

AUSTRALIAN CAPITAL TERRITORY

Registration of Births, Deaths and Marriages (Amendment) Ordinance 1988

No. 92 of 1988

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 15 December 1988

N. M. STEPHEN
Governor-General

By His Excellency's Command,

CLYDE HOLDING
Minister of State for the Arts
and Territories

An Ordinance to amend the *Registration of Births, Deaths and Marriages Ordinance 1963*

Short title

1. This Ordinance may be cited as the *Registration of Births, Deaths and Marriages (Amendment) Ordinance 1988*.¹

Commencement

2. This Ordinance shall come into operation on such date as is fixed by the Minister by notice in the *Gazette*.

Principal Ordinance

3. In this Ordinance, "Principal Ordinance" means the *Registration of Births, Deaths and Marriages Ordinance 1963*.²

(Ord. 52/87)—Cat. No.

Interpretation

4. Section 5 of the Principal Ordinance is amended—

- (a) by inserting in subsection (1) before the definition of “body” the following definition:

“ ‘acknowledgement of paternity’ means an acknowledgement of paternity made in accordance with subsection 10 (1) of the *Birth (Equality of Status) Ordinance 1988* or in accordance with a corresponding law;”;

- (b) by inserting in subsection (1) after the definition of “coroner” the following definitions:

“ ‘corresponding law’, in relation to a law of the Territory, means a law of a State or another Territory that is similar, or has a similar effect, to the law of the Territory;

‘declaration of parentage’ means a declaration of parentage made pursuant to subsection 12 (1) of the *Birth (Equality of Status) Ordinance 1988* or a declaration of parentage (however described) made pursuant to a corresponding law;”;

- (c) by inserting in subsection (1) after the definition of “de facto spouse” the following definition:

“ ‘ex-nuptial child’ means a child whose father and mother were not married to each other at the time the child was conceived and have not subsequently married each other, not being a child who is a legitimate child, or is to be deemed to be a legitimate child, by virtue of Part VI of the *Marriage Ordinance 1961*;”.

Registers

5. Section 8 of the Principal Ordinance is amended—

- (a) by inserting in subsection (1) “, the Register of Parentage Information” after “Births”; and
- (b) by omitting from subsection (3) “shall” and substituting “and Register of Parentage Information shall each”.

Repeal

6. (1) Section 17 of the Principal Ordinance is repealed.

(2) For the purposes of Division 2 of Part VI of the Principal Ordinance, where the Registrar made an entry in the Register of Births pursuant to section 17 of the Principal Ordinance as in force immediately before the date of commencement of this section—

- (a) the entry shall be deemed to have been made pursuant to section 46C of the Principal Ordinance as amended by this Ordinance; and
- (b) the acknowledgement furnished to the Registrar in relation to the entry in accordance with section 17 of the Principal Ordinance as in force at that time shall be deemed to form part of the Register of Parentage Information.

Change of child's surname

7. Section 20 of the Principal Ordinance is amended by omitting paragraph (2) (b) and substituting the following paragraph:

- “(b) the signature on the instrument of that person and of any person whose consent is required pursuant to paragraph (a) has been witnessed by—
- (i) a person authorised to administer an oath under subsection 11 (1) of the *Oaths and Affirmations Ordinance 1984*; or
 - (ii) a Commissioner for Declarations within the meaning of the *Statutory Declarations Act 1959*; and”.

8. The heading to Part VI of the Principal Ordinance is omitted and the following headings are substituted:

“PART VI—REGISTRATION OF LEGITIMATIONS AND PARENTAGE INFORMATION

Division 1—Legitimations”.

9. After section 46 of the Principal Ordinance the following Division is inserted in Part VI:

“Division 2—Parentage Information”.

Registration of information about parentage

“46A. (1) Where the Registrar receives—

- (a) an acknowledgement of paternity;
- (b) a sealed copy of a declaration of parentage;

- (c) a sealed copy of an order referred to in subsection 9 (1) or (2) of the *Birth (Equality of Status) Ordinance 1988*;
- (d) a sealed copy of an order setting aside as order referred to in subsection 9 (1) or (2) of the *Birth (Equality of Status) Ordinance 1988*; or
- (e) a sealed copy of an order annulling an acknowledgement of paternity or a declaration of parentage;

the Registrar shall register the acknowledgement, declaration or order by filing it in the Register of Parentage Information.

“(2) The Registrar shall keep an index of instruments registered in the Register of Parentage Information.

“(3) The Registrar shall bring this Division to the notice of any person providing information to the Registrar concerning the birth of an ex-nuptial child.

Births not registered in the Territory

“46B. Where—

- (a) the Registrar receives, in respect of a child whose birth is not registered in the Register of Births, an acknowledgement of paternity, or a sealed copy of a declaration of parentage or of an order referred to in paragraph 46A (1) (c), (d) or (e); and
- (b) the child’s birth is registered in a State or another Territory;

the Registrar may send the acknowledgement or copy to the registrar of births (however described) of the State or other Territory.

Alteration of entries in Registrar of Births

“46C. (1) On receipt of an acknowledgement of paternity of a child whose birth is or is to be registered in the Register of Births, the Registrar shall cause to be entered on the page of the register containing the entry of the child’s birth, the name of, and other particulars relating to, the person who executed the acknowledgement as father of the child.

“(2) On receipt of a sealed copy of a declaration of parentage in respect of a child whose birth is registered in the Register of Births, or a sealed copy of an order referred to in paragraph 46A (1) (c), (d) or (e) in relation to such a child, the Registrar shall cause to be made such additions and alterations to the page

of the register containing the entry of the child's birth as are consistent with the declaration or order.

“(3) Where the Registrar makes an entry in, or an alteration or addition to, the Register of Births in accordance with this section, the Registrar shall sign his or her name immediately under the entry, alteration or addition and write the date on which it was made.

Copies of acknowledgements, declarations and orders

“46D. (1) A person who is—

- (a) a party to an acknowledgement of paternity registered under this Division;
- (b) the child to which the acknowledgement of paternity relates, or a guardian of the child; or
- (c) any other person who, in the Registrar's opinion, has a proper interest in the matter;

may apply to the Registrar for a certified copy of the instrument of acknowledgement.

“(2) Where a declaration of parentage, or a copy of an order referred to in paragraph 46A (1) (c), (d) or (e) has been filed in the Register of Parentage Information—

- (a) the person found by the court that made the declaration or order to be a parent of the child to whom the declaration or order relates;
- (b) any other party to the proceedings in which the declaration or order was made;
- (c) the child to whom the declaration or order relates, or a guardian of the child; or
- (d) any other person who, in the Registrar's opinion, has a proper interest in the matter;

may apply to the Registrar for a certified copy of the declaration or order.

“(3) An application shall—

- (a) be in writing signed by the applicant; and
- (b) be accompanied by the determined fee.

“(4) Where the Registrar is satisfied that a person who makes an application is entitled to do so, the Registrar shall issue to the person the certified copy for which the person applied.

Searches in relation to ex-nuptial children

“46E. (1) An executor, administrator or trustee of the estate of a deceased person may, by application in writing signed by the applicant and accompanied by the determined fee, request the Registrar to search the Register of Births and the Register of Parentage Information to ascertain whether the registers disclose that the deceased person was a parent of an ex-nuptial child.

“(2) If the Registrar is satisfied that the applicant is entitled to make the application, the Registrar shall—

- (a) cause a search of the registers to be carried out; and
- (b) notify the applicant in writing of the result of the search.

Review of decisions

“46F. An application may be made to the Administrative Appeals Tribunal for a review of a decision of the Registrar refusing to issue a certified copy under section 46D.

Notification of decisions

“46G. (1) Where the Registrar makes a decision referred to in section 46F, the Registrar shall, within 28 days after the date of the decision, cause written notice of the decision to be given to each person whose interests are affected by the decision.

“(2) A notice under subsection (1) shall—

- (a) include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, an application may be made to the Administrative Appeals Tribunal for a review of the decision to which the notice relates; and
- (b) except where subsection 28 (4) of that Act applies—include a statement to the effect that a person whose interests are affected by the decision may request a statement pursuant to section 28 of that Act.

“(3) The validity of the decision shall not be taken to have been affected by a failure to comply with subsection (2).”.

Searches and issue of documents

10. Section 51 of the Principal Ordinance is amended—

- (a) by omitting subsection (5); and
- (b) by adding at the end the following subsection:

“(9) The Registrar shall not issue under this section an extract from an entry in the Register of Births or the Register of Parentage Information if the extract discloses that a child is an ex-nuptial child or that a person is a parent of an ex-nuptial child.”.

Evidence

11. Section 55 of the Principal Ordinance is amended by inserting in subsection (2) “the Register of Parentage Information” after “Births,” (wherever occurring).

NOTES

- 1. Notified in the *Commonwealth of Australia Gazette* on 21 December 1988.
- 2. No. 17, 1963 as amended by No. 19, 1966; No. 47, 1974; No. 29, 1975; Nos. 18, 50 and 58, 1977; No. 17, 1979; Nos. 24 and 49, 1980; No. 32, 1981; Nos. 15 and 80, 1982; No. 41, 1983; Nos. 8 and 31, 1986; No. 51, 1987.