



4th SESSION, 61st GENERAL ASSEMBLY
Province of Prince Edward Island
51 ELIZABETH II, 2002

CHAPTER 7

(Bill No. 22)

An Act to Amend the Family Law Act

Honourable Jeffrey E. Lantz
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GOVERNMENT BILL

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(Assented to December 18, 2002)

BE IT ENACTED by the Lieutenant Governor and the Legislative Assembly of the Province of Prince Edward Island as follows:

1. Subsection 29(1) of the *Family Law Act R.S.P.E.I. 1988, Cap. F-2.1* is repealed and the following substituted:

29. (1) In this Part

Definitions

(a) “common-law partner” means either of two persons who have cohabited outside marriage

common-law partner

(i) continuously for a period of not less than three years, or

(ii) in a relationship of some permanence, if they are the natural or adoptive parents of a child;

(b) “dependant” means a person to whom another has an obligation to provide support under this Part;

dependant

2. The Act is amended by the addition of the words “or common-law partner” after the word “spouse” wherever it occurs in the following provisions:

(a) section 30;

(b) subsection 33(6);

(c) subsection 34(1);

(d) subsection 38.1(1);

(e) subsection 38.1(3);

(f) subsection 38.1(4);

(g) subsection 39(2);

(h) subsection 41(3);

(i) subsection 44(1); and

(j) subsection 49(1).

3. (1) Subsection 33(3) of the Act is amended by the deletion of the words “spouse or a dependant child of the spouse” and the substitution

of the words “spouse or common-law partner, or a dependant child of the spouse or common-law partner,”.

(2) Subsection 33(7) of the Act is amended

(a) by the addition of the words “or common-law partner” after the word “spouse” wherever it occurs; and

(b) by the addition of the words “or common-law partners” after the word “spouses” wherever it occurs.

(3) Subsection 33(9) of the Act is amended

(a) in the words preceding clause (a), by the addition of the words “, common-law partner” after the word “spouse”; and

(b) in clause (1),

(i) by the addition of the words “or common-law partner” after the word “spouse” wherever it occurs,

(ii) by the repeal of subclause (ii) and the substitution of the following:

(ii) the effect of the responsibilities assumed during cohabitation by the spouse or common-law partner on his or her earning capacity,

(iii) by the repeal of subclause (vi) and the substitution of the following:

(vi) the effect of the responsibility of caring for a child on the earnings and career development of the spouse or common-law partner; and

4. Subsection 37(2) of the Act is amended by the addition of the words “, common-law partner” after the word “spouse”.

5. Subsection 38.1(2) of the Act is amended by the deletion of the words “or the court makes an order for the support of a spouse” and the substitution of the words “or a common-law partner, or the court makes an order for the support of a spouse or a common-law partner”.

6. Section 40 of the Act is amended by the deletion of the words “a spouse’s property” and the substitution of the words “the property of a spouse or common-law partner”.

7. Subsection 45(1) of the Act is amended by the deletion of the words “applicant’s spouse or former spouse” and the substitution of the words “applicant’s spouse or common-law partner, or former spouse or common-law partner,”.

8. Subsection 49(2) of the Act is amended

(a) by the addition of the words “or common-law partners” after the word “spouses”; and

(b) by the addition of the words “or common-law partner” after the word “spouse”.

9. Subsection 52(1) of the Act is amended by the deletion of the words “A man and a woman” and the substitution of the words “Two persons”.

10. Section 53 of the Act is amended by the deletion of the words “A man and a woman” and the substitution of the words “Two persons”.

11. Section 54 of the Act is amended

(a) in clause 54(3)(a), by the addition of the words “or common-law partner” after the words “the person’s spouse”; and

(b) by the addition of the following after subsection (3):

(4) In subsection (3), “common-law partner” means a common-law partner as defined in clause 29(1)(a). Common-law partner

12. Subsection 57(1) of the Act is amended by the deletion of the words “a man and a woman” and the substitution of the words “two persons”.

13. Section 61 of Act is amended

(a) by the repeal of subsection (1); and

(b) by the addition of the following after subsection (4):

(5) The Lieutenant Governor in Council may make regulations, after consultation with the Chief Justice of Prince Edward Island and the Chief Justice of the Trial Division, respecting the establishment, structure and procedure of a child support service and respecting applications made to, recalculations by and decisions of that child support service. Child support service

14. The Act is amended by the addition of the following after section 62.1:

62.2 On the establishment of a child support service in the regulations made under section 61, Child support recalculations

(a) an order for child support made under this Act before, on or after the establishment of the child support service; and

(b) a separation or parental agreement entered into under this Act before, on or after the establishment of the child support service may be submitted to the child support service, in accordance with the regulations, for the recalculation of the amount of child support payable under the order or agreement, if the order or agreement, as the case may be, provides for recalculation of child support in accordance with the child support guidelines.

15. This Act comes into force on a date that may be fixed by proclamation of the Lieutenant Governor in Council.

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<i>STAGE:</i>	<i>DATE:</i>
<i>1st Reading:</i>	December 10, 2002
<i>2nd Reading:</i>	December 18, 2002
<i>To Committee:</i>	December 18, 2002
<i>Reported:</i>	December 18, 2002
<i>3rd Reading and Pass:</i>	December 18, 2002
<i>Assent:</i>	December 18, 2002

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