



Application of Enactments Ordinance 1962 (FLK No.2 of 1962)

Application of Colony Laws Ordinance 1964 (DS No.1 of 1964)

Legitimacy Act 1959

UK Legis LINK as originally enacted	Legitimacy Act 1959 c.73
English commencement	29 October 1959
English status	In force
AEO Schedule No.	A4
Date applied in SGSSI:	1 May 1962
Extent of application:	(i) The whole Act except sections 2(6), 3(2), 3(3), 4 and 6(1); (ii) references to “England” shall be construed as references to the Colony. (iii) subsection (1) of section 5 shall be construed as if it read as follows - “(1) The proceedings which are domestic proceedings within the meaning of section 56 of the Magistrates’ Courts Act, 1952 (which defines “domestic proceedings”) shall have effect accordingly.”.

Legitimacy Act 1959

1959 CHAPTER 73

An Act to amend the Legitimacy Act, 1926, to legitimate the children of certain void marriages, and otherwise to amend the law relating to children born out of wedlock.

[29th July, 1959]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Amendment of Legitimacy Act 1926

- (1) Subsection (2) of section one of the Legitimacy Act, 1926 (which excludes the operation of that Act in the case of an illegitimate person whose father or mother was married to a third person at the time of the birth) is hereby repealed.
- (2) In relation to an illegitimate person to whom it applies by virtue of this section, the Legitimacy Act, 1926, shall have effect as if for references to the commencement of that Act there were substituted references to the commencement of this Act.

2 Legitimacy of children of certain void marriages

- (1) Subject to the provisions of this section, the child of a void marriage, whether born before or after the commencement of this Act, shall be treated as the legitimate child of his parents if at the time of the act of intercourse resulting in the birth (or at the time of the celebration of the marriage if later) both or either of the parties reasonably believed that the marriage was valid.
- (2) This section applies, and applies only, where the father of the child was domiciled in England at the time of the birth or, if he died before the birth, was so domiciled immediately before his death.
- (3) This section, so far as it affects the succession to a dignity or title of honour, or the devolution of property settled therewith, applies only to children born after the commencement of this Act.
- (4) This section does not affect any rights under the intestacy of a person who died before the commencement of this Act, and does not (except so far as may be necessary to avoid the severance from a dignity or title of honour of property settled therewith) affect the operation or

construction of any disposition coming into operation before the commencement of this Act.

(5) In this section the following expressions have the meanings hereby assigned to them, that is to say—

" void marriage " means a marriage, not being voidable only, in respect of which the High Court has or had jurisdiction to grant a decree of nullity, or would have or would have had such jurisdiction if the parties were domiciled in England;

" disposition " has the same meaning as in the Legitimacy Act, 1926;

and any reference in this section to property settled with a dignity or title of honour is a reference to any real or personal property, or any interest in such property, which is limited by any disposition (whether subject to a preceding limitation or charge or not) in such a way as to devolve with the dignity or title as nearly as the law permits, whether or not the disposition contains an express reference to the dignity or title and whether or not the property or some interest in the property may in some event become severed from it.

(6) [not applied]

3 Custody and guardianship of illegitimate infants

(1) Subject to the provisions of this section, the following enactments relating to the custody of infants, that is to say—

(a) section five of the Guardianship of Infants Act, 1886 (which enables the court to make, on the application of the mother of an infant, orders regarding the custody of the infant and the right of access thereto of either parent); and

(b) section sixteen of the Administration of Justice Act, 1928 (which enables the court to make orders under the said section five on the application of the father of an infant),

shall apply in relation to an infant who is illegitimate as they apply in relation to an infant who is legitimate, and references in those enactments, and in any other enactment so far as it relates to proceedings

under the said section five, to the father or mother or parent of an infant shall be construed accordingly.

(1) [Not applied]

(2) [Not applied]

4 Applications, &c., under s.1 of Affiliation Proceedings Act, 1957
[not applied]

5 Procedure on applications for affiliation orders

(1) [The proceedings which are domestic proceedings within the meaning of section 56 of the Magistrates' Courts Act, 1952 (which defines "domestic proceedings") shall have effect accordingly.]

(2) In subsection (1) of section sixty of the Magistrates' Court Act, 1952, the words "or of proceedings for an affiliation order" are hereby repealed.

6 Extent, short title, commencement and saving

(1) Not applied

(2) This Act may be cited as the Legitimacy Act, 1959.

(3) This Act shall come into force on the expiration of three months beginning with the day on which it is passed.

(4) It is hereby declared that nothing in this Act affects the Succession to the Throne

Notes:

1. Please see www.legislation.gov.uk website for the original Act and subsequent amendments and then consider it in the light of extent of application noted above and the Principal Adaptive Provisions.

2. Please note the Application of Enactments Ordinance 1962 section 2 states as follows:

'The enactments specified in the Schedule to this Ordinance are applied to the Colony to the extent and with the variations and modifications mentioned in the Schedule, and with the further modifications that any reference in any of the said enactments to "the date of passing of this Act" or any similar expression, shall be construed as a reference to the date of this Ordinance, any reference to the "High Court" shall be construed as a reference to the "Supreme Court" and

any reference to the “Attorney General” or “Solicitor General” or “Director of Public Prosecutions” shall be construed as a reference to the “Colonial Secretary”.

[in this version this section has been spaced out so as to aid intelligibility]

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