

**THE OFFICIAL GAZETTE – 5TH MAY, 1983  
LEGAL SUPPLEMENT – C**

PARLIAMENT OFFICE,  
Public Buildings,  
Georgetown,  
Guyana.

83—05—04.

The following Bills which will be introduced in the National Assembly are published for general information.

*F. A. Narain,*  
Clerk of the National Assembly



**GUYANA**

BILL NO. 12 of 1983

CHILDREN BORN OUT OF WEDLOCK (REMOVAL OF DISCRIMINATION)  
BILL 1983

**ARRANGEMENT OF SECTIONS**

**SECTION**

1. Short title.
2. Amendment of certain enactments.
3. Repeal of the Bastardy Act and savings.

A BILL

Intituled

AN ACT to amend certain enactments and to repeal the Bastardy Act.

A.D. 1983 Enacted by the Parliament of Guyana: —

Short title.

1. This Act may be cited as the Children Born Out of Wedlock (Removal of Discrimination) Act 1983.

Amendment of certain enactments.

2. The enactments specified in the first column of the Schedule are hereby amended in the manner specified in the corresponding entry in the second column of that Schedule.

Repeal of the Bastardy Act and savings. Cap. 46:03

3. (1) The Bastardy Act (hereafter in this section referred to as the "said Act") is hereby repealed.

(2) Notwithstanding the repeal of the said Act by subsection (1) —

- (a) any complaint made under section 3 or application made under section 9 of the said Act and pending on the day immediately preceding the commencement of this Act may be continued to its final determination under the provisions of the said Act, as if the said Act had not been repealed; and
  - (i) the relevant provisions of the said Act shall apply to, and in relation to, the complaint or the application, as the case may be, and all matters arising therefrom as if the said Act had not been repealed; and
  - (ii) the provisions of paragraph (b) shall apply to any order made under the said Act in respect of any matter which is the subject of the complaint or the application, as the case may be, or any appointment made under the said Act for any purpose relating to any such matter, including an order under section 4 or 10 or an appointment under section 6 (3) of the said Act, in the same manner as that paragraph would apply to, and in relation to, any such order or appointment if it were in force on the day immediately preceding the commencement of this Act;
- (b) any affiliation order made under section 4 of the said Act in respect of a child, any order made under section

6 (3) of the said Act appointing a person to have the custody of a child or any order made under section 10 of the said Act directing payment of any sum to the poor law commissioners or a district commissioner in respect of a child chargeable to the poor law commissioners or any other order or appointment made under the said Act, and in force on the day immediately preceding the commencement of this Act, shall continue to be in force until it would have ceased to be in force under the provisions of the said Act, and the relevant provisions of the said Act shall apply to, and in relation to, such order and the enforcement thereof or any such appointment and, in the case of an affiliation order or an order under section 10 of the said Act, the amounts payable under the order as if the said Act had not been repealed:

Provided that —

- (i) the affiliation order made under section 4 of the said Act in respect of the child shall not, if in respect of the child an order of maintenance is made under the Maintenance Act, be enforced in respect of the period for which the second mentioned order is enforceable; Cap. 45:03
- (ii) an order made under section 6 (3) of the said Act appointing a person to have the custody of a child shall, if an order is made under section 15 of the Infancy Act regarding the custody of the child, cease to be in force with effect from the day immediately preceding the date on which the second mentioned order is made. Cap. 46:01

Section 2

**SCHEDULE**

**Enactments**

**Amendments**

Evidence Act,  
Cap. 5:03

Section 61 (2)

- (1) Substitute “child born out of wedlock” for “bastard child” where they occur for the first time.
- (2) Substitute “child” for “bastard child” where they occur for the second time.

Civil Law of  
Guyana Act,  
Cap. 6:01

**Enactments**

**Amendments**

**Section 5**

Insert after subsection (6) the following subsection as subsection (7) —

“(7) In determining relationships for the purposes of section no regard shall be had to whether any person is born in wedlock or out of wedlock and a person born out of wedlock shall be entitled to the same rights under this section as a person born in wedlock:

Provided that a man shall not, as the father of a child born out of wedlock and dying intestate, be entitled to take any interest under this section in the estate of the child unless, before the death of the child, —

- (i) he had been adjudged to be the father of the child by a court of competent jurisdiction; or
- (ii) he had acknowledged the child to be his own and had contributed towards the maintenance of the child.”.

**Maintenance Act,  
Cap. 45:03**

**Section 2**

- (1) In paragraph (a) after “children” insert “,whether born in wedlock or not”.
- (2) In paragraph (c) after “child” insert “, whether born in wedlock or not,”.
- (3) For paragraph (d) substitute the following —  
 “(d) the children, whether born in wedlock or not, —  
 (i) of any child that his wife has by him during his marriage to her;  
 (ii) of any child of which he has been duly adjudged to be the father under any law for the time being in force; or  
 (iii) of any child which is acknowledged by him to be his own

in the event of the parents of those children failing to maintain them, until they attain the age of sixteen years, or longer if they are, by reason of bodily or mental infirmity, unable to maintain themselves.”.

**Section 4**

- (1) Insert “or her” after “with whom his”.
- (2) Insert “or her” after “treated him”.
- (3) Insert after “her infancy,” —

**Enactments**

**Amendments**

“and also the man who is his or her father, whether or not his or her mother openly cohabited with that man at the time of his or her birth, provided that during his or her infancy that man had acknowledged him or her as the man’s child and had contributed towards his or her maintenance.”.

Section 6,  
Proviso                      Substitute ‘twenty’ for ‘ten’ in both the places where it occurs.

Section 13                      Substitute “twenty” for “ten” in both the places where it occurs.

Infancy Act,  
Cap. 46:01

Section 1A                      Insert after section 1 the following section as section 1A —

**Interpreta-  
tion.**

1A. In this Act —

- (a) “infant” means any person who is a minor, whether born in wedlock or out of wedlock;
- (b) “father”, in relation to an infant who is born out of wedlock, means —
  - (i) the man who has been adjudged to be the father of the infant by a court of competent jurisdiction; or
  - (ii) if there is no such man, the man who has acknowledged the infant to be his child, and has contributed towards the maintenance of the infant, before he exercises or seeks to exercise in respect of the infant any rights or functions conferred on the father of an infant by any provision of this Act,

and the expression “parent”, in so far as it refers to the father of such infant, shall be construed accordingly.’.

Section 2                      Delete “(by which term minors are held to be meant and included)”.

**Enactments**

**Amendments**

- Section 7
  - (1) Insert "or she" after "if he".
  - (2) Delete "if a male and if she has attained the full age of twelve years if a female".

Section 10A. Insert after section 10 the following section as section 10A —

"Guardianship of infant. 10A. (1) Both the father and the mother of an infant shall be the guardians, and shall be entitled to the custody, of the infant.

(2) The father or mother of an infant, or both of them, may be deprived by the Court of the guardianship or custody of the infant or both under the provisions of this Act."

Section 12. Substitute the following —

"On death of one of the parents the other parent to be guardian of the infant alone or jointly with others. 12. (1) Subject to subsection (2), on the death of one of the parents of an infant, the surviving parent shall continue to be the guardian of the infant,

- (a) where any guardian has been appointed by the parent who died, jointly with that guardian; or
- (b) where no guardian has been appointed by the parent who died, alone.

(2) Where one of the parents of an infant has died, and —

- (a) the person or all the persons appointed by him to be the guardian of the infant; or
- (b) if the person or all the persons appointed by him to be the guardian or guardians of the infant is or are dead, or refuses or refuse to act,

the Court, if it thinks fit, may appoint any person or persons to be the guardian or guardians of the infant to act jointly with the surviving parent."

**Enactments**

**Amendments**

- Section 13 (1) Substitute for the marginal note the following —  
 “Parent’s power of appointment of guardian in certain cases.”.
- (2) Substitute for subsection (1) the following subsections —  
 “(1) Any one of the parents of an infant may by will, deed, or document notarially executed appoint any fit person or persons to be guardian or guardians of the infant, after the death of that parent, jointly with the surviving parent.  
 (1A) Both parents, acting jointly or separately, or any one of the parents, of an infant may by will, deed, or document notarially executed appoint any fit person or persons to be guardian or guardians of the infant after the death of both parents.  
 (1B) Where there are more than one person appointed under subsection (1A) to be guardians of an infant, the guardians so appointed shall act jointly.”.
- Section 14 Delete.
- Section 15 Substitute the following —  
 “Court may make order as to custody:  
 15. Where the parents are living apart the Court may, upon the application of a parent with whom the infant is not residing, make any order it thinks fit regarding the custody of the infant and the right of access to the infant of either parent, having regard to the welfare of the infant and the conduct of the parents, and to the wishes as well of the father as of the mother, and may alter, vary or discharge the order on the application of either parent or, after the death of either parent, any guardian under this Act, and in every case may make any order respecting the costs of either parent and the liability of the other parent therefor, or otherwise as to costs, it thinks just.”.
- Section 19 Delete.
- Section 20 Substitute “the custody or control of the infant shall be left exclusively to one parent” for “the father of the infant shall give up the custody or control of the infant to the mother”.

**Enactments**

**Amendments**

Legitimacy Act,  
Cap. 46:02

General  
amendment

Substitute "person born out of wedlock" for "illegitimate person" wherever they occur.

Section II

(1) In subsection (1) —

- (a) insert "and before the commencement of the Children Born Out of Wedlock (Removal of Discrimination) Act 1983" after "this Act";
- (b) substitute "a child born out of wedlock" for "an illegitimate child";
- (c) substitute "the child born out of wedlock" for "the illegitimate child".

(2) In subsection (2) —

- (a) insert "and before the commencement of the Children Born Out of Wedlock (Removal of Discrimination) Act 1983" after "this Act";
- (b) substitute "a child born out of wedlock" for "an illegitimate child";
- (c) substitute "children, whether born in wedlock or out of wedlock," for "legitimate and illegitimate children".

**EXPLANATORY MEMORANDUM**

As an advance step in the implementation of the Justice Desiree Bernard Committee report on amendments to give effect to articles 29 and 30 of the Constitution, the Bill seeks to amend the Civil Law of Guyana Act, Cap. 6:01, the Maintenance Act, Cap. 45:03, the Infancy Act, Cap. 46:01, and the Legitimacy Act, Cap. 46:02, to remove the distinction, in the provisions contained therein, between children born in wedlock and children born out of wedlock. Consequentially the Bill also seeks to repeal the Bastardy Act, Cap. 46:03, and to adjust the language of section 61 of the Evidence Act, Cap. 5:03.

*P. A. Reid,*  
Prime Minister.

(Bill No. 12/1983)