (2), in relation to any right conferred by a disposition made after the commencement of this Part,

except as respects any interest in relation to which the disposition refers only to persons who are, or whose relationship is deduced through, legitimate persons.

...

Succession on intestacy of legitimated persons and their issue.

4.—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 persons dying before marriage of parents.

5.—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 rate of death duties) 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.

Annotations

Modifications (not altering text):

- C5 Application of Act modified (14.06.1988) by *Status of Children Act 1987* (26/1987), s. 7(2), commenced as per s. 1(2). "This Part" referred to below commenced on 14.06.1988.

Amendment of section 1 of the Act of 1931.

7.— ...

(2) In the case of a person to whom this section relates, the Act of 1931 shall have effect as if for the references in sections 1(1) and 5 of that Act to the commencement of that Act there were substituted a reference to the commencement of this Part.

Personal rights and obligations of legitimated persons.

6.—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.

Death duties.

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

Provisions as to persons legitimated by extraneous law.

8.—(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 Saorstát Eireann by the law of which the illegitimate person became legitimated by virtue of such subsequent marriage, that person, if living, shall in Saorstát Eireann 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 rate of death duties) 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 reference therein to a legitimated person included a person so recognised as having been legitimated.

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

9.—F5[...]

Annotations

Amendments:

F5 Repealed (14.06.1988) by *Status of Children Act 1987* (26/1987), s. 32(f), commenced as per s. 1(2). .

Saving.

10.—(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.

Interpretation.

11.—For the purposes of this Act, unless the context otherwise requires:—

the expression “legitimated person” means a person legitimated by this Act;

the expression “date of legitimation” means the date of the marriage leading to the legitimation, or where the marriage occurred before the commencement of this Act, the commencement of this Act;

the expression “disposition” means an assurance of any interest in property by any instrument whether *inter vivos* or by will.

Short title.

12.—(1) This Act may be cited as the Legitimacy Act, 1931.

(2) This Act shall come into operation on the first day of July, 1931.

SCHEDULE.

REGISTRATION OF BIRTHS OF LEGITIMATED PERSONS.

F6[...]

Annotations

Amendments:

- F6** Repealed (5.12.2005) by *Civil Registration Act 2004* (3/2004), s. 4 and sch. 2, S.I. No. 764 of 2005, subject to transitional provisions in s. 5.