

SIGNED this 28th day of December, 1989.

J. S. MOMOH,
President.

LS



No. 7

1989

Sierra Leone

The Legitimacy Act, 1989

Short title.

Being an Act to render legitimate the illegitimate children of parents who subsequently marry each other; and for connected purposes.

Date of commencement.

BE IT ENACTED by the President and Members of Parliament in this present Parliament assembled, as follows:—

1. In this Act, unless a contrary intention appears—

Interpretation.

- "court" means the High Court;
- "date of legitimation" means the date on which a person becomes legitimate or is recognised as such by virtue of this Act;
- "disposition" means an assurance of any interest in property by any instrument whether *inter vivos* or by will;
- "entailed interest" means an interest in tail or in tail male or in tail female or in tail special;

"intestate" includes a person who leaves a will but dies intestate as to some beneficial interest in his movable or immovable estate;

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

"marriage" means—(a) a marriage which is recognised by the law of the place where it is contracted as the voluntary union for life of one man and one woman to the exclusion of all others; or

(b) a marriage entered into and subsisting between persons professing the Islamic faith which is valid according to Islamic Law or registered under the Islamic Marriage Act or any law governing the registration of such marriage in any other country and the words "husband" and "wife" shall be construed accordingly; or

(c) any marriage contracted or entered into in accordance with customary law and practice;

"Minister" means the Minister for the time being responsible for the registration of births and deaths.

2. (1) Subject to the provision of this section, where the parents of an illegitimate person marry or have married each other, whether before or after the commencement of this Act, the marriage shall, if the father or mother of the illegitimate person was or is at the date of the marriage resident in Sierra Leone, render that person, if living, legitimate from the commencement of this Act or from the date of the marriage, whichever last happens.

(2) The provisions contained in the Schedule to this Act shall have effect with respect to the re-registration of the birth of a person legitimated by the marriage of his parents.

3. (1) A person claiming that he or his parent or any remoter ancestor became or has become a legitimated person may, whether domiciled in Sierra Leone or elsewhere, apply by petition to the High Court praying for a decree declaring that the petitioner is the legitimate child of his parents, and the High Court shall have jurisdiction to hear and determine such application and to make such decree declaratory of the legitimacy or illegitimacy of such person as the Court may deem just; and such decree shall be binding to all intents and purposes on all persons whomsoever.

Re-registra-
tion of birth
of legitimate
person.

Cap. 96.

(2) Every petition under this section shall be accompanied by such affidavit verifying that petition, and of the absence or exclusion, as the Court may by any general rule direct.

(3) In all proceedings under this section the Court shall have power to award and enforce payments of costs to any persons cited, whether such person shall or shall not oppose the declaration applied for, in case the said 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 that petition shall, one month at least prior to the presentation by filing of such petition, be delivered to the Attorney-General and Minister of Justice, who shall be a respondent in the hearing of such petition and upon every subsequent proceeding relating thereto.

(5) Where any application is made under this section to the Court, such person or persons (if any) besides the Attorney-General and Minister of Justice as the Court shall think fit shall, subject to the Rules made under this section, be cited to the proceedings or otherwise summoned in such manner as the Court shall direct, and may be permitted to become parties to the proceedings, and may oppose the application.

(6) The decree of the Court shall not in any case prejudice any person, unless such person has been cited or made a party to the proceedings or is the next-of-kin, or personal representative of, or derives title under or through a person so cited or made a party; nor shall such decree of the Court prejudice any person if subsequently proved to have been obtained by fraud or collusion.

(7) No proceeding to be had under this section shall affect any final decree already pronounced or made by any Court of competent jurisdiction.

(8) The Chief Justice may make Rules for carrying the provisions of this section into effect.

4. (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—

Right of legitimated persons, etc. to take interests in property.

(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 entailed interest 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, moveable or immovable, 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 in accordance with their actual dates of birth.

Succession on intestacy of legitimated person and issue.

5. Where a legitimated person or a child or remoter issue of a legitimated person dies intestate in respect of all or any of his moveable or immovable 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 legitimate.

Application to illegitimate person dying before marriage of parents.

6. 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 shall apply as if such person 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.

7. A legitimated person shall have the same rights, and shall be under the same obligations in respect to the maintenance and support of himself or of any other persons 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, benefits or otherwise by or in respect of a legitimate child shall apply in like manner in the case of legitimated persons.

Provisions as to persons legitimated by extra-jurisdictional law.

8. (1) Where the parents of an illegitimate person marry or have married each other, 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 Sierra Leone by the law of which the illegitimate person became legitimated by virtue of such subsequent marriage, that person, if living, shall in Sierra Leone 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 interest in succession to a legitimated person and the spouse, children and remoter issue of a legitimated person 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.

9. (1) Where after the commencement of this Act the mother of an illegitimate child, such child not being a legitimated person, dies intestate as respect all or any of her moveable or immoveable property, 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.

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

(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 moveable or immoveable 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 legitimate and she had been the only surviving parent.

(3) This section does not apply to or affect the rights of any person to take by purchase or descent any entailed interest in moveable or immoveable property.

10. 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.

Saving.

SCHEDULE

(Section 2(2))

REGISTRATION OF BIRTHS OF LEGITIMATE PERSONS

1. The Chief Registrar may, upon 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 Births and Deaths Registration Act, 1983 and such re-registration shall be effected in such manner and at such place as the Minister may by Regulations prescribe:

Act No. 11 of 1983.

Provided that the Chief Registrar 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 registered under the Births and Deaths Registration Act 1983; or
- (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 under 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 specified in this paragraph to furnish to the Chief Registrar 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 eighteen months after such commencement;
- (b) if the marriage takes place after the commencement of this Act, within twelve months after the date of the marriage.

3. Where the parents, or either of them, fail to furnish the necessary information within the time specified for the purpose, the Chief Registrar may at any time after the expiration of that time require the parents of a person 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 a legitimated person shall not affect the legitimation of that person.

5. No fee for re-registration under this Schedule shall be charged if 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 as may be prescribed by regulations under this Schedule.

6. This Schedule shall be construed as one with the Births and Deaths Registration Act, 1983.

Passed in Parliament this *14th* day of *December*, in the year of our Lord
one thousand nine hundred and eighty-nine

C. B. FOFANA
Clerk of Parliament.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill
which has passed Parliament and found by me to be a true and correctly printed
copy of the said Bill.

C. B. FOFANA
Clerk of Parliament.