



Jersey

# **LEGITIMACY (JERSEY) LAW 1973**

## **Official Consolidated Version**

This is an official version of consolidated legislation compiled and issued under the authority of the Legislation (Jersey) Law 2021.

Showing the law from 1 January 2019 to 10 January 2024



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## LEGITIMACY (JERSEY) LAW 1973

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## LEGITIMACY (JERSEY) LAW 1973

A **LAW** regarding the legitimacy of children, to make provision for the determination of questions of the legitimacy or illegitimacy of children, and the validity of marriages, to confer rights on illegitimate children and their mothers to succeed to each other's estate, and to make provision for related matters

Commencement [[see endnotes](#)]

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### 1 Interpretation

- (1) In this Law, unless the context otherwise requires –
  - “Court” means the Inferior Number of the Royal Court;
  - “legitimated child” means a child legitimated *per subsequens matrimonium*;
  - “Superintendent Registrar” means the Superintendent Registrar appointed in pursuance of the [Marriage and Civil Status \(Jersey\) Law 2001](#).
- (2) References in this Law to children are references to children as issue of their parents and references to children and persons are not to be interpreted by reference to age.

### 2 Children who are legitimate by birth

- (1) A child who is legitimate by birth is a child born or conceived during the subsistence of a lawful marriage of whom the father is the husband of the mother.
- (2) The fact that a child is born or conceived during the subsistence of a lawful marriage raises a presumption that the husband is the father of the child which may be rebutted only by strong and satisfactory evidence to the contrary.<sup>1</sup>
- (3) For the avoidance of doubt, it is declared that the fact that the birth of a child has been registered or re-registered pursuant to Article 55 or 56 of the [Marriage and Civil Status \(Jersey\) Law 2001](#) is prima facie evidence that the child is not legitimate by birth but, in the case of a child in respect of whom the presumption in paragraph (2) applies, is not, of itself, sufficient evidence to rebut that presumption.<sup>2</sup>

### 3 Children who are illegitimate

An illegitimate child is a child who is not legitimate by birth as defined in Article 2(1) or who has not become a legitimate child in the circumstances described in Article 4(1).

### 4 Legitimation *per subsequens matrimonium*

- (1) An illegitimate child becomes a legitimate child if, during the lifetime of the child, the father and the mother are lawfully married and the father, either before, at the time of or after the marriage, acknowledges himself to be the father of the child.
- (2) A child who becomes a legitimate child in the circumstances described in paragraph (1) is a child legitimated *per subsequens matrimonium*.

### 5 Determination of questions of legitimacy

The question whether a child is legitimate or illegitimate may be raised as an issue in any proceedings in which it may be relevant, or proceedings may be taken for the express purpose of determining it in accordance with Article 6 or 7.

### 6 Declaration of legitimacy etc.

- (1) Any person who is domiciled in Jersey or claims any immovable or movable estate situate in Jersey may apply by petition to the Court for a decree declaring that he or she is the legitimate child of his or her parents, or that the marriage of the person's father and mother or of the person's grandfather and grandmother was a valid marriage, or that the person's own marriage was a valid marriage.
- (2) Any person claiming that he or she or his or her parent or any remoter ancestor became or has become a legitimated child may apply by petition to the Court for a decree declaring that the person or his or her parent or remoter ancestor, as the case may be, became or has become a legitimated child.
- (3) Notwithstanding the limitation imposed by Article 7 on the classes of person who may apply for a decree under that Article, a person who applies to the Court under paragraph (2) for a decree declaring that he or she became or has become a legitimated child may apply by the same petition for a decree under Article 7 declaring that he or she was born illegitimate.
- (4) Applications to the Court under the foregoing provisions of this Article may be included in the same petition, and on any such application the Court shall make such decree as it thinks just, and the decree shall be binding on all persons whatsoever, so however that the decree shall not prejudice any person –
  - (a) if it is subsequently proved to have been obtained by fraud or collusion; or
  - (b) unless that person has been given notice of the application in the manner prescribed by rules of court or made a party to the proceedings or claims through a person so given notice or made a party.
- (5) A copy of every application under this Article and of any affidavit accompanying it shall be delivered to the Attorney General at least one month before the application is made, and the Attorney General shall be made a respondent on the hearing of the application and on any subsequent proceedings relating thereto.

- (6) Where any application is made under this Article, such persons as the Court thinks fit shall, subject to rules of court, be given notice of the application in the manner prescribed by rules of court, and any such persons may be permitted to become parties to the proceedings and to oppose the application.
- (7) No proceedings under this Article shall affect any final judgment or decree already pronounced or made by any court of competent jurisdiction.

## **7 Declarations of illegitimacy**

- (1) Any of the following persons may apply by petition to the Court for a decree declaring that a child who was born in Jersey, or who was born abroad of a mother who was domiciled in Jersey at the time of the birth, is illegitimate –
  - (a) a man who, in accordance with Article 2, is presumed to be the father of the child;
  - (b) the mother of the child;
  - (c) a man who claims to be the father of the child.<sup>3</sup>
- (1A) Any person whose right to any immovable or movable estate situate in Jersey is affected by the legitimacy of a child, whether the child was born in Jersey or elsewhere, may apply by petition to the Court for a decree declaring that the child is illegitimate.<sup>4</sup>
- (2) On any application under this Article the Court shall make such decree as it thinks just:

Provided that the Court may dismiss the petition if in its opinion the petitioner has been guilty of unreasonable delay in presenting or prosecuting the petition.
- (3) A decree under this Article shall be binding on all persons whatsoever, so however that the decree shall not prejudice any person –
  - (a) if it is subsequently proved to have been obtained by fraud or collusion; or
  - (b) unless that person has been given notice of the application in the manner prescribed by rules of court or made a party to the proceedings or claims through a person so given notice or made a party.
- (4) A copy of every application under this Article and of any affidavit accompanying it shall be delivered to the Attorney General at least one month before the application is made, and the Attorney General shall be made a respondent on the hearing of the application and on any subsequent proceedings relating thereto.
- (5) Where any application is made under this Article, such persons as the Court thinks fit shall, subject to rules of court, be given notice of the application in the manner prescribed by rules of court, and any such persons may be permitted to become parties to the proceedings and to oppose the application.
- (6) Where in any proceedings under this Article the petitioner dies or abandons the proceedings, the Court, on the application of any other person entitled to institute those proceedings, may make such order as it thinks fit so that the proceedings may be continued in the name of that other person as petitioner.
- (7) No proceedings under this Article shall affect any final judgment or decree already pronounced or made by any court of competent jurisdiction.

## 8 Evidence

- (1) In any proceedings in which it is sought to prove that a child is illegitimate or legitimate, no witness, whether a party to the proceedings or not, shall be liable to be asked or be bound to answer any question tending to show that the witness has been guilty of adultery unless he or she has already given evidence in the same proceedings in disproof of the alleged adultery.
- (2) In any proceedings under this Law in which any evidence of an indecent character is about to be tendered, the Court may, if it thinks it necessary in the administration of justice or of public decency, direct that all or any persons, not being members or officers of the Court or parties to the proceedings or other persons directly concerned in the proceedings, shall be excluded from the Court during the taking of that evidence.

## 9 Regulation of reports

- (1) It shall not be lawful to print or publish or cause or procure to be printed or published, in relation to any proceedings in which it is sought to prove that a child is illegitimate, any particulars other than the following –
  - (a) a concise statement of the charges, defences and countercharges in support of which evidence has been given;
  - (b) submissions on any point of law arising in the course of the proceedings and the decision of the Court thereon;
  - (c) the judgment of the Court and observations made by members of the Court in giving judgment:

Provided that nothing in this paragraph shall be held to permit the publication of any details or other matter likely to injure public morals.

- (2) If any person acts in contravention of the provisions of this Article, the person shall be liable in respect of each offence to imprisonment for a term of 4 months and to a fine:

Provided that no person, other than a proprietor, editor, master printer or publisher of the newspaper or other vehicle of publication of the matter in respect of which a prosecution is instituted shall be liable to be convicted under this Article.<sup>5</sup>

- (3) No prosecution for an offence under this Article shall be instituted without the consent of the Attorney General.
- (4) Nothing in this Article shall apply to the printing of any pleading, transcript of evidence or other document for use in connection with any judicial proceedings or the communication thereof to persons concerned in the proceedings, or to the printing or publishing of any notice or report in pursuance of the directions of the Court or of the Court of Appeal or of Her Majesty or of the Lords of Her Privy Council, or to the printing or publication of any matter in any separate volume or part of any bona fide series of law reports which does not form part of any other publication and consists solely of reports of proceedings in courts of law, or in any publication of a technical character bona fide intended for circulation among members of the legal or medical professions.

## 10 Re-registration of births

- (1) Where a decree has been pronounced under Article 6 or 7 in relation to a child whose birth has been registered under the [Marriage and Civil Status \(Jersey\) Law 2001](#) and as a result the registration is erroneous, the Judicial Greffier shall, at the expiration of the period (if any) in which proceedings may be taken for the rescission of the decree, transmit a certified copy of the decree to the Superintendent Registrar, and the Superintendent Registrar shall re-register the birth of the child in such manner as may be prescribed by Regulations.
- (2) No fee shall be charged for the re-registration of a birth in pursuance of this Article.
- (3) Regulations for the purposes of this Article may be made by the States and may contain provisions relating to the supply of certified copies of the original entry of the birth of any child whose birth has been re-registered in pursuance of this Article or of Article 16 of the Declarations of Illegitimacy (Jersey) Law 1947<sup>6</sup>, and prohibiting the supply of any such certified copy except under such authority as may be prescribed by the Regulations.

## 11 <sup>7</sup>

## 12 Limitation on application

Nothing in this Law shall operate to render illegitimate a child born before 1st January 1941, who, in accordance with the law in force at the time of the child's birth, is a legitimate child.

## 13 Consequential effect

In so far as an entry, or a certified copy of an entry, in a register of births kept in pursuance of the [Marriage and Civil Status \(Jersey\) Law 2001](#) is, by virtue of that Law, evidence of the facts contained in the entry, such evidence is prima facie evidence and not conclusive evidence of those facts.<sup>8</sup>

## 14 Savings

- (1) The provisions of this Law are without prejudice to the provisions of Article 18(2) of the [Matrimonial Causes \(Jersey\) Law 1949](#), of the [Legitimacy \(Jersey\) Law 1963](#), and of any other enactment which provides that a child who but for those provisions would be an illegitimate child shall be deemed to be a legitimate child.<sup>9</sup>
- (2) Notwithstanding the repeal of Article 11 of this Law by the Wills and Successions (Amendment) (Jersey) Law 2010, that Article shall continue to apply to confer rights of succession in a deceased person's estate if and to the extent that Part 3A of the [Wills and Successions \(Jersey\) Law 1993](#) does not, by virtue of Article 8B of that Law, apply to the estate.<sup>10</sup>

**15 Citation**

This Law may be cited as the Legitimacy (Jersey) Law 1973.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Legitimacy (Jersey) Law 1973	<a href="#">L.3/1973</a>	8 May 1974
Loi (2000) Amendement No. 13) sur l'Etat Civil	<a href="#">L.8/2000</a>	31 March 2000
Marriage and Civil Status (Jersey) Law 2001	<a href="#">L.31/2001</a>	1 May 2002 ( <a href="#">R&amp;O.13/2002</a> )
Legitimacy (Amendment) (Jersey) Law 2008	<a href="#">L.37/2008</a>	31 October 2008
Wills and Successions (Amendment) (Jersey) Law 2010	<a href="#">L.22/2010</a>	29 January 2011
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	<a href="#">L.1/2016</a>	20 September 2016 ( <a href="#">R&amp;O.98/2016</a> )

### Table of Renumbered Provisions

Original	Current
1(3)	spent, omitted from this revised edition
6(6)	6(5)
(7)	(6)
(8)	(7)
13(1)	repealed by <a href="#">L.31/2001</a>
13(2)	13
14(1), (2)	spent, omitted from this revised edition
14(3)	14
15(2)	spent, omitted from this revised edition

### Table of Endnote References

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<sup>1</sup> Article 2(2)	<i>substituted by L.37/2008</i>
<sup>2</sup> Article 2(3)	<i>inserted by L.8/2000, substituted by L.31/2001</i>
<sup>3</sup> Article 7(1)	<i>substituted by L.37/2008</i>
<sup>4</sup> Article 7(1A)	<i>inserted by L.37/2008</i>
<sup>5</sup> Article 9(2)	<i>amended by L.1/2016</i>
<sup>6</sup>	<i>Tome 1946-1948, page 355</i>
<sup>7</sup> Article 11	<i>repealed by L.22/2010</i>
<sup>8</sup> Article 13	<i>amended by L.31/2001</i>
<sup>9</sup> Article 14(1)	<i>amended by L.22/2010</i>
<sup>10</sup> Article 14(2)	<i>inserted by L.22/2010</i>