

PROJET DE LOI

ENTITLED

The Legitimacy (Guernsey) Law, 1966 *

[CONSOLIDATED TEXT]

NOTE

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* Ordres en Conseil Vol. XX, p. 267; as amended by the Births, Deaths, Marriages and Legitimacy (Bailiwick of Guernsey) (Amendment) Law, 1991 (No. XVIII of 1991); the Legitimacy (Guernsey) Law (Fees) (Amendment) Ordinance, 2006 (No. XX of 2006). See also the Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006 (No. IV of 2008); the Fees, Charges and Penalties (Guernsey) Law, 2007 (No. VII of 2008); the Assisted Reproduction (Parentage) (Guernsey and Alderney) Ordinance, 2009 (No. XLVII of 2009); the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017 (No. XIII of 2017); the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018 (Alderney Ordinance No. VIII of 2018); the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Sark) Ordinance, 2020 (Sark Ordinance No. II of 2020).

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ARRANGEMENT OF SECTIONS

1. Legitimation of adulterine children by subsequent marriage of parents.
2. Legitimacy of children of certain void marriages.
3. Provisions supplementary to section one and section two.
4. Amendment of entries in Registers of Births.
5. Repeals.
6. Citation and construction.

SCHEDULE

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The Legitimacy (Guernsey) Law, 1966

THE STATES, in pursuance of their Resolution of the third day of February, nineteen hundred and sixty-five, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

Legitimation of adulterine children by subsequent marriage of parents.

1. Where the parents of an illegitimate person marry or have married one another, whether before or after the commencement of this Law, and at the time of the act of intercourse resulting in the birth of that illegitimate person either of his parents was married to a third person, then, notwithstanding any rule of law to the contrary, the marriage of his parents shall, if the father of that illegitimate person was or is at the date of such marriage domiciled in the Bailiwick, render that illegitimate person, if living, legitimate from the commencement of this Law or from the date of such marriage, whichever last happens.

NOTES

In accordance with the provisions of the Fees, Charges and Penalties (Guernsey) Law, 2007, section 1, Schedule, with effect from 19th May, 2008, the power to prescribe by Ordinance the fees therein referred to and payable under this Law may be exercised by Regulation.

In accordance with the provisions of, first (in relation to Guernsey), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Guernsey) Ordinance, 2017, section 2, Schedule 2, with effect from 2nd May, 2017, second (in relation to Alderney), the Same-Sex Marriage (Consequential and Miscellaneous Amendments and Contrary Provisions) (Alderney) Ordinance, 2018, section 2, Schedule 2, with effect from 14th June, 2018 and, third (in relation to Sark), the Same-Sex Marriage

*(Consequential and Miscellaneous Amendments and Contrary Provisions)
(Sark) Ordinance, 2020, section 2, Schedule 2, with effect from 23rd April,
2020, section 1(2) and section 2 of, respectively, the Same-Sex Marriage
(Guernsey) Law, 2016, the Same-Sex Marriage (Alderney) Law, 2017 and
the Same-Sex Marriage (Sark) Law, 2020 do not apply in respect of this Law.*

Legitimacy of children of certain void marriages.

2. (1) Subject to the provisions of this section, the child of a void marriage, whether born before or after the commencement of this Law, shall be treated as the legitimate child of the parties to the marriage 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 the Bailiwick at the time of the birth or, if he died before the birth, was so domiciled immediately before his death.

(3) In this section the expression "**void marriage**" means a marriage, not being voidable only, in respect of which the Matrimonial Causes Division of the Royal 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 the Bailiwick.

NOTE

*In accordance with the provisions of the Assisted Reproduction (Parentage)
(Guernsey and Alderney) Ordinance, 2009, section 9(1), with effect from 4th
January, 2010, the reference in subsection (1) to an act of intercourse
resulting in the birth of a child shall be construed in any case where section
2, 3, 4 or 5 of the 2009 Ordinance applies to mean the implantation,
insemination or other procedure resulting in the birth of the child.*

Provisions supplementary to section one and section two.

3. (1) Nothing in section one or section two of this Law shall affect –

- (a) any rights under the intestacy of a person who died before the commencement of this Law,
- (b) any rights to any interest in any real or personal property of a person who died before the commencement of this Law where such property was not disposable testamentarily by that person at the time of his death under any enactment or any rule of law,
- (c) the operation or construction of any disposition of real or personal property, whether by instrument inter vivos or by will (including codicil), coming into operation before the commencement of this Law.

(2) Nothing in section one or section two of this Law shall enable any person to exercise the right of "retrait lignager" by reason of the sale or otherwise of any real property which occurred before the commencement of this Law.

NOTE

In accordance with the provisions of the Law Reform (Inheritance and Miscellaneous Provisions) (Guernsey) Law, 2006, section 32, with effect from 8th May, 2008, the "droit de retrait lignager" (right of redemption of real property) is abolished, subject to the saving in section 32(3) of the 2006 Law.¹

Amendment of entries in Registers of Births.

4. (1) Where a declaration is made at any time to the Registrar-General of Births and Deaths for the Bailiwick (hereafter in this section referred to as "**the Registrar-General**") by the father and mother of any person born before their marriage to one another acknowledging such person as their child and the Registrar-

General is satisfied that such person has been legitimated by virtue of the marriage of his parents, the Registrar-General shall cause any entry in any Register of Births to be amended in such manner as may appear to him to be necessary to ensure that such entry shall only specify such particulars as would have been specified therein had such person been born of his father and mother in lawful wedlock.

(2) Where a declaration is made at any time to the Registrar-General by the father or mother of any person born before their marriage to one another acknowledging such person as their child, the Registrar-General shall cause any entry in any Register of Births relating to such person to be amended in accordance with the provisions of subsection (1) of this section if –

- (a) the paternity of such person has been established by an affiliation order or otherwise by a decree of a court of competent jurisdiction, or
- (b) such person is described in such entry as the illegitimate child of the father.

(3) The Royal Court sitting as an Ordinary Court may, upon application being made to it in that behalf, authorise the Registrar-General to cause any entry in any Register of Births relating to any person born before the marriage of his father and mother to be amended in accordance with the provisions of subsection (1) of this section if the Court is satisfied that such person has been legitimated by virtue of the marriage of his father and mother; and upon being so authorised the Registrar-General shall cause such entry to be amended accordingly.

(4) Where any entry in any Register of Births has been amended in pursuance of the provisions of this section, any certified copy thereof shall be a copy of the entry as amended, without the reproduction of any matter which may have been cancelled; and a copy or extract of such entry shall be deemed to be accurate only if

any cancellation is omitted therefrom.

(5) Where a declaration is made by any person to the Registrar-General under this section –

- (a) the Registrar-General may require such person to give him such information concerning the matter as he may consider necessary and to verify such information in such manner as he may direct,
- (b) such person shall pay to the Registrar-General a fee in the sum of [£15] in respect of the declaration.

[(6) (a) The States may by Ordinance vary the fee that shall be payable in respect of a declaration made under this section.

- (b) Any Ordinance made under paragraph (a) –
 - (i) may contain such supplementary, incidental and transitional provisions as in the opinion of the States is necessary or expedient for the purposes of the Ordinance,
 - (ii) may be amended or repealed by a subsequent Ordinance.]

NOTES

In section 4,

the figures and symbol in square brackets in subsection (5) were

substituted by the Legitimacy (Guernsey) Law (Fees) (Amendment) Ordinance, 2006, section 1;²

subsection (6) was inserted by the Births, Deaths, Marriages and Legitimacy (Bailiwick of Guernsey) (Amendment) Law, 1991, section 4(b), with effect from 3rd December, 1991.

The following Ordinance has been made under section 4:

Legitimacy (Guernsey) Law (Fees) (Amendment) Ordinance, 2006.

In accordance with the provisions of the Fees, Charges and Penalties (Guernsey) Law, 2007, section 1, Schedule, with effect from 19th May, 2008, the power to prescribe by Ordinance the fees therein referred to and payable under this Law may be exercised by Regulation.

Repeals.

5. The Laws described in the first column of the Schedule to this Law are hereby repealed to the extent specified in the second column of that Schedule.

Citation and construction.

6. (1) This Law may be cited as the Legitimacy (Guernsey) Law, 1966.

(2) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of this Law throughout the Bailiwick.

NOTE

The Law received Royal Sanction on 5th July, 1966 and was registered on the Records of the Island of Guernsey and came into force on 26th July, 1966.

SCHEDULE

Section five*Repeals*

Law	Extent of repeal
<p>The Law entitled "Loi ayant rapport aux Mariages célébrés dans l'Île de Guernesey et dans les Îles d'Auregny et de Serk" registered on the sixth day of May, nineteen hundred and nineteen^a.</p>	Article 29.
<p>The Law entitled "Loi ayant rapport aux Mariages célébrés dans l'Île d'Auregny" registered on the first day of October, nineteen hundred and twenty-three^b.</p>	Article 25.
<p>The Law entitled "Loi relative à l'Enregistrement des Naissances et Décès dans l'Île d'Auregny" registered on the thirty-first day of October, nineteen hundred and twenty-five^c.</p>	Article 6.
<p>The Law entitled "Loi relative à l'Enregistrement des Naissances et Décès dans le Bailliage de l'Île de Guernesey" registered on the ninth day of March, nineteen hundred and thirty-five^d.</p>	<p>In section (3) of Article 2, the words "d'une veuve ou d'une femme non mariée".</p> <p>Section (4) of Article 2.</p>

^a Ordres en Conseil Vol. VI, p. 57.

^b Ordres en Conseil Vol VII, p. 121.

^c Ordres en Conseil Vol. VII. p. 417.

^d Ordres en Conseil Vol. X, p. 20.

Article 6.

NOTE

The Law entitled "Loi ayant rapport aux Mariages célébrés dans l'Île de Guernesey et dans les Îles d'Auregny et de Serk" registered on the sixth day of May, nineteen hundred and nineteen and the Law entitled "Loi ayant rapport aux Mariages célébrés dans l'Île d'Auregny" registered on the first day of October, nineteen hundred and twenty-three have both since been repealed by the Marriage (Bailiwick of Guernsey) Law, 2020, section 67, Schedule, with effect from 1st March, 2021.

¹ The right of redemption of real property ("droit de retrait lignager") was previously abolished, in part, by the Loi sur les Successions, 1840, Article 27 (in the case of "vente d'immeubles à l'enchère devant Justice"), with effect from 3rd August, 1840; and by the Loi relative au Retrait Lignager, aux Appropriements, et à la Lecture des Contrats aux Plaids d'Héritage, 1924, Article I, with effect from 12th January, 1924, save for the exceptions in paragraph (a) and paragraph (b) of the said Article I.

² Subsection (5) was previously amended by the Births, Deaths, Marriages and Legitimacy (Bailiwick of Guernsey) (Amendment) Law, 1991, section 4(a), with effect from 16th October, 1991.