

Norfolk Island Continued Laws Amendment (Registration of Births, Deaths and Marriages) Ordinance 2020

I, General the Honourable David Hurley AC DSC (Retd), Governor‑General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Ordinance.

Dated 15 October 2020

David Hurley

Governor‑General

By His Excellency’s Command

Nola Marino

Assistant Minister for Regional Development and Territories
Parliamentary Secretary to the Deputy Prime Minister and Minister for Infrastructure, Transport and Regional Development

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1 Name

 This Ordinance is the *Norfolk Island Continued Laws Amendment (Registration of Births, Deaths and Marriages) Ordinance 2020*.

2 Commencement

 (1) Each provision of this Ordinance specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

| Commencement information |
| --- |
| Column 1 | Column 2 | Column 3 |
| Provisions | Commencement | Date/Details |
| 1. The whole of this Ordinance | 1 January 2021. | 1 January 2021 |

Note: This table relates only to the provisions of this Ordinance as originally made. It will not be amended to deal with any later amendments of this Ordinance.

 (2) Any information in column 3 of the table is not part of this Ordinance. Information may be inserted in this column, or information in it may be edited, in any published version of this Ordinance.

3 Authority

 This Ordinance is made under section 19A of the *Norfolk Island Act 1979.*

4 Schedules

 Each instrument that is specified in a Schedule to this Ordinance is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Ordinance has effect according to its terms.

Schedule 1—Amendments

Norfolk Island Continued Laws Ordinance 2015

1 Item 278 of Schedule 1

Repeal the item, substitute:

278 Section 2

Repeal the section.

278A Subsection 5(1)

Insert:

***corresponding law*** means a law of a State or another Territory that provides for the registration of births, deaths and marriages.

278B Subsection 5(1) (definition of *medical practitioner*)

Omit “person who is registered as a medical practitioner under a law of a State”, substitute “registered medical practitioner within the meaning of the *Health Practitioners Act 1983*”.

278C Subsection 5(1) (definition of *parent*)

Repeal the definition.

278D Subsection 5(1)

Insert:

***particulars required to be entered in the Register of Births*** means the particulars described in subsection 11(3).

Note: Section 17 may affect whether some of those particulars are to be entered in the Register of Births.

***particulars required to be entered in the Register of Deaths*** means the particulars described in subsection 26(3).

278E Subsection 5(1)

Insert:

***prohibited name*** means a name that:

 (a) is obscene or offensive; or

 (b) could not practicably be established by repute or usage:

 (i) because it is too long; or

 (ii) because it consists of or includes symbols without phonetic significance; or

 (iii) for some other reason; or

 (c) includes or resembles an official title or rank; or

 (d) is contrary to the public interest for some other reason.

278F Subsections 5(2) and (5)

Repeal the subsections.

278G After section 7

Insert:

7A Requirement by Registrar for information to be verified by statutory declaration

 The Registrar may require that information (however described) required or permitted by this Act to be given to the Registrar be verified by statutory declaration.

278H Subsection 8(1)

After “Births,”, insert “the Register of Changes of Name,”.

278J Subsection 8(2)

After “Births”, insert “, the Register of Changes of Name”.

278K At the end of section 8

Add:

 (5) The Register of Changes of Name includes:

 (a) the instruments deposited under section 20 or 21 before the commencement of this subsection; and

 (b) the index that was kept under section 52 immediately before the commencement of this subsection.

 (6) This Act applies in relation to the instruments deposited under section 20 or 21 as if they were entries in the Register of Changes of Name.

278L Section 9 (heading)

After “**births,**”, insert “**changes of name,**”.

278M Paragraph 9(2)(b)

Omit “, under the hand of that person”.

278N At the end of section 11

Add:

 (3) The particulars of birth required to be entered in the Register of Births in relation to a child are as follows:

 (a) the surname and the given names (if any) of the child;

 (b) the date and place of the birth of the child;

 (c) the sex of the child;

 (d) whether or not the birth of the child was a multiple birth;

 (e) the full name, and the former names (if any), of each parent of the child;

 (f) the full name and date of birth of each other child (if any) born to the father and mother (together) of the child;

 (g) the marital status of each parent of the child;

 (h) the name of the medical practitioner (if any) who attended on the birth of the child.

Note 1: Section 17 may affect whether some of the particulars are to be entered in the Register of Births.

Note 2: Section 18 affects the surname of the child to be entered in the Register of Births.

 (4) Despite subsections (2) and (3), the Registrar may refuse to enter in the Register of Births a prohibited name.

 (5) Applications may be made to the Administrative Review Tribunal for review of refusals by the Registrar under subsection (4).

278P Subsection 12(3)

Omit “under the hand of the occupier”.

278Q Subsection 13(1)

Omit “that are”.

278R Subsection 13(2)

Omit “(not being a parent of the child)”.

278S Paragraph 13(2)(b)

Repeal the paragraph, substitute:

 (b) if the person is not a parent of the child—that the parents of the child were not prevented, by their death, inability or absence from the Territory, from complying with that subsection.

278T Subsection 14(2)

Omit “that are”.

278U Subsection 15(2)

Omit “by writing under his hand”, substitute “in writing”.

278V Paragraphs 16(2)(c) and 17(1)(b)

Omit “by writing under his hand”, substitute “in writing”.

278W At the end of Division 1 of Part 3

Add:

17A Details of person furnishing particulars to be given to Registrar

 A person who furnishes to the Registrar particulars under section 12, 13, 14, 15 or 16 must also give the following to the Registrar with the particulars:

 (a) the person’s full name;

 (b) the person’s occupation;

 (c) the person’s telephone number (if any);

 (d) the person’s email address (if any).

278X Division 2 of Part 3 (heading)

Repeal the heading.

278Y Sections 19, 20 and 21

Repeal the sections.

278Z Section 22 (heading)

Repeal the heading, substitute:

22 Certified copies of entry in Register of Births to include any particulars of change of name in entry

278ZA Subsection 22(1)

Repeal the subsection.

278ZB Subsection 22(2)

Omit “(2)”.

278ZC Subsection 22(2)

Omit “the particulars entered in accordance with section 19 or subsection 22(1)”, substitute “those particulars”.

278ZD Subsection 22(3)

Repeal the subsection.

278ZE Section 23

Repeal the section.

278ZF Subsection 23A(1)

Omit “only if the person is not married”.

278ZG After subsection 23B(3)

Insert:

 (3A) An application to note the reassignment of a person’s sex must set out:

 (a) the full name, and the former names (if any), of the person; and

 (b) the place of residence of the person; and

 (c) if the person is under 18 years old when the application is made—the full name of each parent of the person; and

 (d) the person’s sex before reassignment; and

 (e) the person’s sex after reassignment; and

 (f) the full name and contact details of each person making the application.

278ZH Paragraph 23B(4)(a)

Repeal the paragraph.

278ZI At the end of subparagraph 23B(4)(b)(ii)

Add “and”.

278ZJ Paragraphs 23B(4)(c) and (d)

Repeal the paragraphs.

2 After item 279 of Schedule 1

Insert:

279A After subsection 23B(5)

Insert:

 (5A) Applications may be made to the Administrative Review Tribunal for review of refusals by the Registrar of applications made under other provisions of this section.

279B Subsection 23B(6) (definition of *doctor*)

Omit “person registered as a medical practitioner under a law of another State or country corresponding to the *Medical Practitioners Registration Act 1983*”, substitute “medical practitioner and a person registered as a medical practitioner under a law of a foreign country corresponding to the *Health Practitioners Act 1983*”.

279C Subsection 23C(6)

Repeal the subsection.

279D Subsection 23C(7) (definition of *corresponding law*)

Repeal the definition.

279E Paragraph 24(1)(a)

Omit “in accordance with a form approved by the Minister and made available to medical practitioners,”.

279F Paragraph 24(1)(b)

Omit “, in accordance with the form prescribed by regulation,”.

279G Paragraph 25(1)(a)

Omit “in accordance with the form prescribed by regulation, relating to the birth, signed by a medical practitioner”, substitute “signed by a medical practitioner, that the practitioner has signed a certificate, relating to the child, as required by paragraph 24(1)(a)”.

279H Subsection 25(3)

Omit “, in accordance with the form prescribed by regulation, signed by him”, substitute “signed by the person, stating that the body was disposed of and, if possible, identifying the mother of the child”.

279J After Part 3

Insert:

Part 3A—Registration of changes of name

25A Change of name by registration

 A person’s name may be changed by registration of the change under this Part.

Note: This Part does not prevent change of name by repute or usage: see section 25G.

25B Application to register change of adult’s name

 (1) A person, who is at least 18 years old or is or has been married, may apply to the Registrar for registration of a change of the person’s name if:

 (a) the person’s birth is registered in the Register of Births; or

 (b) the person:

 (i) was born outside Australia; and

 (ii) is a person whose birth is not registered under a law of the Territory, a State or another Territory; and

 (iii) is ordinarily resident in the Territory.

 (2) The application must be accompanied by the approved fee (if any).

25C Application to register change of child’s name

 (1) The parents of a child who is under 18 years old and has never been married may apply to the Registrar for registration of a change of the child’s name if:

 (a) the child’s birth is registered in the Register of Births; or

 (b) the child:

 (i) was born outside Australia; and

 (ii) is a person whose birth is not registered under a law of the Territory, a State or another Territory; and

 (iii) is ordinarily resident in the Territory.

 (2) The application for registration of a change of the child’s name may be made by one parent if:

 (a) the applicant is the sole parent named in the registration of the child’s birth under this Act or any other law; or

 (b) there is no other surviving parent of the child; or

 (c) the other surviving parent of the child cannot be found or for some other reason cannot exercise parental responsibilities to the child.

 (3) If the parents of a child who is under 18 years old and has never been married are dead, cannot be found or for some other reason cannot exercise their parental responsibilities to the child, the child’s guardian may apply for registration of a change of the child’s name.

 (4) An application under this section must be accompanied by the approved fee (if any).

25D Child’s consent to change of name

 A change of a name of a child who is at least 12 years old, but less than 18 years old, must not be registered unless:

 (a) the child consents to the change of name; or

 (b) the child is unable to understand the meaning and implications of the change of name.

25E Registration of change of name

 (1) Before registering a change of name under this Part, the Registrar may require the applicant to provide evidence to establish to the Registrar’s satisfaction:

 (a) the identity and age of the person whose name is to be changed; and

 (b) that the change of name is not sought for a fraudulent or other improper purpose; and

 (c) if the person whose name is to be changed is a child at least 12 years old, but less than 18 years old—that:

 (i) the child consents to the change of name; or

 (ii) the child is unable to understand the meaning and implications of the change of name.

 (2) If the Registrar is satisfied that the name of a person whose birth is registered in the Register of Births has been changed under another law (including a law of the Commonwealth, a State or another Territory) or by order of a court (including a court of the Commonwealth, a State or another Territory), the change of name may be registered under this Part.

 (3) The Registrar may refuse to register a change of name if, as a result of the change, the name would become a prohibited name.

 (4) Applications may be made to the Administrative Review Tribunal for review of refusals by the Registrar under subsection (3).

25F Entries to be made in the Register of Changes of Name

 (1) The Registrar registers a change of name by making an entry about the change of name in the Register of Changes of Name.

 (2) The Registrar must:

 (a) if the birth of the person whose name has been changed is registered in the Register of Births—enter particulars of the change of name in the entry in the Register of Births relating to the birth; or

 (b) if the birth of the person whose name has been changed is registered under a corresponding law—notify the relevant registering authority of the change of name.

25G Change of name may still be established by repute or usage

 This Part does not prevent a change of name by repute or usage.

279K Subsection 26(2)

Omit “Register is”, substitute “Registrar is”.

279L At the end of section 26

Add:

 (3) The particulars required to be entered in the Register of Deaths in relation to a person and the person’s death are as follows:

 (a) the full name, and the former names (if any), of the person;

 (b) the date and place of birth of the person;

 (c) the date and place of death of the person;

 (d) the sex of the person;

 (e) the cause of the person’s death;

 (f) the last place of residence of the person;

 (g) the person’s occupation;

 (h) the person’s marital status;

 (i) if the person had been married at any time before the person’s death:

 (i) the place the marriage occurred; and

 (ii) the full name of the person’s spouse; and

 (iii) if the marriage ended before the person’s death—the date of the end of the marriage;

 (j) the name and year of birth of each child of the person;

 (k) the full name, and the former names (if any), of each parent of the person;

 (l) if the person was born outside Australia—the estimated length of the person’s residence in Australia.

Note: Section 32 (about deaths reported to the Coroner) may affect whether the cause of the person’s death is included in the entry in the Register of Deaths.

279M Subsection 29(2)

Omit “, in accordance with the form prescribed by regulation,”.

279N Section 31

Omit “section 10 of the *Coroners Act 1927*”, substitute “section 12 of the *Coroners Act 1993*”.

279P Subsection 33(1)

Omit “by writing under his hand”, substitute “in writing”.

279Q Subsection 33(2)

Omit “in accordance with the form prescribed by regulation”.

279R At the end of section 33

Add:

 (3) A certificate under subsection (2) must include the following:

 (a) the full name of the dead person;

 (b) the last known place of residence of the dead person;

 (c) the name of the medical practitioner (if any) who attended the dead person as described in subsection 34(1);

 (d) the date of the dead person’s death;

 (e) the cause (if known) of the dead person’s death.

279S Paragraphs 34(1)(b) and (2)(b)

Omit “, in accordance with the form prescribed by regulation,”.

279T Paragraph 34(3)(a)

Repeal the paragraph.

279U Paragraph 34(5)(h)

Omit “hospital for the insane”, substitute “mental health facility”.

279V Paragraph 35(1)(a)

Omit “in accordance with the form prescribed by regulation, signed by a medical practitioner”, substitute “signed by a medical practitioner, that the practitioner has signed a certificate, relating to the death of the person whose body is to be buried, as required by paragraph 34(1)(a) or (2)(a)”.

279W Paragraph 35(1)(b)

Omit “under the hand of”, substitute “from”.

279X Paragraph 35(2)(a)

Omit “in accordance with the form prescribed by regulation”, substitute “described in paragraph (1)(a)”.

279Y Paragraph 35(2)(b)

Omit “under the hand” (wherever occurring).

279Z Section 37

Omit “, in accordance with the form prescribed by regulation”, substitute “stating that the body was buried, where it was buried and, if known, the name of the person whose body it was”.

279ZA Section 38

Omit “, in accordance with the form prescribed by regulation,”.

279ZB Paragraph 39(1)(a)

Omit “in accordance with the form prescribed by regulation, signed by a medical practitioner;”, substitute “signed by a medical practitioner, that the practitioner has complied with section 34; or”.

279ZC Paragraph 39(1)(b)

Omit “by the Coroner, in accordance with the form prescribed by regulation”, substitute “given by the Coroner under subsection 33(2)”.

279ZD Paragraph 39(1)(c)

Omit “, in accordance with the form prescribed by regulation,”, substitute “that the Registrar has sufficient particulars to be able to make an entry in the Register of Deaths;”.

279ZE Subsection 43(1)

Omit “under the hand of”, substitute “from”.

279ZF Subsection 43(1)

Omit “prescribed Court”, substitute “Court exercising jurisdiction under the *Family Law Act 1975* of the Commonwealth”.

279ZG Subsection 43(4)

Repeal the subsection.

279ZH Subsection 44(5) (definition of *information with respect to the legitimation of a person*)

Repeal the definition.

3 Items 281 to 285 of Schedule 1

Repeal the items, substitute:

281 Paragraph 51(3)(b)

Omit “, in accordance with the appropriate form prescribed by regulation”.

281A Section 52

Repeal the section.

281B Subsection 53(1)

After “Births”, insert “, the Register of Changes of Name”.

281C Subsection 53(1)

After “the birth”, insert “, change of name”.

282 Subsection 55(1)

After “birth,”, insert “change of name,”.

283 Paragraph 56(1)(c)

After “birth,”, insert “change of name,”.

283A Subsection 56(2)

After “entry in the Register of Births,”, insert “the Register of Changes of Name,”.

283B Paragraph 56(2)(b)

After “the birth,”, insert “change of name,”.

283C Paragraph 56(2)(b)

After “Register of Births,”, insert “the Register of Changes of Name,”.

284 Section 57

Repeal the section.

285 Subsection 58(1)

After “birth”, insert “, change of name”.

285A Paragraph 58(3)(a)

After “the birth,”, insert “change of name,”.

285B Paragraph 58(3)(a)

After “was born,”, insert “changed name,”.

285C Paragraph 58(3)(b)

After “Register of Births,”, insert “the Register of Changes of Name,”.

285D Sections 60, 61 and 63

Repeal the sections.