

New South Wales



ANNO VICESIMO QUINTO

ELIZABETHÆ II REGINÆ

Act No. 97, 1976.

An Act to remove legal disabilities of exnuptial children; to facilitate the establishment of the paternity and maternity of children; and to amend the Registration of Births, Deaths and Marriages Act, 1973, and certain other Acts. [Assented to, 17th December, 1976.]

BE

Children (Equality of Status).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title. **1.** This Act may be cited as the "Children (Equality of Status) Act, 1976".

Commence-
ment. **2.** (1) This section and section 1 shall commence on the date of assent to this Act.

(2) Except as provided in subsections (1) and (3), this Act shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

(3) Part IV shall commence on such day (being the day appointed and notified under subsection (2) or a later day) as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Division
of Act. **3.** This Act is divided as follows :—

PART I.—PRELIMINARY—*ss.* 1–5.

PART II.—STATUS OF CHILDREN AND DISPOSITIONS OF
PROPERTY—*ss.* 6–9.

PART III.—ESTABLISHING PATERNITY AND MATERNITY
—*ss.* 10–18.

PART

Children (Equality of Status).

PART IV.—USE OF BLOOD TESTS IN DETERMINING
PATERNITY AND MATERNITY—*ss.* 19–22.

PART V.—MISCELLANEOUS PROVISIONS—*ss.* 23–26.

SCHEDULE 1.—AMENDMENTS TO ACTS.

SCHEDULE 2.—SAVINGS AND TRANSITIONAL PRO-
VISIONS.

4. (1) In this Act, except so far as the context or subject-matter otherwise indicates or requires— **Interpre-**

tation.

“blood samples” means blood taken for the purpose of blood tests;

“blood tests” means blood tests carried out under Part IV, and includes any other tests made with the object of ascertaining the inheritable characteristics of blood;

“husband” includes a husband under a void or voidable marriage;

“married” includes married under a void marriage and under a voidable marriage which has been annulled by a court;

“Principal Registrar” means the Principal Registrar of Births, Deaths and Marriages for the time being holding office under section 4A of the Registration of Births, Deaths and Marriages Act, 1973;

“proof” means proof on a balance of probabilities;

“Supreme Court” or “Court” means the Supreme Court of New South Wales;

“wife” includes a wife under a void or voidable marriage.

(2) A reference in this or any other Act to the commencement of this Act shall be construed as a reference to the day appointed and notified under section 2 (2).

(3)

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(3) A reference in this or any other Act to an exnuptial child or to a child or person born outside marriage, however expressed, shall be construed as a reference to a child or person whose father and mother were not married to each other at the time of the conception of the child or person and who have not subsequently married each other.

(4) A reference in this or any other Act to a child or person born in marriage or in lawful wedlock, however expressed, shall be construed as a reference to a child or person whose father and mother were married to each other at the time of the conception of the child or person or, if not so married, have subsequently married each other.

Application
of Act.

5. (1) This Act shall apply in respect of a person—

- (a) whether born in New South Wales or elsewhere;
- (b) whether born before or after the commencement of this Act;
- (c) whether a minor or not; and
- (d) whether he or his father or mother is or has ever been domiciled in New South Wales or not.

(2) Nothing in this Act shall be taken as affecting the operation of sections 35 and 36 of the Adoption of Children Act, 1965.

PART II.

STATUS OF CHILDREN AND DISPOSITIONS OF PROPERTY.

All
children of
equal status.

6. Subject to sections 7 and 8, whenever the relationship of a child with his father and mother, or with either of them, falls to be determined by or under the law of New South

Wales

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Wales, whether in proceedings before a court or otherwise, that relationship shall be determined irrespective of whether the father and mother of the child are or have ever been married to each other, and all other relationships of or to that child, whether of consanguinity or affinity, shall be determined accordingly.

7. (1) This section applies to—

- (a) dispositions made inter vivos after the commencement of this Act; and
- (b) dispositions made by will or codicil executed before or after the commencement of this Act by a person who dies after that commencement.

Construction of instruments providing for dispositions of property.

(2) Subject to this section, in a disposition to which this section applies—

- (a) a reference, however expressed, to the child or children of any person shall, unless the contrary intention appears, be construed as, or as including, a reference to an exnuptial child of whom that person is a parent; and
- (b) a reference, however expressed, to a person or persons related to another person in a way other than that referred to in paragraph (a) shall, unless the contrary intention appears, be construed as, or as including, a reference to anyone who is so related in fact, notwithstanding that he or some other person through whom the relationship is traced is or was an exnuptial child.

(3) In construing a disposition to which this section applies, the use—

- (a) with reference to the child or children of a person or to a person or persons related to another person in some other way, of the word “legitimate” or “lawful” or of any word or words having the same or a similar effect; or

(b)

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- (b) with reference to the parent or parents of a person, of the word "married" or "husband" or, as the case may be, "wife" or of any word or words having the same or a similar effect,

shall not of itself be an expression of contrary intention.

(4) Without limiting any other provision of this Act, any rule of law that a disposition in favour of an exnuptial child not conceived or born when the disposition takes effect is void as being contrary to public policy is, with respect to a disposition to which this section applies, abolished.

Dispositions other than those to which section 7 applies.

8. (1) A disposition other than one to which section 7 applies shall be construed as if this Act had not been passed.

(2) Where a disposition other than one to which section 7 applies contains a special power of appointment, nothing in this Act extends the class of persons in whose favour the appointment may be made or causes the exercise of the power to be construed so as to include any person who is not a member of that class.

Rights of exnuptial children, with respect to estates of intestate relatives, and vice versa.

9. (1) Without limiting section 6, where any relative of an exnuptial child, including a parent of the child, dies intestate in respect of all or any of his real or personal property, the child or, if the child is dead, his issue shall be entitled to take any interest in that property which he or that issue would have been entitled to take if his parents had been married to each other when he was born.

(2) Without limiting section 6, where an exnuptial child dies intestate in respect of all or any of his real or personal property, any relative of the child (including a parent of the child) shall be entitled to take any interest in that property which he would have been entitled to take if the parents of the child had been married to each other when the child was born.

(3)

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(3) Notwithstanding section 6, this section does not apply to a child to whom it would apply but for this subsection if that child is an adopted person under an adoption order made or continued in force under the Adoption of Children Act, 1965, or under an adoption recognised in New South Wales by virtue of Part V of that Act.

(4) This section does not affect any rights under the intestacy of a person dying before the commencement of this Act.

PART III.

ESTABLISHING PATERNITY AND MATERNITY.

10. (1) Where a woman gives birth to a child—

- (a) during her marriage; or
- (b) within 10 months after the termination of her marriage, whether by the death of her husband or by a decree of dissolution of the marriage or otherwise, and the woman has not remarried since the termination of that marriage and before the birth of the child,

Presump-
tions as to
parent-
hood.

the child shall, for all purposes, be presumed to be a child of the marriage.

(2) For the purpose of subsection (1), a marriage dissolved by a decree of dissolution or a voidable marriage dissolved by a decree of nullity shall be deemed to have been dissolved on the making of the decree nisi.

(3)

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(3) Where a woman gives birth to a child and, at any time during the period of 24 weeks commencing with the beginning of the forty-fourth week before the birth of the child, she cohabited with a man to whom she was not married, the child shall, for all purposes, be presumed to be the child of that woman and that man.

**Paternity
acknowledg-
ments.**

11. (1) Any man may, in the presence of a person belonging to a class of persons prescribed for the purposes of this section, execute a paternity acknowledgment in or to the effect of the prescribed form acknowledging that he is the father of an exnuptial child specified in the acknowledgment, and if the acknowledgment—

(a) is either countersigned by the mother of the child or recorded in a register of births, or in the register of parentage information, kept under the Registration of Births, Deaths and Marriages Act, 1973; **and**

(b) has not been annulled under this section,

that man shall, for all purposes, be presumed to be the father of the child.

(2) Where a paternity acknowledgment is executed in New South Wales, the person in whose presence the acknowledgment was executed shall take possession of the acknowledgment and cause the acknowledgment to be transmitted, not later than 14 days after the execution of the acknowledgment, to the Principal Registrar to be dealt with under the Registration of Births, Deaths and Marriages Act, 1973.

Penalty : \$200.

(3) Where a paternity acknowledgment has been—

(a) countersigned by the mother of the child to whom the acknowledgment relates; or

(b)

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- (b) recorded in a register of births, or in the register of parentage information, kept under the Registration of Births, Deaths and Marriages Act, 1973,

that acknowledgment shall not be annulled except by an order of the Supreme Court.

(4) An application for an order referred to in subsection (3) may be made by or on behalf of any person who has a proper interest in the result, including—

- (a) the man who executed the paternity acknowledgment;
- (b) the mother of the child to whom the acknowledgment relates;
- (c) the child; or
- (d) the Principal Registrar.

(5) Where any person whose interests would, in the opinion of the Court, be affected by the making of an order referred to in subsection (3) is not present or represented, and has not been given the opportunity to be present or represented, at the hearing of an application made under subsection (4), the Court may, if it thinks that that person ought to be present or represented at the hearing, adjourn the hearing in order to enable that person to be given an opportunity to be so present or represented.

(6) On the hearing of an application made under subsection (4), the Court may make or refuse to make the order applied for.

(7) Where an order referred to in subsection (3) is made, the Registrar of the Court shall forthwith cause a copy of the order to be transmitted to the Principal Registrar to be dealt with under the Registration of Births, Deaths and Marriages Act, 1973.

Children (Equality of Status).

Effect
of orders
under
Maintenance
Act, 1964,
etc., relating
to fathers
of exnuptial
children.

12. (1) Where—

- (a) an order has been made under Part II of the Maintenance Act, 1964, whether before or after the commencement of this Act, requiring a man named in the order to pay an amount for or towards—
 - (i) the maintenance of an exnuptial child;
 - (ii) the preliminary expenses of a woman in respect of an unborn exnuptial child or an exnuptial child to whom she has given birth;
or
 - (iii) the funeral expenses of an exnuptial child;
- (b) that man is named in the order as being the father of the child; and
- (c) the order has not been annulled under section 39 of that Act,

that man shall, for all purposes, be presumed to be the father of the child.

(2) Where—

- (a) an order has been made under Part XII of the Child Welfare Act, 1939, whether before or after the commencement of this Act—
 - (i) requiring a man named in the order to maintain or contribute to the maintenance of an exnuptial child; or
 - (ii) requiring a man so named to pay to the Minister administering that Act a sum as reimbursement of money paid for past maintenance of an exnuptial child;
- (b) that man is named in the order as being the father of the child; and

(c)

Children (Equality of Status).

- (c) the order has not been discharged on the ground, or on grounds including the ground, that that man is not, or may not be, the father of the child,

that man shall, for all purposes, be presumed to be the father of the child.

(3) The reference in subsection (2) to a child includes a reference to any person named in an order referred to in that subsection who is a child to whom this Act applies, whether or not he is a child within the meaning of the Child Welfare Act, 1939.

(4) Where, after the commencement of this Act, an order referred to in subsection (1) or (2) is made, the clerk of the court shall forthwith cause a copy of the order to be transmitted to the Principal Registrar to be dealt with under the Registration of Births, Deaths and Marriages Act, 1973.

(5) Where—

- (a) an order made outside New South Wales by a court of a State or Territory in Australia or by a court of a prescribed country or territory outside Australia, whether before or after the commencement of this Act, would, if it had been made in New South Wales, have been an order referred to in subsection (1) (a) or (2) (a);
- (b) a man is named in the order as being the father of an exnuptial child so named; and
- (c) the order has not been terminated on the ground, or on grounds including the ground, that that man is not, or may not be, the father of the child,

that man shall, for all purposes, be presumed to be the father of the child.

(6)

Children (Equality of Status).

(6) Where—

- (a) a custody order has been made, whether before or after the commencement of this Act, in respect of an exnuptial child and is for the time being registered under section 67 or 68 of the Family Law Act 1975, as subsequently amended, of the Parliament of the Commonwealth; and
- (b) a man is named in the order as being the father of the child,

that man shall, for all purposes, be presumed to be the father of the child.

(7) Where, after the commencement of this Act—

- (a) an order referred to in subsection (1) is annulled under section 39 of the Maintenance Act, 1964; or
- (b) an order referred to in subsection (2) is discharged on the ground, or on grounds including the ground, that the man named in the order as being the father of the exnuptial child to whom the order relates is not, or may not be, the father of the child,

the clerk of the court shall forthwith cause a copy of the order of annulment or discharge, as the case may be, to be transmitted to the Principal Registrar to be dealt with under the Registration of Births, Deaths and Marriages Act, 1973.

Declara-
tions of
paternity.

13. (1) Any person who—

- (a) being a woman, alleges that the relationship of father and child exists between any named person and her child;
- (b) alleges that the relationship of father and child exists between himself and another named or identified person; or

(c)

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- (c) being the Principal Registrar, a prescribed person or a person having a proper interest in the result, wishes to have a determination made that the relationship of father and child exists between a named person and another named or identified person,

may apply to the Supreme Court for a declaration of paternity, and if it is proved to the satisfaction of the Court that the relationship exists, the Court may make a declaration (which shall have effect as a judgment of the Court) that a man named in the declaration is the father of the child.

(2) Where any person whose interests would, in the opinion of the Court, be affected by the making of a declaration under subsection (1) is not present or represented, and has not been given the opportunity to be present or represented, at the hearing of an application made under that subsection, the Court may, if it thinks that that person ought to be present or represented at the hearing, adjourn the hearing in order to enable that person to be given an opportunity to be so present or represented.

(3) A declaration may be made under subsection (1) whether or not the father or the child is or both of them are alive or notwithstanding that the child is not yet born.

(4) While a declaration made under subsection (1) remains in force, the man named in the declaration as being the father of the child to whom the declaration relates shall, for all purposes, be presumed conclusively to be the father of that child.

(5) Where a declaration is made under subsection (1), the Registrar of the Court shall forthwith cause a copy of the declaration to be transmitted to the Principal Registrar to be dealt with under the Registration of Births, Deaths and Marriages Act, 1973.

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(6) Where a declaration has been made under subsection (1) and, on the application of any person who applied or could have applied for the making of the declaration, it appears to the Court that new facts or circumstances have arisen that have not previously been disclosed to the Court and could not by the exercise of reasonable diligence have previously been disclosed to the Court, the Court may make an order annulling the declaration, and the declaration shall thereupon cease to have effect, but the annulment of the declaration shall not affect anything done in reliance on the declaration before the making of the order of annulment.

(7) Where any person whose interests would, in the opinion of the Court, be affected by the making of an order under subsection (6) is not present or represented, and has not been given an opportunity to be present or represented, at the hearing of an application made under that subsection, the Court may, if it thinks that that person ought to be present or represented at the hearing, adjourn the hearing in order to enable that person to be given an opportunity to be so present or represented.

(8) Where the Court makes an order under subsection (6) annulling a declaration made under subsection (1), it may, if it thinks that it would be just and equitable to do so, make such ancillary orders (including orders varying property rights) as may be necessary to place as far as practicable any person affected by the annulment of the declaration in the same position as he would have been in if the declaration had not been made.

(9) Where a declaration is annulled under subsection (6), the Registrar of the Court shall forthwith cause a copy of the order of annulment to be transmitted to the Principal Registrar to be dealt with under the Registration of Births, Deaths and Marriages Act, 1973.

(10)

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(10) Where an order or a declaration made outside New South Wales by a court of a State or Territory in Australia or by a court of a prescribed country or territory outside Australia, whether before or after the commencement of this Act, would, if it had been made in New South Wales, have been, or have had the effect of, a declaration of paternity under subsection (1), the man named in the order or declaration as being the father of a child so named, shall, for all purposes, be presumed conclusively to be the father of that child while the order or declaration remains in force.

14. (1) Where—

- (a) an order has been made under Part II of the Maintenance Act, 1964, whether before or after the commencement of this Act, requiring a woman named in the order to pay an amount for or towards—
- (i) the maintenance of an exnuptial child; or
 - (ii) the funeral expenses of an exnuptial child;
- (b) that woman is named in the order as being the mother of the child; and
- (c) the order has not been discharged on the ground, or on grounds including the ground, that that woman is not, or may not be, the mother of the child,

Effect of orders under Maintenance Act, 1964, etc., relating to mothers of exnuptial children.

that woman shall, for all purposes, be presumed to be the mother of the child.

(2) Where—

- (a) an order has been made under Part XII of the Child Welfare Act, 1939, whether before or after the commencement of this Act—
- (i) requiring a woman named in the order to maintain or contribute to the maintenance of an exnuptial child; or

(ii)

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- (ii) requiring a woman so named to pay to the Minister administering that Act a sum as reimbursement of money paid for past maintenance of an exnuptial child;
- (b) that woman is named in the order as being the mother of the child; and
- (c) the order has not been discharged on the ground, or on grounds including the ground, that that woman is not, or may not be, the mother of the child,

that woman shall, for all purposes, be presumed to be the mother of the child.

(3) The reference in subsection (2) to a child includes a reference to any person named in an order referred to in that subsection who is a child to whom this Act applies, whether or not he is a child within the meaning of the Child Welfare Act, 1939.

(4) Where, after the commencement of this Act, an order referred to in subsection (1) or (2) is made, the clerk of the court shall forthwith cause a copy of the order to be transmitted to the Principal Registrar to be dealt with under the Registration of Births, Deaths and Marriages Act, 1973.

(5) Where—

- (a) an order made outside New South Wales by a court of a State or Territory in Australia or by a court of a prescribed country or territory outside Australia, whether before or after the commencement of this Act, would, if it had been made in New South Wales, have been an order referred to in subsection (1) (a) or (2) (a);
- (b) a woman is named in the order as being the mother of an exnuptial child so named; and

(c)

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- (c) the order has not been terminated on the ground, or on grounds including the ground, that that woman is not, or may not be, the mother of the child,

that woman shall, for all purposes, be presumed to be the mother of the child.

(6) Where—

- (a) a custody order has been made, whether before or after the commencement of this Act, in respect of an exnuptial child and is for the time being registered under section 67 or 68 of the Family Law Act 1975, as subsequently amended, of the Parliament of the Commonwealth; and
- (b) a woman is named in the order as being the mother of the child,

that woman shall, for all purposes, be presumed to be the mother of the child.

(7) Where, after the commencement of this Act, an order referred to in subsection (1) or (2) is discharged on the ground, or on grounds including the ground, that the woman named in the order as being the mother of the exnuptial child to whom the order relates is not, or may not be, the mother of the child, the clerk of the court shall forthwith cause a copy of the order of discharge to be transmitted to the Principal Registrar to be dealt with under the Registration of Births, Deaths and Marriages Act, 1973.

15. (1) Any person who—

- (a) being a man, alleges that the relationship of mother and child exists between any named person and his child;
- (b) alleges that the relationship of mother and child exists between that person and another named or identified person; or

Declara-
tions of
maternity.

(c)

Children (Equality of Status).

- (c) being the Principal Registrar, a prescribed person or a person having a proper interest in the result, wishes to have a determination made that the relationship of mother and child exists between a named person and another named or identified person,

may apply to the Supreme Court for a declaration of maternity, and if it is proved to the satisfaction of the Court that the relationship exists, the Court may make a declaration (which shall have effect as a judgment of the Court) that a woman named in the declaration is the mother of the child.

(2) Where any person whose interests would, in the opinion of the Court, be affected by the making of a declaration under subsection (1) is not present or represented, and has not been given the opportunity to be present or represented, at the hearing of an application made under that subsection, the Court may, if it thinks that that person ought to be present or represented at the hearing, adjourn the hearing in order to enable that person to be given an opportunity to be so present or represented.

(3) A declaration may be made under subsection (1) whether or not the mother or the child is or both of them are alive.

(4) While a declaration made under subsection (1) remains in force, the woman named in the declaration as being the mother of the child to whom the declaration relates shall, for all purposes, be presumed conclusively to be the mother of that child.

(5) Where a declaration is made under subsection (1), the Registrar of the Court shall forthwith cause a copy of the declaration to be transmitted to the Principal Registrar to be dealt with under the Registration of Births, Deaths and Marriages Act, 1973.

(6)

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(6) Where a declaration has been made under subsection (1) and, on the application of any person who applied or could have applied for the making of the declaration, it appears to the Court that new facts or circumstances have arisen that have not previously been disclosed to the Court and could not by the exercise of reasonable diligence have previously been disclosed to the Court, the Court may make an order annulling the declaration, and the declaration shall thereupon cease to have effect, but the annulment of the declaration shall not affect anything done in reliance on the declaration before the making of the order of annulment.

(7) Where any person whose interests would, in the opinion of the Court, be affected by the making of an order under subsection (6) is not present or represented, and has not been given an opportunity to be present or represented, at the hearing of an application made under that subsection, the Court may, if it thinks that that person ought to be present or represented at the hearing, adjourn the hearing in order to enable that person to be given an opportunity to be so present or represented.

(8) Where the Court makes an order under subsection (6) annulling a declaration made under subsection (1), it may, if it thinks that it would be just and equitable to do so, make such ancillary orders (including orders varying property rights) as may be necessary to place as far as practicable any person affected by the annulment of the declaration in the same position as he would have been in if the declaration had not been made.

(9) Where a declaration is annulled under subsection (6), the Registrar of the Court shall forthwith cause a copy of the order of annulment to be transmitted to the Principal Registrar to be dealt with under the Registration of Births, Deaths and Marriages Act, 1973.

(10) Where an order or a declaration made outside New South Wales by a court of a State or Territory in Australia or by a court of a prescribed country or territory

outside

Children (Equality of Status).

outside Australia would, if it had been made in New South Wales, have been, or have had the effect of, a declaration of maternity under subsection (1), the woman named in the order or declaration as being the mother of a child so named, shall, for all purposes, be presumed conclusively to be the mother of that child while the order or declaration remains in force.

Miscellaneous provisions relating to hearings of applications under this Part.

16. (1) The hearing of an application made under section 11 (4), 13 (1) or (6) or 15 (1) or (6) shall be in closed court.

(2) Any person who publishes, whether in a newspaper, magazine, journal or other periodical publication, or by radio or television or otherwise, the name of or any particulars relating to the identity of any person by, or in relation to, whom proceedings are taken under section 11 (4), 13 (1) or (6) or 15 (1) or (6), without the authority of the Supreme Court, is guilty of an offence and is liable on conviction to a penalty not exceeding \$1,000.

Admissibility in evidence of instruments and copies of instruments referred to in this Part.

17. (1) Where in any proceedings before a court in which the paternity or maternity of a child is in issue a presumption arising under section 11, 12, 13, 14 or 15 is relied on, the paternity acknowledgment, order or declaration by virtue of which the presumption arises, or any copy of the paternity acknowledgment, order or declaration which the court is satisfied is authentic, shall be admitted by the court in evidence in those proceedings.

(2) In any proceedings in which the paternity or maternity of a child is in issue, the court before which the proceedings are taken may, in its discretion, admit in evidence any evidence that tends to establish that a person is or is not the father or, as the case may be, the mother of the child, notwithstanding that that evidence is not evidence admissible by virtue of subsection (1).

18.

Children (Equality of Status).

18. (1) Where a presumption of law arises by virtue of any provision of this or any other Act or any rule of law that—

Rebuttal
of certain
presump-
tions.

- (a) a child is or is not presumed to be a child of a particular marriage or of a particular man and a particular woman; or
- (b) a person is or is not presumed to be the father or, as the case may be, the mother of a child,

that presumption is, subject to subsection (2), rebuttable in any proceedings by proof on a balance of probabilities.

(2) Subsection (1) does not apply to a presumption of law arising by virtue of any provision or rule referred to in that subsection if the provision or rule provides for the presumption to be irrebuttable or to be conclusive as to the matters to which the presumption relates.

(3) Where—

- (a) two or more presumptions to which subsection (1) applies are relevant in any proceedings; and
- (b) those presumptions conflict with each other,

the presumption which appears to the court to be the more or most likely to be correct, having regard to all the circumstances relating to the birth of the child to whom the presumption relates, shall, if not rebutted in those proceedings, prevail.

(4) Notwithstanding any other provision of this Act, a prosecutor may not, in any criminal proceedings, rely on a presumption arising under this Act to prove the paternity or maternity of a child.

PART

Children (Equality of Status).

PART IV.

**USE OF BLOOD TESTS IN DETERMINING PATERNITY AND
MATERNITY.**

**Power of
court to
require
use of
blood
tests.**

19. (1) In any civil proceedings in which the paternity of a child falls to be determined, the court before which the proceedings are taken may, of its own motion or on the application of a party to the proceedings, give a direction for the use of blood tests for the purpose of ascertaining whether the tests show that a party to the proceedings may be or is not the father of that child and for the taking, within a period to be specified in the direction, of blood samples from that child, the mother of that child and any party alleged to be the father of that child or from any of those persons.

(2) In any civil proceedings in which the maternity of a child falls to be determined, the court before which the proceedings are taken may, of its own motion or on the application of a party to the proceedings, give a direction for the use of blood tests for the purpose of ascertaining whether the tests show that a party to the proceedings may be or is not the mother of that child and for the taking, within a period to be specified in the direction, of blood samples from that child, the father of that child and any party alleged to be the mother of that child or from any of those persons.

(3) A court may at any time revoke or vary a direction previously given by it under subsection (1) or (2).

(4) Before giving a direction under subsection (1) or (2), the court may, if it thinks that to do so would be in the best interests of the child, appoint a fit and proper person to act as guardian ad litem of the child, or may appoint a counsel or solicitor to represent the child, in relation to its deliberations in respect of the direction.

(5) A person or, as the case may be, a counsel or solicitor shall not be appointed under subsection (4) unless he consents to the appointment.

(6)

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(6) In order to facilitate the making of an appointment under subsection (4), the court may adjourn the proceedings and give such directions with respect to the appointment as it considers necessary in the circumstances of the case.

(7) An appointment under subsection (4) may be made by the court of its own motion or on the application of a party to the proceedings or of an officer of the Public Service prescribed for the purposes of this subsection.

(8) An application under subsection (7) may be made ex parte.

(9) In deciding whether to give a direction under subsection (1) or (2), the court shall—

- (a) consider and determine any objection made by a party to the proceedings on account of medical, religious or other grounds; and
- (b) if it determines that the objection is valid, take the objection into account in arriving at its decision.

(10) Where a court gives or proposes to give a direction under subsection (1) or (2) and any party alleged to be the father or, as the case may be, the mother of the child to whom the proceedings relate alleges that any other person is or may be the father or, as the case may be, the mother of the child, that other person may, with the leave of the court, be joined as a party to the proceedings for the purpose only of determining the paternity or maternity of the child, and, on that other person being so joined, the court may apply the direction to that other person in the same way as it applies to that party.

(11) Where a court has given a direction under subsection (1) or (2) for the taking of blood samples, those blood samples shall be taken only by a medical practitioner or a registered nurse.

(12)

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(12) Any person other than a person specified in subsection (11) who takes blood samples purportedly for the purpose of giving effect to a direction given under subsection (1) or (2) is guilty of an offence and is liable on conviction to a penalty not exceeding \$200.

Reports
of blood
tests.

20. (1) Where the person responsible for carrying out blood tests for the purpose of giving effect to a direction under section 19 (1) makes to the court which gave the direction a report in or to the effect of the prescribed form in which he states—

- (a) the result of the tests;
- (b) whether the party to whom the report relates may be or is not the father of the child whose paternity is to be determined; and
- (c) if that party may be the father of the child whose paternity is to be determined, the value, if any, of the result in determining whether that party is that child's father,

the report shall be admitted by the court as evidence in the proceedings of the matters so stated.

(2) Where the person responsible for carrying out blood tests for the purpose of giving effect to a direction under section 19 (2) makes to the court which gave the direction a report in or to the effect of the prescribed form in which he states—

- (a) the result of the tests;
- (b) whether the party to whom the report relates may be or is not the mother of the child whose maternity is to be determined; and

(c)

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- (c) if that party may be the mother of the child whose maternity is to be determined, the value, if any, of the result in determining whether that party is that child's mother,

the report shall be admitted by the court as evidence in the proceedings of the matters so stated.

(3) Where a report has been made to a court under subsection (1) or (2) and the person who made the report makes a written statement explaining or amplifying any statement made in the report, that statement shall be deemed for the purposes of this section to form part of the report made to the court.

(4) Where a direction is given under section 19 (1) or (2) in any proceedings, a party to the proceedings shall, with the leave of the court, be entitled to call as a witness—

- (a) the person responsible for carrying out the tests for the purpose of giving effect to the direction; and
(b) any person who carried out or assisted in carrying out those tests,

if, within 14 days after receiving a copy of the report, he serves notice on the other parties to the proceedings, or on such of them as the court may direct, of his intention to call that person.

(5) Where a person is called as a witness under subsection (4), any party to the proceedings, including the party who called him, shall be entitled to cross-examine him.

(6) The cost of taking and testing blood samples for the purpose of giving effect to a direction under section 19 (1) or (2) (including any expenses reasonably incurred in taking any steps required for the purpose) and of making a

report

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report under this section with respect to testing those samples shall be paid by the party from whom the samples were taken, except where the party is a minor in which case the cost shall be paid by the person having care and control of the minor.

(7) A court which has given a direction under section 19 (1) or (2) in any proceedings may, in its discretion, order a party to the proceedings to reimburse another party to the proceedings in respect of any amount paid by that other party under subsection (6) and, on the making of such an order, that other party may recover that amount as a debt.

Failure to comply with a direction for the use of blood tests.

21. (1) Where in any proceedings referred to in section 19 a court has given a direction for the use of blood tests and a party to the proceedings has failed without reasonable cause to take the steps required of him for the purpose of giving effect to the direction (including any step required of him with respect to a child under his care and control), the court may draw such inferences from that fact as appear to be warranted in the circumstances, and in particular may, in the appropriate case, treat the failure—

- (a) as evidence corroborating the evidence of another party to the proceedings; and
- (b) where the party is relying on the presumption of law arising under section 10 (1), as evidence rebutting that presumption.

(2) Where in any proceedings referred to in section 19 a court has given a direction for the use of blood tests and a party claiming relief in the proceedings has failed to take the steps required of him for the purpose of giving effect to the direction (including any step required of him with respect to a child under his care and control), the court may adjourn the proceedings for such period as it thinks fit to enable that party to take those steps, and if at the end of that period he has failed without reasonable cause to take them, the court may, without prejudice to subsection (1), dismiss his claim for relief.

(3)

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(3) The court may exercise the power conferred on it by subsection (2) notwithstanding that—

- (a) a party claiming relief in the proceedings is entitled to rely on the presumption of law arising under section 10 (1); and
- (b) there is no evidence, other than the failure of that party to take the steps required of him for the purpose of giving effect to the direction given by the court, to rebut the presumption.

but may not exercise that power if to do so would be detrimental to the interests of the child to whom the proceedings relate.

22. Any person who, for the purpose of providing a blood sample for a test required to give effect to a direction under section 19 (1) or (2)—

- (a) personates another; or
- (b) proffers a child knowing that the child is not the child named in the direction,

Penalty for personating another, etc., for the purpose of providing blood sample.

is guilty of an offence and is liable on conviction to a penalty not exceeding \$500.

PART

Children (Equality of Status).

PART V.**MISCELLANEOUS PROVISIONS.**

Trial of
offences.

23. Proceedings for an offence against this Act shall be disposed of before a court of petty sessions constituted by a stipendiary magistrate sitting alone.

Regulations.

24. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to—

- (a) regulating the taking, identification and transport of blood samples;
- (b) requiring the production at the time when a blood sample is to be taken of such evidence of the identity of the person from whom it is to be taken as may be prescribed;
- (c) requiring any person from whom a blood sample is to be taken, or, in such cases as may be prescribed, such other person as may be prescribed, to state in writing whether or not the person from whom the sample is to be taken, as the case may be, has during such period as may be specified in the regulations suffered from any such illness as may be so specified or received a transfusion of blood;
- (d) providing that blood tests shall not be carried out except by such persons, and at such places, as may be appointed by the Minister;

(e)

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- (e) prescribing the blood tests to be carried out and the manner in which they are to be carried out;
- (f) regulating the charges that may be made for the taking and testing of blood samples and for the making of a report to a court under section 20;
- (g) making provision for ensuring that, so far as practicable, the blood samples to be tested for the purpose of giving effect to a direction under section 19 (1) or (2) are tested by the same person; and
- (h) prescribing the form of a report under section 20.

(2) Regulations under subsection (1) may be made so as to apply differently according to such factors as may be specified in the regulations or according to such limitations or restrictions, whether as to time or circumstance, as are so specified.

25. Each Act specified in Column 1 of Schedule 1 is amended in the manner set forth opposite that Act in Column 2 of Schedule 1. ^{Amendments.}

26. Schedule 2 has effect.

Savings and transitional provisions.

SCHEDULE

Children (Equality of Status).

Sec. 25.

SCHEDULE 1.

AMENDMENTS TO ACTS.

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1898, No. 11..	Evidence Act, 1898.	<p>Section 30— Omit the section, insert instead:—</p> <p>30. (1) A certified copy of, or a certified extract from, a recording relating to any birth, death or marriage furnished under the Registration of Births, Deaths and Marriages Act, 1973, shall be evidence—</p> <p>(a) of the fact of that birth, death or marriage;</p> <p>(b) of the particulars contained in that copy or extract with respect to that birth, death or marriage;</p> <p>(c) in the case of the birth of a child, of the fact that a person named in the copy or extract as being the father or mother of that child is the father or, as the case may be, the mother of that child; and</p> <p>(d) in the case of a marriage, of the fact that the marriage has been duly celebrated.</p> <p>(2) Where in a certified copy of, or a certified extract from, a recording in the register of parentage information furnished under the Registration of Births, Deaths and Marriages Act, 1973, a person is named as being the father or mother of a child named in that copy or extract, that copy or extract shall be evidence of the fact that that person is the father or, as the case may be, the mother of that child.</p>

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1898, No. 11— <i>continued.</i>	Evidence Act, 1898— <i>continued.</i>	<p>(3) A certificate furnished under section 48A of the Registration of Births, Deaths and Marriages Act, 1973, shall be evidence of the matters certified in the certificate.</p> <p>(4) Where a copy of, or an extract from, a recording relating to any birth, death or marriage made in a register kept under the law of—</p> <ul style="list-style-type: none"> (a) any State, other than New South Wales, or any Territory, in Australia; (b) any country forming part of the British Commonwealth of Nations; (c) any dependent territory of the United Kingdom; or (d) any other country or territory, being a country or territory for the time being proclaimed under subsection (8), <p>is certified by an officer authorised by or under that law for the purpose, that copy or extract shall be evidence—</p> <ul style="list-style-type: none"> (e) of the fact of that birth, death or marriage; (f) of the particulars contained in the copy or extract with respect to that birth, death or marriage; (g) in the case of the birth of a child, of the fact that a person named in the copy or extract as being the father or mother of that child is the father or, as the case may be, the mother of that child; and (h) in the case of a marriage, of the fact that the marriage has been duly celebrated.

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1898, No. 11— <i>continued.</i>	Evidence Act, 1898— <i>continued.</i>	<p>(5) Where an officer authorised by or under any law referred to in subsection (4) issues a certificate in which he certifies—</p> <p>(a) any matter relating to a birth, death or marriage recorded in a register kept under that law; or</p> <p>(b) that any person is recorded in any register so kept as being the father or mother of a child or of children named in the certificate, that certificate shall be evidence of that matter or, as the case may be, of the fact that that person is the father or, as the case may be, the mother of that child or those children.</p> <p>(6) Where in a copy of, or an extract from, a recording made in a register kept under any law referred to in subsection (4), being a register corresponding to the register of parentage information kept under the Registration of Births, Deaths and Marriages Act, 1973, a person is named as being the father or mother of any child named in the copy or extract, that copy or extract shall, if certified by an officer authorised by or under that law for the purpose to be a true copy of, or extract from, that recording, be evidence of the fact that that person is the father or, as the case may be, the mother of that child.</p>

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1898, No. 11— <i>continued.</i>	Evidence Act, 1898— <i>continued.</i>	(7) A certificate signed by the Principal Registrar of Births, Deaths and Marriages that any original general register, or any original local register, kept under the Registration of Births, Deaths and Marriages Act, 1973, is lost or destroyed shall be conclusive evidence of that fact. (8) The Governor may, by order published in the Gazette, proclaim any country or territory to be a country or territory for the purposes of subsection (4) (d).
1898, No. 13..	Wills, Probate and Administration Act, 1898.	Section 51 (as contained in section 61A (2))— Omit the section. Section 92 (3)— After section 92 (2), insert:— (3) In relation to a distribution of the assets of a testator or intestate dying after the commencement of the Children (Equality of Status) Act, 1976, an executor or administrator referred to in subsection (2) shall be deemed to have notice of the claim of any person whose entitlement to the assets or to any part of them would have become apparent if he had applied for and obtained a certificate under section 48A of the Registration of Births, Deaths and Marriages Act, 1973.
1916, No. 51..	Public Instruction (Amendment) Act, 1916.	Section 2 (1), definition of "Parent"— After the definition of "Institution", insert:— "Parent", in relation to an exnuptial child, includes the father of the child where the child is living with his father or is under his care and control.
1925, No. 14..	Trustee Act, 1925.	Section 60 (7)— After section 60 (6), insert:— (7) In relation to a conveyance or distribution of property after the commencement of the Children (Equality of Status) Act, 1976, a trustee referred to in subsection

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1925, No. 14— <i>continued.</i>	Trustee Act, 1925— <i>continued.</i>	(5) shall be deemed to have notice of the claim of any person whose entitlement to the property or to any part of it would have become apparent if he had applied for and obtained a certificate under section 48A of the Registration of Births, Deaths and Marriages Act, 1973.
1926, No. 15..	Workers' Compensation Act, 1926.	Section 6 (1), definition of "Dependants"— Omit "Where the worker, being the parent or grandparent of an illegitimate child, leaves such a child so dependent upon him, or being an illegitimate child, leaves a parent or grandparent so dependent upon him, "dependants" shall include such an illegitimate child and parent or grandparent respectively."
1939, No. 17..	Child Welfare Act, 1939.	Section 27 (1) (c) (iii) (c)— Omit "pensioner.", insert instead "pensioner; or". Section 27 (1) (c) (iv)— After section 27 (1) (c) (iii), insert:— (iv) a single man. Section 28 (1), definition of "Relative"— Omit "child; or, in the case of an illegitimate child, a person who would be so related if the child was legitimate; and "related" has a corresponding meaning.", insert instead "child." Section 58, definition of "Near relative"— (a) From paragraph (a), omit "lawful child", insert instead "child born in marriage". (b) From paragraph (b), omit "an illegitimate child", insert instead "a child born outside marriage". (c) From paragraph (c), omit "either of a lawful or an illegitimate child", insert instead "of a child, whether born in marriage or not". Section 59 (2) (a)— Omit "lawful child", insert instead "child born in marriage". Section 59 (2) (b)— Omit "an illegitimate child", insert instead "a child born outside marriage".

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1939, No. 17— <i>continued.</i>	Child Welfare Act, 1939— <i>continued.</i>	<p>Section 59 (2), proviso—</p> <p>(a) Omit “an illegitimate”, insert instead “a”.</p> <p>(b) After “existence”, insert “and the child has not become a child of the family, as defined in section 7 (1) of the Maintenance Act, 1964”.</p> <p>Section 60 (1), proviso—</p> <p>(a) Omit “an illegitimate”, insert instead “a”.</p> <p>(b) After “existence”, insert “and the child has not become a child of the family, as defined in section 7 (1) of the Maintenance Act, 1964”.</p> <p>Section 60 (4)—</p> <p>Omit the subsection, insert instead:—</p> <p>(4) The Minister or any officer authorised by the Minister in that behalf may, in addition to the powers contained in subsections (1), (2) and (3), take legal proceedings against the parents of any child, whether married to each other at or since the time of the conception of the child or not, for the recovery of money expended in the maintenance of that child, and those parents shall be jointly and severally liable for the payment of that money.</p> <p>Section 140 (2) (a)—</p> <p>Omit the paragraph, insert instead:—</p> <p>(a) where the ward was born outside marriage—</p> <p>(i) in accordance with the wishes of the father expressed for those purposes in the prescribed manner if, immediately before being made a ward, the ward was in the sole custody of his father; or</p> <p>(ii) in any other case, in accordance with the wishes of the mother expressed for those purposes in the prescribed manner;</p> <p>Section 140 (2) (b), (c), (d) and (e)—</p> <p>Omit “is legitimate” wherever occurring, insert instead “was born in marriage”.</p>

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1964, No. 74..	Maintenance Act, 1964.	<p>Long title— Omit “, children and illegitimate”, insert instead “and”.</p> <p>Section 7 (1), definition of “Child”— Omit “illegitimate”, insert instead “ex-nuptial”.</p> <p>Section 15— Omit “illegitimate”, insert instead “ex-nuptial”.</p> <p>Section 16— Omit “illegitimate”, insert instead “ex-nuptial”.</p> <p>Section 19 (1) (a)— Omit “legitimate child (including an adopted child)”, insert instead “child born in marriage or of an adopted child”.</p> <p>Section 19 (1) (b)— Omit “legitimate stillborn child”, insert instead “stillborn child born in marriage”.</p> <p>Section 19 (3)— Omit “illegitimate”, insert instead “ex-nuptial”.</p> <p>Section 19 (4)— Omit “illegitimate” wherever occurring, insert instead “exnuptial”.</p> <p>Section 20 (1) (a)— Omit “illegitimate”, insert instead “ex-nuptial”.</p> <p>Section 32— Omit “illegitimate”, insert instead “ex-nuptial”.</p> <p>Section 38 (1) (b)— Omit “illegitimate”, insert instead “ex-nuptial”.</p> <p>Section 40— Omit “an illegitimate”, insert instead “a”.</p> <p>Section 80 (2)— Omit “illegitimate” wherever occurring, insert instead “exnuptial”.</p> <p>Section 105 (5) (b)— Omit “illegitimate”, insert instead “ex-nuptial”.</p>

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1965, No. 23..	Adoption of Children Act, 1965.	<p>Section 6, definition of "Father"— Omit the definition, insert instead:— "Father" includes a putative father.</p> <p>Section 6, definition of "Relative"— Omit "is traced through, or to, an illegitimate person or".</p> <p>Section 26 (2)— Omit the subsection, insert instead:— (2) In the case of a child who has not previously been adopted and whose parents were married to each other at the time of the child's conception or, if they were not so married, have subsequently married each other, the appropriate persons are every person who is a parent or guardian of the child.</p> <p>Section 26 (3)— Omit the subsection, insert instead:— (3) In the case of a child who has not previously been adopted and whose parents were not married to each other at the time of the child's conception and have not subsequently married each other, the appropriate persons are every person who is the mother or guardian of the child.</p> <p>Section 26 (7)— After section 26 (6), insert:— (7) Where in relation to an application for an adoption order made after the commencement of the Children (Equality of Status) Act, 1976, all the consents given were, on the date or dates on which they were given, the only consents required under this section and those consents have not since been lawfully revoked, but since that date or, as the case may be, the date on which the last of those consents was given a further consent would, but for this subsection, be required</p>

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1965, No. 23 — <i>continued.</i>	Adoption of Children Act, 1965— <i>continued.</i>	to be given under this section, the Court shall not refuse to make the adoption order on the ground that that further consent has not been given. Section 32 (1A) (c) (i)— Omit "legitimate child", insert instead "child born in marriage". Section 34 (5) (c1)— Omit the paragraph, insert instead:— (c1) the Director, pursuant to subsection (6), places the child— (i) in the care of the parents, or one of the parents, of the child; or (ii) in the care of a guardian of the child; Section 35 (3) (a)— Omit "legitimate". Section 35 (3) (b)— After "remarries", insert "or, if not previously married, marries".
1973, No. 87.	Registration of Births, Deaths and Marriages Act, 1973.	Section 3— (a) Omit from the matter relating to Part IV "— <i>ss.</i> 41, 42", insert instead "AND PARENTAGE INFORMATION— <i>ss.</i> 41-42B". (b) Omit from the matter relating to Part V "48", insert instead "48A". Section 4 (1), definition of "parent"— Omit the definition, insert instead:— "parent", in relation to a child, means the father, mother or guardian of the child; Section 4 (1), definition of "register of parentage information"— After the definition of "Principal Registrar", insert:— "register of parentage information" means the register of parentage information kept by the Principal Registrar under section 9; Section 9 (1) (b)— Omit "and". Section 9 (1) (c), (d)— Omit section 9 (1) (c), insert instead:— (c) a register of parentage information; and (d) an index of legitimations and parentage information.

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>Section 12 (1)— After “subsection (4)”, insert “and section 14”.</p> <p>Section 14— Omit the section, insert instead:— Father of 14. (1) A man, being the exnuptial father of an exnuptial child, may, but is not obliged to, furnish particulars under this Act concerning the birth, or, if the child is still-born, the still-birth, of the child. (2) The registration of the birth of an exnuptial child shall not include a reference to a subsisting marriage of either parent of the child.</p> <p>Section 17 (1)— After “subsection (4)”, insert “and section 14”.</p> <p>Section 33 (2) (a)— Omit “and”.</p> <p>Section 33 (2) (b), (c)— Omit section 33 (2) (b), insert instead:— (b) a reference to the name of, and other particulars relating to, a man as the father of an exnuptial child, required by section 42A to be recorded in a register of births or in the register of parentage information; and (c) a reference to any particulars required by section 42B to be recorded in a register of births or in the register of parentage information.</p> <p>Section 35 (1) (d)— Omit the paragraph, insert instead:— (d) the cancellation under section 40 (1) of the registration of a birth, death or marriage or the cancellation under section 40 (2) of a recording made in accordance with section 42A (2) or (3) or 42B (1) or (2) in a register of births or in the register of parentage information.</p>

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>Section 35 (5) (a) (iii)— After “marriage”, insert “or the cancellation of a recording made in accordance with section 42A (2) or (3) or 42B (1) or (2) in a register of births or in the register of parentage information”.</p> <p>Section 40 (2)— At the end of section 40, insert:— (2) Where, in consequence of— (a) the receipt by the Principal Registrar of— (i) a paternity acknowledgment transmitted to him pursuant to section 11 (2) of the Children (Equality of Status) Act, 1976, or lodged with him pursuant to section 42A (2) (c) (ii) or (3) (a) (ii); (ii) a copy of an order transmitted to him pursuant to section 12 (4) or 14 (4) of the Children (Equality of Status) Act, 1976; or (iii) a copy of a declaration transmitted to him pursuant to section 13 (5) or 15 (5) of the Children (Equality of Status) Act, 1976; or (b) the lodgment with the Principal Registrar— (i) pursuant to section 42A (2) (e) or (3) (c) or 42B (1) (b) of a copy of an order; or (ii) pursuant to section 42A (2) (g) or (3) (e) or 42B (1) (d) or (2) (b) of a copy of an order or a declaration, any recording has been made in a register of births in accordance with section 42A (2) or 42B (1) (e) or (2) (c) or in the register of parentage information in accordance with</p>

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>section 42A (3) or 42B (1) (f) or (2) (d) and the Principal Registrar subsequently receives—</p> <p>(c) with respect to any paternity acknowledgment, order or declaration referred to in paragraph (a), a copy of an order transmitted to him pursuant to section 11 (7), 12 (7), 13 (9), 14 (7) or 15 (9) of the Children (Equality of Status) Act, 1976; or</p> <p>(d) with respect to any order or declaration referred to in paragraph (b), information which satisfies him that the order or declaration has been terminated on the ground, or on grounds including the ground, that the person named in the order or declaration as being the father or, as the case may be, the mother of the child to whom the order or declaration relates is not, or may not be, the father or, as the case may be, the mother of that child,</p> <p>he shall cause the recording to be cancelled in such manner as he thinks fit.</p> <p>Heading to Part IV— After “LEGITIMATIONS”, insert “AND PARENTAGE INFORMATION”.</p> <p>Sections 42A, 42B— After section 42, insert:— Recording 42A. (1) The name of, and of name, any other particulars relating to, etc., of a man as the father of an father of exnuptial child shall not be exnuptial recorded in a register of births child. or, where the birth of the child is not so recorded, in the register of parentage information, except in accordance with this section.</p>

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>(2) Where in respect of an exnuptial child whose birth has been recorded in a register of births, whether before or after the commencement of the Children (Equality of Status) Act, 1976, or whose particulars of birth have been furnished under Division 1 of Part III—</p> <p>(a) a joint request by the mother of the child and a man acknowledging himself to be the father of the child, verified by statutory declaration, is made to the Principal Registrar or to a local registrar requesting that that man be recorded as being the father of the child;</p> <p>(b) a sole request by a man acknowledging himself to be the father of the child, verified by statutory declaration, is made to the Principal Registrar or to a local registrar requesting that that man be recorded as being the father of the child;</p> <p>(c) a paternity acknowledgment, executed by a man acknowledging himself to be the father of the child—</p> <p>(i) is transmitted to the Principal Registrar pursuant to section 11 (2) of the Children (Equality of Status) Act, 1976; or</p> <p>(ii) is lodged with the Principal Registrar by a person who, in the opinion of the Principal Registrar, has a proper interest in making the lodgment;</p>

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>(d) a copy of an order referred to in section 12 (1) or (2) of the Children (Equality of Status) Act, 1976, being an order in which a man is named as being the father of the child, is transmitted to the Principal Registrar pursuant to section 12 (4) of that Act;</p> <p>(e) a copy of an order referred to in section 12 (5) or (6) of the Children (Equality of Status) Act, 1976, being an order in which a man is named as being the father of the child, is lodged with the Principal Registrar by a person who, in the opinion of the Principal Registrar, has a proper interest in making the lodgment;</p> <p>(f) a copy of a declaration made under section 13 (1) of the Children (Equality of Status) Act, 1976, being a declaration in which a man is named as being the father of the child, is transmitted to the Principal Registrar pursuant to section 13 (5) of that Act; or</p> <p>(g) a copy of an order or a declaration referred to in section 13 (10) of the Children (Equality of Status) Act, 1976, being an order or a declaration in which a man is named as being the father of the child, is lodged with the Principal Registrar by a person who, in the opinion of the Principal Registrar, has a proper interest in making the lodgment,</p>

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>the Principal Registrar or, as the case may be, the local registrar shall, subject to subsections (4), (5) and (6), record or cause to be recorded in the register the name of, and other relevant particulars relating to, the man acknowledging himself to be, or, as the case may be, named in the order or declaration as being, the father of the child.</p> <p>(3) Where in respect of an exnuptial child whose birth has not been recorded in a register of births and whose particulars of birth have not been furnished under Division 1 of Part III—</p> <p>(a) a paternity acknowledgment, executed by a man acknowledging himself to be the father of the child—</p> <p>(i) is transmitted to the Principal Registrar pursuant to section 11 (2) of the Children (Equality of Status) Act, 1976; or</p> <p>(ii) is lodged with the Principal Registrar by a person who, in the opinion of the Principal Registrar, has a proper interest in making the lodgment;</p> <p>(b) a copy of an order referred to in section 12 (1) or (2) of the Children (Equality of Status) Act, 1976, being an order in which a man is named as being the father of the child, is transmitted to the Principal Registrar pursuant to section 12 (4) of that Act;</p>

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>(c) a copy of an order referred to in section 12 (5) or (6) of the Children (Equality of Status) Act, 1976, being an order in which a man is named as being the father of the child, is lodged with the Principal Registrar by a person who, in the opinion of the Principal Registrar, has a proper interest in making the lodgment;</p> <p>(d) a copy of a declaration made under section 13 (1) of the Children (Equality of Status) Act, 1976, being a declaration in which a man is named as being the father of the child, is transmitted to the Principal Registrar pursuant to section 13 (5) of that Act; or</p> <p>(e) a copy of an order or a declaration referred to in section 13 (10) of the Children (Equality of Status) Act, 1976, being an order or a declaration in which a man is named as being the father of the child, is lodged with the Principal Registrar by a person who, in the opinion of the Principal Registrar, has a proper interest in making the lodgment,</p> <p>the Principal Registrar shall, subject to subsections (5) and (6), record or cause to be recorded in the register of parentage information the name of, and other relevant particulars relating to, the man acknowledging himself to be, or,</p>

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>as the case may be, named in the order or declaration as being, the father of the child.</p> <p>(4) The name of, and other relevant particulars relating to, a man who has made a request pursuant to subsection (2) (b) shall not be recorded in a register of births unless the Principal Registrar or, as the case may be, the local registrar—</p> <p>(a) is satisfied that the mother of the child is dead or that her whereabouts are unknown or that she is unable to join in a request and declaration referred to in subsection (2) (a); and</p> <p>(b) has no reason to believe that the man is not the father of the child.</p> <p>(5) The name of, and other relevant particulars relating to, a man who, in a paternity acknowledgment referred to in subsection (2) (c) or (3) (a), has acknowledged himself to be the father of an exnuptial child shall be recorded in a register of births or, as the case may be, in the register of parentage information only if—</p> <p>(a) the Principal Registrar has no reason to believe that the acknowledgment has been annulled under section 11 of the Children (Equality of Status) Act, 1976; and</p> <p>(b) the acknowledgment purports to have been countersigned by the mother of the child and the Principal Registrar has no reason to believe that the man so acknowledging himself is not the father of the child; or</p>

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973 — <i>continued.</i>	<p>(c) where the acknowledgment does not purport to be countersigned by the mother of the child, the Principal Registrar is satisfied that the mother is dead or, if he is not so satisfied—</p> <p>(i) he has served on the mother at the place where she resides, or if her whereabouts are unknown, has served on her at the place where he believes her to have last resided, or has published in a newspaper circulating in the area in which he believes her to have last resided, a notice inviting her to lodge with him within 60 days after the service or, as the case may be, the publication of the notice an objection in writing to that name and those particulars being so recorded on the ground that the man so acknowledging himself is not the father of the child; and</p> <p>(ii) she has not lodged such an objection with him within that period, and in either case he has no reason to believe that the man so acknowledging himself is not the father of the child.</p>

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87 — <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>(6) A recording under subsection (2) or (3) relating to a copy of an order or a declaration referred to in subsection (2) (d), (e), (f) or (g) or (3) (b), (c), (d) or (e), as the case may be, shall not be made if the Principal Registrar—</p> <p>(a) is not satisfied that the copy is an authentic copy of the order or declaration; or</p> <p>(b) has reason to believe that the order or declaration has been terminated on the ground, or on grounds including the ground, that the man named in the order or declaration as being the father of the child to whom the order or declaration relates is not, or may not be, the father of that child.</p> <p>(7) The Principal Registrar or, as the case may be, the local registrar may make such inquiries, and require the production of such evidence, as he thinks fit to satisfy himself of any matter of which he is required to be satisfied by virtue of subsection (4) or (5).</p> <p>(8) Where, with respect to a paternity acknowledgment that has been transmitted to or lodged with the Principal Registrar, the Principal Registrar has, in accordance with subsection (5) (c) (i),</p>

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87 — <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973 — <i>continued.</i>	<p>served on the mother of the child to whom the acknowledgment relates, or published in a newspaper, a notice inviting the mother to lodge with him an objection, and the mother has lodged such an objection pursuant to that invitation, he shall notify in writing the man acknowledging himself in the acknowledgment to be the father of the child that the mother has made the objection and may, where appropriate, make on behalf of the child an application for a declaration of paternity of the child in accordance with section 13 (1) of the Children (Equality of Status) Act, 1976.</p> <p>(9) The power of the Principal Registrar to make an application referred to in subsection (8) is without prejudice to his power to make such an application in circumstances other than those to which that subsection relates.</p> <p>(10) A recording under subsection (2) or (3) may be made notwithstanding that the child to whom it relates has died.</p> <p>(11) A recording under subsection (3) may be made notwithstanding that the birth of the child to whom it relates took place outside New South Wales and might not be registered under this Act.</p>

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87 — <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973 — <i>continued.</i>	Recording of maternity information and other paternity information. 42B. (1) Where— (a) a copy of an order referred to in section 14 (1) or (2) of the Children (Equality of Status) Act, 1976, being an order in which a woman is named as being the mother of a child, is transmitted to the Principal Registrar pursuant to section 14 (4) of that Act; (b) a copy of an order referred to in section 14 (5) or (6) of the Children (Equality of Status) Act, 1976, being an order in which a woman is named as being the mother of a child, is lodged with the Principal Registrar by a person who, in the opinion of the Principal Registrar, has a proper interest in making the lodgment; (c) a copy of a declaration made under section 15 (1) of the Children (Equality of Status) Act, 1976, being a declaration in which a woman is named as being the mother of a child, is transmitted to the Principal Registrar pursuant to section 15 (5) of that Act; or (d) a copy of an order or a declaration referred to in section 15 (10) of the Children (Equality of Status) Act, 1976, being an order or a declaration in which a woman is named as being the mother of a child, is lodged with the Principal Registrar by a person who, in the opinion of the Principal Registrar,

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>has a proper interest in making the lodgment, the following provisions shall apply:—</p> <p>(e) if the birth of the child has been recorded in a register of births, whether before or after the commencement of the Children (Equality of Status) Act, 1976, or the particulars of that birth have been furnished under Division 1 of Part III, the Principal Registrar shall, subject to subsection (3), record or cause to be recorded in the register such particulars contained in the copy of the order or declaration and relating to the maternity of the child as he considers appropriate having regard to the contents of that copy;</p> <p>(f) if the birth of the child has not been so recorded and the particulars of that birth have not been furnished under Division I of Part III, the Principal Registrar shall, subject to subsection (3), record or cause to be recorded in the register of parentage information such particulars contained in the copy of the order or declaration and relating to the maternity of the child as he considers appropriate having regard to the contents of that copy.</p> <p>(2) Where in relation to a child other than an exnuptial child—</p> <p>(a) a copy of a declaration made under section 13 (1) of the Children (Equality</p>

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>of Status) Act, 1976, being a declaration in which a man is named as being the father of the child, is transmitted to the Principal Registrar pursuant to section 13 (5) of that Act; or</p> <p>(b) a copy of an order or a declaration referred to in section 13 (10) of the Children (Equality of Status) Act, 1976, being an order or a declaration in which a man is named as being the father of the child, is lodged with the Principal Registrar by a person who, in the opinion of the Principal Registrar, has a proper interest in making the lodgment,</p> <p>the following provisions shall apply:—</p> <p>(c) if the birth of the child has been recorded in a register of births, whether before or after the commencement of the Children (Equality of Status) Act, 1976, the Principal Registrar shall, subject to subsection (3), record or cause to be recorded in the register such particulars contained in the copy of the declaration or order and relating to the paternity of the child as he considers appropriate having regard to the contents of that copy;</p> <p>(d) if the birth of the child has not been so recorded, the Principal Registrar shall, subject to subsection (3), record or cause to be recorded in the register of</p>

SCHEDULE

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>parentage information such particulars contained in the copy of the declaration or order and relating to the paternity of the child as he considers appropriate having regard to the contents of that copy.</p> <p>(3) A recording under subsection (1) or (2) relating to a copy of an order or a declaration referred to in subsection (1) or (2), as the case may be, shall not be made if the Principal Registrar—</p> <p>(a) is not satisfied that the copy is an authentic copy of the order or declaration; or</p> <p>(b) has reason to believe that the order or declaration has been terminated on the ground, or on grounds including the ground, that the person named in the order or declaration as being the mother or, as the case may be, the father of the child to whom the order or declaration relates is not, or may not be, the mother or, as the case may be, the father of that child.</p> <p>(4) A recording under subsection (1) or (2) may be made notwithstanding that the child to whom it relates has died or that the birth of that child took place outside New South Wales and might not be registered under this Act.</p>

*Children (Equality of Status).*SCHEDULE 1—*continued.*AMENDMENTS TO ACTS—*continued.*

Column 1.		Column 2.
Year and number of Act.	Short title of Act.	Amendment.
1973, No. 87— <i>continued.</i>	Registration of Births, Deaths and Marriages Act, 1973— <i>continued.</i>	<p>Section 45 (3)— Omit “is or was illegitimate”, insert instead “was born outside marriage”.</p> <p>Section 48A— After section 48, insert:— Certificate 48A. (1) The executor, administrator or trustee of the estate of a deceased person may apply in writing to the Principal Registrar for a certificate certifying—</p> <p>(a) whether or not that deceased person is recorded in a register of births or in the register of parentage information as being a parent of any child or children; and</p> <p>(b) if that person is so recorded, the name of the child or, if more than one, of each of the children and such other particulars (if any) relating to that child or those children as may be prescribed.</p> <p>(2) The Principal Registrar shall, on receipt of an application made under subsection (1) and on payment to him of the prescribed fee, cause a search of the registers of births and the register of parentage information to be made and, on the completion of that search, shall furnish the certificate applied for.</p> <p>(3) A certificate furnished under subsection (2) shall be signed by the Principal Registrar and be sealed with his seal of office.</p>

SCHEDULE

Children (Equality of Status).

SCHEDULE 2.

Sec. 26.

SAVINGS AND TRANSITIONAL PROVISIONS.

1. The index established and kept under section 9 (1) (c) of the Registration of Births, Deaths and Marriages Act, 1973, as in force immediately before the commencement of this Act, shall continue in being and shall be deemed to be established as part of the index of legitimations and parentage information established and kept under section 9 (1) (d) of the Registration of Births, Deaths and Marriages Act, 1973, as in force after that commencement.

Index of legitimations and parentage information under Registration of Births, Deaths and Marriages Act, 1973.

2. Any joint or sole request, or any application, made under section 14 of the Registration of Births, Deaths and Marriages Act, 1973, as in force immediately before the commencement of this Act, shall, if not disposed of at that commencement, be disposed of as if this Act had not been enacted.

Disposal of requests and applications under section 14 of the Registration of Births, Deaths and Marriages Act, 1973.