

LEGITIMATION

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Legitimation Act 1959

TABLE OF PROVISIONS

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Legitimation Act 1959

TABLE OF AMENDMENTS

The Legitimation Act 1959 No 3 was made and commenced on 30 October 1959.

Amending Legislation	Certified	Date of Commencement
Legitimation Ordinance 1962 No 4*		26 November 1962
Executive Council Ordinance 1966 No 3		14 February 1966
Statute Law Revision Act 2011 No 8	15 April 2011	15 April 2011
Revised Written Laws Act 2021 No 7	1 June 2021	1 June 2021

* The amendments from this instrument have been incorporated but have not been validated against the original source.

An Act relating to the legitimation of children born before marriage on the subsequent marriage of their parents.

[Long title am Act 8 of 2011 s 12 and Sch 1[88], opn 15 Apr 2011]

Adopted by the Parliament of Nauru as follows:

1 Short title and commencement

This Act may be cited as the *Legitimation Act 1959* and came into effect on 30 October 1959.

[s 1 subst Act 8 of 2011 s 12 and Sch 1[86], opn 15 Apr 2011]

2 Definitions

In this Act:

‘ex-nuptial child’ means a child not born in lawful wedlock; and

‘the Registrar’ means the Registrar of Births, Deaths and Marriages appointed under the *Births, Deaths and Marriages Registration Act 2017*, and includes the Deputy Registrar appointed under that Act.

[def am Act 8 of 2011 s 12 and Sch 1[88], opn 15 Apr 2011]

[s 2 am No 4 of 1962, opn 26 Nov 1962; Act 8 of 2011 s 12 and Sch 1[87], opn 15 Apr 2011]

3 Legitimation after marriage of parents

A child born before the marriage of his or her parents whose parents have, whether before or after the commencement of this Act, married shall be deemed, on the registration of that child in accordance with the provisions of this Act to have been legitimated by the marriage from birth and is entitled to all the rights possessed by a child born in lawful wedlock.

[s 3 am Act 8 of 2011 s 12 and Sch 1[87], opn 15 Apr 2011]

4 Issue of legitimated child dying before marriage of parents

Subject to this Act, where a child legitimated in pursuance of this Act has, whether before or after the commencement of this Act, died before the marriage of his or her parents, his or her issue take by operation of law such real and personal property as would have devolved upon the issue if the parent of the issue had been born in lawful wedlock.

[s 4 am Act 8 of 2011 s 12 and Sch 1[87], opn 15 Apr 2011]

5 Certain interests not affected

Nothing in this Act affects an estate, right or interest in real or personal property to which a person has become or becomes entitled, either vested or contingent and either mediately or immediately in possession or expectancy, by virtue of a disposition made before the commencement of this Act or by virtue of a devolution by law on the death of a person dying before the commencement of this Act.

[s 5 am Act 8 of 2011 s 12 and Sch 1[87], opn 15 Apr 2011]

6 Nauruan customs preserved

Nothing in this Act affects the right of an ex-nuptial child to share equally with

legitimate children in the distribution of the estate of the deceased mother of that child in accordance with the institutions, customs and usages of the Nauruan community.

[s 6 am Act 8 of 2011 s 12 and Sch 1[87], opn 15 Apr 2011]

7 Registration of ex-nuptial child on application of father

(1) When a man, who claims to be the father of an ex-nuptial child, whose mother he has married since the birth of the child, produces to the Registrar a declaration in accordance with the form in Schedule 1, together with the document referred to in that Schedule, the Registrar shall, subject to this Act, register the child, whether alive or dead, as the lawful issue of that man and his wife, and shall make a note in the entry to the effect that the registration has been made under the authority of this Act.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[87], opn 15 Apr 2011]

(2) The father of the child referred to in subsection (1) shall sign the registration entry and a registration under this Section does not take effect until the father has signed the registration entry.

8 Registration of ex-nuptial child on application of mother

(1) Subject to this Act, where:

- (a) the father of an ex-nuptial child, whose mother he has married since the birth of the child, is dead; and
- (b) the mother of the child, within a period of 2 years after the death of the father, sends or produces to the Registrar a declaration in accordance with the form in Schedule 2, together with the documents referred to in that Schedule,

the Registrar shall register the child, whether alive or dead, as the lawful issue of the mother and the deceased father, and shall make a note in the entry to the effect that the registration has been made under the authority of this Act.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[87], opn 15 Apr 2011]

(2) Notwithstanding the provisions of subsection (1), unless the Minister certifies in writing that he or she is satisfied, whether by the written acknowledgement of the person alleged to be the father of the child or by evidence that in the opinion of the Minister is conclusive, that that person was the father of the child, the Registrar shall not register the child under this Section.

[subs (2) am No 3 of 1966 s 12 and Sch 1, opn 14 Feb 1966; Act 8 of 2011 s 12 and Sch 1[88], opn 15 Apr 2011]

9 Previous registration of ex-nuptial child

Where a child registered under Sections 7 and 8 has previously been registered under the *Births, Deaths and Marriages Registration Act 2017* as an ex-nuptial child, the Registrar shall make on the record of the previous registration a reference to the registration under this Act.

[s 9 am No 4 of 1962, opn 26 Nov 1962; Act 8 of 2011 s 12 and Sch 1[87] and [88], opn 15 Apr 2011]

10 Right of mother of ex-nuptial child to succeed on intestacy of child

Subject to this Act, where, after the commencement of this Act, an ex-nuptial child that has not been legitimated under this Act dies intestate in respect of all or any of his or her real or personal property, the mother of that child, if she survives him or her, is entitled to take the interest in that property to which she would have been entitled if the child had been born in lawful wedlock and she had been the only surviving parent.

[s 10 am Act 8 of 2011 s 12 and Sch 1[87], opn 15 Apr 2011]

11 Declarations

(1) A person shall not wilfully make a false statement in a declaration under this Act.

Penalty: Imprisonment for 4 years.

[subs (1) am Act 8 of 2011 s 12 and Sch 1[87], opn 15 Apr 2011]

(2) A declaration under this Act shall be signed by the person making it before a Judge, a Magistrate or the Registrar.

[subs (2) am Act 8 of 2011 s 12 and Sch 1[87], opn 15 Apr 2011]

SCHEDULE 1



REPUBLIC OF NAURU
LEGITIMATION ACT 1959

DECLARATION OF FATHER

[Sections 7 and 11]

[Sch 1 am Act 8 of 2011 s 12 and Sch 1[88], opn 15 Apr 2011]

I, ⁽¹⁾ , do declare as follows:

1. I am the father of an ex-nuptial child, born on *[date]*, at
2. I was married to , the mother of the said child, on *[date]*,
at and I am desirous of having the birth of the said child registered as
that of the lawful issue of myself and the said
3. The document annexed to this declaration is a certified copy of the certificate of my
marriage with the said

And I make this declaration conscientiously believing the statements contained in the
declaration to be true in every particular.

(2)

Declared at on *[date]*.

Before me,

(3)

(4)

- (1) Here insert name, address and occupation of person making the declaration.
- (2) Signature of person making the declaration.
- (3) Signature of person before whom the declaration is made.
- (4) Here insert the title of person before whom the declaration is made.

NOTE: A person who wilfully makes a false statement in a declaration is liable to
imprisonment for 4 years.

SCHEDULE 2



REPUBLIC OF NAURU LEGITIMATION ACT 1959

DECLARATION OF MOTHER

[Sections 8 and 11]

[Sch 2 am No 3 of 1966 s 12 and Sch 1, opn 14 Feb 1966; Act 8 of 2011 s 12 and Sch 1[88], opn 15 Apr 2011]

I, ⁽¹⁾ , do declare as follows:

1. I am the mother of an ex-nuptial child born on *[date]*, at
2. I was married to , the father of the said child on *[date]*,
at , and I am desirous of having the birth of the said child registered as
that of the lawful issue of myself and the said .
3. My husband, the said , died on *[date]*.
4. The documents annexed to this declaration are:
 - (a) A certified copy of the certificate of my marriage with the
said ;
 - (b) A certified copy of the certificate of the death of the
said ;
 - (c) A certificate by the Minister that he or she is satisfied that the
said is the father of the said child.

And I make this declaration conscientiously believing the statements contained in the
declaration to be true in every particular.

(2)

Declared at on *[date]*.

Before me,

(3)

(4)

- (1) Here insert name, address and occupation of person making the declaration.
- (2) Signature of person making the declaration.
- (3) Signature of person before whom the declaration is made.
- (4) Here insert the title of person before whom the declaration is made.

NOTE: A person who wilfully makes a false statement in a declaration is liable to imprisonment for 4 years.