

Hon. Mr. Mason.

LEGITIMATION.

ANALYSIS.

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A BILL INTITULED

AN ACT to consolidate and amend certain Enactments of the General Assembly relating to the Legitimation of Children. Title.

5 BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the Legitimation Act, 1939. Short Title.

10 2. In this Act, unless the context otherwise requires,— Interpretation.

“Legitimated person” means a person deemed to be legitimated under this Act:

“Registrar” means a Registrar appointed under the Births and Deaths Registration Act, 1924:

15 “Registrar-General” means the Registrar-General appointed under that Act. See Reprint of Statutes, Vol. VIII, p. 36

Legitimation
by marriage
of parents.

Cf. 1908,
No. 102, s. 2;
see Reprint
of Statutes,
Vol. III,
p. 1135

Rights of
legitimated
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claiming under
them to take
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Cf. *Ibid.*,
ss. 2, 3, 5

Registration
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of his parents.

3. (1) Every illegitimate person whose parents have intermarried, whether before or after the passing of this Act, shall be deemed to have been legitimated by the marriage from birth.

(2) The provisions of this section shall apply whether or not the illegitimate person was living at the date of the marriage and whether or not his parents were domiciled in New Zealand at the time of their marriage or at the time of his birth. 5

4. (1) Subject to the provisions of this section, every legitimated person, and every person claiming through or under a legitimated person or by virtue of being or having been married or related to a legitimated person, shall be entitled to the same estates, rights, and interests as if the legitimated person had been born in wedlock. 10 15

(2) Nothing in the *last preceding* subsection shall 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 passing of this Act or before the marriage of the parents of the legitimated person, whichever last happens. 20

(3) For the purposes of this section the term “legitimated person” shall be deemed to include any person duly legitimated before the passing of this Act. 25

5. (1) It shall be the duty of the parents of any person legitimated under this Act, or, where one of the parents is dead, of the surviving parent, to make application to the Registrar-General, in accordance with this section, for the registration of particulars of the birth of that person, showing that person as the lawful issue of his parents. 30

(2) The application shall be made within the following time, that is to say:— 35

(a) If the marriage took place before the date of the passing of this Act, within six months after that date:

(b) If the marriage takes place after the passing of this Act, within three months after the date of the marriage. 40

(3) Where the Registrar-General has reason to believe that any person has been legitimated under this Act and no application for registration under this

section is made by the parents or surviving parent of that person within the appropriate time specified in the *last preceding* subsection, the Registrar-General may by notice in writing require the parents or the
5 surviving parent, as the case may be, to make an application for registration within such time, not being less than seven days after the receipt of the notice, as may be specified in the notice. Any person failing to
10 comply with the notice within the time specified therein commits an offence and is liable on summary conviction to a fine of *five* pounds. No prosecution for an offence against this subsection shall be commenced without the authority of the Registrar-General.

(4) If no application for registration is made
15 within the appropriate time mentioned in subsection *two* of this section or (where a notice is given under the *last preceding* subsection) within the time specified in the notice, application for the registration under this section of the particulars of the birth of any legitimated
20 person may be made by that person or by one of his parents or by any other person.

(5) Every application under this section shall be in such form and shall be supported by such evidence, whether by statutory declaration or otherwise, as the
25 Registrar-General may require or as may be prescribed; and if the Registrar-General is satisfied that the person referred to in the application has been legitimated under this Act he may direct that
30 particulars of the birth of that person be registered under the Births and Deaths Registration Act, 1924, in such manner, subject to the provisions of any regulations made under this Act, as the Registrar-General thinks fit, showing that person as the lawful
issue of his parents.

(6) If the Registrar-General is not so satisfied he
35 shall transmit the application to such Magistrate as he thinks fit and on receipt of the application the Magistrate shall appoint a time and place for the hearing of the application and cause notice thereof to
40 be given to the applicant.

See Reprint
of Statutes,
Vol. VIII,
p. 36

(7) The hearing of the application shall be held in private but the Magistrate may allow or order the attendance of any person interested or concerned therein, or of any person who in his opinion might be able to give evidence affecting the application. 5

(8) Upon the hearing of the application the Magistrate may take evidence on oath, and he may, in his discretion, receive as evidence affidavits or statutory declarations.

(9) The finding of the Magistrate shall not prejudice 10 the applicant or any other person in any subsequent proceedings of any nature.

(10) On the production to the Registrar-General of a certificate of the Magistrate who hears the application to the effect that it has been proved to 15 his satisfaction that the person referred to in the application has been legitimated under this Act, the Registrar-General shall direct that particulars of the birth of that person be registered under the Births and Deaths Registration Act, 1924, in such manner, 20 subject to the provisions of any regulations made under this Act, as the Registrar-General thinks fit, showing the legitimated person as the lawful issue of his parents.

(11) Whenever a copy of the entry as to the birth 25 of any person particulars of whose birth have been registered under this section is required for any purpose, the Registrar or the Registrar-General, as the case may be, shall supply a copy of the entry made pursuant to this section instead of a copy of the original 30 entry (if any), unless the applicant for the copy certifies, and the Registrar or Registrar-General is satisfied, that the copy of the original entry is material for the purpose for which it is required.

6. The failure of the parents of a legitimated 35 person, or either of them, to make an application for registration under the *last preceding* section shall not affect the legitimation of that person.

7. (1) The Governor-General may from time to 40 time, by Order in Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act, and for the due administration thereof.

See Reprint
of Statutes,
Vol. VIII,
p. 36

Failure to
register not
to affect
legitimation.

Regulations.

(2) Without limiting the general power hereinbefore conferred, it is hereby declared that regulations may be made under this section for all or any of the following purposes:—

- 5 (a) Prescribing the method of making applications for registration under this Act, and the forms of applications, certificates, and other documents required:
- 10 (b) Prescribing the forms and mode of service of notices:
- 10 (c) Prescribing the manner in which and the place or places at which registration is to be effected:
- 15 (d) Providing for the writing or stamping on any existing entry of the birth of any legitimated person of a memorial referring to any registration under this Act:
- 20 (e) Prescribing the fees payable on any applications and in respect of any registrations made under this Act.

8. No stamp duty shall be chargeable on any statutory declaration or affidavit required in relation to any application for the registration under this Act of particulars of the birth of any legitimated person.

- 25 9. The Legitimation Act, 1908, and the Legitimation Amendment Act, 1921-22, are hereby repealed.

Exemption from stamp duty of declarations under this Act.

Repeals.

See Reprint of Statutes, Vol. III, pp. 1134, 1137