

Change of Name Act

CHAPTER 66 OF THE REVISED STATUTES, 1989

as amended by

2011, c. 37; 2015, c. 13, ss. 1, 2



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Published by Authority of the Speaker of the House of Assembly
Halifax

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amended 2011, c. 37; 2015, c. 13, ss. 1, 2

An Act to Provide for Change of Name

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Short title

1 This Act may be cited as the *Change of Name Act*. R.S., c. 66, s. 1.

Interpretation

2 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;

(ba) “approved” means approved by the Registrar;

(bb) “authorized agency” means an organization or police service referred to in subsection 12A(4);

(c) “change” of name means any change of name or birth registration by way of alteration, substitution, addition or abandonment;

- (d) “infant child” means a child who has not attained the age of sixteen years;
- (e) “judge” means a judge of the Supreme Court of Nova Scotia;
- (f) “name” means given name or surname or both;
- (g) “prescribed” means prescribed by the regulations;
- (h) “Registrar” means Registrar General of the Province and includes the Deputy Registrar General. R.S., c. 66, s. 2; 2011, c. 37, s. 2; 2015, c. 13, s. 1.

Who may apply

3 (1) Subject to the provisions of this Act, a person who is sixteen years of age or older and

- (a) was born in the Province; or
- (b) has been ordinarily resident in the Province for a period of at least one year immediately preceding the application and has actually resided in the Province for at least ten months of that period,

may make application for a change of name.

(2) Notwithstanding subsection (1), a person who is under sixteen years of age may apply for or give a consent in respect of a change of name of that person’s child, whether born in or out of wedlock, in the same manner and circumstances as a person who is sixteen years of age or older. R.S., c. 66, s. 3; 2015, c. 13, s. 2.

Consent of spouse

4 A married person shall not make an application for a change of surname without the consent of his spouse except where

- (a) consent is dispensed with under this Act; or
- (b) the married person wishes to change the name of his birth registration to the name he was commonly known by prior to his marriage. R.S., c. 66, s. 4.

Application to change spouse’s or infant’s name

5 (1) A married person may make an application for a change of name of his spouse, with the consent of the spouse, or one or more of his unmarried infant children, with the consent of the other parent.

(2) A widow or widower may make an application for a change of name of that person’s unmarried infant child. R.S., c. 66, s. 5.

Application by divorcee respecting infant

6 A person whose marriage has been dissolved or annulled may make an application for a change of name of one or more of his unmarried infant children, with the consent of the other parent. R.S., c. 66, s. 6.

Name change upon divorce

7 (1) Where the Supreme Court issues a divorce judgment or grants a decree absolute for dissolution of marriage or for nullity of marriage, the Court may, notwithstanding Section 3, at the time of issuing the judgment or granting the decree, or at any time after the date on which the judgment is issued or the decree is granted, upon the application of the petitioner or the respondent, order that the name of the petitioner or the respondent be changed upon the dissolution of the marriage to the name desired by that person.

(2) Where the Supreme Court grants a decree or order for a change of name pursuant to subsection (1), it may also decree or order the change of name of infant children who are in the lawful custody of the petitioner or the respondent.

(3) Before making a decree or order pursuant to subsection (2), the written consent of the parent of the children not requesting the decree or order shall be obtained by the Court unless the Court dispenses with such consent for one or more of the reasons that are set forth in Section 10 pertaining to dispensation by a judge.

(4) Where an application pursuant to this Section is granted, the decree or order shall state the name to which the name of the applicant or the applicant's child is changed and adequate particulars of the birth of the person to identify the appropriate records and, upon receiving a certified copy of that order and of the certificate of divorce or a certified copy of the decree, the Registrar shall register the change of name accordingly. R.S., c. 66, s. 7.

Application for illegitimate infant

8 (1) The mother of an unmarried infant child born out of wedlock and not adopted or legitimated may make an application to change the child's name.

(2) Where such a child has been registered with the surname of a person acknowledging himself to be the father, that person's consent is required to change the child's name.

(3) A person, shown on the registration of the birth of an unmarried infant child, born out of wedlock and not adopted or whose parents have not married each other subsequent to the birth of the child, as the father of the child, may make an application to change the name of the child, with the consent of the mother.

(4) A person, not shown on the registration of the birth of an unmarried infant child, born out of wedlock and not adopted or legitimated, as the

father of the child, may, with the consent of the mother, make an application to change the child's name where the person furnishes the Registrar with a true copy of an order of a court of competent jurisdiction determining that person to be the father of the child. R.S., c. 66, s. 8.

Application by guardian

9 With the consent of a judge, a guardian under the *Guardianship Act* or under the *Incompetent Persons Act* or an agency as defined by the *Children's Services Act*, to which the care and custody of a child is committed or transferred, may make an application to change the name of the person for whom he acts as guardian. R.S., c. 66, s. 9.

Dispensing with consent

10 (1) Where a judge is satisfied that a person whose consent is required under this Act

- (a) is dead;
- (b) is of unsound mind;
- (c) is missing or cannot be found;
- (d) has deserted or neglected to provide proper care and maintenance for a spouse or child;
- (e) has suffered a child whose name is to be changed to be supported for more than two years continuously next preceding the date of the application by a child placing agency;
- (f) is divorced and neither has custody nor is contributing to the support of the child at the time of the application;
- (g) is living separate and apart from the person whose name is to be changed; or
- (h) is a person whose consent in all the circumstances of the case ought to be dispensed with,

the judge may order that the person's consent be dispensed with, if it is in the interest of the person whose name is to be changed to do so.

(2) Notwithstanding subsection (1), a judge may dispense with the consent of a parent of an unmarried infant child on whose behalf an application is being made where the child has been known by the proposed name for a period of at least three years immediately preceding the application. R.S., c. 66, s. 10.

11 *repealed 2011, c. 37, s. 3.*

Filing and form of application

12 (1) Every application for a change of name under this Act shall be filed with the Registrar and shall be in the approved form.

- (2) An application must include
- (a) *repealed 2011, c. 37, s. 4.*
 - (b) an affidavit of *bona fides* in the approved form or to the like effect;
 - (c) the consent in the approved form or to the like effect of every person, subject to subsection (3), whose consent is necessary under this Act or a copy of any order made under Section 10;
 - (ca) information with respect to the person whose name is to be changed regarding previous legal changes of name under the *Change of Name Act* or under a similar enactment of any other province of Canada; and
 - (d) such further documentary evidence or information as may be required by the Registrar.
- (3) The Registrar may dispense with a person's consent if he is satisfied that the person is dead. R.S., c. 66, s. 12; 2011, c. 37, s. 4.

Fingerprints required

12A (1) Subject to the regulations, where an application is made to change the name of a person, that person must be fingerprinted by an authorized agency, in accordance with the prescribed procedures.

(2) The fingerprints taken by an authorized agency pursuant to subsection (1) must be submitted to the Royal Canadian Mounted Police, along with the present and proposed name and date of birth of the person whose name is to be changed, for the purpose of linking the person's present and proposed name if the person has a criminal record.

(3) The Registrar shall not approve an application to change the name of a person who is required to be fingerprinted under subsection (1) until the Registrar is satisfied that the person's fingerprints have been provided to the Royal Canadian Mounted Police.

(4) The following are authorized agencies for the purpose of this Section:

- (a) the Provincial Police;
- (b) the Royal Canadian Mounted Police;
- (c) a municipal police department or other police department providing policing services in the Province;
- (d) a prescribed organization.

(5) An authorized agency shall put in place reasonable and sufficient safeguards to protect the confidentiality of the fingerprints of applicants and other personal information relating to applicants in its custody or under its control.

(6) The Registrar may enter into an agreement with the Royal Canadian Mounted Police, an authorized agency or any person or organization, for any purpose related to this Section, including an agreement respecting

- (a) the protection of the confidentiality of; and
- (b) the retention and destruction of,

fingerprints and other personal information provided to the Royal Canadian Mounted Police, authorized agency or other person or organization pursuant to this Section. 2011, c. 37, s. 5.

Duty of Registrar

13 The Registrar shall, upon

- (a) all requirements of this Act being complied with; and
- (b) payment of the prescribed fee,

register the change of name by the issuance of a certificate thereof in the prescribed form. R.S., c. 66, s. 13.

Certificate in Register

14 (1) Where a change of name has been registered under Section 13, a certificate thereof in the prescribed form shall be entered in a book entitled the Change of Name Register, to be kept for that purpose in the office of the Registrar, and such certificate shall be under the hand of the Registrar.

(2) Where a change of name has been so effected, the Registrar shall make the necessary alteration in the margin of any record in his office pertaining to any such person. R.S., c. 66, s. 14.

Duplicate certificate

15 A duplicate of the certificate referred to in Section 13 shall be issued by the Registrar to anyone applying for the same upon payment of the prescribed fee and such duplicate shall for all purposes be conclusive evidence of its contents. R.S., c. 66, s. 15.

Notice of certificate

16 (1) The Registrar shall cause notice of a certificate referred to in Section 13 to be published forthwith in the Royal Gazette unless publication is dispensed with pursuant to subsection (2).

(2) The Registrar may dispense with publication of notice of the certificate as required under subsection (1) if, in the Registrar's opinion,

- (a) the applicant would be unduly prejudiced or embarrassed by the publication;
- (b) the change of name applied for is of a minor character;

(c) the applicant has been commonly known under the name applied for and granted; or

(d) the publication is not in the public interest. R.S., c. 66, s. 16; 2011, c. 37, s. 6.

Effect of name change

17 (1) Without restricting the effect which a change of name may have at law, any person whose name has been changed in accordance with this Act or any other enactment shall

(a) upon production of a duplicate of the certificate of change of name issued under this Act or any other enactment;

(b) upon satisfactory proof of identity; and

(c) upon payment of the prescribed fee,

be entitled to have his new name substituted in lieu of his former name in any and every certificate, instrument, document, contract or other writing or record whatsoever, whether it is or is not *ejusdem generis* with those hereinbefore recited and whether it is public or private.

(2) Subsection (1) does not apply to any document or record made or deposited in the office of a prothonotary, county court clerk, city court clerk or court of probate or registry of deeds before the name change so as to require any amendment or other change of such document or record. R.S., c. 66, s. 17.

Annulment of change

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

(2) A memorandum of the order shall be endorsed in the Change of Name Register and notice of the annulment shall be published forthwith in the Royal Gazette and a true copy of the order of annulment sent by registered mail to the last known address of the person whose name has been annulled, addressed to him in the name that has been annulled.

(3) The Registrar shall without charge make any alterations in his records which are necessary by reason of the order.

(4) The Registrar may in any such case by order require any person to whom a duplicate of a certificate of change of name has been issued to deliver it up to him forthwith. R.S., c. 66, s. 18.

Appeal

19 (1) Where the Registrar refuses to register a change of name or makes an order to annul a change of name, any person interested may appeal there-

from to a judge and, after hearing evidence and considering submissions by the parties, the judge may make an order which shall be final and binding on the Registrar.

(2) A notice of appeal shall be served on the Registrar. R.S., c. 66, s. 19.

Fraud or misrepresentation

20 (1) Any 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.

(2) Any person who refuses or neglects to comply with an order issued under subsection (4) of Section 18 is guilty of an offence and liable on summary conviction to a fine of not more than one hundred dollars. R.S., c. 66, s. 20.

Regulations

21 The Governor in Council may make regulations

(a) prescribing forms of certificates and any other forms for the purposes of this Act;

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

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

(ca) exempting persons or classes of persons from the fingerprinting requirement pursuant to Section 12A;

(cb) respecting procedures to be followed when a person applying for a change of name is fingerprinted, including prescribing additional information or documentation to be provided to an authorized agency;

(cc) respecting the process by which fingerprints are provided to the Royal Canadian Mounted Police;

(cd) establishing requirements to protect the confidentiality of fingerprints and other personal information relating to applications for changes of name in the custody or under the control of an authorized agency, including

(i) restrictions on the time that such personal information may be retained by an authorized agency, and

(ii) the manner in which records of fingerprints and other personal information relating to applicants are to be destroyed by an authorized agency;

(ce) prescribing an organization as an authorized agency;

(d) respecting any matter necessary or advisable to carry out the intent and purposes of this Act. R.S., c. 66, s. 21; 2011, c. 37, s. 7.

Regulations Act

22 The exercise by the Governor in Council of the powers set forth in Section 21 shall be regulations within the meaning of the *Regulations Act*. R.S., c. 66, s. 22.

Existing rights

23 Nothing herein shall affect or be deemed to affect any right that may exist at law to change a name in any manner except to the extent that such right is affected by this Act. R.S., c. 66, s. 23.
