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PRESIDENT'S OFFICE

KANTOOR VAN DIE PRESIDENT

No. 1486.

5 September 1996

It is hereby notified that the President has assented to the following Act which is hereby published for general information:—

No. 40 of 1996: Births and Deaths Registration Amendment Act, 1996.

No. 1486.

5 September 1996

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 40 van 1996: Wysigingswet op die Registrasie van Geboortes en Sterftes, 1996.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.

ACT

To amend the Births and Deaths Registration Act, 1992, so as to define the expression "child born out of wedlock"; and to make provision for the recognition of customary unions concluded according to indigenous law or custom and of marriages solemnised or concluded according to the tenets of any religion; and to provide for matters connected therewith.

(English text signed by the President.)
(Assented to 29 August 1996.)

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 51 of 1992

1. Section 1 of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992), hereinafter referred to as the principal Act, is hereby amended—

(a) by the insertion after the definition of "burial place" of the following definition:

"'child born out of wedlock' does not include a child whose parents were married to each other at the time of his or her conception or at any time thereafter before the completion of his or her birth;"; and

(b) by the addition of the following subsection, the existing section becoming subsection (1):

"(2)(a) For the purposes of this Act 'marriage' includes a customary union concluded according to indigenous law or custom, and a marriage solemnised or concluded according to the tenets of any religion, which is recognised by the Minister in terms of paragraphs (b) and (c).

(b) A union or marriage referred to in paragraph (a) shall be recognised by the Minister if he or she upon the submission of information in the prescribed form is satisfied that such a union or marriage was in fact concluded or solemnised.

(c) The Minister may request that information be submitted to clarify or amplify any information submitted in terms of paragraph (b), or may call upon any person to appear before him or her and may require or allow such person to give such information orally and to give such other information as in the opinion of the Minister may help to decide upon the matter under consideration."

Substitution of section 10 of Act 51 of 1992

2. The following section is hereby substituted for section 10 of the principal Act:

“Notice of birth of child born out of wedlock

10. (1) Notice of birth of [an illegitimate child] a child born out of wedlock shall be given— 5

(a) under the surname of the mother; or

(b) at the joint request of the mother and of the person who in the presence of the person to whom the notice of birth was given acknowledges himself in writing to be the father of the child and enters the prescribed particulars regarding himself upon the notice of birth, under the 10
surname of the person who has so acknowledged.

(2) Notwithstanding the provisions of subsection (1), the notice of birth may be given under the surname of the mother if the person mentioned in subsection (1)(b), with the consent of the mother, acknowledges himself in writing to be the father of the child and enters particulars regarding himself 15
upon the notice of birth.”.

Substitution of section 11 of Act 51 of 1992

3. The following section is hereby substituted for section 11 of the principal Act:

“Amendment of birth registration of child born out of wedlock

11. (1) Any parent or guardian of [an illegitimate child] a child born out of wedlock whose parents married each other after the registration of his or her birth, may, if such child is a minor, or such child himself or herself may, if he or she is of age, apply to the Director-General to amend the registration of his or her birth as if his or her parents were married to each other at the time of his or her birth, and thereupon the Director-General shall, if satisfied 20
that the applicant is competent to make the application, that the alleged parents of the child are in fact his or her parents and that they legally married each other, amend the registration of birth in the prescribed manner as if such child's parents were legally married to each other at the time of his or her birth. 25
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(2) If [an illegitimate child's] the parents of a child born out of wedlock marry each other before notice of his or her birth is given, notice of such birth shall be given and the birth registered as if the parents were married to each other at the time of his or her birth.

(3) Subsection (1) shall apply with the necessary changes in respect of a child born from parents married to each other by virtue of a union or marriage recognised by the Minister in terms of section 1(2), at any time after the registration of the birth of such child as a birth out of wedlock.” 35

Short title

4. This Act shall be called the Births and Deaths Registration Amendment Act, 1996. 40