

THE NORTHERN TERRITORY OF AUSTRALIA

No. 104 o 1978

AN ACT

To amend the Registration of Births,
Deaths and Marriages Ordinance

[Assented to 3 November 1978]

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. This Act may be cited as the Registration of Births, Deaths and Marriages Act (No. 2) 1978.

Short title

2. In this Act the Registration of Births, Deaths and Marriages Ordinance is referred to as the Principal Act.

Principal Act

3. Section 5 of the Principal Act is amended by omitting the definition of "parent" and inserting the following definition:

Interpretation

"'parent' in relation to a child, means the father or mother of the child;"

4. Section 16 of the Principal Act is repealed and the following section substituted:

"16. (1) Subject to sub-section (2), the name of and any other particulars relating to the father of a child whose parents were not married to each other at the time of its conception and have not since married each other shall not be included in any particulars furnished to a District Registrar in connexion with the registration of the birth of that child unless -

Registration of birth of child whose parents are not married

(a) the mother and father of the child each request the District Registrar, in writing, to include the name and other particulars in the entry of the birth in the Register of Births for the District;

(b) the father, by writing under his hand, furnishes to the District Registrar acknowledgement that he is the father of the child; and

(c) the acknowledgement referred to in paragraph (b) is signed by the father in the presence of the District Registrar or, in a case where the District Registrar is satisfied that it is impracticable for the father so to sign the acknowledgement, a statutory declaration of the father, or a statement in writing of the father made

before 2 witnesses, verifying the facts contained in that acknowledgement is furnished to the District Registrar.

"(2) Where the mother of a child whose parents were not married to each other at the time of its conception and have not since married each other has not requested a District Registrar to include the name and other particulars of the father of the child in the entry of the birth of the child in the Register of Births, but the father of the child has so requested a District Registrar and sub-section (1)(b) and (c) has been complied with, the name and other particulars of the father shall be included in particulars furnished to the District Registrar in connexion with the registration of the birth of the child if the District Registrar is satisfied that the mother is dead or is incapable of agreeing or consenting.

"(3) A District Registrar shall not enter in a Register of Births the name of, or any other particulars relating to, the father of a child whose parents were not married to each other at the time of its conception and have not since married each other unless sub-section (1) or (2) has been complied with.

"(4) A District Registrar shall bring the preceding provisions of this section to the notice of any person furnishing information concerning the birth of a child whose parents were not married to each other at the time of its conception and have not since married each other."

5. Section 17 of the Principal Act is repealed and the following sections substituted:

Circumstances where surname to be that of mother

Surname to be entered in the Register of Births

"17. Subject to sections 17A, 17B and 19 the name to be entered in a Register of Births as the surname of a child is the surname of the mother of that child.

"17A.(1) Where -

(a) the parents of a child were married to each other -

- (i) at the date of the conception of the child;
- (ii) at the date of the birth of the child; or
- (iii) at any time between the date specified in subparagraph (i) and the date specified in subparagraph (ii);

(b) a child is deemed by virtue of the operation of section 89 or 91 of the Marriage Act of the Commonwealth to be the legitimate child of its parents from the date of its birth; or

(c) the name of the father of the child is, at the time the birth is registered, entered in a Register of Births in accordance with section 16,

the name to be entered in a Register of Births as the surname of the child is -

- (d) the surname of the father;
- (e) if the surname of the mother is different to the surname of the father - the surname of the mother; or
- (f) the surname of both parents in combination in either order and whether or not separated by a hyphen,

whichever shall be agreed upon by the parents of the child.

"(2) Where the parents of a child to which sub-section (1) applies are unable to agree on which of the surnames specified in paragraphs (d), (e) and (f) of that section shall be the surname of the child, the District Registrar shall, subject to section 17B, register the child in the surname of the father of that child.

"(3) Subject to this section, all children of a marriage whose names are registered under this Act shall bear the same surname.

"(4) The District Registrar shall not enter in a Register of Births as the surname of a second or later child of a marriage a surname that is not the same as the surname of the first child of that marriage whose name has been registered in a Register of Births unless -

- (a) both parents of the child agree; and
- (b) the Registrar is satisfied that the use of a different surname is a recognised custom or tradition of the particular ethnic group to which one of the parents of that child belongs.

"(5) A surname sought to be registered under sub-section (4) shall be a surname specified in sub-section (1)(d), (e) or (f).

"(6) The parents of a child whose surname was, before the commencement of this Act, entered in the Register of Births, may apply to the District Registrar to amend the Register of Births to enter as the surname of the child a surname specified in sub-section (1)(d), (e) or (f) where the District Registrar is satisfied that the use of that surname is a recognised custom or tradition of the particular ethnic group to which one of the parents of that child belongs.

"(7) Any application under sub-section (6) for the change of surname of a child shall be made within 12 months of the date of commencement of this Act.

"(8) Where the parents of a child to which sub-sections (4) and (6) apply are unable to reach agreement in respect of the surname of that child, either parent may apply to the Supreme Court under section 17B.

"(9) A reference in this section to 'parents' shall, where one of the parents of a child whose surname is sought to be registered is -

(a) dead; or

(b) incapable of agreeing or consenting,

be read as a reference to the other parent of that child.

Application
to Supreme
Court

"17B. (1) The Supreme Court shall, on the application of a parent of a child, have original jurisdiction to make such orders with regard to the surname of that child as it thinks fit.

"(2) In exercising the jurisdiction conferred on it by sub-section (1) the Supreme Court may have regard to -

(a) any other proceedings before it; and

(b) any other proceedings before any other court whether in Australia or elsewhere.

"(3) The District Registrar shall give effect to an order of the Supreme Court made under sub-section (1)."

Registrar to
register births
of legitimated
children

6. Section 43(1) of the Principal Act is amended by omitting "this Part" and inserting "Part III".

7. The Principal Act is amended by inserting after section 61 the following section:

Regulations

"62. The Minister may make regulations, not inconsistent with this Act, prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to this Act."