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THE BIRTHS AND DEATHS REGISTRATION ACT

CHAPTER 149

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CHAPTER 149

BIRTHS AND DEATHS REGISTRATION ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation

ADMINISTRATION

3. Principal Registrar
4. *[Deleted by Act No. 7 of 1990, Sch.]*
5. Appointment of registration areas and registrars
6. Register books to be supplied to registrars

REGISTRATION

7. Register of births and deaths
8. Period for registration
9. Compulsory registration of births
10. Mode of registration of births
- 10A. Mode of registration of births occurring abroad
11. Duty to notify births where registration compulsory
12. Entry of father in register
13. Duty to notify finding of exposed new-born child
14. Change of name of child after registration
15. Compulsory registration of deaths
16. Mode of registration of deaths
- 16A. Mode of registration of deaths occurring abroad
17. Duty to notify deaths where registration compulsory
18. Certificates of cause of death
19. Registrars to issue burial permits
20. Inquiries as to cause of death
21. No burial without permit
22. Penalties

MISCELLANEOUS PROVISIONS

23. Registrars to forward annual returns to Principal Registrar
 24. Weekly statements to medical officer of health and Principal Registrar
 25. Preparation of indexes
 26. Inspection of registers and provision of copies and certificates
 27. Principal Registrar to compile annual summary and report
 28. Correction of errors in registers
 29. Rules
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CHAPTER 149

BIRTHS AND DEATHS REGISTRATION ACT

[Date of assent: 9th June, 1928.]

[Date of commencement: 9th June, 1928.]

An Act of Parliament to provide for the notification and registration of births and deaths and other matters incidental thereto

[Act No. 2 of 1928, Act No. 25 of 1950, Legal Notice 299 of 1956, Legal Notice 300 of 1956, Legal Notice 172 of 1960, Legal Notice 173 of 1960, Act No. 15 of 1961, Act No. 28 of 1961, Act No. 36 of 1962, Legal Notice 462 of 1963, Legal Notice 168 of 1964, Act No. 21 of 1966, Act No. 29 of 1967, Act No. 26 of 1968, Act No. 14 of 1971, Act No. 7 of 1990, Act No. 24 of 2019, Act No. 29 of 2022.]

1. Short title

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

2. Interpretation

In this Act, except where the context otherwise requires—

"birth" means the issuing forth of any child from its mother after the expiration of the twenty-eighth week of pregnancy, whether alive or dead;

"medical officer of health" means a medical officer of health appointed under the Public Health Act (Cap. 242), or any other Act, to carry out the duties of medical officer of health in any area;

"police officer" means a police officer in charge of a police station being of or above the rank of Inspector;

"prescribed particulars" means—

- (a) as to any birth, the name, sex, date and place of birth, and the names, residence, occupations and nationality of the parents;
- (b) as to any death, the name, age, sex, residence, occupation and nationality of the deceased, and the date, place and cause of death;
- (c) such other particulars as may be prescribed;

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

"registrar" means a registrar appointed to register births and deaths in any area or to register births and deaths occurring outside Kenya, and includes a deputy registrar;

"Registrar-General" *deleted by Act No. 7 of 1990, Sch.;*

"the rules" means rules made under section 29 of this Act;

"the statistician" *deleted by Act No. 15 of 1961.*

[Act No. 25 of 1950, s. 2, Act No. 15 of 1961, Sch., Act No. 28 of 1961, Sch., Act No. 36 of 1962, Sch., Act No. 26 of 1968, s. 2, Act No. 7 of 1990, Sch.]

ADMINISTRATION**3. Principal Registrar**

There shall be a Principal Registrar of Births and Deaths.

[Act No. 7 of 1990, Sch.]

4.

[Deleted by Act No. 7 of 1990, Sch.]

5. Appointment of registration areas and registrars

(1) The Cabinet Secretary may, by notice in the *Gazette*, appoint any area to be a registration area for the purposes of this Act.

(2) The Cabinet Secretary may appoint fit and proper persons to be the registrars and deputy registrars for each registration area and a fit and proper person to be the registrar of births and deaths occurring outside Kenya.

[L.N. 462/1963, Act No. 21 of 1966, 1st Sch., Act No. 26 of 1968, s. 3]

6. Register books to be supplied to registrars

(1) The Principal Registrar shall provide each registrar with such register books and forms as may be required, and with such instructions as he may consider necessary, for the registration of births and deaths in his registration area.

(2) Every registrar shall keep safely each of the said register books until it is filled, and shall then deliver it to the Principal Registrar to be kept by him with the records of his office.

[L.N. 462/1963, Act No. 21 of 1966, 1st Sch., Act No. 26 of 1968, s. 3, Act No. 7 of 1990, Sch.]

REGISTRATION**7. Register of births and deaths**

(1) It shall be the duty of every registrar to keep a register of births and a register of deaths and to enter therein, respectively, the prescribed particulars of every birth and death notified to him.

(2) The registrar appointed to register births and deaths occurring outside Kenya shall keep a register of births occurring outside Kenya and a register of deaths occurring outside Kenya.

(3) The Register shall be maintained in accordance with the principles of data protection set out in the Data Protection Act (Cap. 411C).

(4) The Register under subsection (1) shall include details of an intersex child and intersex person.

[Act No. 26 of 1968, s. 4, Act No. 24 of 2019, 2nd Sch., Act No. 29 of 2022, 6th Sch.]

8. Period for registration

A registrar shall not register a birth or death after the expiration of six months from the date of such birth or death, except upon receiving the written authority of the Principal Registrar issued in accordance with the rules, and upon payment of the prescribed fee.

[Act No. 15 of 1961, Sch., Act No. 26 of 1968, s. 4, Act No. 14 of 1971, Sch., Act No. 7 of 1990, Sch.]

9. Compulsory registration of births

(1) *Deleted by Act No. 7 of 1990, Sch.*

(2) The Cabinet Secretary may, by notice in the *Gazette*, declare that from a date to be named in the notice the registration of births of all persons in Kenya of any particular race, class, tribe or group, or of all or some of the inhabitants of any particular town, district or area, shall be compulsory.

[L.N. 299/1956, L.N. 172/1960, Act No. 7 of 1990, Sch.]

10. Mode of registration of births

Every person notifying the birth of a child shall, to the best of his knowledge and ability, give the prescribed particulars, which shall be entered forthwith by the registrar in the register, and the person notifying the birth shall certify to the correctness of the entry by signing or, if he is illiterate, by fixing his mark to the register.

10A. Mode of registration of births occurring abroad

(1) A person notifying the birth outside Kenya of a child who is a citizen of Kenya shall produce to the registrar the following evidence of the birth—

- (a) firstly, either—
 - (i) a certificate of birth issued by the appropriate authority in the country abroad, with an English translation of the certificate if it is not in English;
 - (ii) if certificates of birth are not issued in the country abroad, a certificate of the birth given by the doctor, midwife or other person who attended the birth; and
- (b) secondly, either—
 - (i) if there is a Kenya Mission in the country abroad, a certificate of a member of the Mission that he is satisfied, from evidence produced to him and inquiries which he has made, that the particulars of the birth given in the birth certificate are correct; or
 - (ii) if there is no Kenya Mission in the country, such other evidence as the registrar may require, and the person notifying the birth shall certify in writing to the registrar the correctness and authenticity of the evidence which he produces.

(2) Upon receiving the evidence required by subsection (1) of this section to be produced, the Registrar shall forthwith enter the prescribed particulars of the birth in the register of births occurring outside Kenya.

[Act No. 26 of 1968, s. 5.]

11. Duty to notify births where registration compulsory

Upon the birth of any child the registration of whose birth is compulsory, it shall be the duty of the father and mother of the child, and, in default of the father and mother, of the occupier of the house in which to his knowledge the child is born, and of every person present at the birth, and of the person having charge of the child, to give notice of the birth, within such time as may be from time to time prescribed, to the registrar of the registration area in which the birth occurs:

Provided that, in the case of births in prisons, hospitals, orphanages, barracks or quarantine stations, the duty to give such notice shall lie on the officer in charge of the establishment in which the birth took place.

12. Entry of father in register

No person shall be entered in the register as the father of any child except either at the joint request of the father and mother or upon the production to the registrar of such evidence as he may require that the father and mother were married according to law or, in accordance with some recognized custom.

[Act No. 7 of 1990, Sch.]

13. Duty to notify finding of exposed new-born child

Where any living new-born child is found exposed, it shall be the duty of any person finding such child, and of any person in whose charge such child may be placed, to give to the registrar of the registration area in which such child is found, within seven days of the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant may possess.

14. Change of name of child after registration

Where the birth of any child has been registered before it has received a name, or where the name by which it was registered is altered, the parent or guardian of such child may within two years of the registration, on payment of the prescribed fee, and on providing such evidence as the registrar may think necessary, register the name that has been given to the child.

15. Compulsory registration of deaths

(1) *Deleted by Act No. 7 of 1990, Sch.*

(2) The Cabinet Secretary may, by notice in the *Gazette*, declare that from a date to be named in the notice the registration of deaths of all persons in Kenya of any particular race, class, tribe or group, or of all or some of the inhabitants of any particular district or area, shall be compulsory.

[L.N. 299/1956, L.N. 172/1960, Act No. 36 of 1972, Sch., Act No. 7 of 1990, Sch.]

16. Mode of registration of deaths

Every person notifying a death shall, to the best of his knowledge and ability, give the prescribed particulars, which shall be entered forthwith by the registrar in the register, and the person notifying the death shall certify to the correctness of the entry by signing or, if he is illiterate, by fixing his mark to the register.

16A. Mode of registration of deaths occurring abroad

(1) A person notifying the death of a citizen of Kenya outside Kenya shall produce to the registrar the following evidence of the death—

- (a) firstly, either—
 - (i) a certificate of death issued by the appropriate authority in the country abroad, with an English translation of the certificate if it is not in English; or
 - (ii) if certificates of death are not issued in the country abroad, a certificate of the death given by the medical attendant or other person who attended the death; and
- (b) secondly, either—
 - (i) if there is a Kenya Mission in the country abroad, a certificate of a member of the Mission that he is satisfied, from evidence produced to him and inquiries which he has made, that the

particulars of the death given in the death certificate are correct;
or

- (ii) if there is no Kenya Mission in the country, such other evidence as the registrar may require, and the person notifying the death shall certify in writing to the registrar the correctness and authenticity of the evidence which he produces.

(2) Upon receiving the evidence required by subsection (1) of this section to be produced, the registrar shall forthwith enter the prescribed particulars of the death in the register of deaths occurring outside Kenya.

[Act No. 26 of 1968, s. 6.]

17. Duty to notify deaths where registration compulsory

Upon the death of any person the registration of whose death is compulsory, it shall be the duty of the nearest relatives of the deceased present at the death or in attendance during the last illness of the deceased, and, in default of such relatives, of every other relative of the deceased dwelling or being in the same registration area as the deceased, and, in default of such other relatives, of each person present at the death and of the occupier of the house in which to his knowledge the death took place, and, in default of the persons hereinbefore in this section mentioned, of each inmate of such house, or of any person finding or taking charge of the body of such person or causing the body of such person to be buried or otherwise disposed of, to give notice within such time as may be prescribed to the registrar of the registration area in which the death took place.

18. Certificates of cause of death

(1) In the case of the death occurring in Kenya of any person who has been attended during his last illness by a medical practitioner, that practitioner shall sign a certificate stating to the best of his knowledge and belief the cause of death.

(2) Every such certificate of cause of death shall be forwarded forthwith by the medical practitioner by whom it is signed to the registrar, and the medical practitioner, on signing a certificate as aforesaid, shall give in the prescribed form to some person required by this Act to give information concerning the death notice in writing of the signing of the certificate.

(3) Where an inquest is held on the body of any deceased person, a medical certificate of the cause of death need not be forwarded to the registrar, but the magistrate holding the inquest shall send to the registrar a copy of his finding, which shall be sufficient.

(4) Every medical practitioner who refuses or fails without reasonable excuse to comply with any of the provisions of this section shall be guilty of an offence and liable to a fine not exceeding two hundred shillings.

[Act No. 26 of 1968, s. 7.]

19. Registrars to issues burial permits

(1) A registrar shall, upon production to him at the time of registering a death occurring in Kenya, of—

- (a) a medical certificate in the prescribed form as to the cause of death; or
- (b) a notice in writing in the prescribed form signed by a medical practitioner stating that a medical certificate as aforesaid has been signed by him; or

- (c) a death report in the prescribed form upon which a magistrate or police officer has certified that the death is not one to which section 386 or section 387 of the Criminal Procedure Code (Cap. 75) applies, issue a written permit authorizing the interment or other disposal of the body of the deceased person.

(2) Where a person registering a death does not produce to the registrar any of the instruments mentioned in subsection (1) of this section, the registrar shall forthwith fill up, so far as the particulars thereby required are ascertainable by him, the form of death report referred to in paragraph (c) of that subsection and forward the same to the nearest magistrate or police officer, who shall, if after making the inquiries required by section 20(1) of this Act he is satisfied that the case is not one to which section 386 or section 387 of the Criminal Procedure Code (Cap. 75) applies, make in the prescribed form the report required by section 20(2) of this Act.

[Act No. 25 of 1950, s. 3, Act No. 26 of 1968, s. 7.]

20. Inquiries as to cause of death

(1) On the receipt of a notice from a registrar under section 19(2) of this Act, the Magistrate or police officer, or any person specially empowered by the Cabinet Secretary in that behalf, shall cause such inquiries to be made as to the cause of the death as he may think fit or as may be prescribed.

(2) If the case does not appear from such inquiries to be one to which section 386 or section 387 of the Criminal Procedure Code (Cap. 75) applies, the magistrate or police officer or other person as aforesaid shall report accordingly to the registrar, who shall issue a permit for the interment or other disposal of the body.

[Act No. 25 of 1950, s. 4, Act No. 28 of 1961, Sch.]

21. No burial without permit

No person shall bury, cremate or otherwise dispose of the body of any deceased person the registration of whose death is compulsory, without a permit issued in accordance with sections 19 and 20 of this Act.

22. Penalties

Any person who fails to give notice of a birth or death the registration of which is compulsory, or who refuses to furnish any of the prescribed particulars, or who contravenes section 21 of this Act, and any person who wilfully gives any false information or particulars for the purpose of registration, shall be guilty of an offence and be liable to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

MISCELLANEOUS PROVISIONS

23. Registrars to forward annual returns to Principal Registrar

It shall be the duty of every registrar, on or before such date as the Principal Registrar may appoint, to forward to the Principal Registrar a return in the prescribed form showing the births and deaths registered in his registration area during the preceding year.

[Act No. 15 of 1961, Sch., Act No. 7 of 1990, Sch.]

24. Weekly statements to medical officer of health and Principal Registrar

It shall be the duty of every registrar, at the close of each week, to forward to the medical officer of health in whose area his registration area is situate, and to the

Principal Registrar, a statement of the births and deaths registered by him during such week.

[Act No. 15 of 1961, Sch., Act No. 7 of 1990, Sch.]

25. Preparation of indexes

The Principal Registrar shall cause to be prepared from the returns made to him alphabetical indexes of the births and deaths registered.

[Act No. 15 of 1961, Sch., Act No. 7 of 1990, Sch.]

26. Inspection of registers and provision of copies and certificates

(1) Any register, return or index in the custody of the Principal Registrar shall, subject to the rules, be open to inspection on payment of the prescribed fee.

(2) The Principal Registrar shall, on payment of the prescribed fee, furnish a certified copy of any entry in any register or in any return in his custody.

(3) The Principal Registrar shall, on payment of the prescribed fee, furnish a certificate in the prescribed form of the birth of any person compiled in the prescribed manner from the records and registers in his custody.

(4) A certified copy of any entry in any register or return purporting to be sealed or stamped with the seal of the Principal Registrar shall be received as evidence of the dates and facts therein contained without any or other proof of such entry.

[Act No. 15 of 1961, Sch., Act No. 7 of 1990, Sch.]

27. Principal Registrar to compile annual summary and report

It shall be the duty of the Principal Registrar to compile, after the close of each year, a summary of the births and deaths of such year, and a report on the increase or decrease of the population of Kenya and on any special causes appearing to affect the same.

[Act No. 7 of 1990, Sch.]

28. Correction of errors in registers

(1) The Principal Registrar may, subject to the rules, and on payment of the prescribed fee (which he may in his discretion in any particular case remit), correct any error or omission in any register or index.

(2) Corrections shall be made without erasing the original entry, and shall be authenticated by the signature of the Principal Registrar.

[Act No. 15 of 1961, Sch., Act No. 26 of 1968, s. 8, Act No. 7 of 1990, Sch.]

29. Rules

The Cabinet Secretary may make rules with regard to all or any of the following matters—

- (a) the time within which births and deaths may be notified and registered;
- (b) the place in each registration area and the hours at which births and deaths may be notified and registered;
- (c) the conditions under which and the mode in which registration may be effected without personal attendance;
- (ca) the registration of births and deaths of citizens of Kenya occurring outside Kenya;

Births and Deaths Registration

- (d) the forms of all registers, returns and other documents that shall include details of an intersex child or an intersex person as required for the purposes of this Act;
- (e) the inspection of registers, returns and indexes and the provision of certified copies;
- (f) the places at which births and deaths occurring on ships within territorial waters shall be registered;
- (g) the exemption from all or any of the provisions of this Act of persons of any particular class or race within an area in which the registration of births or deaths has been declared to be compulsory;
- (h) the exemption from all or any of the provisions of this Act of any district or municipality within an area in which the registration of births and deaths has been declared to be compulsory;
- (i) any matter which is by this Act required to be prescribed;
- (j) generally, for carrying into effect the provisions of this Act.

[L.N. 300/1956, L.N. 173/1960, Act No. 26 of 1968, s. 9, Act No. 29 of 2022, 6th Sch.]
