

CHAPTER 212A

CHANGE OF NAME

1981-17

This Act came into operation on 1st May, 1985 by Proclamation (S.I. 1985 No. 66).

Amended by:

This Act has not been amended

Law Revision Orders

The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:

1985

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**BARBADOS****CHANGE OF NAME
1981-17**

An Act to provide for change of name.

[Commencement: 1st May, 1985]

Short title

1. This Act may be cited as the *Change of Name Act*.

Interpretation

2. In this Act
 - (a) “change” means alteration, substitution, addition or abandonment;
 - (b) “child” includes an adopted child;
 - (c) “name” includes surname and given name;
 - (d) “parent” includes adoptive parent;
 - (e) “spouse” has the meaning assigned to it by section 2(3) of the *Succession Act*, Cap. 249.

Change by common law

- 3.(1)** An individual may change a surname without recourse to this Act in any manner acceptable to the common law.
- (2) Without limiting subsection (1), the following rules apply in respect of a change of name without recourse to the Act
- (a) one may as a result of marriage adopt the surname of one's spouse or a combination of each spouse's surname;
 - (b) one may, during or after marriage, revert to one's own surname or previously acquired surname; or
 - (c) one may adopt as one's own, the surname of a stepparent or foster parent if previously known by that surname during childhood.

Application

- 4.** A citizen or permanent resident of Barbados may make an application under this Act for a change of name.

Consent of spouse

- 5.** An individual may, with the consent of the individual's spouse, apply under this Act to change the name of
- (a) the spouse of the individual; or
 - (b) any children of both the individual and the spouse of the individual.

Consent of child

- 6.** Subject to section 14, the name of a child who is 12 years of age or over may be changed with the consent of the child.

Consequential name changes

7. An individual who applies for a change of surname may also apply for a like change of the surname of

- (a) the spouse of that individual, if any; and
- (b) each child of both the individual and that individual's spouse, if any.

Widowed individual and child

8.(1) A widowed individual may apply to change a given name of a child of the widowed individual if that child is a child also of the deceased spouse of the widowed individual.

(2) A widowed individual who applies for a change of surname may also apply for a change of the surname of each child of the widowed individual who is also a child of both the widowed individual and the deceased spouse of the widowed individual.

(3) A widowed individual who remarries may apply to change the surname of a child who is also a child of the deceased spouse to the surname of the spouse whom the widowed individual remarries if that spouse consents.

Divorced individual and child

9.(1) An individual whose marriage has been dissolved and who has lawful custody of a child of the dissolved marriage may, with the consent of the other parent of the child, apply to change the name of the child.

(2) Where an individual whose marriage has been dissolved and who has lawful custody of a child of the dissolved marriage remarries, that individual may apply to change the surname of a child of the dissolved marriage to the surname of the current spouse of that individual.

(3) No individual may make an application under subsection (2) without the consent of the former spouse and the current spouse of that individual.

Consent of acknowledged father

10.(1) The mother of a child who has the custody of the child, may apply to change the surname of the child with the consent of the man who, as the circumstance requires,

- (a) was married to her at the time of the birth of the child;
- (b) was married to her and the marriage was terminated
 - (i) by a judgment of nullity within 280 days immediately preceding the birth of the child, or
 - (ii) by divorce where the decree *nisi* was granted 280 days immediately preceding the birth of the child;
- (c) marries her after the birth of the child and acknowledges that he is the natural father of the child;
- (d) was cohabiting with her in a relationship of some permanence at the time of the birth of the child or who ceased to cohabit with her within 280 days immediately preceding the birth of the child;
- (e) was adjudged or recognised in his lifetime by a court of competent jurisdiction to be the father of the child;
- (f) has, by affidavit sworn before a Justice of the Peace or Notary Public or other document duly attested and sealed together with a declaration by the mother contained in the same instrument confirming that he is the father of the child, admitted paternity, and the affidavit or other document is recorded in the Registration Office;
- (g) has acknowledged in proceedings for registration of the birth of the child, in accordance with the law relating to the registration of births that he is the father of the child;

- (h) has, in the presence of an attorney-at-law, signed and executed, together with the mother, a deed acknowledging that he is the father of the child; or
 - (i) is alleged to be the father of the child and has by his conduct implicitly and consistently acknowledged that he is the father of the child.
- (2) A man described in subsection (1) who has custody of a child may apply, with the consent of the mother of the child, to change the surname of the child.

One acknowledged parent

11. Where an individual who is the only acknowledged parent of a child applies for a change of the individual's surname the individual must also apply for a change of the child's surname.

Child under guardianship

12.(1) Where a person other than a parent is a guardian of a child jointly with one of the parents,

- (a) the guardian may apply, with the consent of that parent; or
 - (b) that parent may apply, with the consent of the guardian, to change the name of the child.
- (2) Where neither of the parents of a child is a guardian of the child
- (a) the guardian, or
 - (b) if 2 guardians have been appointed, 1 guardian with the consent of the other guardian,

may apply to change the name of the child.

- (3) A parent who has been deprived of the guardianship of a child
- (a) may not apply to change the child's name; and
 - (b) is not required to consent to an application to change the child's name.

Consent dispensed with

13.(1) Where, on an application to change a surname, this Act requires that application also be made to change the surname of some other person, then, if

- (a) this Act requires the consent of the other person to the change of the other individual's surname; and
- (b) the applicant is unable to obtain the consent of the other individual,

the Registrar may authorise the application to be made with that other individual's name excluded therefrom, in which case the individual's consent is not required and that individual's surname is not changed.

(2) Where the surname of a child is excluded from an application by virtue of an authorisation made under subsection (1) and the child subsequently consents to a like change in that individual's surname a parent of the child may apply to change the surname of the child.

(3) Where, on an application to change a name of a child the consent of another individual is required under this Act and that other individual unreasonably withholds consent, a Judge may, on application being made to him by *originating summons* by the individual applying for the change of name, make an order dispensing with consent.

Consent in certain cases

14. Where an individual whose consent is required to an application is *mentally incompetent or mentally retarded* the lawful guardian of that individual, or, where there is no lawful guardian, a Judge, may consent on that individual's behalf.

Form of application

15.(1) Every application for a change of surname

- (a) must be in the prescribed form; and

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- (b) must contain the name and proposed name of every individual whose surname may be changed as a result of the application.
- (2) Every application for a change of name must be made to the Registrar of the Supreme Court (in this Act referred to as the Registrar); and the Registrar shall cause every application to be published in the *Official Gazette* at least 1 month before the change of name is registered pursuant to section 16.
- (3) The Registrar may by order dispense with the necessity of publishing notice of the application as required by subsection (2) if, in his opinion
- (a) the applicant would be unduly prejudiced or embarrassed by the publication;
 - (b) the change of surname applied for is of a minor character; or
 - (c) the applicant has been commonly known under the surname applied for.
- (4) Every applicant must file with an application
- (a) an affidavit of *bona fides* in the prescribed form;
 - (b) the consent in the prescribed form of every person whose consent is necessary under this Act and a copy of any order made under subsection (3);
 - (c) the certificate of birth of the applicant and the certificate of birth of every person whose name may be changed as a result of the application, or, if that is not available, such other documentary proof of name or identity as is acceptable to the Registrar; and
 - (d) such further documentary evidence or information as the Registrar may require.
- (5) An application under section 9 must be accompanied by such evidence as may be required of the dissolution of the marriage and evidence that the applicant has lawful custody of the child named in the application.

Registration

16.(1) Where an applicant has complied with the requirements of this Act and paid the prescribed fee, the applicant is entitled to have the change of name registered by the Registrar.

(2) Notwithstanding subsection (1), the Registrar may refuse registration of a proposed change of name if in his opinion the proposed name is one that could be used to defraud or mislead the public.

(3) Where the Registrar refuses to register a proposed change of name pursuant to subsection (2) he shall, within 10 days after the refusal, notify the applicant of the refusal and the reason therefor; and the applicant may, within 14 days after receipt of notification of the refusal, appeal by *originating summons* to a Judge.

(4) Notice of an appeal under subsection (3) must be served on the Registrar at least 7 days before the hearing of the appeal.

Effect of registration

17.(1) A certificate of change of name issued under subsection (1) takes effect immediately on the commencement of the day it is issued.

(2) Registration under this Act effects, for all purposes, a change of name according to the tenor of the application.

(3) Where a change of name has been effected under this Act, the certificate thereof shall be kept in custody of the Registrar as part of the records of his office.

Amendment of records

18. The Registrar shall, on registering a change of name under section 16(1) and on payment of the prescribed fee, amend his records in conformity with the certificate.

Certificate

19.(1) Upon registration of a change of name, a duplicate of the certificate shall be delivered to the applicant on payment of the prescribed fee.

(2) Upon payment by any individual of the prescribed fee, a duplicate or certified copy of a certificate of change of name made under this Act shall be delivered to that individual.

Publication

20. The Registrar shall cause notice of the issue of a certificate under section 19 to be published forthwith in the *Official Gazette*, except where publication of notice of the application was dispensed with by an order under section 15(3).

Change in other jurisdiction

21. Without restricting the effect that a change of name has by law, an individual

- (a) whose birth or marriage is registered in Barbados; and
- (b) whose name has been changed, while resident elsewhere than in Barbados, in accordance with the laws of the jurisdiction in which the individual was resident,

is entitled, upon production of satisfactory proof of the change of name and identity, to have the new name replace the former name in the records kept and certificates issued under the *Registration Act*, Cap. 191.

Change on other records

22.(1) Without restricting the effect that a change of name has by law, an individual whose name has been changed in accordance with this or any other

Act is entitled to have the new name replace a former name in every document upon

- (a) production of a duplicate or certified copy of the certificate issued under this Act or any other Act;
- (b) production of satisfactory proof of identity; and
- (c) payment of the prescribed fee.

(2) Without restricting the effect that a change of name has by law, an individual referred to in section 21 is entitled to have the new name replace a former name in every document, upon

- (a) the production of a certificate from the Registrar certifying the change of name;
- (b) satisfactory proof of identity; and
- (c) payment of the prescribed fee.

(3) The substitution of a new name in any document pursuant to subsection (1) or (2) to replace a former name may be made by the person in charge of issuing, maintaining or keeping that type of document, who must also certify thereon that the substitution was made pursuant to this section.

(4) For the purposes of this section “document” includes every record, certificate, instrument, contract or other document, whether or not it is or is not *ejusdem generis* with those previously mentioned, and whether it is public or private.

(5) An individual entitled to the substitution in a document of a new name to replace a former one pursuant to subsection (1) or (2) is entitled to have any reference to the former name removed from the document.

Court order

23. Where a question arises as to whether an individual has complied with section 21 or 22, as the case may be, the individual may apply by *originating*

summons to a Judge for substitution of a new name to replace a former name and the Judge may make an order

- (a) declaring that the individual has complied with all the requirements of that section; and
- (b) directing the Registrar or other person to alter his records, certificates or other documents in conformity therewith,

and the Judge's decision thereon is final.

Revocation

24.(1) The Registrar may, if satisfied that any change of name has been obtained by fraud, duress or misrepresentation, revoke the change of name by order effective from a date named therein.

(2) A revocation made pursuant to subsection (1) shall be recorded on the certificate of change of name kept in the Registration Office.

(3) Notice of a revocation referred to in subsection (1) shall be forthwith published in the *Official Gazette*.

(4) The Registrar shall without charge make any alterations in his records that are necessary by reason of the revocation order.

(5) The Registrar may, where he revokes a change of name, require any individual to whom a duplicate or a certified copy of the certificate of change of name has been issued to deliver it up to the Registrar forthwith.

Offence

25.(1) Any individual who fails to comply with a requirement made under section 24(5) is guilty of an offence and liable on summary conviction to a fine of \$100, or to imprisonment for a term of 3 months, or both.

(2) An individual who, by fraud or misrepresentation, obtains a change of name under this Act is guilty of an offence and liable on summary conviction to a fine of \$500, or to imprisonment for a term of 6 months, or both.

Conclusiveness of document

26. A certificate, a duplicate certificate or a certified copy of a certificate of a change of name issued under this Act is for all purposes conclusive proof of its contents, and it is not necessary to prove the signature or official position of the person by whom the certificate, duplicate certificate or certified copy purports to be signed.

Regulations

- 27.** The Minister may make regulations
- (a) prescribing anything that is authorised or required by this Act to be prescribed;
 - (b) respecting the contents of applications for change of name, affidavits, certificates, consents to applications, and any forms and the contents thereof, for the purposes of this Act; and
 - (c) generally for carrying this Act into effect.