

BIRTHS AND DEATHS REGISTRATION

SIMPLIFIED

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AN ACT to provide for the registration of births and deaths in Zimbabwe and to provide for matters connected to this.

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Births and Deaths Registration Act [*Chapter 5:02*].

2 Interpretation

(1) In this Act—

“**adopter**” means a person who has adopted a child in terms of the Children’s Protection and Adoption Act [*Chapter 5:06*];

“**born**” does not include still-born;

“**bury**” means to deposit in the ground or cremate a dead body;

“**entry**”, in relation to any register kept in terms of this Act, includes any information contained in any form, certificate or other document forming part of that register;

“**medical practitioner**” means a person registered as a medical practitioner in terms of the Health Professions Act [*Chapter 27:19*];

“**midwife**” means a person registered as a midwife in terms of the Health Professions Act [*Chapter 27:19*];

“**Minister**” means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

“**registrar**” means the person appointed to be a registrar of births and deaths for a district and includes a deputy registrar and an assistant registrar;

“**Registrar-General**” means the officer referred to in paragraph (a) of section *three*;

“**responsible person**” means the person whose duty it is to give notice of a birth, still-birth or death in terms of section *eleven, twenty* or *twenty-two*, as the case may be;

“**still-birth**” means any child which has issued forth from its mother after the twenty-eighth week of pregnancy and which did not, after being completely expelled from its mother, breathe or show any signs of life.

(2) For the purposes of this Act, a person shall be regarded as—

(a) born out of wedlock if his parents were not married to each other at the time of his conception or birth and have not subsequently married each other;

(b) born in wedlock if his parents were married to each other at the time of his conception or birth, or have subsequently married each other;

and, for the purpose of determining whether or not such a person’s parents were or have been married to each other, a putative or voidable marriage shall be regarded as a valid marriage.

PART II

REGISTRARS AND REGISTERS

3 Registrar-General and registrars

Subject to the laws relating to the Public Service, there shall be—

- (a) a Registrar-General of Births and Deaths whose office shall be the central registering office for all notices of births, still-births and deaths and for all such returns that are required in terms of this Act; and
- (b) a registrar for each district; and
- (c) deputy registrars and assistant registrars that are necessary.

4 Registrars to keep and maintain registers and to forward notices to Registrar General

- (1) District registrars keep and maintain registers for births, still-births and deaths which happened in their districts which they were properly notified of.
- (2) Registrars sign and forward all notices of births, still-births or deaths and medical certificates of the causes of death and any other related documents received by post.

5 Registrar-General to keep and maintain registers

The Registrar-General keeps and maintains registers of births, still-births and deaths properly notified of in terms of this Act.

6 Certified copies of entries

- (1) Once the Registrar General has received payment of the prescribed fee, he may issue a certified copy of any entry in any register in his custody.
- (2) The Registrar-General or a registrar may-
 - (a) Refuse to issue a certified copy in terms of subsection (1) where he believes that the certified copy is not for lawful purposes or
 - (b) Issue a limited number of copies of any entry referred to in subsection (1) to an applicant.
- (3) If any person is unhappy by the decision made in subsection (2), he may appeal –
 - (a) To the Registrar –General where decision was by a district registrar or
 - (b) In the case of a Registrar-General to the minister and the decision will be final.
- (4) Certified copies of any entry in any register may be given to a representative or official of the government of any other country in the course of official duties free of charge.
- (5) Any certified copy issued in terms of subsection (1) in respect of a child adopted in terms of this Act shall show the new name or names of the adopted child and not those which were previously registered.

7 Evidence of certified copy of entry in register

A certified copy of entry is acceptable proof in courts of the dates and facts given in the copy until it is proved to be false.

8 Correction of error in register

- (1) The Registrar-General may direct the correction of clerical or factual errors in terms of section twenty-six of the regulations.
- (2) Any person may ask for a correction to be made under subsection (1) upon payment of a fee.
- (3) Corrections will be made without deleting the original entry and shall be authenticated by the signature of the Registrar General or a registrar.
- (4) The fee payable in subsection (2) is non refundable unless the error was made by the Registrar –General, a registrar or a member of staff.

9 Members of Public Service may examine registers

Without going against this Act, members of the public service may examine any entry and get a copy of any entry where it is necessary for the discharge of their duties free of charge.

PART III

REGISTRATION OF BIRTHS, STILL-BIRTHS AND DEATHS

10 Compulsory registration of births, still-births and deaths

Subject to this Act, notification and registration of the birth, still-birth or death of any person which occurs in Zimbabwe after 20 June 1986 shall be compulsory.

11 Responsible for giving notice of the birth or still-birth of a child

(1) Subject to section *twelve*, it is the duty of the father or the mother of a child to notify the Registrar. However, if they are dead or unable to do it it shall be the duty of—

- (a) anyone who lives at the house in which the birth or still-birth occurred if they had knowledge of such birth or still-birth; or
- (b) the person in charge of any hospital or other institution in which the birth or still-birth occurred; or
- (c) the headman appointed in terms of section 8 of the Chiefs and Headmen Act [*Chapter 29:01*] for the community in which the birth or still-birth occurred if he had knowledge of it.
- (d) any person who has reached the age of eighteen years present at the birth or still-birth; or
- (e) in the case of a birth, any person who has attained the age of eighteen years having charge of the child; or
- (f) such other person as may be prescribed;

to give notice of the birth or still-birth in the prescribed form to the registrar of the district in which the birth or still-birth happened.

(2) Notice in terms of subsection (1) shall be given—

- (a) within forty-two days from the date of the birth in the case of a birth;
- (b) as soon as possible but within thirty days of the still-birth.

(3) If any one of the responsible persons listed in subsection (1) gives the notice the other people will be excused from giving the same notice.

(4) In the case of a still-birth, the medical practitioner or the midwife, who was in attendance at the still-birth or who examined the body of the child shall sign a certificate stating that the child was still-born.

(5) The certificate referred to in subsection (4) shall be given to a responsible person referred to in subsection (1) by the medical practitioner or midwife who signed it.

(6) A responsible person shall give notice of a still-birth by—

- (a) delivering to the registrar the certificate referred to in subsection (4); or
- (b) making a declaration in the prescribed form that no medical practitioner or midwife was present at the still-birth or examined the body and that the child was not born alive.

12 Registration of birth of a child born out of wedlock

(1) Without going against Section 11, no person shall be required to give information acknowledging himself to be the father of a child born out of wedlock.

(2) A registrar shall not enter in the register the name of any person as the father of a child born out of wedlock, except—

- (a) the mother and the person acknowledging himself to be the father of the child request it
- (b) if the mother of the child is dead or has abandoned the child, upon the request of the person acknowledging himself to be the father of the child; or
- (c) if the alleged father of the child is dead, upon the joint request of the child's mother and a parent or near relative of the alleged father.

(3) A request in terms of subsection (2) shall be made in the form and manner prescribed.

13 Registration of birth occurring outside Zimbabwe

(1) Where a mother or a father of a child born out of wedlock is a Zimbabwean citizen and the child is born outside of Zimbabwe the notice of birth may be given to the Registrar-General by any responsible person in the manner prescribed.

(2) Once necessary changes have been applied, Sections 11 and 12 shall apply when it comes to the child born out wedlock occurring outside of Zimbabwe.

(3) The Registrar may refuse to register a birth referred to in subsection (1) unless he is satisfied that the mother or father is a Zimbabwean citizen.

14 Registration of birth of adopted child born outside Zimbabwe

Where a child born outside Zimbabwe is adopted the Registrar-General shall, on the application of the adopter and on production of—

- (a) the order of adoption or certified copy; and

- (b) the birth or baptismal certificate of the child or a certified copy or, if no certificate is available, sufficient documentary evidence relating to the birth of the child.
- (c) the completed prescribed form by the adopter in connection with the registration of a birth ; and
- (d) proof that the adopter or, in the case of a joint adoption, the male adopter, was a citizen of Zimbabwe at the date of the order of adoption;

The birth of the child shall be recorded in the relevant registers and the register where the order of adoption was made. And the registrar shall record whether or not the child got the name of the person who adopted him or her in terms of paragraph (c). The birth certificate will then be filed in his office and recorded against the register of births in the district.

15 Notice of birth of abandoned child

Within two days of finding an abandoned child, a person over eighteen years must report the birth. The person must also provide all information as far as possible and to the best of his knowledge about the child.

16 Registration of birth where place or date thereof unknown

At his discretion the registrar general may issue a birth certificate even without sufficient information of the birth of the child

17 Notice of birth given by persons who are not responsible persons

The Registrar-General may allow for a notice of birth in terms of Sections 11 & 15 by a person other than a responsible person if satisfied by the evidence given.

18 Change of name in register

(1) In this section—

“responsible parent” means—

- (a) if the father of the child is dead or the mother has been given custody of the child through a law relating to the guardianship of children or the child is born out of wedlock, the mother of the child;
- (b) or in any other case, the father of the child.

(2) Where the birth of a person has been registered in any register of births and—

- (a) the first name which was registered is changed than through adoption; or
- (b) the registration was effected before the person concerned received a first name;

The person who wants to change their first name may apply to the Registrar-General for the registration of the new first name. Or in the case of a minor, their parents or legal guardian may apply for the minor. This is to be done in the appropriate register of births and a payment of the prescribed fee is to be made.

(3) The legal guardian or parents of a child (under 18) may apply for the registration of a surname where a person's surname is changed upon payment of a prescribed fee and the Registrar has to be satisfied that -

- (a) A notarial deed, as defined in the Deeds Registries Act [*Chapter 20:05*], setting out the change of surname has been registered in the Deeds Registry; and
- (b) The change of surname has been advertised in the *Gazette*;

He will then register the change of surname in the appropriate register for births but without deleting the original surname.

(4) Without taking away from subsection (3), the Registrar-General may register a change of surname in the appropriate register for births but without deleting the original surname even where a notary's deed has not been registered, if he is satisfied—

- (a) That the change of surname is for a lawful purpose; and
- (b) That the change of surname is not for purposes of fraud or misrepresentation; and
- (c) in the case of an application to change the surname of a person under the age of eighteen years, that the responsible parent or legal guardian of the person has the right to represent or assist him in changing his surname;

And if he considers it necessary and desirable to do so, the Registrar-General may give notice of such change in the *Gazette*.

(5) After the registration of a change of name under this Act every certified copy of the entry concerned shall leave out the original surname unless otherwise requested by the applicant.

(6) Without taking away from this section, no change of name of a person who has been adopted and whose name has been registered in the Adopted Children Register shall be made in terms of this section but any such change shall be effected in terms of section 71 of the Children's Protection and Adoption Act [*Chapter 5:06*].

19 Re-registration of births of persons born out of wedlock.

(1) The Registrar-general may allow for a person's birth certificate to be re-registered where they had been previously registered as a child born out of wedlock but evidence proving the opposite has been presented.

(2) An application for re-registration in terms of subsection (1) may be made by either of the parents of the person concerned, whether or not he has attained the age of eighteen years, or, if either or both of his parents are dead, by his nearest relative or legal guardian.

20 Responsibility for giving notice of death occurring in Zimbabwe

(1) Whenever a person dies it shall be the duty—

- (a) Of every relative who is over eighteen years present at the death or in attendance during the last illness of such person; or
- (b) if there are no relatives like those referred to in paragraph (a), of every relative who is at least eighteen years old living within the district in which such person died; or

(c) If there are no such relatives as are referred to in paragraphs (a) or (b), of—

- (I) every person over the age of eighteen years present at the death; or

- (ii) Every person who is over the age of eighteen who lived in the house, in which the death took place,
- (iii) the headman appointed in terms of section 8 of the Chiefs and Headmen Act [*Chapter 29:01*] for the community in which the death took place, where he had knowledge of the death; or
- (iv) Every person over the age of eighteen years who has buried or caused to be buried the body of the deceased person; or
- (v) Any other prescribed person;

To give notice of the death of the person in the required form to the registrar of the district in which the person died.

(3) The notice given in terms of subsection (1) shall be given as soon as possible and within 30 days of the death.

(4) Where a medical attendant was the last person to attend to the dead person, they should sign a certificate stating the causes of death.

(5) The certificate mentioned in subsection (4) shall be given to a responsible person mentioned in subsection (1) by the medical practitioner who signed it by personal delivery or registered post.

(6) A person mentioned in subsection (1) who receives the medical certificate of the cause of death given in terms of subsection (4) shall, as soon as is reasonably possible after receiving the certificate, deliver it or cause it to be delivered to the registrar of the district where the death occurred.

(7) Where the cause of death of a person whose death is required to be registered has been—

- (a) Stated in a medical certificate; or
- (b) Determined by a court's investigations or other like proceedings;

Or both, the registrar shall record in the register of deaths the cause of death so stated or determined, as the case may be.

(c) If there are no such relatives as are referred to in paragraphs (a) or (b), of—

- (i) Every person over the age of eighteen years present at the death; or
- (ii) Every person who is over the age of eighteen who lived in the house in which the death took place, or
- (iii) the headman appointed in terms of section 8 of the Chiefs and Headmen Act [*Chapter 29:01*] for the community in which the death took place, where he had knowledge of the death; or
- (iv) Every person over the age of eighteen years who has buried or caused to be buried the body of the deceased person; or
- (v) Any other prescribed person;

To give notice of the death of such person in the prescribed form to the registrar of the district in which such person died.

(2) The notice given in terms of subsection (1) shall be given as soon as possible within thirty days of the death.

(3) The giving of notice by any of the responsible persons referred to in subsection (1) shall be a discharge of the duty under that subsection of any other person referred to there to give notice of death.

(4) A medical practitioner or who examined the body of the deceased or last attended to the person during his illness shall sign a certificate stating the cause of death to his best knowledge and belief. The medical practitioner may not sign if he or she believes the death was not from natural causes.

(5) The certificate referred to in subsection (4) shall be given to a responsible person referred to in subsection (1) by the medical practitioner whose signature it has by personal delivery or registered post.

(6) As soon as the person mentioned in subsection (4) gets the death certificate, he or she should deliver it to the registrar of the district where the death happened.

(7) Where the cause of death of a person whose death is required to be registered has been—

(a) Stated in a medical certificate; or

(b) Determined by a court ordered investigation or other like proceedings;

Or both, the registrar shall record in the register of deaths the cause of death so stated or determined.

21 Registration of death occurring outside Zimbabwe of person on duty

(1) In the case of the death occurring outside Zimbabwe of a person who—

(a) Was—

(i) A member of the Defence Forces or the Police Force; or

(ii) Any person assisting the Defence Forces or the Police Force; or

(iii) Any other person or class of persons that may be prescribed;

And

(b) died while performing his duties outside Zimbabwe;

notice of such death may be given to the Registrar-General by any person or authority, in the form and in the manner prescribed.

(2) The Registrar-General shall keep and maintain a register in the prescribed form in which he shall register every death of which he has received notice in terms of subsection (1).

(3) Where the cause of death of a person, of whose death notice is given in terms of subsection (1), has been—

(a) Stated in a medical certificate; or

(b) Determined by a board of inquiry or other like proceedings;

Or both, the Registrar-General shall record in the register the cause of death so stated or determined, as the case may be.

(5) Sections *twenty-two* and *twenty-three* shall not apply in relation to a death of which notice is given in terms of this section.

22 Notice by person finding exposed body

(1) Any person who has attained the age of eighteen years, who—

- (a) Finds the body of a dead person; or
- (b) Takes charge of the body of a dead person that is found; or
- (c) Or buries or assists in burying the body of a person that is found;

Shall give notice of the death of such person in the prescribed form to the registrar of the district where the body was found, taken charge of or buried.

(2) The notice in terms of subsection (1) shall be given within seventy-two hours of the finding, taking charge of or burying of the body.

(3) The giving of notice by any person referred to in subsection (1) shall be a discharge of the duty under that subsection of any other person referred to in that subsection to give notice of the death.

23 Duty of registrar in case of death of person not attended by medical practitioner

(1) Where a person dies and no medical practitioner attended to that person in his last days of illness, a registrar may order an inquiry into the cause of death of that person. The registrar may ask anyone to appear before him within seven days to give information regarding the death.

(2) If, after making any inquiry referred to in subsection (1), the registrar is not satisfied that death was due to natural causes, he shall report the matter to a magistrate.

24 Powers of Registrar-General and registrars

(1) When the registrar receives any notice of birth, still- birth or death, he shall examine the notice and have any inaccuracy or error corrected. He may also ask the person responsible to appear before him and give information on the certificate to the best of his knowledge and ability.

(2) The register may call a person to give notice of a birth, still-birth or death to the best of his ability where the default responsible person does not register a birth, still-birth or death within the prescribed period by this Act. The call will be done in writing and the person must appear before the registrar within seven days.

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Provided that—

- (i) No such written direction shall be given in relation to a death with respect to which a court ordered investigation has been held;
- (ii) Such written direction shall stop having effect if the birth, still-birth or death is registered before the person to whom the written direction relates has complied with the written direction.

25 Registration of birth, still-birth or death after twelve months

(1) No birth, still-birth or death which occurs after the 20th June, 1986 shall be registered after the expiry of twelve months from the date of such birth, still-birth or death except with the written authority of the Registrar-General.

(2) If the Registrar-General refuses to give written authority for the registration of a birth, still-birth or death in terms of subsection (1) he shall, if requested by the person applying for such registration, refer the matter to the Minister whose decision shall be final:

Provided that, where a court in consideration of a case in terms of section *twenty-seven*, orders that the registration of the birth, still-birth or death of a person be effected, the Registrar-General shall register such birth, still-birth or death.

(3) The Registrar-General may delegate the functions conferred on him by this section to a registrar in respect of births, still-births and deaths occurring in the district of that registrar.

PART IV

GENERAL

26 Regulations

(1) The Minister may by regulation prescribe all matters which by this Act are required or permitted to be prescribed or which, in the opinion of the Minister, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Regulations made in terms of subsection (1) may provide for—

- (a) the place or places where the offices of the Registrar General shall be and the opening hours of that office.
- (b) The guidance of the registrar and any other person in the discharge of any duties or obligations imposed upon him by this Act;
- (c) The form and manner of giving any notice or return required by this Act and the particulars to be furnished;
- (d) The form and manner in which the registration of births, still-births and deaths shall be effected;
- (e) The form of all registers and other documents required for the purposes of this Act;
- (f) Notices, certificates or other documents to form part of any register kept in terms of this Act;
- (g) the places at which notice of births, still-births and deaths occurring on board ship while within the inland waters of Zimbabwe or on board an aircraft or train within Zimbabwe shall be given;
- (h) The fees payable for any certificate issued or act performed in terms of this Act;
- (i) The time within which anything required or authorized to be done in terms of this Act is to be done.

27 Offences and penalties

(1) A person shall be guilty of an offence and liable to a fine not exceeding level six or imprisonment for not more than a year where the person fails to give a notice of birth, still-birth or death of a person without reasonable cause.

(2) Any person who—

- (a) wilfully gives any false information for the purposes of the registration of a birth or still-birth of a child or the death of a person; or
- (b) when giving notice of the birth or still-birth of a child or the death of a person, refuses or neglects to state any of the particulars in the form prescribed; or
- (c) goes against any provision of this Act for which no other penalty is provided or contravenes any written direction given in terms of this Act;

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

(3) Any person who, without lawful excuse—

- (a) destroys or damages or renders illegible or causes to be destroyed or damaged or rendered illegible any register or certified copy of an entry or any part thereof; or
- (b) falsifies or counterfeits or causes to be falsified or counterfeited any register or certified copy of an entry therein or any part thereof; or
- (c) inserts or causes to be inserted in any register or certified copy of an entry therein or any part thereof any false entry; or
- (d) issues, gives or utters any false certificate or certifies any writing to be a copy of or extract from a register or any entry therein, knowing such copy or extract to be false in any material particular; or
- (e) makes a fake signature, seal, impression or stamp of the Registrar-General or any registrar; or
- (f) knowingly permits any act referred to in paragraph (a) to (e) to be committed in relation to any register of which he has to take care of or in relation to any certified copy of an entry in such register or any part;

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

(4) Without taking from its powers in any civil proceedings, a court may, at the conclusion of any criminal proceedings, order the Registrar-General to—

- (a) register any birth, still-birth or death of a person; or
- (b) delete, remove or correct any false information or entry; or
- (c) reproduce or replace any destroyed or damaged register or document.

28 Registration of birth or death which occurred before 20 June 1986

(1) Without taking away from any other provision of this Act, notification may be given of the birth, still-birth or death of any person which occurred in Zimbabwe before the 20th June,

1986, and which was not registered under any Act then in force relating to the registration of such births, still-births or deaths.

(2) Notification may be given in terms of subsection (1)—

(a) in the case of a birth, by a person concerned or by a responsible person if he has not attained the age of eighteen years; and

(b) by a responsible person in the case of a still birth

and the Registrar-General or the registrar of the district concerned shall, if satisfied that the birth, still-birth or death occurred in Zimbabwe, register such birth, still-birth or death in the appropriate register.

29 Savings

Any register kept, registration effected, certificate issued, notice or information given, regulations made or other thing done or deemed to have been done under the Births and Deaths Registration Act [*Chapter 30 of 1974*] which was valid immediately before the 20th June, 1986, shall on and after that date have effect and be given effect as if it had been kept, effected, issued, given, made or done, as the case may be, under the appropriate provision of this Act, and this Act shall apply to that accordingly.