

Republic Act No. 9255

ADMINISTRATIVE ORDER NO. 1
Series of 2004

RULES AND REGULATIONS GOVERNING THE IMPLEMENTATION OF REPUBLIC ACT NO. 9255 (An Act Allowing Illegitimate Children to Use the Surname of their Father, Amending for the Purpose, Article 176 of Executive Order No. 209, Otherwise Known as the "Family Code of the Philippines")

As mandated by Commonwealth Act No. 591, the Office of the Civil Registrar General hereby promulgates the following Implementing Rules and Regulations of Republic Act No. 9255 signed by President Arroyo on February 24, 2004 and took effect on March 19, 2004, 15 days after publication in a newspaper of general circulation.

Rule 1. Coverage

1.1 These Rules shall apply to all illegitimate children born before or after the effectivity of R.A. 9255. This includes:

1.1.1 Unregistered births;

1.1.2 Registered births where the illegitimate children use the surname of the mother.

Rule 2. Definition of Terms

As used in these rules, the following terms shall mean:

2.1. Public document ? refers to affidavit of recognition executed by the father such as the Affidavit of Admission of Paternity or the Affidavit of Acknowledgment.

2.2. Private handwritten instrument ? an instrument executed in the handwriting of the father and duly signed by him where he expressly recognizes paternity to the child.

2.3. Local Civil Registry Office (LCRO) ? a department in the city/municipal government mandated to perform civil registration functions.

2.4. Office of the Civil Registrar General (OCRG) refers to the national government office mandated to carry out and administer the provisions of the laws on civil registration headed by the Civil Registrar General who is also the Administrator of the National Statistics Office (NSO).

2.5. Affidavit to Use the Surname of the Father (AUSF) - an affidavit to be executed in order to use the surname of the father. The AUSF is a registrable document.

2.6. Guardian - refers to a person lawfully invested with the power, and charged with the duty, of taking care of one who, for defect of age, understanding, or self control, is considered incapable in administering his own affairs. This term also refers to those authorized to exercise substitute parental authority over the child in default of parents or a judicially appointed guardian (Title IX, Family Code). Those exercising substitute parental authority are the following:

2.6.1 The surviving grandparent (Article 214, Family Code);

2.6.2 The oldest brother or sister, over 21 years of age, unless unfit or disqualified (Article 216(2), Family Code); and

2.6.3 The child's actual custodian, over 21 years of age, unless unfit or disqualified (Article 216 (3), Family Code).

Rule 3. Who may file

Under these rules, the father, mother, child if of age, or the guardian, may file the public document or Affidavit to Use the Surname of the Father (AUSF) in order for the child to use the surname of the father.

Rule 4. Where to file

4.1. The public document or AUSF executed within the Philippines shall be filed at the Local Civil Registry Office (LCRO) where the child was born, if the birth occurred within the Philippines.

4.2. The public document or AUSF executed outside the Philippines shall be filed at the LCRO of Manila, if the birth occurred within the Philippines.

4.3. The public document or AUSF whether executed within or outside the Philippines shall be filed at the LCRO of Manila, if the birth occurred outside the

Philippines.

Rule 5. What to file

The following shall be filed at the LCRO:

- 5.1. Certificate of Live Birth with accomplished Affidavit of Acknowledgement/ Admission of Paternity at the back
- 5.2. Public document
- 5.3. AUSF, including all supporting documents

Rule 6. When to register

The public document not made on the record of birth, or the AUSF shall be registered within twenty (20) days from the date of execution at the place where the birth was registered. Otherwise the procedures of late registration shall be applied.

Rule 7. Requirements for the Child to Use the Surname of the Father

7.1 For Births Not Yet Registered

7.1.1 The illegitimate child shall use the surname of the father if a public document is executed
by the father, either at the back of the Certificate of Live Birth or in a separate document.

7.1.2 If admission of paternity is made through a private handwritten instrument, the child shall
use the surname of the father, provided the registration is supported by the following
documents:

- a. AUSF
- b. Consent of the child, if 18 years old and over at the time of the filing of the document
- c. Any two of the following documents showing clearly the paternity between the father
and the child:

- 1) Employment records
- 2) SSS/GSIS records

- 3) Insurance
- 4) Certification of membership in any organization
- 5) Statement of Assets and Liabilities
- 6) Income Tax Return (ITR)

7.2 For Births Previously Registered under the Surname of the Mother

7.2.1 If filiation has been expressly recognized by the father, the child shall use the surname of the father upon the submission of the accomplished AUSF.

7.2.2 If filiation has not been expressly recognized by the father, the child shall use the surname of father upon submission of a public document or a private handwritten instrument supported by the documents listed in Rule 7.1.2.

7.3 Except in Item 7.2.1, the consent of the illegitimate child is required if he/she has reached the age of majority. The consent may be contained in a separate instrument duly notarized.

Rule 8. Effects of Recognition

8.1 For Births Not Yet Registered

8.1.1 The surname of the father shall be entered as the last name of the child in the Certificate of Live Birth. The Certificate of Live Birth shall be recorded in the Register of Births.

8.1.2 If admission of paternity is done at the back of the Certificate of Live Birth, no annotation is made in the Certificate of Live Birth. However, annotation shall be made in the Register of Births as follows:

"Acknowledged by (name of father) on (date) pursuant to RA 9255."

8.1.3 If admission of paternity is made in a separate public document, the proper annotation shall be made in the Certificate of Live Birth and the Register of Births. The annotation shall be as follows:

"Acknowledged by (name of father) on (date) pursuant to RA 9255."

8.1.4 In case of delayed registration, follow the provisions under 8.1.1 to 8.1.3 and comply with the requirements under Rule 25 of Administrative Order No. 1 series of 1993. Proper annotation with regard to delayed registration shall be made.

8.2 For Births Previously Registered under the Surname of the Mother

8.2.1 If admission of paternity was made either at the back of the Certificate of Live Birth or in a separate public document or in a private handwritten document, the public document or AUSF shall be recorded in the Register of Legal Instruments. Proper annotation shall be made in the Certificate of Live Birth and the Register of Births as follows:

"The surname of the child is hereby changed from (original surname) to (new surname) pursuant to RA 9255."

The original surname of the child appearing in the Certificate of Live Birth and Register of Births shall not be changed or deleted.

8.2.2 If filiation was not expressly recognized at the time of registration, the public document or AUSF shall be recorded in the Register of Legal Instruments. Proper annotation shall be made in the Certificate of Live Birth and the Register of Births as follows:

"Acknowledged by (name of father) on (date). The surname of the child is hereby changed from (original surname) to (new surname) on (date) pursuant to RA 9255."

Rule 9. Issuance of Certified Copy of Certificate of Live Birth and LCR Form 1A

In the issuance of the certified copy, proper annotations as provided under Rule 8 shall be made on the Certificate of Live Birth or on the certified transcription (LCR Form 1A) from the Register of Births.

Rule 10. Duties of the Local Civil Registrar

10.1. Examines the authenticity of the Certificate of Live Birth and/or ascertains the truth of the facts stated in the affidavit and the documents presented.

10.2. Accepts for registration the following documents:

- a. Certificate of Live Birth
- b. Public document
- c. AUSF

10.3. Records the entries in the Certificate of Live Birth in the Register of Births, and the public document and AUSF in the Register of Legal Instruments.

10.4. Annotates the Certificate of Live Birth and the remarks portion of the Register of Births.

10.5. Issues certified copies of Certificate of Live Birth or certified transcription (LCR form 1A) with annotations.

10.6. Distributes the annotated Certificate of Live Birth, registered public document or AUSF including any supporting document as follows:

- a. First copy to owner of the document;
- b. Second copy to the OCRG;
- c. Third copy to the LCRO.

Rule 11. Retroactivity Clause

These rules shall have retroactive effect for all births occurring within and outside the Philippines.

Rule 12. Separability Clause

If any portion or provision of this Implementing Rules and Regulations is declared void or unconstitutional, the remaining portions or provisions thereof shall not be effected by such declaration.

Rule 13. Repealing Clause

All circulars, memoranda, rules and regulations or parts thereof inconsistent with the provisions of these rules are hereby repealed or modified accordingly.

Rule 14. Effectivity

These rules shall take effect 15 days after its publication in a newspaper of general circulation in the Philippines.

APPROVED this 14th day of May 2004