

LEGITIMATION ORDINANCE 1934. ⁽¹⁾

No. 5 of 1934.

An Ordinance Relating to the Legitimation of Children born before Marriage on the subsequent Marriage of their Parents.

BE it ordained by the Legislative Council for the Territory of New Guinea, in pursuance of the powers conferred by the *New Guinea Act 1920-1932*, as follows:—

1. This Ordinance may be cited as the *Legitimation Ordinance 1934.* ⁽¹⁾ Short title.

2. In this Ordinance, unless the contrary appears— Definitions.

“District Registrar” means a district registrar appointed under the *Registration of Births Deaths and Marriages Ordinance 1912* ⁽²⁾ of the Territory of Papua in its application to the Territory of New Guinea;

“ex-nuptial child” means a child not born in lawful wedlock;

“Registry District” means a registry district proclaimed under the *Registration of Births Deaths and Marriages Ordinance 1912* ⁽²⁾ of the Territory of Papua in its application to the Territory of New Guinea;

“Registrar-General” means the Registrar-General appointed under the *Registration of Births Deaths and Marriages Ordinance 1912* ⁽²⁾ of the Territory of Papua in its application to the Territory of New Guinea, and includes a Deputy Registrar-General so appointed.

3. Any child born before the marriage of his parents (whether before or after the commencement of this Ordinance), whose parents have intermarried, shall be deemed, on the registration of the child in accordance with the provisions of this Ordinance, to have been legitimated by the marriage from birth, and shall be entitled to all the rights of a child born in lawful wedlock. Legitimation after marriage of parents.

(1) Particulars of this Ordinance are as follows:—

Date of assent by Administrator.	Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council.	Date on which came into operation.
5.2.1934	30.6.1934	5.2.1934 (<i>Laws of T.N.G.</i> , Vol. XIII, p. 28)

(2) As from 16.1.1936 the *Registration of Births Deaths and Marriages Ordinance 1912* of the Territory of Papua ceased to apply to the Territory of New Guinea: See the *Laws Repeal and Adopting Ordinance (No. 2) 1935*. The relevant Ordinance is now the *Registration of Births, Deaths, and Marriages Ordinance 1935-1941*.

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Issue of legitimated child dying before marriage of parents.

4. If, before or after the commencement of this Ordinance, a child legitimated under this Ordinance dies before the marriage of his parents, his issue shall take by operation of law the same real and personal property which would have accrued to the issue if his parent had been born in lawful wedlock.

Certain property not affected.

5. Nothing in this Ordinance shall affect any estate, right, or interest in any real or personal property to which any person has become or may become entitled either mediately or immediately in possession, expectancy, or contingency, by virtue of any disposition made before the coming into operation of this Ordinance or by virtue of any devolution by law on the death of any person dying before the coming into operation of this Ordinance.

Registration of ex-nuptial child on application of father.

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

(2.) The father of the child referred to in the last preceding sub-section shall sign the registration entry, and no registration under this section shall be deemed to be effected unless the father has signed the registration entry.

(3.) If the child referred to in sub-section (1.) of this section has been previously registered as ex-nuptial in the Territory, the District Registrar shall notify the Registrar-General and the District Registrar of the Registry District where the child was previously registered of the registration under this section.

(4.) The Registrar-General and every District Registrar who has a record of the registration of the child as ex-nuptial shall, immediately after effecting or becoming aware of a registration under this section, make on the record a reference to the registration under this section.

Registration of ex-nuptial child on application of mother.

7.—(1.) Subject to this Ordinance, where—

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

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

(2.) The provisions of sub-sections (3.) and (4.) of the last preceding section are, with such alterations, modifications, and substitutions as are necessary, incorporated with this section.

(3.) Notwithstanding the provisions of this section, unless the Crown Law Officer certifies in writing that he is satisfied, whether by the written acknowledgement of the person alleged to be the father of the child or by evidence which in the opinion of the Crown Law Officer is conclusive, that the person was the father of the child, the Registrar-General shall not register the child under this section.

8.—(1.) Where, after the commencement of this Ordinance, the mother of an ex-nuptial child, which has not been legitimated under this Ordinance, dies intestate in respect of all or any of her real or personal property and does not leave any legitimate issue surviving her, the ex-nuptial child, or, if he is dead, his issue, shall be entitled to take any interest therein to which he or the issue would have been entitled if he had been born in lawful wedlock.

Right of ex-nuptial child and mother of ex-nuptial child to succeed on intestacy of the other.

(2.) Where, after the commencement of this Ordinance, an ex-nuptial child, which has not been legitimated under this Ordinance, dies intestate in respect of all or any of his real or personal property, his mother, if surviving, shall be entitled to take any interest therein to which she would have been entitled if the child had been born in lawful wedlock and she had been the only surviving parent.

THE FIRST SCHEDULE.

TERRITORY OF NEW GUINEA.

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STATUTORY DECLARATION.

I, (1) _____, do solemnly and sincerely declare as follows:—

1. I am the father of an ex-nuptial child, born on the _____ day of _____, 19____, at _____.
2. I was married to _____, the mother of the said child, on the _____ day of _____, 19____, at _____, and I am desirous of having the birth of the said child registered as that of the lawful issue of myself and the said _____.

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3. The document hereunto annexed is a certified copy of the certificate of my marriage with the said

And I make this solemn declaration by virtue of the *Statutory Declarations Act* 1911 in its application to the Territory, conscientiously believing the statements contained therein to be true in every particular.

Declared at (2) the day of , 19

Before me, (3) (4)

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

NOTE.—Any person who wilfully makes a false statement in a statutory declaration is guilty of an indictable offence, and is liable to imprisonment, with or without hard labour, for four years.

THE SECOND SCHEDULE.

TERRITORY OF NEW GUINEA.

Legitimation Ordinance 1934.

STATUTORY DECLARATION.

I, (1) , do solemnly and sincerely declare as follows:—

- 1. I am the mother of an ex-nuptial child, born on the day of , 19 , at
2. I was married to , the father of the said child on the day of , 19 , at , and I am desirous of having the birth of the said child registered as that of the lawful issue of myself and the said
3. My husband, the said , died on the day of , 19
4. The documents hereunto annexed are:—
(a) A certified copy of the certificate of my marriage with the said ;
(b) A certified copy of the certificate of the death of the said ;
(c) A certificate by the Crown Law Officer that he is satisfied that the said is the father of the said child.

And I make this solemn declaration by virtue of the *Statutory Declarations*

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Act 1911 in its application to the Territory, conscientiously believing the statements contained therein to be true in every particular.

Declared at _____ (2) the _____ day of _____, 19 _____.

Before me,

(3)

(4)

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

NOTE.—Any person who wilfully makes a false statement in a statutory declaration is guilty of an indictable offence, and is liable to imprisonment, with or without hard labour, for four years.

MARRIED WOMEN AND CHILDREN—