

CHAPTER 30:01
BIRTHS AND DEATHS REGISTRATION
ARRANGEMENT OF SECTIONS

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Act 48, 1968,
S.I. 19, 1974,
S.I. 61, 1974,
S.I. 95, 1974,
S.I. 22, 1977,
Act 3, 1978,
Act 7, 1983,
S.I. 17, 1992,
Act 16, 1998.

An Act to consolidate and amend the law relating to the registration of births and deaths.
[Date of Commencement: 1st April, 1969]

PART I
Introductory (ss 1-4)

1. Short title

This Act may be cited as the Births and Deaths Registration Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"authorised person" means, in relation to births or still-births, a Chief or administrative officer, and in relation to deaths, an administrator of the deceased's estate;

"birth" means the issuing forth from the mother at any time of a child who, at any time after being wholly expelled from the mother, breathes or shows any other sign of life, or the issuing forth from the mother of a child, whether dead or alive, after the expiration of the twenty-eighth week of pregnancy;

"married" means lawfully married, whether or not such marriage was celebrated within or outside Botswana, and includes marriage under any system of customary law where the marriage is recognized as being a valid customary marriage under the law of Botswana;

"next of kin" means a spouse, parent, or child of a person in respect of whom a certificate is issued under the provisions of this Act.

"register" means the Births Register or the Deaths Register, as the case may be, maintained by the Registrar in accordance with section 4 or any register of births or deaths, as the case may be, in the custody of the Registrar which was kept under any law in force at any time before this Act came into operation by which provision was made for the registration of births and deaths;

"Registrar" means the Registrar of Births and Deaths appointed under section 3;

"still-born" and **"still-birth"** shall apply to any child who has issued forth from the mother after the expiration of the twenty-eighth week of pregnancy and did not, at any time after being wholly expelled from the mother, breath or show any other sign of life.

3. Appointment of Registrar and District Registrars

(1) The Minister may, by notice published in the *Gazette* appoint, for the purposes of this Act, any officer in the public service as Registrar of Births and Deaths who shall be custodian of all notices of births and deaths and of all returns, registers and records of any birth or death in Botswana.

(2) The Minister may appoint-

- (a) such number of District Registrars as the Minister may deem necessary to exercise, subject to the directions of the Registrar, such of the functions of the Registrar, as the Registrar may direct from time to time; and
- (b) such number of Registration Officers as the Minister may deem necessary who shall discharge such of the functions of the Registrar under this Act, as the Registrar may, from time to time direct.

4. Registers and registration

(1) The Registrar shall maintain three registers, to be called the "Births Register", the "Still-Births Register" and the "Deaths Register" respectively, into which shall be entered prescribed details of births, still-births and deaths.

(2) Any such entry shall constitute the registration of the birth or death, as the case may be, to which the entry relates and upon such entry the information form relating to such birth, still-birth or death and any related documents supplied to the Registrar in terms of this Act shall be deemed to form part of that register.

(3) In the case of a birth, still-birth or death the details of which are entered in a register of births, still-births or deaths in the custody of the Registrar which was kept under any law in force at any time before this Act came into operation by which provision was made for the registration of births, still-births or deaths, any information form and any other document in the custody of the Registrar, submitted under that law, shall, for the purposes of this Act, be

deemed to form part of that register.

PART II

Compulsory Registration of Births and Deaths (ss 5-8)

5. Application of Part III The provisions of this Part shall apply throughout Botswana.

6. Duty to notify birth of child (1) A prescribed notice of every child born alive or of any still-born child shall be made, within 60 days of such birth or still-birth, to either a District Registrar or a Registration Officer by the-

- (a) father or mother of the child or by the occupier of the dwelling in which the child is born, in the case of a birth or still-birth that occurs outside a health institution; or
- (b) medical practitioner or midwife in charge in the case of a birth or still-birth that occurs in a health institution.

(2) In the case of a child born out of wedlock, no person shall be required to give information under this Act as the child's father.

7. Duty to notify deaths

It shall be the duty of every adult relative of a deceased person who was present at his death or in attendance during his last illness or at his dwelling with him, and, in default of such relative, of every adult person present at the death of such deceased person, and, if there was no such adult person present, then of the occupier of the dwelling in which the death occurred, or, in the case of the death or absence or other inability of such occupier, of every adult inmate of the dwelling, or of any person who has caused the body to be buried, to give to the District Registrar or a Registration Officer notice in the prescribed manner of the death within 30 days thereafter.

8. General duties of District Registrars

It shall be the duty of every District Registrar or Registration Officer to inform himself as far as possible of every birth, still-birth or death which occurs within his district, and, after the expiry of the time allowed under this Act for giving any notice or information of any such birth, still-birth or death, if the notice or information has not been given, the District Registrar or Registration Officer may by notice in writing under his hand require any person whose duty it is under this Act to give any such information to attend within such time as is specified in the notice at the office of the District Registrar or Registration Officer or at any other place mentioned in the notice, there to give to the District Registrar or Registration Officer, or to any other person named in the notice, such information as may be necessary concerning the birth, still-birth or death, as the case may be.

PART III

General Provisions relating to Registration (ss 9-23)

9. Duty of District Registrar on receipt of notice of birth, still-birth or death

(1) On receipt by the District Registrar or Registration Officer of any notice, information, memorandum, return or certificate in respect of a birth, still-birth or death given or transmitted under this Act, he shall examine the same and cause any omission, defect or inaccuracy therein to be supplied or corrected as far as may be possible, and for this purpose he may require any person whose duty it is to give, or who has given, information under this Act to attend and give information in the manner prescribed by section 8.

(2) It shall be the duty of every District Registrar or Registration Officer to ensure that every birth or death which comes to his notice is recorded on the information form prescribed therefor and that such form is duly completed.

(3) After complying with subsections (1) and (2), the District Registrar or Registration Officer shall transmit the completed form and any other related documents to the Registrar.

10. Birth, still-birth and death certificates (1) The Registrar shall furnish the next of kin or authorised person, upon application, with birth, still-birth or death certificates, and shall cause a search to be made in the Births Register, Still-Birth Register or Death Register, as the case may be, for that purpose.

(2) Every such certificate shall, in all courts of law and public offices within Botswana, be *prima facie* evidence of the particulars set forth therein.

11. Late registration of births, still-births and deaths (1) Except in accordance with this section no-

- (a) birth or still-birth shall be registered after the expiry of 60 days from the date of such birth or still-birth;
- (b) death shall be registered after the expiry of 30 days from the date of such death.

(2) An application for the registration of a birth, still-birth or death after the expiry of the periods stated in subsection (1) shall be referred to as an application for late registration and shall be-

- (a) made in the prescribed form to the District Registrar or Registration Officer in the district or area in which the birth, still-birth or death took place; and
- (b) accompanied by the prescribed fee:

Provided that no fee shall be payable in the case of an application for late registration if, at the time of birth, still-birth or death, the law made no provision for its registration.

(3) The District Registrar or the Registration Officer shall comply with section 9 in respect of each application for late registration.

(4) The Registrar may refuse to register a birth, still-birth or death under this section until such time as material facts relating to such birth, still-birth or death have been proved to the Registrar's satisfaction.

(5) Any person aggrieved by a refusal of the Registrar in terms of subsection (4) may appeal in the prescribed manner to the Minister, whose decision shall be final.

12. Registrar may, on application thereto, alter surnames in births registers

(1) Where the birth of any person has been registered under this Act or under any law in force at any time before this Act came into operation by which provision was made for the registration of births, and that person has lawfully assumed a surname different from the surname under which his birth was so registered, either his parents or his guardians, if he is under the age of 21 years, or he himself, if he has attained the age of 21 years, may apply to the Registrar for the alteration of his surname in the relevant births register.

(2) If the Registrar is satisfied that the applicant is competent to make the application under subsection (1), he may, on payment of the prescribed fee, amend the registration of the person's birth by entering the new surname in the relevant births register; but he shall not erase the surname originally recorded therein.

13. Registrar may, on application thereto, alter forenames in births registers

(1) Where the birth of any person has been registered under this Act, or under any law in force at any time before this Act came into operation by which provision was made for the registration of births, either his parents or his guardian, if he is under the age of 21 years, or he himself, if he has attained the age of 21 years, may apply to the Registrar for the alteration of the forename or forenames, under which his birth was so registered, in the relevant births register.

(2) Subject to subsections (3) and (4) and to compliance with any directions which he may consider necessary or expedient to issue in a particular case and to his being satisfied that the applicant is competent to make the application under subsection (1), the Registrar may, on payment of the prescribed fee, amend the registration of the person's birth by entering a new forename or new forenames in the relevant births register; but he shall not erase any forename originally recorded therein.

(3) The Registrar shall not amend the registration of a person's birth under this section unless he is satisfied that-

- (a) the person has a settled wish and intention to be and to continue to be generally known by the new forename or forenames either in substitution for or in addition to the

forename or forenames under which his birth was registered:

Provided that this paragraph shall not apply in the case of a person who is, in the opinion of the Registrar, too young to express any such settled wish and intention; and

- (b) there is a reasonable expectation, in all the circumstances, that he will continue to be generally so known.

(4) In determining every application under this section by parents or a guardian, the Registrar shall take into account the wishes of the parents or a guardian.

14. Restrictions as to alteration of births, still-births and deaths registered

Subject to the other provisions of this Act, the Registrar shall not alter any register of births, still-births or deaths unless authorized or directed by order of the High Court to do so:

Provided that the Registrar may, without an order of the High Court, alter any such register in order to correct errors therein of spelling or transcription alone.

15. Corrections of errors in registers

(1) The High Court may, on application thereto by the Registrar or by any other person and on payment of the prescribed fee, by order authorize or direct the Registrar to alter any register of births, still-births or deaths in order to correct an error therein which, by virtue of section 14, the Registrar is prohibited from so correcting without such an order.

(2) The High Court shall not make an order under this section unless the material facts, in connection with which the application is made, are proved to its satisfaction.

16. Authorization of High Court to register births, still-births and deaths (1) The High Court may, on application thereto at any time by the Registrar or by any other person and on payment of the prescribed fee, by order authorize or direct the Registrar to register a birth, still-birth or death, as the case may be.

(2) The High Court shall not make an order under this section unless the material facts relating to the birth, still-birth or death, in respect of which the application is made, are proved to its satisfaction.

(3) Without prejudice to the generality of section 18, the High Court may make an order under this section notwithstanding that no person is reasonably available or able to assist the High Court in reaching a determination as to the person who is or was required or authorized to give notice or information of the birth, still-birth or death, in respect of which the application is made under this Act or under any law in force at any time before this Act came into operation by which provision was made for the registration of births, still-births and deaths.

17. Rules for applications under section 15 or 16

The Chief Justice may make rules of court for regulating and prescribing the procedure in connection with applications to the High Court under section 15 or 16.

18. High Court not bound by rules of evidence or procedure

In determining an application thereto under section 15 or 16, the High Court shall not be bound by any rule of evidence or, subject to any rules of court which may be made under section 17 in respect of such an application, by any rule of procedure.

19. Registration of person as father of illegitimate child

The District Registrar or Registration Officer shall not enter or cause or permit to be entered in any information form or other place, the name of any person as the father of a child born out of wedlock the birth of which may be, or is required to be, registered under the Act without the consent of that person, which consent shall be given and recorded in such manner as may be prescribed.

20. Amendment of birth registration after legitimation of child born out of wedlock

(1) When a person was born (whether before or after the commencement of this Act) of parents who were not married to each other at the time of his birth but who married each other after the registration of his birth, application may be made to the Registrar for the registration of his birth as if his parents had been married to each other at the time of his birth, and thereupon the Registrar shall, if satisfied that the alleged parents of such person are in fact his parents and

that they were married to each other, register the birth in the prescribed manner as if such person's parents had been married to each other at the time of his birth.

(2) If a person's parents who were not married to each other at the time of his birth have married each other before the registration of his birth, such birth shall be registered as if they had been married to each other at the time of his birth.

21. Certificate by medical practitioner as to cause of death Whenever any medical practitioner has attended during the last illness of any person, it shall be the duty of such medical practitioner to send to the District Registrar or Registration Officer, without fee or reward, a certificate of the cause of death or a notice of inability to sign such a certificate.

22. Determination of cause of unnatural death

(1) Whenever the death of any person is the subject of an investigation, report or inquest under the Inquests Act or is the subject of an inquiry under the Mines, Quarries, Works and Machinery Act, the District Registrar or Registration Officer shall not record the cause of death until he is supplied with particulars thereof under subsection (2).

(2) On the conclusion of the inquest or the inquiry referred to in subsection (1) or on the issue of a certificate by a District Commissioner under section 7(b) of the Inquests Act, or on the conclusion of any criminal proceedings arising out of the said death, the person who presided at such inquest or inquiry or who issued a certificate under the said section 7(b) shall forthwith report the cause of death to the District Registrar or Registration Officer.

(3) Notwithstanding the preceding provisions of this section, the District Registrar or Registration Officer may, in such special circumstances as may be prescribed, record the cause of death before any investigation, report, inquest or inquiry referred to in subsection (1) is made or held, if a certificate of the cause of death is issued by a medical practitioner-

- (a) who performed a post-mortem examination on the body; or
- (b) who has examined the body:

Provided that where the cause of death subsequently reported to the District Registrar at the conclusion of an inquest or inquiry under subsection (2) differs from that contained in the certificate issued by a medical practitioner under this subsection, the District Registrar shall amend his record by substituting the report of the inquest or inquiry for the certificate issued by the medical practitioner.

23. Affidavits, etc., to be exempt from stamp duties

Notwithstanding anything contained in any law, no affidavit or solemn declaration made by any person for the purpose of complying with any provision of this Act shall be liable to stamp duty.

PART IV

Supplementary (ss 24-25)

24. Penalties

(1) Any person who without lawful excuse fails to-

- (a) notify the birth of a child in accordance with section 6, unless some other person has duly so notified the birth;
- (b) notify a death in accordance with section 7, unless some other person has duly so notified the death;
- (c) comply with a notice given under section 8 or to give information in accordance with that section;
- (d) give or transmit any notice, information, memorandum, return or certificate required by this Act to be given or transmitted,

shall be guilty of an offence and liable to a fine not exceeding P200 or to imprisonment for a term not exceeding three months, or to both.

(2) Without prejudice to any other law, any person who gives to the High Court, the Registrar, a District Registrar or a Registration Officer information in connection with this Act which he does not believe to be true shall be guilty of an offence and liable to a fine not

exceeding P200 or to imprisonment for a term not exceeding two years, or to both.

25. Regulations

The Minister may make regulations-

- (a) prescribing anything which, in terms of this Act, is or may be prescribed;
- (b) as to the management of the Registrar's, District Registrar's and of the Registration Officer's office;
- (c) prescribing duties and powers of the Registrar, District Registrars and Registration Officers;
- (d) prescribing the fees payable under this Act;
- (e) prescribing the forms of all registers, returns and other documents required for purposes of this Act;
- (f) providing for the inspection of registers, returns and indices and for the issue of certified copies.