

REPUBLIC OF SOUTH AFRICA

**BIRTHS AND DEATHS
REGISTRATION AMENDMENT
BILL**

*(As introduced in the National Assembly as a section 75 Bill; explanatory summary of Bill
published in Government Gazette No 22552 of 3 August 2001) (The English text is the
official text of the Bill)*

(MINISTER OF HOME AFFAIRS)

[B 53—2001]

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Amendment of section 25 of Act 51 of 1992, as substituted by section 2 of Act 67 of 1997 and amended by section 11 of Act 86 of 1997

3. Section 25 of the principal Act is hereby amended by the insertion after subsection (1) of the following subsection:

“(1A) Notwithstanding subsection (1)(b) and (c), the natural father’s written consent is not required where the mother has sole guardianship of the child concerned.”.

Amendment of section 26 of Act 51 of 1992, as substituted by section 3 of Act 67 of 1997

4. Section 26 of the principal Act is hereby amended by the substitution in subsection (1) for paragraph (c) of the following paragraph:

“(c) a woman, whether married or divorced, or a widow adds to the surname which she assumed after the marriage, any surname which she bore at any prior time.”.

Short title

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5. This Act is called the Births and Deaths Registration Amendment Bill, 2001.

MEMORANDUM ON THE OBJECTS OF THE BIRTHS AND DEATHS REGISTRATION AMENDMENT BILL, 2001

1. For purposes of section 28(3) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996) (“the Constitution”), a child means a person under the age of 18 years. It is thus proposed that the definition of “ ‘major’ or ‘person of age’ ” contained in section 1 of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992) (“the Act”), be amended so that one becomes a major upon ceasing to be a child as contemplated in section 28 of the Constitution.

2. The expression “competent court” as used in section 25(1)(b) and (c) of the Act is not defined in the Act, and the interpretation thereof presents some difficulties. It is proposed that it be defined to put the matter beyond doubt.

3. In line with section 9 of the Constitution, it is deemed expedient that parents of children born during the existence of the marriage should be allowed to register their children under the surname of either the father or the mother or under both their surnames joined together as a double barrelled surname.

4. The Bill also seeks to establish the principle that the consent of the natural father is not required for the alteration of the surname of the child where the mother of the child has the sole guardianship of the child.

5. FINANCIAL IMPLICATIONS FOR STATE

None.

6. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Home Affairs are of the opinion that this Bill must be dealt with in accordance with the procedure established by section 75 of the Constitution since it contains no provision to which the procedure set out in section 74 or 76 of the Constitution applies.