

No. 63

2nd Session, 14th Legislature, Alberta
9 Elizabeth II

BILL 63

A Bill to Provide for Change of Name

HON. MR. PATRICK

Explanatory Note

General. This Act will repeal and replace The Change of Name Act, being chapter 37 of the Revised Statutes. It is essentially a revision of that Act. The new Act will authorize a change of name in some circumstances that were not authorized or not clearly authorized in the present Act. The administrative procedure in processing applications for change of name is also simplified.

2. Definitions.

3. Eligibility to apply for change of name.

4. Change of surname of married woman.

BILL

No. 63 of 1961

An Act to Provide for Change of Name

(Assented to _____, 1961)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Change of Name Act, 1961*".

2. In this Act,

- (a) "applicant" means a person applying for a change of name under this Act;
- (b) "change" means any change by way of alteration, substitution, addition or abandonment;
- (c) "child" means an unmarried infant and includes an adopted child;
- (d) "given name" includes a Christian name and a baptismal name;
- (e) "Minister" means the member of the Executive Council charged with the administration of this Act;
- (f) "name" means a given name or a surname or both;
- (g) "prescribed" means prescribed by the regulations under this Act;
- (h) "surname" includes a family name and patronymic;
- (i) "widowed" refers both to a person who is or has been a widower or a widow.

3. An application under this Act to change a name may only be made by a person who

- (a) is nineteen years of age or older,
- (b) is a Canadian citizen or a British subject, and
- (c) who has resided in the Province for at least three consecutive months immediately prior to the date of application.

4. A married woman who is living with her husband may not apply under this Act to change her surname.

5. Change in surname of married man.

6. Change in surname of widowed person.

7. Change of given name.

8. Change of name by divorced person.

9. Change of name of child of unmarried mother.

5. (1) A married man may only apply to change his surname with the consent in writing of his wife.

(2) The registration of a change of surname of a married man effects a like change in the surname

(a) of the wife of the married man, and

(b) of each child of the married man who is also the child of his wife.

6. The registration of a change of surname of a widowed person effects a like change in the surname of each child of the widowed person who is also the child of his deceased spouse.

7. (1) A married man may, with the consent in writing of his wife, apply

(a) to change a given name of his wife, or

(b) to change a given name of any child of his who is also the child of his wife.

(2) A widowed person may apply to change the given name of a child of his who is also the child of his deceased spouse.

(3) No person may apply under this section to change a given name of a child who is twelve years of age or older without the consent in writing of the child.

8. (1) Subject to subsection (2), a divorced person who has lawful custody of a child of the dissolved marriage may, with the consent in writing of the other parent, apply

(a) to change a given name of the child, or

(b) to change the surname of the child to his name.

(2) A divorced woman who has remarried may not apply under subsection (1) to change the surname of a child of the dissolved marriage.

(3) No person may apply under this section to change a given name or the surname of a child who is twelve years of age or older without the consent in writing of the child.

(4) An application under this section shall be accompanied by such proof as may be required of the dissolution of the marriage and that the applicant has lawful custody of the child named in the application.

9. (1) An unmarried mother may apply to change the surname of her child born out of wedlock to her maiden surname, and may also apply to change the given name of any such child.

(2) No person may apply under this section to change a given name or the surname of a child who is twelve years of age or older without the consent in writing of the child.

10. Dispensing with consent.

11. Application for change of name.

12. Notice of intention to apply for change of name.

13. Documents to be filed with application for change of name.

10. (1) Where a person whose consent is required to an application under this Act is dead, insane, or cannot, after diligent and adequate search, be located, the Minister may give his approval in writing to the applicant proceeding without the consent of that person.

(2) Where the consent of the wife is required to an application under this Act and the Minister dispenses with that consent, then no change of her name shall be effected.

(3) Where the consent of the wife is required to an application under this Act and the wife is a mentally incompetent person or a person of unsound mind the Public Trustee, if acting as committee of her estate, or a committee appointed by the court in respect of her person or estate, may consent to the application on behalf of the wife.

11. (1) Every application for a change of name under this Act shall be filed with the Minister and shall be in such form as may be prescribed.

(2) Every application for change of surname shall contain a statement

- (a) of the name and other particulars of every person whose name will be changed by reason of a change of name of the applicant, and
- (b) that the application is not made
 - (i) to acquire the name of a person whom the applicant is living with in marital relations but is not married to, or
 - (ii) to acquire the name of the putative father of an illegitimate child of the applicant.

12. (1) Every intending applicant for a change of his surname shall publish

- (a) in one issue of the *Gazette*, and
- (b) in one issue of a newspaper
 - (i) published and circulating in the city, town or village in which the applicant resides, or
 - (ii) if the applicant does not reside in a city, town or village, or no newspaper is published in that city, town or village, then in a newspaper having general circulation in the district in which the applicant resides,

a notice in the prescribed form or to the like effect of his proposed application stating the name of and proposed name of every person whose name may be changed as a result of the application.

(2) The notices as required under subsection (1) shall be published not more than two months prior to the date of receipt of the application in the office of the Minister.

13. Every applicant shall file with his application

- (a) where the application includes an application for

14. Registration of change of name.

15. Effect of registration of change of name.

16. Certificate of change of name.

17. Duplicate certificate to be forwarded to Director of Vital Statistics.

18. Applicant to receive duplicate of certificate.

change of surname, a clipping from the *Gazette* and from the newspaper in which the notice has been published pursuant to subsection (1) of section 12, containing the notice of the intended application,

- (b) an affidavit of *bona fides* in the prescribed form or to the like effect,
- (c) the consent in the prescribed form or to the like effect of every person whose consent is necessary under this Act,
- (d) where the applicant is a Canadian citizen or British subject by birth the certificate of birth of the applicant and the certificate of birth of every person whose name may be changed as a result of the application,
- (e) where the applicant is not a Canadian citizen or British subject by birth the certificate of naturalization or certificate of Canadian citizenship of the applicant and the certificate of birth of every Canadian born person whose name may be changed as a result of the application, and
- (f) such further documentary evidence or information as may be required by the Minister.

14. (1) The Minister in his discretion and upon payment of the prescribed fee may register the change of name by the issuance of a certificate thereof in the prescribed form.

(2) A certificate of change of name issued under subsection (1) takes effect from 12:01 p.m. on the day it is issued.

15. Registration under the provisions of this Act shall for all purposes effect a change of name according to the tenor of the application.

16. (1) Where a change of name has been effected under this Act the certificate thereof shall be kept in the office of the Minister and shall be preserved and remain in his custody as part of the records of his office.

(2) The certificate and all duplicates thereof shall be signed by the Minister, Deputy Minister, or Acting Deputy Minister and sealed with the seal of the Minister.

17. A duplicate of the certificate issued under section 14 shall be forwarded forthwith to the Director of Vital Statistics who shall alter his records in conformity therewith without charge.

18. (1) Upon registration of a change of name a duplicate of the certificate issued shall be delivered to the applicant.

19. Certificate is conclusive evidence.

20. Publication of notice of issue of certificate.

21. (1) and (2) Change of existing records upon satisfactory proof.

(3) Application for court order to alter records.

(2) Upon payment by any person of the prescribed fee a duplicate or certified copy of a certificate of change of name made under this Act shall be delivered to such person.

19. A certificate, duplicate certificate, or a certified copy of a certificate of change of name, issued under this Act, shall for all purposes be conclusive evidence of its contents and it shall not be necessary to prove the signature or official position of the person by whom such certificate, duplicate certificate or certified copy purports to be signed.

20. The Minister shall cause notice of the issuance of a certificate issued under section 14 to be published forthwith in the *Gazette*.

21. (1) Without restricting the effect that a change of name has by law, it is declared that a person

- (a) whose birth or marriage is registered in the Province, and
- (b) who while resident elsewhere than in the Province has changed his name in accordance with the laws of the jurisdiction in which he was resident,

may, upon production of satisfactory proof of the change of name and of identity, have his new name substituted in lieu of his former name in the records kept and certificates issued by the Director of Vital Statistics.

(2) Without restricting the effect that a change of name has by law, it is declared that

- (a) a person whose name has been changed in accordance with this Act, upon production of a duplicate or certified copy of the certificate issued under section 14, and upon satisfactory proof of identity and payment of such fees, if any, as are prescribed at law, and
- (b) a person referred to in subsection (1), upon production of a certificate from the Director of Vital Statistics certifying to the change of his name, and upon satisfactory proof of identity and payment of such fees, if any, as are prescribed at law,

may have his new name substituted in lieu of his former name in any and every record, certificate, instrument, document, contract or other writing whatsoever, whether the same is or is not *ejusdem generis* with those previously mentioned and whether the same is public or private.

(3) Where in the application of this section, a question arises concerning the existence of or compliance with any or all of the facts or matters herein required or contained, the person seeking substitution of his new name instead of his former name may, upon such notice as a judge of the Supreme Court may require, apply to the judge in a summary manner for an order

- (a) declaring that he has complied with all the requirements of this section, and

22. Annulment of change of name obtained through fraud or misrepresentation.

23. Offence and penalty section.

24. Regulations.

25. Repeal of present Act.

26. Commencement of Act to be upon proclamation.

- (b) directing the Director of Vital Statistics to alter his records in conformity therewith.

22. (1) The Minister may, if satisfied that any change of name has been obtained by fraud or misrepresentation, annul the change of name by order, effective from a date named therein.

(2) A marginal notation of the annulling order shall be made on the certificate kept in the office of the Minister.

(3) Notice of the annulment shall be forthwith published in the *Gazette*.

(4) A copy of the annulling order shall be forwarded to the Director of Vital Statistics who shall without charge make such alterations in his records as are necessary by reason of the said order.

(5) The Minister may in any such case by order require any person to whom a duplicate or a certified copy of the certificate of change of name has been issued forthwith to deliver up the same.

(6) Any person who refuses or neglects to comply with an order issued under subsection (5) is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for a term of not more than thirty days.

23. A person who by fraud or misrepresentation obtains a change of name under this Act is guilty of an offence and liable on summary conviction to a fine of not more than five hundred dollars or to imprisonment for a term of not more than three months.

24. The Lieutenant Governor in Council may make regulations

- (a) prescribing the fees payable upon any application and upon any certificate or other matter required or permitted to be given or done under this Act,
- (b) prescribing the forms and contents of applications for change of name, affidavits, certificates, notices of application, consents to the application and any other forms and the contents thereof, for the purposes of this Act, and
- (c) respecting any other matter necessary to carry out the intent of this Act.

25. *The Change of Name Act*, being chapter 37 of the Revised Statutes, is hereby repealed.

26. This Act comes into force on a day to be fixed by proclamation.

No. 63

SECOND SESSION

FOURTEENTH LEGISLATURE

9 ELIZABETH II

1961

BILL

An Act to Provide for Change of
Name

Received and read the

First time.....

Second time.....

Third time.....

HON. MR. PATRICK
