



# Revising Namibia's Births, Marriages and Deaths Registration Act of 1963

What do you think the new law should say?

## Rules on birth registration and children's surnames

**T**he Ministry of Home Affairs and Immigration is in the process of replacing the Births, Marriages and Deaths Registration Act of 1963 with a new law that will be more appropriate to the needs of Namibia and more feasible to implement in practice. The Ministry is seeking public input on what the new law should say.

### 1. Current rules on surnames

1. **If the parents are married**, the child will be given the surname that the parents use. If the parents use different surnames, they can choose which of these surnames to give to the child.
2. **If the parents are not married**, the child can be given the surname of either parent.
  - The child can take the **father's surname** only if the father and the mother both consent to this.
  - The child will otherwise take the **mother's surname**. The father does not have to consent to this.



Many births in Namibia are registered during birth registration campaigns conducted by the Ministry in hard-to-reach rural areas.

### Constitutional issues

The Namibian Constitution forbids sex discrimination. This could be understood to mean that both parents have a right to have their names associated with their child.

People sometimes want to give their child the surname of an uncle or a grandparent or some other family member. In some cases, it could be argued that this should be allowed to respect the family's constitutional right to maintain their culture or tradition.

## 2. What do other countries do?

In **Rwanda**, it is the tradition for each child to be given a unique surname which is not the same as the surname of any other family member. A "family name" that is common to all family members is very rare. Having the same surname does not indicate kinship.

**South Africa** allows for a child born inside marriage to be given either the surname of the father or the mother, or both surnames joined together to form a double-barrelled surname. If the child is born outside marriage, the rules are similar to those in Namibia.

The province of Ontario in **Canada** has rules on surnames which are the same for children born inside or outside marriage. If both parents register the child's birth, they may agree to give the child the family name used by both parents, OR, if their surnames are different, either parent's surname or a hyphenated or combined surname made up of both their surnames. If the parents cannot agree, the child will be given the family surname or a hyphenated surname combining both of the parents' surnames in alphabetical order. If the mother registers the child's birth and the father is unknown to or unacknowledged by her, she may give the child her surname.

**New Zealand** allows the parent or parents who register the child's birth to give the child any surname whatsoever.

## What should Namibia's new law say?

- 1) There are three basic approaches which could be adopted for surnames (with special rules for children without any known parents):
  - (a) The child's surname can be the **surname of one or both parents**.
  - (b) The child's surname can be the **surname of one or both parents, or some other surname which is consistent with the cultural traditions of one or both parents**.
  - (c) Allow the parents to choose **any surname** they wish, even if it is not a family name.

Which of the three options would be best for Namibia, *and why*?

- 2) Where the parents have different surnames, **should one parent be able to give the child the other parent's surname without the other parent's consent** if there is proof of parentage (such as a paternity test)?
- 3) Where the parents have different surnames, should they be allowed to give the child a **combination of both their surnames** if they wish? For example, if the father is called Roos and the mother is called January, should they be able to give the child the surname Roos-January or January-Roos?
- 4) What should happen if both parents register the birth of the child but **cannot agree** on what the child's surname should be?



Fact sheet developed by the **Ministry of Home Affairs and Immigration**, facilitated by the **Legal Assistance Centre** and supported by **UNICEF**.

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**A BIRTH CERTIFICATE IS A CHILD'S RIGHT!**  
Register your child immediately after birth.

Birth registration is easy and free!

HOW: Fill in a **BIRTH NOTIFICATION FORM**.

WHERE: At the hospital where your child was born, or at the nearest office of the Ministry of Home Affairs and Immigration. Some magistrate courts also register births.

DOCUMENTS NEEDED

- The child's health passport (proof of birth).
- The birth certificate and ID or passport of one or both parents.
- If the parents are not married and the father's name is wanted on the birth certificate, he must be present or he must provide a sworn statement confirming that his name should be on the certificate.



**Send your comments to:**

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For more information about the Act revision process, contact the **Under-Secretary of the Department of Civil Registration, Lydia Kandetu**, at the Ministry of Home Affairs and Immigration in Windhoek: email [lkandetu@mha.gov.na](mailto:lkandetu@mha.gov.na) or telephone **061-2922093**.