

South Africa

Births and Deaths Registration Act, 1992

Act 51 of 1992

Legislation as at 1 September 1993

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South Africa

Births and Deaths Registration Act, 1992

Act 51 of 1992

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Assented to on 26 April 1992

Commenced on 1 October 1992 by Births and Deaths Registration Act, 1992: Commencement

[This is the version of this document as it was from 1 September 1993 to 4 September 1995.]

[Amended by General Law Third Amendment Act, 1993 (Act 129 of 1993) on 1 September 1993]

(Afrikaans text signed by the State President)

ACT

To regulate the registration of births and deaths; and to provide for matters connected therewith.

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

1. Definitions

In this Act, unless the context otherwise indicates—

“**birth**”, in relation to a child, means the birth of a child born alive;

“**burial**” means burial in earth or the cremation or any other mode of disposal of a corpse;

“**burial place**” means any public, private or other place which is used for a burial;

“**corpse**” means any dead human body, including the body of any still-born child;

“**Department**” means the Department of Home Affairs;

“**Director-General**” means the Director-General: Home Affairs;

“**fingerprints**” includes palmprints;

“**forename**” means the word or words by which a person is designated as an individual and which precede his surname;

“**major**” or “**person of age**” means any person who has attained the age of 21 years or who has under the provisions of section 2 of the Age of Majority Act, 1972 (Act No. 57 of 1972), been declared to be a major, and includes a person under the age of 21 years who has contracted a legal marriage;

“**Minister**” means the Minister of Home Affairs;

“**minor**” or “**minor person**” means any person who is not a major or a person of age;

“**police officer**” means a member of the Force as defined in section 1 of the Police Act, 1958 (Act No. 7 of 1958);

“**population register**” means the population register mentioned in the Identification Act, 1986 (Act No. 72 of 1986);

“**prescribed**” means prescribed under this Act or any regulation;

“**regional representative**” means any person designated as a regional representative under section 21(1) (a) of the Identification Act, 1986 (Act No. 72 of 1986);

“**registration**”, in relation to a birth or a death, means the registration thereof mentioned in section 5;

“**regulation**” means a regulation made and in force under this Act;

“**still-born**”, in relation to a child, means that it has had at least 26 weeks of intra-uterine existence but showed no sign of life after complete birth, and “**still-birth**”, in relation to a child, has a corresponding meaning;

“**this Act**” includes the regulations.

Chapter I Administration

2. Application of Act

The provisions of this Act shall apply to all South African citizens, whether in the Republic or outside the Republic, including persons who are not South African citizens but who sojourn permanently or temporarily in the Republic, for whatever purpose.

3. Director-General to administer Act

The Director-General shall be charged with the administration of this Act.

4. Transfer of powers and duties

- (1) The Director-General may, subject to such conditions as he may deem necessary, in writing authorize any person, whether or not he is in the service of the State, or an officer or category of officers or an employee or category of employees or a person or category of persons in the Public Service, to exercise or perform, in general or in a particular case or in cases of a particular nature, any power or duty conferred or imposed on the Director-General by or in terms of this Act.
- (2) The Director-General shall not be divested of any power or duty so transferred and may set aside or amend any decision made in the exercise of a power or the performance of a duty so transferred.

5. Custody of records and registration of births and deaths

- (1) The Director-General shall be the custodian of all—
 - (a) documents relating to births and deaths required to be furnished under this Act or any other law; and
 - (b) records of any births and deaths preserved, prior to the commencement of this Act, in terms of the Acts repealed by this Act.
- (2) Particulars obtained from the documents referred to in subsection (1)(a) shall be included in the population register and such inclusion is the registration of the births and deaths concerned.
- (3) In the case of a non-South African citizen who sojourns temporarily in the Republic, particulars obtained from documents mentioned in subsection (1)(a) shall not be included in the population register and the issuing of a certificate in respect of such particulars is the registration thereof.

6. Reproduction of documents

- (1) Notwithstanding anything to the contrary contained in any law, the Director-General may reproduce or cause to be reproduced any document submitted in terms of this Act or record mentioned in section 5(1)(b), by means of any process in accordance with the regulations which in his opinion accurately and durably reproduces such document or record, and he may preserve or

cause to be preserved that reproduction in lieu of such document or record and may destroy such document or record.

- (2) A reproduction mentioned in subsection (1) shall, notwithstanding anything to the contrary contained in any law, for all purposes be deemed to be the original document or record from which it was reproduced, and a copy of such reproduction certified to be a true copy of the original by the Director-General shall in any court of law be conclusive proof of the contents of the original document or record.

7. Verification, supplementation and rectification of particulars

- (1) The Director-General may—
 - (a) require the person who has furnished any particulars in terms of this Act to furnish the Director-General with proof of the correctness of such particulars; and
 - (b) investigate or cause to be investigated any matter in respect of which particulars are to be used for the registration thereof in terms of section 5.
- (2) If by virtue of subsection (1) it comes to the attention of the Director-General that any particulars in respect of any person in any document submitted or preserved in terms of this Act are not correctly reflected, the Director-General may supplement and correct such particulars.

8. Fees payable

The Director-General may with the concurrence of the Minister of State Expenditure determine the fees payable for any specified act performed in accordance with the provisions of this Act by the Director-General or any person contemplated in section 4, and shall publish such fees in the *Gazette*.

Chapter II Registration of births

9. Notice of birth

- (1) In the case of any child born alive, any one of his parents or, if neither of his parents is able to do so, the person having charge of the child or a person requested to do so by the parents or the said person, shall within seven days after the birth give notice thereof in the prescribed manner to any person contemplated in section 4.
- (2) Subject to the provisions of section 10, the notice of birth referred to in subsection (1) of this section shall be given under the surname of the father of the child concerned.
- (3) Where the notice of a birth is given after the expiration of seven days from the date of the birth, the Director-General may demand that reasons for the late notice be furnished and that the fingerprints be taken of the person whose notice of birth is given.
- (4) No registration of birth shall be done of a person who dies before notice of his birth has been given in terms of subsection (1).
- (5) The person to whom notice of birth was given in terms of subsection (1), shall furnish the person who gave that notice with a birth certificate, or an acknowledgement of receipt of the notice of birth in the prescribed form, as the Director-General may determine.
- (6) No person's birth shall be registered unless a forename and a surname have been assigned to him.

10. Notice of birth of illegitimate child

- (1) Notice of birth of an illegitimate child shall be given—
 - (a) under the surname of the mother; or

- (b) at the joint request of the mother and of the person who in the presence of the person to whom the notice of birth was given acknowledges himself in writing to be the father of the child and enters the prescribed particulars regarding himself upon the notice of birth, under the surname of the person who has so acknowledged.
- (2) Notwithstanding the provisions of subsection (1), the notice of birth may be given under the surname of the mother if the person mentioned in subsection (1)(b), with the consent of the mother, acknowledges himself in writing to be the father of the child and enters particulars regarding himself upon the notice of birth.

11. Amendment of birth registration of illegitimate child

- (1) Any parent or guardian of an illegitimate child whose parents married each other after the registration of his birth, may, if such child is a minor, or such child himself may, if he is of age, apply to the Director-General to amend the registration of his birth as if his parents were married to each other at the time of his birth, and thereupon the Director-General shall, if satisfied that the applicant is competent to make the application, that the alleged parents of the child are in fact his parents and that they legally married each other, amend the registration of birth in the prescribed manner as if such a child's parents were legally married to each other at the time of his birth.
- (2) If an illegitimate child's parents marry each other before notice of his birth is given, notice of such birth shall be given and the birth registered as if the parents were married to each other at the time of his birth.

12. Notice of birth of abandoned child

The notice of birth of an abandoned child which has not yet been given, shall be given, after an enquiry in respect of the child concerned in terms of the Child Care Act, 1983 ([Act 74 of 1983](#)), by the social worker or authorized officer concerned: Provided that in the event of any parent of the child being traced after the registration of the birth and the particulars in any document or record in respect of the child not being reflected correctly, the Director-General may on application amplify and correct the said particulars.

13. Birth outside the Republic

If a child of a father or a mother who is a South African citizen is born outside the Republic, notice of birth may be given to the head of a South African diplomatic or consular mission, or a regional representative in the Republic.

Chapter III Registration of deaths

14. Death due to natural causes

- (1) In the case of a death due to natural causes any person who was present at the death, or who became aware thereof, or who has charge of the burial concerned, shall give, as soon as practicable, by means of a certificate mentioned in section [15\(1\)](#) or [\(2\)](#), notice thereof to a person contemplated in section [4](#).
- (2) If the person contemplated in section [4](#) is satisfied on the basis of the certificate issued in terms of section [15\(1\)](#) or [\(2\)](#) that the death was due to natural causes, he shall complete the prescribed death register and issue a prescribed burial order authorizing burial.
- (3) If, before a prescribed burial order has been issued, a person contemplated in section [4](#) has reasonable doubt whether the death was due to natural causes, he shall not issue a burial order and he shall inform a police officer as to such doubt.

- (4) If, after a prescribed burial order has been issued, a person contemplated in section 4 has reasonable doubt whether the death was due to natural causes, he shall inform a police officer as to such doubt, and before the police officer acts in terms of the provisions of section 16, he shall, if the corpse has not yet been buried, withdraw and cancel the burial order.

15. Certificate by medical practitioner

- (1) Where a medical practitioner is satisfied that the death of any person who was attended before his death by the medical practitioner was due to natural causes, he shall issue a prescribed certificate stating the cause of death.
- (2) A medical practitioner who did not attend any person before his death but after the death of the person examined the corpse and is satisfied that the death was due to natural causes, may issue a prescribed certificate to that effect.
- (3) If a medical practitioner is of the opinion that the death was due to other than natural causes, he shall not issue a certificate mentioned in subsection (1) or (2) and shall inform a police officer as to his opinion in that regard.

16. Duty of police officer on receipt of certain information

Whenever a police officer receives information mentioned in section 14(3) or (4), 15(3) or 18(4) or (5), he shall act in terms of the provisions of section 3 of the Inquests Act, 1959 ([Act No. 58 of 1959](#)).

17. Death due to other than natural causes

- (1) After an investigation as to the circumstances of a death due to other than natural causes in terms of section 3 of the Inquests Act, 1959 ([Act No. 58 of 1959](#)), the medical practitioner concerned shall, as soon as he is satisfied that the corpse concerned is no longer required for the purposes of an examination mentioned in the said section 3, issue a prescribed certificate to that effect and deliver it to the police officer concerned.
- (2) After the certificate referred to in subsection (1) has been issued, the police officer concerned, or any person contemplated in section 4, as the case may be, may, on the basis of the said certificate, complete the prescribed death register, without stating a cause of death, and the police officer concerned or the person contemplated in section 4, as the case may be, may issue the prescribed burial order authorizing burial.

18. Still-birth

- (1) A medical practitioner who was present at a still-birth, or who examined the corpse of a child and is satisfied that the child was still-born, shall issue a prescribed certificate to that effect.
- (2) If no medical practitioner was present at the still-birth, or if no medical practitioner examined the corpse of a still-born child, any person who was present at the still-birth shall make a prescribed declaration thereanent to any person contemplated in section 4.
- (3) The certificate mentioned in subsection (1) or the declaration mentioned in subsection (2) shall be deemed to be the notice of the still-birth, and a person contemplated in section 4 shall, on the basis of such notice and if he is satisfied that the child was still-born, issue under the surname of any parent concerned a prescribed burial order authorizing burial.
- (4) If, before a prescribed burial order has been issued, a person contemplated in section 4 has reasonable doubt whether the child was still-born, he shall not issue a burial order and he shall inform a police officer as to such doubt.
- (5) If, after a prescribed burial order has been issued, a person contemplated in section 4 has reasonable doubt whether the child was still-born, he shall inform a police officer as to such doubt,

and before the police officer acts in terms of the provisions of section 16, he shall, if the corpse has not yet been buried, withdraw and cancel the burial order.

19. Death outside the Republic

- (1) If any person who is lawfully and permanently resident in the Republic dies outside the Republic, his death shall be registered in terms of the provisions of this Act on the strength of a death certificate or other similar document issued by the authority concerned in the country in which the death occurred.
- (2) If the corpse concerned is to be buried within the Republic, a person contemplated in section 4 at the relevant port of entry shall, on the strength of the death certificate or other similar document mentioned in subsection (1), complete the prescribed death register and issue a prescribed burial order authorizing burial.
- (3) Notwithstanding the provisions of section 2, the Director-General may, if he deems fit, grant permission that a prescribed burial order be issued authorizing burial in the Republic of a person who was not lawfully and permanently resident in the Republic and who died outside the Republic.
- (4) For the purposes of this section “port of entry” has the meaning assigned thereto by section 1 of the Aliens Control Act, 1991 ([Act No. 96 of 1991](#)).

20. Burial order

- (1) No burial shall take place unless notice of the death or still-birth has been given to a person contemplated in section 4 and he has issued a prescribed burial order.
- (2) The burial order mentioned in subsection (1) shall be delivered by the person who has charge of the burial to the person who has control of the burial place concerned.
- (3) If the burial of a corpse is to take place outside the magisterial district within which the death occurred, the corpse may only be removed by virtue of a burial order to a place outside the said magisterial district.

21. Burial register

Any person having charge of a burial place shall maintain a burial register in which he shall enter from the burial order the prescribed particulars regarding every burial in such burial place.

22. Issuing of death certificate

After a death has been registered in terms of this Act, the Director-General shall issue a prescribed death certificate.

Chapter IV General

23. Amplification of birth registrations

If the birth of any person was registered before the commencement of this Act without the assignment to him of any forename or surname, any parent or his guardian if he is a minor, or he himself if he is a person of age, may apply to the Director-General for the amplification of the registration of his birth by the entry of his forename or surname in connection therewith, and the Director-General shall thereupon, if satisfied that the applicant is competent to make the application, so amplify the birth register in respect of such person.

24. Alteration of forename

- (1) Any parent of a minor, or he himself if he is a person of age, may apply to the Director-General for the alteration of his forename under which his birth is registered, and the Director-General may alter such forename accordingly in the prescribed manner.
- (2) For the purposes of this section “parent” means one parent or any guardian who has charge of any person, and includes any person who has in law or in fact the custody or control of the person concerned.

25. Alteration of surname of minor

- (1) When—
 - (a) the birth of any illegitimate minor has been registered and the mother of that minor marries any person other than the natural father of the minor;
 - (b) the father of any minor is deceased or his parents’ marriage has been dissolved and his mother remarries or his mother as a widow or divorcee resumes a surname which she bore at any prior time;
 - (c) the birth of any illegitimate minor has been registered under the surname of his natural father; or
 - (d) a minor is in the care of a guardian,
his mother or his guardian, as the case may be, may apply to the Director-General for the alteration of his surname to the surname of his mother, or the surname which his mother has resumed, or the surname of his guardian, as the case may be, and the Director-General may alter the registration of birth of that minor accordingly in the prescribed manner: Provided that the man who married the mother of a minor mentioned in paragraph (a) or (b), shall grant written consent for the alteration.
- (2) Any parent or any guardian of a minor whose birth has been included under a specific surname in the population register, may on the strength of a reason not mentioned in subsection (1), apply to the Director-General for the alteration of the surname of the minor under which his birth was registered, and the Director-General may, on submission of a good and sufficient reason given for the contemplated alteration of the surname, alter the said original surname accordingly in the prescribed manner.
- (3) For the purposes of this section “guardian” includes any person who has in law or in fact the custody or control of a minor.

26. Assumption of another surname

- (1) Subject to the provisions of this Act or any other law, no person shall assume or describe himself by or pass under any surname other than that under which he has been included in the population register or that under which he obtained permanent residence in the Republic, unless the Director-General has authorized him to assume that other surname: Provided that this subsection shall not apply when—
 - (a) a woman after her marriage, including a marriage according to the rites of the Islamic or any Indian religion or a customary union as defined in section 35 of the Black Administration Act, 1927 ([Act No. 38 of 1927](#)), assumes the surname of the man with whom she concluded such marriage or union or after having assumed his surname, resumes a surname which she bore at any prior time;
 - (b) a married or divorced woman or a widow resumes a surname which she bore at any prior time.

- (2) At the request of any person the Director-General may, if he is satisfied that there is a good and sufficient reason for that person's assumption of another surname, authorize the person to assume a surname other than his surname as included in the population register, and the Director-General shall include the substitutive surname in the population register in the prescribed manner, and may authorize a person to assume a surname other than that under which he obtained permanent residence in the Republic.

27. Publishing of alterations and amplifications of forenames and surnames

In the case of an alteration or amplification of forename or surname mentioned in sections [23](#), [24\(1\)](#) and [26\(2\)](#), the Director-General shall as soon as possible after such alteration or amplification has been authorized, cause any such alteration or amplification which relates to a person of age, to be published in the prescribed manner by notice in the *Gazette*.

28. Issuing of certificates

- (1) The Director-General may on application issue a certificate from the population register in such form as he may deem fit.
- (2) Every certificate issued in terms of subsection [\(1\)](#), shall in all courts of law be *prima facie* evidence of the particulars set forth therein.

29. Secrecy

- (1) Subject to the provisions of subsection [\(2\)](#), no person shall publish or communicate to any other person any information obtained from documents or records mentioned in section [5\(1\)](#), and which he acquired by virtue of his functions in terms of this Act or any other law, except for the purposes of this Act, judicial proceedings or the performance of functions in terms of any other law, and no person who has come into possession of any such information shall publish the information or communicate it to any other person.
- (2) Notwithstanding the provisions of subsection [\(1\)](#), the Director-General may furnish any information in relation to a person submitted in terms of this Act to—
 - (a) any department of State, local authority or statutory body for any of the statutory purposes of that department, authority or body; or
 - (b) any person who has applied therefor in writing with a full exposition of the purposes for which the information is required and who has paid the prescribed fees, if any, provided the Director-General is satisfied that the furnishing of that information is in the interest of the person regarding whom particulars are requested or is in the public interest.

30. Exemption from stamp duties

No stamp duty shall be payable for the purposes of this Act.

31. Offences, penalties and evidence

- (1) Any person who—
 - (a) without reasonable cause fails to furnish any notice, information, statement or certificate required by this Act;
 - (b) makes or causes to be made any false statement relating to any of the particulars required by this Act to be made known and registered;
 - (c) having the custody of any document or record mentioned in section [5](#) or a reproduction thereof, loses it or damages it or destroys it or allows it to be damaged or destroyed;

- (d) falsely makes or counterfeits or causes to be falsely made or counterfeited any document or record mentioned in this Act, a certified copy thereof or a certified extract therefrom;
- (e) gives out any writing to be a copy of or extract from any document or record mentioned in section 5 or a reproduction thereof, knowing such writing to be false in any part; or
- (f) charges or receives fees for any act performed or to be performed in accordance with the provisions of this Act which are higher than the fees payable in terms of this Act for such act, or where no fees are payable in terms of this Act for such act,

shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

- (2) If in any proceedings the question arises whether, or it is alleged that, any person obtained in contravention of the provisions of this Act any certificate which has been or may be issued in terms of this Act, and such certificate is forged or spurious, such person shall be presumed to have so obtained such certificate and it shall be presumed that such certificate is forged or spurious until the contrary is proved.

32. Regulations

- (1) The Minister may make regulations in regard to any matter which he considers it necessary to prescribe in order to give effect to the objects of this Act, including regulations as to any matter which in terms of this Act is required or permitted to be prescribed by regulation.
- (2) Regulations made under subsection (1) may prescribe penalties of a fine or of imprisonment for a period not exceeding two years for any contravention thereof or failure to comply therewith.

33. Repeal and amendment of Acts, and savings

- (1) Subject to the provisions of subsection (2), the Acts mentioned in the Schedule are hereby repealed or amended to the extent set out in the third column thereof.
- (2) Anything done under any provision of an Act repealed by subsection (1) and which could be done under a provision of this Act shall be deemed to have been done under the latter provision.
- (3) A person who was in the process of undergoing a change of sex before the commencement of this Act, may on completion of the said process apply in terms of section 7B of the Births, Marriages and Deaths Registration Act, 1963, for the alteration of the sex description in his birth register.

[subsection (3) added by section 76 of [Act 129 of 1993](#)]

34. Short title

This Act shall be called the Births and Deaths Registration Act, 1992, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

Schedule (Section 33)
Acts repealed or amended

| No. and year of Act | Title | Extent of repeal or amendment |
|---------------------|--------------------|--|
| 1 of 1937 | Aliens Act, 1937 | So much as is unrepealed. |
| 25 of 1961 | Marriage Act, 1961 | <p>Insertion after section 29 of the following section:</p> <p style="text-align: center;">“29A. Registration of marriages</p> <p>(1) <u>The marriage officer solemnizing any marriage, the parties thereto and two competent witnesses shall sign the marriage register concerned immediately after such marriage has been solemnized.</u></p> <p>(2) <u>The marriage officer shall forthwith transmit the marriage register and</u></p> |

| | | |
|------------|---|--|
| | | <p><u>records concerned, as the case may be, to a regional or district representative designated as such under section 21(1) of the Identification Act, 1986 (Act No. 72 of 1986).</u>”.</p> |
| 81 of 1963 | Births, Marriages and Deaths Registration Act, 1963 | The whole. |
| 17 of 1967 | Births, Marriages and Deaths Registration Amendment Act, 1967 | The whole. |
| 18 of 1968 | Births, Marriages and Deaths Registration Amendment Act, 1968 | The whole. |
| 58 of 1970 | Births, Marriages and Deaths Registration Amendment Act, 1970 | The whole. |
| 51 of 1974 | Births, Marriages and Deaths Registration Amendment Act, 1974 | The whole. |

| | | |
|------------|---|--|
| 35 of 1982 | Births, Marriages and Deaths Registration Amendment Act, 1982 | The whole. |
| 41 of 1986 | Marriages, Births and Deaths Amendment Act, 1986 | The repeal of the whole, except sections 1, 2, 3 and 22, and the amendment of section 22 by the deletion therein of the words “or under a provision of the Births, Marriages and Deaths Registration Act, 1963”. |