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c 49 Change of Name Act

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CHAPTER 49

The Change of Name Act

1. In this Act,

(a) "applicant" means a person applying for a change of name under this Act;
(b) "application" means an application for a change of name under this Act;
(c) "change" means any change by way of alteration, substitution, addition or abandonment;
(d) "child" includes a child adopted under the laws of Ontario;
(e) "given name" includes a Christian name and a baptismal name;
(f) "name" includes a given name and a surname;
(g) "Registrar General" means the Registrar General under The Vital Statistics Act;

2.—(1) Subject to section 13 of The Vital Statistics Act and section 70 of The Child Welfare Act and except in the case of a change of surname to that of her husband by a woman upon her marriage and except in the case of the adoption of her maiden name by a woman upon the annulment or dissolution of her marriage, a person shall change his name only under this Act. 1957, c. 9, s. 1.

(2) Nothing in this Act shall be deemed to affect any change Saving of name effected under any right that existed at law before the 26th day of June, 1939. R.S.O. 1950, c. 47, s. 2 (2).

(3) Any British subject of the full age of twenty-one years Application where name who effected a change of name in Ontario under a right that changed existed at law before the 26th day of June, 1939, may make an application under this Act to change his name from the 1939.
name he bore before the change to the name he bears as a result of the change, as though the change had not been effected. R.S.O. 1950, c. 47, s. 2 (3); 1951, c. 8, s. 1.

3.-(1) Any person who is a British subject and who is at least eighteen years of age, except a married woman, may make an application.

(2) Where the applicant is an infant, he shall be deemed to be of full age for all purposes of this Act. 1959, c. 12, s. 1.

4.-(1) Where a married man applies for a change of his surname, he shall also apply for a change of the surnames of his wife and of all of his or their unmarried infant children.

(2) A married man may apply for a change of the given names of his wife and any or all of his or their unmarried infant children. R.S.O. 1950, c. 47, s. 4.

5.-(1) Where a widower or widow applies for a change of surname, he or she shall also apply for a change of the surname of all of his or her unmarried infant children.

(2) A widower or widow may apply for a change of the given name or names of any or all of his or her unmarried infant children. R.S.O. 1950, c. 47, s. 5.

6.-(1) A person whose marriage has been dissolved may make an application for a change of the name or names of any or all of his unmarried infant children of whom he has lawful custody.

(2) An application under his section shall be accompanied by such proof that the marriage has been dissolved and that the applicant has lawful custody of the children named in the application as the judge requires.

(3) No application under this section shall be granted unless the other parent, if living, of the child or children is served with notice of the application and consents to the change of name.

(4) Notwithstanding section 3, a woman whose marriage has been dissolved and who re-marries may apply under this section for a change of the surname of her child or children to her surname on re-marriage, but no such application shall be granted unless her husband, if living, consents. R.S.O. 1950, c. 47, s. 6.
7. Notwithstanding section 3, an unmarried mother who marries, or a widowed mother who re-marries, may make an application, with the consent of her husband if living, for a change of the surname of her unmarried infant children, not being her husband's children, so that their surname shall be her surname by marriage. R.S.O. 1950, c. 47, s. 7.

8. Notwithstanding section 3, a married woman who is deserted by her husband may apply for a change of name, and where she applies for a change of surname she may also apply for a change of the name or names of any or all of her unmarried infant children of whom she has custody, but no such application shall be granted unless her husband is served with notice of the application and consents to the change of name. R.S.O. 1950, c. 47, s. 8.

9.—(1) Where an application includes an application for a change of the name of the wife of the applicant or of any unmarried infant children of the age of fourteen years or over, the consent in writing of all such persons shall be obtained, and all such persons shall appear upon the hearing of the application, provided that where a wife has, in the opinion of the judge, been living apart from her husband for a period of five years immediately before the application, the judge may hear the application in her absence and without her consent, in which case no change of her name shall be effected.

(2) Where the consent of any person is required under subsection 3 or 4 of section 6, section 7 or section 8, the consent in writing of all such persons shall be obtained, and all such persons shall appear upon the hearing of the application.

(3) Notwithstanding subsection 2, where the judge is satisfied that the other parent in the case of an application under section 6, or the husband in the case of an application under section 8, does not contribute to the support of the applicant or the children on whose behalf the application is made, or cannot be found, or is incapable of giving such consent, or for any other reason is a person whose consent ought to be dispensed with, the judge may dispense with the service of the notice of the application on such person and may hear the application in his absence and without his consent. R.S.O. 1950, c. 47, s. 9.

10.—(1) Every application shall be made to a judge of the county or district court of the county or district in which the applicant has resided for a period of one year immediately before the making of the application, and shall be heard at such time and place as the judge appoints in writing.
(2) Where the judge who has appointed a time and place for the hearing of the application becomes ill or dies or for any other reason is unable to hear the application at the time and place so appointed, the application may be heard by another judge of the same county or district court or by any judge who is for the time being acting as a judge of such court. R.S.O. 1950, c. 47, s. 10.

11.—(1) Notwithstanding subsection 1 of section 10, the applicant may apply to a judge of the county or district court in the county or district in which he resides for authority to make application without having resided in such county or district for a period of one year immediately before the application.

(2) The judge shall inquire into the circumstances, and, if he is satisfied that the applicant would otherwise suffer hardship, he may make an order authorizing the applicant to make application forthwith and the order suffices in the stead of the affidavit required by subsection 2 of section 12 in so far as that affidavit refers to residence.

(3) The judge may in the order require the applicant to publish, in addition to the notice required by subsection 1 of section 13, such additional notice in such counties or districts as he deems necessary, and an affidavit as to publication of such additional notice shall accompany the application for a change of name. R.S.O. 1950, c. 47, s. 11.

12.—(1) Every application shall set forth,

(a) the address and the date and place of birth of the applicant;

(b) where the applicant is a married man, the maiden name in full of his wife, and the date and place of marriage;

(c) the name in full of his father, and, where the applicant is a married man, the name in full of his wife’s father;

(d) the maiden name in full of his mother, and, where the applicant is a married man, the maiden name in full of his wife’s mother;

(e) that he is a British subject by birth or as the case may be;

(f) his occupation, profession or calling;
(g) whether he has been convicted of a criminal offence and the particulars of any such offence;

(h) a statement containing full particulars of any judgment or action pending against him, or any chattel mortgage, lien or other registered encumbrance against his personal property, or, if none, a statement to that effect;

(i) the name proposed to be adopted;

(j) a statement containing full particulars of any change of name effected previously, or, if none, a statement to that effect;

(k) the names, dates and places of birth and other similar particulars with respect to all other persons whose names may be changed as a result of the application;

(l) a statement of the reasons for desiring the change of name. R.S.O. 1950, c. 47, s. 12 (1); 1951, c. 8, s. 3 (1); 1959, c. 12, s. 2.

(2) Every application shall be accompanied by an affidavit of the applicant deposing,

(a) that he has resided in the county or district in which the application is made for a period of not less than one year immediately before the making of the application;

(b) that the statements contained in the application are true; and

(c) that the application is made by the applicant in good faith and for no improper purpose. R.S.O. 1950, c. 47, s. 12 (2).

(3) Every application shall be accompanied by,

(a) a certificate of the sheriff of the county or district in which the application is made and of every other county or district that the judge directs, as to the existence of any unsatisfied executions in his hands against the property of each person of the full age of twenty-one years whose name may be changed as a result of the application; and
(b) a certificate of the Registrar in Bankruptcy of the Supreme Court of Ontario as to the appearance in the index book kept pursuant to section 167 of the Bankruptcy Act (Canada) of the name of each person of the full age of twenty-one years whose name may be changed as a result of the application. R.S.O. 1950, c. 47, s. 12 (3); 1951, c. 8, s. 3 (2).

Notice of application

13.—(1) Every applicant shall publish once in The Ontario Gazette and once a week for three consecutive weeks in a newspaper having general circulation in the locality in which he resides, a notice of the application stating the name and address and proposed name of every person whose name may be changed as a result of the application, and the time and place of the hearing of the application.

Time of application

(2) No application shall be heard until the expiration of fourteen days after the date of the last publication of the notice. R.S.O. 1950, c. 47, s. 13.

Where notice of application may be dispensed with

(3) A judge may by order dispense with the necessity of publishing notice of the application as required by subsection 1, if in his opinion,

(a) the applicant would be unduly prejudiced or embarrassed by such publication;

(b) the change of name applied for is of a minor character; or

(c) the applicant has been commonly known under the name applied for. 1959, c. 12, s. 3.

Documents to be filed

14. Every applicant shall file with the clerk of the court in which the application is made,

(a) the application with the affidavit referred to in subsection 2 of section 12 in duplicate;

(b) the certificates required under subsection 3 of section 12;

(c) an affidavit as to publication of the notice of the application or a notarial copy of the order made under subsection 3 of section 13 dispensing with such publication;

(d) the appointment for the hearing; and
(e) if the applicant is not a British subject by birth, a notarial copy of the certificate establishing that he is a British subject. R.S.O. 1950, c. 47, s. 14; 1951, c. 8, s. 4; 1957, c. 9, s. 3.

15.—(1) Upon the hearing, the judge may require the applicant, any person whose name may be changed as a result of the application, or any other person appearing upon the hearing to give evidence under oath, and may examine or cross-examine any such person or permit any such person to be examined or cross-examined.

(2) Any person who objects to a change of name and any person who desires to furnish the court with any information regarding the application or any circumstances connected therewith may appear upon the hearing of the application and shall be heard. R.S.O. 1950, c. 47, s. 15.

16.—(1) Where the judge is of opinion that the name that the applicant seeks to adopt is the same as the name of another person or resembles the name of another person to such an extent that the change applied for might reasonably cause mistake or confusion or be a cause of embarrassment or inconvenience to such person, or that the change of name is sought for any improper purpose, or is on any other ground objectionable, or that the application should be refused for any other reason, he shall refuse the application.

(2) Where the judge, upon consideration of the application, the material filed and any other evidence adduced, is of opinion that the application should be granted, he may make an order effecting the change of name.

(3) An order made under this section may provide for such changes of names as the court deems proper having regard to the nature of the application, the relationship and status of other persons mentioned in the application and all other relevant circumstances, and every such order has effect according to the tenor thereof. R.S.O. 1950, c. 47, s. 16.

17. The clerk of the court shall enter the order and transmit a certified copy of the order, together with a duplicate original of the application and of the verifying affidavit, to the Registrar General. R.S.O. 1950, c. 47, s. 17.

18.—(1) The clerk of the court shall send to the appropriate sheriff or court clerk full particulars of the order made and of any judgment, pending action, chattel mortgage, lien or other registered encumbrance shown upon the application.
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Idem

(2) Such sheriff or court clerk shall enter and re-index such judgment, pending action, chattel mortgage, lien or other registered encumbrance under the name as changed. R.S.O. 1950, c. 47, s. 18.

Certificates issued to applicants

19. Any person may, upon payment of the prescribed fee, obtain from the clerk of the court in which the order was made a certificate of any order effecting a change of name, and the certificate is for all purposes conclusive evidence of its contents. R.S.O. 1950, c. 47, s. 19.

Substitution of new name in documents

20. Subject to The Vital Statistics Act, without restricting the effect that a change of name may have at law, any person whose name has been changed under this Act, upon production of a certificate obtained under section 19 and upon satisfactory proof of identity, is entitled to have a memorandum of the change of name endorsed on any record, certificate, instrument, document, contract or writing, whether public or private, upon payment of such fee as is prescribed therefor by or under any statute. R.S.O. 1950, c. 47, s. 20.

Application for annulment

21.—(1) Any person who has reason to believe that an order effecting a change of name has been obtained by fraud or misrepresentation or for an improper purpose may apply to a judge of the county or district court in which the order was made for an annulment of the order.

Affidavit giving reasons

(2) Every application for an annulment shall be accompanied by an affidavit of the person making the application in which his reasons for believing that the order was obtained by fraud or misrepresentation or for any improper purpose shall be set forth.

Hearing of application

(3) The judge may refuse the application without hearing further representations or evidence or may direct that the person applying for the annulment and any other persons shall be heard at such time and place as he determines and that notice of the hearing shall be given to such persons and in such manner as he directs.

Annulment of order

(4) If the judge is satisfied that the order was obtained by fraud or misrepresentation or for an improper purpose, he may order the annulment of the order in whole or in part.

Clerk to note annulment

(5) The clerk of the court shall endorse a memorandum of the annulling order upon the entry of the order annulled in whole or in part and shall send a certified copy of the annulling order to the Registrar General, and, where appropriate by reason of section 18, to the proper sheriff or court clerk who shall amend his records to accord with the order.
(6) Where a change of name has been annulled, the Registrar General may by order require any person to whom a certificate has been issued under section 19 to forthwith deliver up the certificate, and any person who refuses or neglects to comply with such order is guilty of an offence and on summary conviction is liable to a fine of not more than $100. R.S.O. 1950, c. 47, s. 21.

22.—(1) Any person who by fraud or misrepresentation obtains a change of name under this Act is guilty of an offence and on summary conviction is liable to a fine of not more than $500 or to imprisonment for a term of not more than six months. R.S.O. 1950, c. 47, s. 22.

(2) Any person whose application for a change of name is refused under subsection 1 of section 16 and who uses the name he sought to adopt in such application is guilty of an offence and on summary conviction is liable to a fine of not more than $500 or to imprisonment for a term of not more than six months.

(3) Any person who, after having been convicted of an offence against this Act, againOffences against this Act is liable to a fine of not more than double the maximum fine provided for the offence. 1952, c. 7, s. 1.

23. The Lieutenant Governor in Council may make regulations,

(a) prescribing forms of applications, affidavits and certificates;

(b) prescribing the fees payable upon any application and upon any certificate, search or other matter required or permitted to be given or done under this Act and to whom such fees are payable;

(c) providing for the return of any fee upon an application or part of such fee where the application is refused;

(d) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1950, c. 47, s. 23.