

CONSOLIDATION OF CHANGE OF NAME ACT
R.S.N.W.T. 1988,c.C-3

(Current to: September 18, 2012)

AS AMENDED BY NORTHWEST TERRITORIES STATUTES:

S.N.W.T. 1994,c.8,s.74
s.74 in force May 7, 2001: SI-001-2001
S.N.W.T. 1998,c.5
S.N.W.T. 1998,c.17

AS AMENDED BY NUNAVUT STATUTES:

S.Nu. 2010,c.4,s.7
s.7 in force March 23, 2010
S.Nu. 2011,c.11,s.1
s.1 in force March 10, 2011
S.Nu. 2011,c.25,s.3
s.3 in force October 31, 2011
S.Nu. 2012,c.17,s.4
s.4 in force June 8, 2012

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Any certified Bills not yet included in the Annual Volumes of the Statutes of Nunavut can be obtained through the Office of the Clerk of the Legislative Assembly.

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GLOSSARY OF TERMS USED IN CONSOLIDATIONS

Miscellaneous

- c. means "chapter".
- CIF means "comes into force".
- NIF means "not in force".
- s. means "section" or "sections", "subsection" or "subsections", "paragraph" or "paragraphs".
- Sch. means "schedule".
- SI-005-98 means the instrument registered as SI-005-98 in 1998. (*Note: This is a Northwest Territories statutory instrument if it is made before April 1, 1999, and a Nunavut statutory instrument if it is made on or after April 1, 1999 and before January 1, 2000.*)
- SI-012-2003 means the instrument registered as SI-012-2003 in 2003. (*Note: This is a Nunavut statutory instrument made on or after January 1, 2000.*)

Citation of Acts

- R.S.N.W.T. 1988,c.D-22 means Chapter D-22 of the *Revised Statutes of the Northwest Territories, 1988*.
- R.S.N.W.T. 1988,c.10(Supp.) means Chapter 10 of the Supplement to the *Revised Statutes of the Northwest Territories, 1988*. (*Note: The Supplement is in three volumes.*)
- S.N.W.T. 1996,c.26 means Chapter 26 of the 1996 Annual Volume of the Statutes of the Northwest Territories.
- S.Nu. 2002,c.14 means Chapter 14 of the 2002 Annual Volume of the Statutes of Nunavut.

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CHANGE OF NAME ACT

Definitions

1. In this Act,

"application" means an application made to the Court under this Act for a change of name; (*demande*)

"change" means any change by way of alteration, substitution, addition or abandonment; (*changement*)

"child" means an unmarried child under the age of 19 years, including an adopted child who has been adopted in accordance with the law of the jurisdiction where the adoption was effected; (*enfant*)

"Clerk" means the Clerk of the Nunavut Court of Justice appointed under the *Judicature Act*; (*greffier*)

"Court" means the Nunavut Court of Justice; (*Cour*)

"given name" includes Christian name and baptismal name; (*prénom*)

"name" includes given name and surname; (*nom*)

"security interest" means a security interest as defined in the *Personal Property Security Act*; (*sûreté*)

"Sheriff" means the Sheriff appointed under the *Judicature Act*. (*shérif*)

"spouse" has the meaning assigned to it by section 1 of the *Family Law Act*. (*conjoint*)
S.N.W.T. 1994,c.8,s.74(2),(3); S.Nu. 2010,c.4,s.7(2); S.Nu. 2011,c.25,s.3(2).

Restriction

2. (1) Subject to subsections (2) and (3), no person shall change his or her name except under this Act.

Exception

(2) This Act does not apply to a change of name made under the *Adoption Act*.

Prior changes

(3) This Act does not affect a change of name lawfully made before April 1, 1955.
S.N.W.T. 1998,c.17,s.3.

Change of name without application

3. A person may change his or her surname without making an application, if the change is

- (a) a change of surname by a spouse who assumes the surname of the other spouse or a hyphenation or combination of their surnames on marriage; or
- (b) a change of surname, on dissolution of marriage, by a person who reverts to the surname he or she had before first being married.

Mentally incompetent children 19 years or over

4. Despite the definition of "child", where a change of name affecting unmarried children under the age of 19 years may be obtained under this Act, the Court may, in its discretion, direct that the application and the resulting order shall extend to unmarried children who have attained the age of 19 years and, by reason of mental incapacity, are unable to apply for a change of name. S.Nu. 2010,c.4,s.7(3).

Application for change of name

- 5.** (1) A person may make an application if the person has resided in Nunavut for at least one year before the date of the application and the person
- (a) has attained the age of 19 years; or
 - (b) has not attained the age of 19 years and is married.

Exception

(2) Despite subsection (1), a person who has not resided in Nunavut for at least one year before the date of his or her application may apply to the Court for an order allowing that person to make an application.

Order

(3) The Court may make an order under subsection (2), if the Court is satisfied that, without the order, hardship would be caused. S.Nu. 2010,c.4,s.7(3).
S.Nu. 2012,c.17,s.4(2).

Application by married person

6. (1) A married person who applies for a change of surname shall, unless the spouses have been living separate and apart for more than one year before date of the application,

- (a) obtain the consent of the other spouse; or
- (b) give notice of the application to the other spouse.

Notice

- (2) The Court may dispense with notice under paragraph (1)(b), where
- (a) the person to whom notice is required to be given cannot be found;
or
 - (b) for any other reason, the Court is satisfied that notice may be dispensed with.

Application for child

7. (1) Subject to this section, a person may apply for a change of name for his or her child in his or her lawful custody.

Consent to change of name

(2) A person who applies for a change of name for his or her child shall obtain the consent of

- (a) the child;
- (b) the other parent of the child, unless the other parent does not have or share lawful custody of the child and
 - (i) is not contributing to the support of the child, or
 - (ii) has severed his or her relationship with the child; and
- (c) his or her spouse, where the spouse is not a parent of the child and the change is an assumption of the surname of the spouse or a hyphenation or combination of the surname of the spouses.

Application of requirement for consent

8. (1) Paragraph 6(1)(a) and subsection 7(2) do not apply to a person who

- (a) is under the age of 12 years; or
- (b) by reason of mental or physical disability, is unable to give consent.

Order dispensing with consent

(2) The Court may dispense with the requirement of a consent under paragraph 6(1)(a) or subsection 7(2) where

- (a) the person whose consent is required cannot be found; or
- (b) the Court, for any other reason, is satisfied that a consent may be dispensed with.

Filing of application

9. (1) An application shall be filed with the Clerk together with

- (a) any other documents that are required under this Act; and
- (b) an application fee of \$10.

Contents of application

(2) An application must state

- (a) the surname and given names of the applicant;
- (b) the address of the applicant and the date and place of his or her birth;
- (c) the full name of the parents of the applicant including, where applicable, the full maiden name of the mother of the applicant;
- (d) if the applicant is married, the full name of the spouse, the date and place of marriage, the full name of the parents of the spouse including, where applicable, the full maiden name of the mother of the spouse;
- (e) the occupation of the applicant;
- (f) full particulars of any civil or criminal action pending against the applicant or any security interest, lien or other encumbrance

- registered against the property of the applicant or, if no action or encumbrance exists, a statement to that effect;
- (g) the change of name desired;
- (h) full particulars of any previous change of name or a statement that there has not been a previous change of name;
- (i) the names, ages and particulars of all persons whose consents are required under this Act and, if a consent has not been obtained, the reason for it;
- (j) the names, ages and particulars of all persons whose names may be changed as a result of the application; and
- (k) a statement of the reasons for desiring a change of name.

Other documents

(3) An application must be accompanied by

- (a) an affidavit by the applicant deposing that
 - (i) the application is made in good faith and for no improper purpose,
 - (ii) the statements set out in the application are true, and
 - (iii) unless an order has been obtained under subsection 5(3), the applicant has resided in Nunavut for at least one year immediately before the date of the application;
- (b) a certificate of a Sheriff as to the existence of any unsatisfied executions against the property of each person whose name may be changed as a result of the application; and
- (c) the consents, in writing, or other documents that are required by this Act respecting the application.
S.N.W.T. 1994,c.8,s.74(4); S.Nu. 2010,c.4,s.7(3);
S.Nu. 2011,c.25,s.3(3),(4).

Objection to application

10. Any person who objects to a change of name shall file his or her written objection with the Clerk and pay a filing fee of \$5. S.Nu. 2010,c.4,s.7(3).

Hearing

- 11.** (1) Where an application is filed, the Court shall
- (a) by order grant the application without a hearing where
 - (i) no objection to the application has been filed, and
 - (ii) the Court is satisfied that the application and all supporting documents are in order and that the application may be granted; and
 - (b) in a case not referred to in paragraph (a), appoint a time and place for the hearing of the application.

Evidence

- (2) At a hearing on an application, the Court may
- (a) require the applicant, any person whose name will be affected by the application and any other person who, in the opinion of the Court, has information respecting the application or circumstances connected with the application, to give evidence under oath; and
 - (b) examine a person referred to in paragraph (a) or permit the person to be examined by an interested person.

Refusal of application

12. (1) On hearing an application, the Court shall refuse the application and make an order to that effect, where the Court is of the opinion that any change of name that would result from granting the application

- (a) might reasonably cause mistake or confusion or be a cause of embarrassment or inconvenience;
- (b) has been sought for an improper purpose; or
- (c) would on any other ground be objectionable.

Order

(2) On hearing an application, where the Court is of the opinion that the application in whole or part should be granted, the Court shall make an order to that effect.

Definition of "order"

13. (1) In this section, sections 14 and 15 and subsection 16(1), "order" means an order of the Court granting a change of name made under subsection 11(1) or 12(2).

Changes of names in order

(2) An order shall provide for the changes of names that the Court considers proper having regard to

- (a) the nature of the application;
- (b) objections to the application;
- (c) any other evidence adduced;
- (d) the relationship and status of any person affected by the order; and
- (e) all other relevant circumstances.

Effect of order

- (3) An order has effect as stated in the order.

Duties of Clerk

- 14.** (1) The Clerk shall
- (a) enter every order;
 - (b) send two certified copies of the order and a certified copy of the application and supporting documents to the Registrar General of Vital Statistics; and

- (c) send to the appropriate sheriff a certified copy of the order and any particulars shown on the application respecting a judgment, pending action, security interest, lien or other registered encumbrance relating to any person affected by the order.

Duty of Sheriff

(2) Where a Sheriff receives a copy of the order and any particulars under subsection (1), the Sheriff shall enter and re-index, under the name as changed, any judgment, pending action, security interest, lien or other registered encumbrance referred to in the order. S.N.W.T. 1994,c.8,s.74(5); S.Nu. 2010,c.4,s.7(3).

Certified copy

15. (1) Any person may obtain from the Clerk a certified copy of an order and the certified copy is conclusive evidence of the contents of the order.

Endorsement of change

(2) Subject to the *Vital Statistics Act* and without restricting the effect that a change of name may have at law, a person whose name has been changed under this Act is, on production of the certified copy of the order and satisfactory proof of identity, entitled to have a memorandum of the change of name endorsed on any record, certificate, instrument, document, contract or writing, whether public or private. S.Nu. 2010,c.4,s.7(3).

Application to annul order

16. (1) Every person who has reason to believe that an order has been obtained by fraud, misrepresentation or for an improper purpose may apply to the Court for an annulment of the order.

Affidavit and fee

(2) An application for annulment under subsection (1) must be accompanied by an affidavit of the applicant setting out the reasons for the application and a filing fee of \$5.

Hearing

(3) The Court may refuse an application for annulment made under subsection (1) or may set a time and place for the hearing of the application.

Order

- (4) On a hearing under subsection (3), the Court
 - (a) may call the witnesses and hear the evidence that the Court considers proper; and
 - (b) shall make an order that the Court considers proper refusing the application or annulling the previous order in whole or in part. S.Nu. 2010,c.4,s.7(3).

Definition of "annulling order"

17. (1) In this section and section 18, "annulling order" means an order annulling an order granting a change of name made under paragraph 16(4)(b).

Duty of Clerk

(2) The Clerk shall

- (a) enter an annulling order;
- (b) endorse the previous order that is wholly or partially annulled; and
- (c) send
 - (i) two certified copies of the annulling order to the Registrar General of Vital Statistics, and
 - (ii) one certified copy of the annulling order to the Sheriff and any other sheriff to whom a copy of the previous order and particulars were sent under subsection 14(1).

Amendment of records

(3) Where the Registrar General of Vital Statistics or the Sheriff receives a certified copy of an annulling order under subsection (2), the Registrar General or sheriff shall amend his or her records in accordance with the annulling order.

S.Nu. 2010,c.4,s.7(3).

Recall of certificates

18. Where an annulling order is made, any certified copy of the previous order that was wholly or partially annulled may be demanded from the person to whom it was issued and the person shall without delay comply with the demand.

Offence and punishment

19. (1) Every person who obtains or attempts to obtain a change of name under this Act by fraud, misrepresentation or for an improper purpose is guilty of an offence and liable on summary conviction to a fine not exceeding \$500.

Idem

(2) Every person who refuses to comply with an order or demand under this Act is guilty of an offence and liable on summary conviction to a fine not exceeding \$100.

Regulations

20. The Commissioner, on the recommendation of the Minister, may make regulations that the Commissioner considers necessary for carrying out the purposes and provisions of this Act.