

THE OFFICIAL GAZETTE 18<sup>TH</sup> SEPTEMBER, 2009  
LEGAL SUPPLEMENT — A



GUYANA

ACT NO. 19 OF 2009

STATUS OF CHILDREN ACT 2009

I assent.

*Bharat Jagdeo*  
Bharat Jagdeo  
President.

*September 18, 2009*

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AN ACT to repeal and re-enact the provisions of the Children Born Out of Wedlock (Removal of Discrimination) Act 1983; to provide for presumptions of parentage and parentage testing procedures; to effect reform of the law generally and for related purposes.

A.D.2009.

Enacted by the Parliament of Guyana:-

**PART I  
PRELIMINARY**

Short title.

1. This Act may be cited as the Status of Children Act 2009.

Interpretation.

2. (1) In this Act, unless the context otherwise requires-

“body sample” includes one or more of the following-

- (a) a blood sample;
- (b) a tissue sample;
- (c) a sperm sample;
- (d) other samples of material obtained from the human body;

“child” means a person whether born in or out of wedlock and includes a person who is under the age of eighteen years;

“Court” means the High Court of the Supreme Court of Judicature;

“declaration of parentage” means a declaration under section 21 or 22;

“extra-territorial declaration” means an order in the nature of a declaration providing for motherhood or fatherhood made by a Court outside of Guyana;

“extra-territorial finding of paternity or maternity” means a judicial finding of paternity or maternity that is made incidentally in the determination of another issue by a Court outside of Guyana and that is not an extra-territorial declaration;

“fertilisation procedure” means-

- (a) the artificial insemination of a woman;
- (b) the procedure of transferring to a woman’s body **an** ovum (whether or not produced by her ) fertilised **outside** her body;
- (c) the procedure of transferring to a woman’s body **an** ovum (whether or not produced by her) or both the ovum and sperm to enable fertilisation of the ovum to occur in her body; or
- (d) any other procedure that assists with fertilisation in a woman;

“husband” means the man to whom a woman is legally married;

“parentage testing order” means Deoxyribonucleic acid testing or any other procedure;

“prescribed overseas jurisdiction” means a country or part of a country, outside of Guyana that is listed in the regulations;

“Registrar” means the Registrar of the Court;

“wife” means the woman to whom a man is legally married;

“21<sup>st</sup> May, 1983” means the date on which the Children Born out of Wedlock (Removal of Discrimination) Act 1983 commenced.

(2) For the purposes of sections 13 and 16-

- (a) where a man and a woman go through a marriage with each other with at least one of them doing so in good faith and they cohabit, they shall be considered to be married during the period they cohabit, notwithstanding that the marriage is void;
- (b) where a voidable marriage is decreed a nullity the man and woman shall be considered to be married until the date of the decree of nullity.

(3) A reference in this Act or any other Act-

- (a) to a child born out of wedlock is a reference to a child whose father and mother were not married to each other at the time of birth of the child and who have not subsequently married each other; and
- (b) to a child born in wedlock is a reference to a child whose father and mother were married to each other at the time of birth of the child.

Application of Act.

3. (1) Save as otherwise provided in this Act, this Act applies to a child-

- (a) whether born before or after the commencement of this Act;
- (b) whether born in Guyana or not; and
- (c) whether or not either of the child's parents has ever been domiciled in Guyana.

(2) Existing laws shall be construed with such adaptations as may be necessary to bring them into conformity with this Act.

(3) This Act shall not affect rights vested before its commencement.

## PART II

### STATUS OF CHILDREN AND CONSTRUCTION OF INSTRUMENTS

All children of equal status.

4. (1) The status and rights, privileges and obligations of a child born out of wedlock are identical in all respects to those of a child born in wedlock.

(2) This section applies subject to sections 6 and 7.

Child of natural parents.

5. (1) A person is the child of his natural parents, and his status as their child is independent of whether he is born in or out of wedlock.

(2) Where there is an adoption order under the laws dealing with adoption of children, the child is in law the child of the adopter as if the adopter were a natural parent.

(3) All distinction between the status of a child born in wedlock and a child born out of wedlock are abolished and the relationship of parent and child shall be determined in accordance with this section and section 15.

(4) Kindred relationships shall be determined according to the relationships described in subsection (1), (2) or (3).

Construction of instruments made on or before 21<sup>st</sup> May, 1983.

No. 12 of 1983.

6. (1) This section applies to the following dispositions only-

- (a) dispositions made *inter vivos* on or after 21<sup>st</sup> May, 1983, being the date on which the Children Born out of Wedlock (Removal of Discrimination) Act commenced;
- (b) dispositions made by will or codicil executed before, on or after 21<sup>st</sup> May, 1983 by a person who dies after that date.

(2) Unless a contrary intention appears, in any disposition in which this section applies-

- (a) a reference (however expressed) to a child of a person includes a reference to a child born out of wedlock of whom that person is a parent; and
- (b) a reference (however expressed) to any person or persons related to another person (other than a parent or child) includes a reference to anyone who is so related in fact, or some other person through whom the relationship is traced, is or was a child born out of wedlock.

(3) The use of any of the following words (or of any word or words having the same or a similar meaning) does not of itself indicate a contrary intention for the purposes of subsection (2) -

- (a) the words “legitimate” or “lawful” when used with reference to the child or children of a person or persons related to another person in some other way;
- (b) the words “married”, “husband” or “wife” when used with reference to the parent or parents of a person.

(4) Without limiting any other provision of this Act, any rule of law that a disposition in favour of a child born out of wedlock not conceived or born when the disposition takes effect is void as being contrary to public policy, is abolished in respect of any disposition to which this section applies.

Construction of other dispositions. No. 12 of 1983.

7. (1) The following dispositions are to be construed as if the Children Born out of Wedlock (Removal of Discrimination) Act and this Act had not been enacted –

- (a) dispositions made *inter vivos* before the 21<sup>st</sup> May, 1983; and
- (b) dispositions made by will or codicil executed by a person who died before the 21<sup>st</sup> May, 1983.

(2) Where any disposition referred to in subsection (1) contains a special power of appointment, nothing in this Act-

- (a) extends the class of persons in whose favour the appointment may be made; or
- (b) causes the exercise of the power to be construed so as to include any person who is not a member of that class.

Description in terms of relationship by blood or marriage.

8. A reference to a person or group or class of persons described in terms of relationship to another person by blood or marriage shall be construed to refer to and includes a person who comes within the description by reason of the relationship of parent and child as provided for in this Act.



Rights on  
intestacy.

9. (1) This section applies to rights under the rules of intestacy of persons dying on or after 21<sup>st</sup> May, 1983.

(2) Where any relative of a child born out of wedlock (including a parent of the child) dies intestate in respect of all or any of the relative's movable or immovable property, the child (or any of the child's issue if the child is dead) is entitled to take any interest in that property that the child (or the child's issue) would have been entitled to if the child's parents had been married to each other when the child was born.

(3) Where a child born out of wedlock dies intestate in respect of all or any of the child's movable or immovable property, a relative of the child (including a parent of the child) is entitled to take any interest in that property that the relative would have been entitled to if the parents of the child had been married to each other when the child was born.

### PART III ESTABLISHMENT OF PARENTAGE

Presumption of  
paternity  
arising from  
marriage.

10. A man is presumed to be the father of a child where-

- (a) he was married to the mother of the child at the time of the child's birth;
- (b) he was married to the mother of the child by a marriage that was terminated by-
  - (i) death;
  - (ii) decree nullity; or
  - (iii) divorce where the decree absolute of divorce was granted, within three hundred and eight days, or a longer period as the Court may allow, before the birth of the child;
- (c) he married the mother of the child after the child's birth and acknowledges that he is the father of the child.

Presumption of paternity arising from acknowledgements.

11. (1) A man is presumed to be the father of a child where –

- (a) under this Act or any other law of Guyana or law of a prescribed overseas jurisdiction the man executes a formal acknowledgement of paternity or any other instrument acknowledging that he is the father of the child; and
- (b) the instrument has not been annulled or otherwise set aside.

(2) This section extends to instruments executed before the commencement of this Act.

Presumption of paternity arising from cohabitation.

12. A man is presumed to be the father of a child where he was cohabiting with the mother of the child in a relationship of some permanence at any time during the period beginning not earlier than three hundred and eight days and ending not less one hundred and forty days before the birth of the child.

Presumption of parentage arising from registration of birth.

13. A person is presumed to be a child's parent if the person's name is entered as the mother or father in the register of births or a register of information on parentage kept under a law of a foreign country.

Presumption of parentage arising from findings of Courts.

14. (1) A person is presumed to be a child's parent if-

- (a) while the person is alive or after the person's death, a Court of competent jurisdiction has-
  - (i) found expressly that the person is the parent of the child; or
  - (ii) made a finding that it could not have made unless the person was the child's parent; and
- (b) the finding has not been altered, set aside or reversed.

(2) A presumption arising under subsection (1) is irrebuttable.

(3) In this section, a reference to a finding of a Court of competent jurisdiction includes –

- (a) a declaration of parentage;

- (b) a finding whether made before or after the commencement of this section; and
- (c) a finding of a Court of a prescribed overseas jurisdiction.

Presumption of parentage arising from use of fertilisation procedure.

15. (1) Where a woman becomes pregnant as a result of undergoing a fertilisation procedure —

- (a) her husband or the man with whom she is cohabiting is presumed to be the father of any child born as a result of the pregnancy; and
- (b) the woman is presumed to be the mother of any child born as a result of the pregnancy.

(2) For the purposes of subsection (1) (a), the presumption applies—

- (a) whether or not the husband or the man with whom she is cohabiting provided any or all of the sperm used in the fertilisation procedure; and
- (b) only if the husband or the man with whom she is cohabiting consented to the fertilisation procedure.

(3) For the purposes of subsection (1) (b), the presumption applies whether or not the woman provided the ovum used in the fertilisation procedure.

(4) Where a woman becomes pregnant by means of a fertilisation procedure using any sperm obtained from a man, that man shall be presumed to be the father of any child born as a result of the pregnancy where his express consent in writing to be the father has been given to the woman or to the entity conducting the fertilisation procedure.

(5) Where a woman becomes pregnant by means of a fertilisation procedure using an ovum obtained from another woman, that other woman is presumed not to be the mother of any child born as a result of the pregnancy.

(6) Where a woman is impregnated with the embryo that is the result of a fertilisation procedure using ovum and sperm obtained from other persons under an agreement of surrogacy, that woman is presumed not to be the mother of the child born as a result of the pregnancy under these circumstances.

(7) In this section a reference to a woman includes a woman -

- (a) who is married;
- (b) cohabiting with a man as his wife although not married to him; or
- (c) in a casual relationship.

Rebuttal of  
parentage  
presumptions.

16. (1) A presumption arising under this Act or a paternity or a parentage presumption arising under any law that is rebuttable, is rebuttable by proof on the balance of probabilities.

(2) Every presumption arising under this Part, save and except a presumption arising under section 14(1) or 15(1)(b), (4), (5) or (6), is a rebuttable presumption.

Conflicting  
rebuttable  
parentage  
presumptions.

17. Where two or more rebuttable presumptions referred to in section 16 conflict with each other and are not rebutted in any proceedings, the presumption that appears to the Court to be more or most likely prevails.

Conflicts  
involving  
irrebuttable  
parentage  
presumptions.

18. (1) Where two or more irrebuttable presumptions arising under this Act conflict with each other, the presumption that appears to the Court to be more or most likely prevails.

(2) Where an irrebuttable presumption arising under this Act conflicts with a rebuttable presumption arising under this Part that is not rebutted in any proceedings, the irrebuttable presumption prevails over the rebuttable presumption.

Acknowledgment  
of paternity.

19. (1) A formal acknowledgement of paternity shall not be effective unless-

- (a) made in a prescribed form;
- (b) signed by the man acknowledging that he is the father and countersigned by the mother of the child;
- (c) a copy is filed in the office of the Registrar General of births and deaths; and
- (d) it complies with the other provisions of this section.

(2) An acknowledgement for the purposes of subsection (1) shall be a statutory declaration made-

(a) in the case of a person in Guyana, before a Magistrate, Justice of the Peace, Notary Public, Commissioner authorised to administer oaths to affidavits or other officer authorised by law to administer an oath under the Statutory Declarations Act;

Cap. 5:09.

(b) in the case of a person who is not in Guyana, before a Guyana diplomatic representative, a consular officer, a Notary Public, or some other person lawfully authorised to administer oaths in the country or place where the declaration is made.

(3) Acknowledgement of paternity may occur where a person consistently performs certain prescribed acts with respect to a child or has in writing confirmed his parentage of that child.

Annulment of paternity acknowledgements.

20. (1) The Court may annul a formal acknowledgement of paternity on the grounds of fraud or mistake on the application of or on behalf of -

- (a) the person who executed the acknowledgement;
- (b) the mother of the child to whom the acknowledgement relates;
- (c) the child to whom the acknowledgement relates;
- (d) the Registrar General of births and deaths;
- (e) any other person who may be affected by the result of the application.

Cap. 44:01.

(2) Where the Court makes an annulment order, the Registrar shall immediately cause a copy of the order to be transmitted to the Registrar General of births and deaths to be dealt with under the Registration of Births and Deaths Act.

Declaration of motherhood.

21. (1) A person with an interest may apply to the Court for a declaration that a woman is or is not in law the mother of a child.

(2) Where the Court finds on a balance of probabilities that a woman is or is not the mother of a child, the Court may make a declaration to that effect.

(3) Where circumstances exist that give rise under this Part to conflicting rebuttable presumptions of motherhood and a Court finds on a balance of probabilities that a woman is the mother of the child, the Court may make a declaration to that effect.

Declaration of  
fatherhood.

22. (1) A person with an interest may apply to the Court for a declaration that a man is or is not in law the father of a child.

(2) Where the Court finds on a balance of probabilities that a man is or is not the father of a child, the Court may make a declaration to that effect.

(3) Where the Court finds that a presumption of paternity under this Part exists, the Court shall make a declaration confirming that the paternity is recognised in law unless it is established on a balance of probabilities that the presumed father is not the father of the child.

(4) Where circumstances exist that give rise under this Part to conflicting rebuttable presumptions of fatherhood and a Court finds on a balance of probabilities that a man is the father of the child, the Court may make a declaration to that effect.

Provisions  
relating to  
sections 21 and  
22.

23. (1) A declaration made under sections 21 and 22 may be made –

- (a) whether or not the parent of the child (or both) are alive; or
- (b) whether or not the child has been born.

(2) Where a declaration of parentage is made under section 21 or 22, the Registrar shall immediately cause a copy of the declaration to be transmitted to the Registrar General of births and deaths, to be dealt with under the Registration of Births and Deaths Act.

Cap. 44:01.

Person entitled  
to apply.

24. (1) For the purpose of bringing an application under section 21 or 22 for a declaration, the following persons shall be presumed to have an interest-

- (a) a person who alleges that the relationship of parent and child exists between his child and a named person;
- (b) a person who alleges an interest that the relationship of parent and child exists between the person and another named or identified person;
- (c) the Registrar General of births and deaths when seeking a determination that the relationship of parent and child exists between a named person and another named or identified person;
- (d) a person prescribed by regulations who seeks a determination that the relationship of parent and child exists between a named person and another named or identified person;
- (e) a person who may be affected by the result who seeks a determination that the relationship of parent and child exists between a named person and another named or identified person.

(2) An application may be brought on behalf of a child by a person acting on the child's behalf.

Notice of  
application for  
declaration.

25. (1) Unless the Court otherwise directs, notice of an application under section 21 or 22 shall be given to-

- (a) the person alleged to be the child concerned or a person prescribed to be served on that child's behalf;
- (b) the person alleged to be the parent of the child;
- (c) a person-
  - (i) who, within the meaning of the law relating to Custody, Access, Guardianship and Maintenance, has parental responsibility for the child;
  - (ii) who is the guardian of the child;
  - (iii) who has *de facto* custody of the child;

- (d) the committee or guardian of a mentally incompetent person or in the absence of such a committee or guardian, the Attorney-General;
- (e) any other person claiming to be parent of the child.

(2) Upon application by a person who alleges an interest, the Court shall consider whether or not a person should receive notice and may direct that notice be given to a person who in its opinion should have an opportunity to be heard.

Order to be recognised.

26. (1) A declaration made under section 21 or 22 shall be recognised for all purposes.

(2) Notwithstanding subsection (1), the Court may make an order annulling a declaration made under section 21 or 22 on the application of any person who applied or could have applied for the making of the declaration, if it appears to the Court-

- (a) that new facts or circumstances have arisen that have not previously been disclosed to the Court; and
- (b) those facts could not, by the exercise of reasonable diligence, have previously been disclosed to the Court.

(3) On the making of an order under subsection (2), the declaration ceases to have effect from that time.

(4) Section 25 applies for the purposes of notification of an application under subsection (2).

(5) Subject to subsection (6), an annulment order made under subsection (2), does not affect-

- (a) rights and duties which have been exercised and observed; and
- (b) interest in property which has been distributed as a result of the declaration, before its annulment.

(6) Where a declaration is annulled under subsection (2), the Registrar shall immediately cause a copy of the order annulling the declaration to be transmitted to the Registrar General of births and deaths to be dealt with under the Registration of Births and Deaths Act.



Admissibility of Court findings and paternity acknowledgements.

27. (1) Where in any proceedings in which the parentage of a child is in issue and a presumption under section 11 or 14 is relied on, the finding or the acknowledgement giving rise to the presumption is admissible in evidence in those proceedings.

(2) Where in any proceedings in which the parentage of a child is in issue, the Court before which the proceedings are taken may admit any evidence that tends to establish that a person is or is not a parent of the child.

(3) The power of the Court under subsection (2) may be exercised even though the evidence is not required to be admitted by virtue of subsection (1).

(4) Where the Court makes an order under section 26(2), it may, if it thinks that it would be just and equitable to do so, make such ancillary orders (including orders varying property rights) as may be necessary to place any person affected by the annulment of the declaration, as far as practicable, in the same position as the person would have been in if the declaration had not been made.

Conduct of hearings.

28. (1) The hearing of an application for —

- (a) a declaration of parentage;
- (b) an order to annul a declaration of parentage,

shall be *in camera*.

(2) The Court may adjourn the hearing of any application under subsection (1) to give a person the opportunity to be present or to be represented at the hearing if the Court considers that the person's interests would be affected by a declaration or an order annulling a declaration of parentage.

Offence to publish name, particulars, etc.

29. A person who publishes—

- (a) the name; or
- (b) the particulars relating to the identity,

of a person by or in relation to whom an application for a declaration of parentage or an order to annul a declaration of parentage is brought commits an offence and is liable on summary conviction to a fine of two hundred thousand dollars and to imprisonment for six months.

Parentage  
testing  
procedures.

30. (1) In any proceedings where the parentage of a child is in issue, the Court may make an order requiring a parentage testing procedure to be carried out for the purpose of obtaining information to assist in determining the parentage of the child.

(2) An order made under subsection (1) may direct that the parentage testing procedure be carried out on –

- (a) the child;
- (b) a person alleged to be a parent of the child;
- (c) any other person where the Court is of the opinion that the information that could be obtained if the parentage testing procedure were to be carried out in relation to the person might assist in determining the parentage of the child.

(3) A parentage testing order may be made subject to the terms and conditions as directed by the Court.

(4) The Court may make a parentage testing order-

- (a) on the application of-
  - (i) a party to the proceedings;
  - (ii) the Public Trustee;
  - (iii) the Attorney General;
  - (iv) the Registrar General of births and deaths;
  - (v) the person representing the child under an order made under section 45; or
- (b) of its own motion.

(5) When considering whether to make a parentage testing order, the Court shall-

- (a) consider and determine any objection made by a party to the proceedings on account of medical, religious or other grounds; and

- (b) where the Court determines that an objection is valid, the Court shall take the objection into account in deciding whether to make the order.

Consequential  
orders.

31. (1) The Court may, upon making a parentage testing order, make such other orders as it considers necessary or desirable-

- (a) to enable the parentage testing procedure to be carried out; or  
(b) to make the parentage testing procedure more effective or reliable.

(2) Without limiting the generality of subsection (1), the Court may make any of the following orders-

- (a) an order requiring a person named in the order to submit to a medical procedure;  
(b) an order requiring a person to provide a body sample;  
(c) an order requiring a person to surrender a body sample previously obtained from that person or from another person that has been stored or otherwise preserved;  
(d) an order requiring a person to furnish information relevant to that person's medical or family history.

(3) An order under subsection (2)(c) may be made whether or not the person whose body sample is stored or preserved is alive at the time the order is made.

(4) In deciding whether to make an order under this section, the Court shall-

- (a) consider and determine any objection made by a party to the proceedings on account of medical, religious or other grounds; and  
(b) if it determines that an objection is valid, take the objection into account in deciding whether to make the order.

Order as  
to costs.

32. The Court may make such orders as to cost as it considers just in relation to costs incurred for-

- (a) the carrying out of the parentage testing procedure or other orders made by the Court in relation to the parentage testing procedure;
- (b) the preparation of reports in relation to the information obtained as a result of the carrying out of the parentage testing procedure.

Order in regards  
to medical  
procedure, etc.

33. (1) This section applies where a parentage testing order or an order under section 31 requires a medical procedure or other act to be carried out in relation to a child.

(2) No parentage testing procedure or other act shall be carried out in relation to a child unless-

- (a) a parent of the child;
- (b) a person with parental responsibility for the child; or
- (c) a guardian of the child,

consents to the medical procedure or other act being carried out.

(3) Nothing in subsection (2) operates to prevent a child of or over the age of sixteen years consenting to the medical procedure or act being carried out on his/her own behalf.

(4) Where a child of or over the age of sixteen withholds consent to the medical procedure or the act being carried out, the consent of any or all of the persons referred to in subsection (2) shall be ineffective for the purpose of the carrying out of the medical procedure or act.

No liability  
where consent  
given.

34. (1) Where -

- (a) a parent of a child;
- (b) a person with parental responsibility for the child; or
- (c) a guardian of a child,

consents to a medical procedure or other act being carried out in relation to the child under an order made under section 30 or 31, a person who carries out, or assists in the carrying out of, the medical procedure or act is not liable to any civil or criminal action in relation to the proper carrying out of the medical procedure or act.

(2) Nothing in subsection (1) affects any liability of a person for an act done negligently, or negligently omitted to be done, in relation to the carrying out of a medical procedure or act.

Non-compliance with parentage testing or other orders.

35. Where a person, including a child of or over the age of sixteen years, fails or refuses to consent to the medical procedure or act being carried out, the Court may draw such inferences from the failure or refusal to consent as appear just in the circumstances.

Reports on parentage testing procedure.

36. (1) A report made in accordance with regulations made under section 48(2)(b) may be received in evidence in any proceedings under this Act.

(2) Where a report is received in evidence in any proceedings under this Act, the Court may make an order requiring-

- (a) the person who made the report;
- (b) any person whose evidence may be relevant in relation to the report,

to appear before the Court and give evidence in relation to the report.

(3) An order under subsection (2) may be made by the Court –

- (a) on the application of –
  - (i) a party to the proceedings;
  - (ii) the Public Trustee;
  - (iii) the Attorney-General;
  - (iv) a person representing a child under an order made under section 45; or
- (b) on its own motion.

Personating, proffering, etc. another for a parentage testing procedure.

37. A person who –

- (a) undergoes a parentage testing procedure under a parentage testing order or other procedure ordered under section 31 for the purpose of impersonating the person who is required by the order to undergo the procedure; or

- (b) proffers a child for the purpose of undergoing a parentage testing procedure under a parentage testing order or other procedure ordered under section 31 knowing that the child is not the child named in the order,

commits an offence and is liable on summary conviction to a fine of two hundred thousand dollars and to imprisonment for six months.

Inspection of register.

38. On application and on satisfying the Registrar General of births and deaths that the information is not to be used for an unlawful or improper purpose, a person may inspect and obtain from the Registrar General a certified copy of —

- (a) a formal acknowledgement of paternity filed under section 19; or  
(b) a certificate of registration of birth made under the Registration of Births and Deaths Act.

Cap. 44:01.

Extra-territorial declaration.

39. An extra-territorial declaration shall be recognised and shall have the same effect as if made in Guyana where —

- (a) at the time the proceedings were commenced or the order was made, either parent was domiciled in Guyana;  
(b) the court that made the order would have had jurisdiction to do so under the laws of Guyana;  
(c) the court that made the order is a prescribed overseas jurisdiction;  
(d) the child was habitually resident in the territorial jurisdiction of the court making the order at the time the proceedings were commenced or the order was made; or  
(e) the child or either parent had a real and substantial connection with the territorial jurisdiction in which the order was made at the time the proceedings were started or the order was made.

Exceptions to section 39.

40. The Court may decline to recognise an extra-territorial declaration and may make a declaration under this Act where-

- (a) new evidence that was not available at the hearing becomes available; or
- (b) the Court is satisfied that the extra-territorial declaration was obtained by fraud or duress.

Filing of extra-territorial declarations.

41. (1) A copy of an extra-territorial declaration, certified under the seal of the court that made it, may be filed in the office of the Registrar General of births and deaths.

(2) A copy of extra-territorial declaration may not be filed under subsection (1) unless it is accompanied by-

- (a) a sworn statement by a lawyer or public official lawfully authorised in the jurisdiction in which the order was made as to the effect of the declaration in that jurisdiction; and
- (b) where necessary, a translation verified by affidavit.

(3) Subject to subsection (4) upon the filing of an extra-territorial declaration under this section, the Registrar General shall, in accordance with the Registration of Births and Deaths Act, amend the register accordingly.

Cap. 44:01.

(4) Where an extra-territorial declaration contradicts paternity found by an order already filed with the Registrar General of births and deaths, the most recent order in time shall prevail.

(5) For the purposes of this section, the Registrar General of births and deaths is not liable for consequences resulting from filing of material that is apparently regular on its face for the purposes of this section.

Admissibility extra-territorial declaration.

42. A copy of an extra-territorial declaration or finding certified under the seal of the court that made it and accompanied by the documents specified in section 41(2), is admissible in evidence without proof of the signatures or office of a person certifying the declaration.

Extra-territorial  
paternity  
findings.

43. An extra-territorial finding of paternity or maternity that is made by a court that has jurisdiction to determine the matter in which the finding was made (prescribed overseas jurisdiction) shall be recognised and have the same effect as if made in Guyana under the same circumstances.

Admissibility of  
extra-territorial  
finding of  
paternity.

44. A copy of an extra-territorial order or judgment in which a finding of paternity or maternity is made, certified under the seal of the court that made it, is admissible in evidence without proof of the signature or office of a person executing the certificate.

#### PART IV MISCELLANEOUS

Separate  
representation  
of child.

45. (1) Where it appears to the Court that a child ought to be separately represented, the Court may order that the child is to be separately represented, and may also make such orders as it considers necessary to secure that representation .

(2) The Court may make an order for separate representation of a child-

- (a) on the application of a person with an interest in the proceedings;
- or
- (b) of its own motion.

Court may  
enforce its own  
orders.

46. Nothing in this section affects the jurisdiction or power of the Court making an order under this Act to enforce its orders.

Application of  
particular  
sections.

47. Subject to section 3(3) the provisions of section 39 to 44 inclusive apply to extra-territorial declarations and extra-territorial finding of paternity or maternity whether made before or after 21<sup>st</sup> May, 1983 (being the date on which the Children Born out of Wedlock (Removal of Discrimination) Act commenced).



Regulations.

48. (1) The Minister may make regulations with respect to any matter that this Act requires or permits to be prescribed or that is necessary to be prescribed for carrying out or giving effect to this Act.

(2) Without affecting the generality of subsection (1), the regulations may make provision with respect to-

- (a) the carrying out of parentage testing procedures under parentage testing orders;
- (b) the preparation of reports in relation to the information obtained as a result of the carrying out of such procedures.

(3) A person who contravenes any regulation commits an offence and is liable on summary conviction to a fine of two hundred thousand dollars and to imprisonment for six months.

#### PART V TRANSITIONAL, REPEAL, SAVINGS

Repeal of Children  
Born out of  
Wedlock (Removal  
of Discrimination)  
Act.  
No. 12 of 1983.

49. The Children Born out of Wedlock (Removal of Discrimination) Act is repealed.

Regulations for  
resolving  
transitional  
difficulties.

50. The Minister may make regulations to provide-

- (a) for resolving any difficulties that may arise out of the repeal by this Act;
- (b) for the amendment of subsidiary legislation or a part, made under any law repealed by this Act and remaining in force pursuant to this Act.

Savings and  
transitional  
regulations.

51. (1) The Minister may make regulations containing provisions of a saving or transitional nature consequent on the enactment of this Act.

(2) A provision referred to in subsection (1) may, if the regulations so provide, take effect on or from the date of the commencement of the Act or a later day.

(3) To the extent to which a provision referred to in subsection (1) takes effect from a date that is earlier than the date of its publication in the *Gazette*, the provision does not operate so as to —

- (a) affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication;
- (b) impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.


Prior Court  
determinations.

52. Nothing in any provision of this Act affects any determination concerning the parentage or status of a child made by a Court before the commencement of the provision, except where specifically provided by this Act.

Reference to  
repealed  
enactments.  
No. 12 of 1983.

53. A reference in any instrument made under any Act, or any repealed provision of the Children Born out of Wedlock (Removal of Discrimination) Act is to be read as a reference to the equivalent, if any, provision of this Act.

*Passed by the National Assembly on 21<sup>st</sup> May, 2009.*



S.E. Isaacs.

Clerk of the National Assembly.

**(Bill No. 5 of 2009)**