

(1 March 2014 – to date)

[This is the **current** version and applies as from **1 March 2014**, i.e. the date of commencement of the Births and Deaths Registration Amendment Act 18 of 2010 – **to date**]

BIRTHS AND DEATHS REGISTRATION ACT 51 OF 1992

(Gazette No. 13953, dated 6 May 1992. Commencement date: 1 October 1992 [Proclamation No. R.79, Gazette No. 14182, dated 9 September 1992])

As amended by

(General Law Third Amendment Act 129 of 1993 – Gazette No.14995, dated 23 July 1993. Commencement date: 1 September 1993, [Proclamation No.R.81, Gazette No.15102, dated 1 September 1993]).

(Home Affairs Rationalisation Act 41 of 1995 – Gazette No.16655, dated 5 September 1995.

Commencement date: 5 September 1995)

*(**Note:** Section 2 of Act 41 of 1995 says that this Act, namely Act 51 of 1992, applies uniformly throughout the Republic)*

(Births and Deaths Registration Amendment Act 40 of 1996 – Gazette No.17412, dated 5 September 1996.

Commencement date: 5 September 1996)

(Births and Deaths Registration Amendment Act 67 of 1997 – Gazette No.18484, dated 3 December 1997.

Commencement date: 3 December 1997)

(Natural Fathers of Children Born out of Wedlock 86 of 1997 – Gazette No.18502, dated 12 December 1997.

Commencement date: 4 September 1998 [Proclamation No.R.89, Gazette No.19228, dated 4 September 1998])

(Births and Deaths Registration Amendment Act 43 of 1998 – Gazette No.19215, dated 4 September 1998.

Commencement date: 4 September 1998)

(Adoption Matters Amendment Act 56 of 1998 – Gazette No.19286, dated 28 September 1998.

Commencement date: 4 February 1999 [Proclamation No.R.7, Gazette No.19703, dated 29 January 1999])

(Births and Deaths Registration Amendment Act 1 of 2002 – Gazette No.23243, dated 19 March 2002.

Commencement date: 19 March 2002)

(Alteration of Sex Description and Sex Status Act 49 of 2003 – Gazette No.26148, dated 15 March 2004.

Commencement date: 15 March 2004)

Prepared by:

In partnership with:

(Births and Deaths Registration Amendment Act 18 of 2010 – Government Notice 1174 in Government Gazette 33851 dated 7 December 2010. Commencement date: 1 March 2014 [Proc. No. R11, Gazette No. 37373].

ACT

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

(Afrikaans text signed by the State President)

(Assented to 26 April 1992)

(The principal Act is hereby amended by section 20 of Act 18 of 2010 by the substitution for the words "he", "him" and "his", wherever they occur, of the words "he or she", "him or her" and "his or her", respectively.)

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 -

"biometrics" means photographs, fingerprints (including palmprints), hand measurements, signature verification or retinal patterns that may be used to verify the identity of individuals;

'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;

'child born out of wedlock' does not include a child whose parents were married to each other at the time of his or her conception or at any time thereafter before the completion of his or her birth;

'Children's Act' means the Children's Act, 2005 (Act No. 38 of 2005);

'competent court' means a magistrate's court, and a children's court established in terms of the Children's Act;

'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;

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

'major' means any person who is 18 years or older, and **"person of age"** has a similar meaning;

'marriage' means-

- (a) a marriage concluded in terms of-
 - (i) the Marriage Act, 1961 (Act No. 25 of 1961); or
 - (ii) the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998);
- (b) a civil union concluded in terms of the Civil Union Act, 2006 (Act No. 17 of 2006); or
- (c) a marriage concluded in terms of the laws of a foreign country;

'Minister' means the Minister of Home Affairs;

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

'population register' means the population register contemplated in section 5 of the Identification Act, 1997 (Act No.68 of 1997);

'prescribed' means prescribed by regulation;

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

'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.

(Section 1(1) amended by section 3 of Act 41 of 1995)

(Section 1(1) amended by section 1 of Act 40 of 1996)

(Section 1(1) amended by section 1 of Act 1 of 2002)

(Section 1(1) substituted by section 1(a) of Act 18 of 2010)

(2) ...

(Section 1(2) inserted by section 1(b) of Act 40 of 1996)

(Section 1(2) deleted by section 1(b) of Act 18 of 2010)

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 or she may deem necessary, in writing authorize any person, whether or not he or she 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 or her opinion accurately and durably reproduces such document or record, and he or she 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 in the course of the administration of this Act 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 or included in the population register are not correctly reflected, the Director-General may supplement and rectify such particulars in consultation with the person in question.

(Section 7(2) substituted by section 2(a) of Act 18 of 2010)

- (3) Any person who is in possession of a certificate or other document purported to be issued in terms of this Act, which does not correctly reflect the particulars in any document referred to in subsection (2) or in the population register, shall within the prescribed period hand over or send by registered post such certificate or document to the Director-General for rectification.

(Section 7(3) substituted by section 2(b) of Act 18 of 2010)

- (4) Any person may apply, in the prescribed manner, to the Director-General to request the amendment or rectification of his or her particulars furnished in terms of this Act.

(Section 7(4) added by section 2(c) of Act 18 of 2010)

(Section 7 amended by section 1 of Act 67 of 1997)

8. Fees payable

The Director-General may with the concurrence of the Minister of Finance 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*.

(Section 8 substituted by section 3 of Act 18 of 2010)

CHAPTER II REGISTRATION OF BIRTHS

9. Notice of birth

- (1) In the case of any child born alive, any one of his or her parents, or if the parents are deceased, any of the prescribed persons, shall, within 30 days after the birth of such child, give notice thereof in the prescribed manner, and in compliance with the prescribed requirements, to any person contemplated in section 4.

(Section 9(1) substituted by section 4 of Act 41 of 1995)

(Section 9(1) substituted by section 4(a) of Act 18 of 2010)

- (1A) The Director-General may require that biometrics of the person whose notice of birth is given, and that of his or her parents, be taken in the prescribed manner.

(Section 9(1A) inserted by section 4(b) of Act 18 of 2010)

- (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 either the father or the mother of the child concerned or the surnames of both the father and mother joined together as a double barrelled surname.

(Section 9(2) substituted by section 2 of Act 1 of 2002)

- (3) ...

(Section 9 substituted by section 4 of Act 41 of 1995)

(Section 9(3) deleted by section 4(c) of Act 18 of 2010)

- (3A) Where the notice of a birth is given after the expiration of 30 days from the date of birth, the birth shall not be registered, unless the notice of the birth complies with the prescribed requirements for a late registration of birth.

(Section 9(3A) inserted by section 1 of Act 43 of 1998)

(Section 9(3A) substituted by section 4(d) of Act 18 of 2010)

- (4) No registration of birth shall be done of a person who dies before notice of his or her 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 or her.
- (7) The Director-General may on application in the prescribed manner issue a prescribed birth certificate from the population register.

(Section 9(7) added by section 4(e) of Act 18 of 2010)

- (8) An original birth certificate issued in terms of subsection (7) shall in all courts of law be on the face of it evidence of the particulars set forth therein.

(Section 9(8) added by section 4(e) of Act 18 of 2010)

10. Notice of birth of child born out of wedlock

- (1) Notice of birth of a child born out of wedlock 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.

(Section 10 amended by section 2 of Act 40 of 1996)

11. Amendment of birth registration of child born out of wedlock

- (1) Any parent of a child born out of wedlock whose parents married each other after the registration of his or her birth, may, if such child is a minor, or such child himself or herself may, if he or she is of age,

apply in the prescribed manner to the Director-General to amend the registration of his or her birth as if his or her parents were married to each other at the time of his or her 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 or her parents and that they legally married each other, amend the registration of birth in the prescribed manner as if such child's parents were legally married to each other at the time of his or her birth.

(Section 11(1) substituted by section 5(a) of Act 18 of 2010)

(2) If the parents of a child born out of wedlock marry each other before notice of his or her 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 or her birth.

(3) ...

(Section 11(3) deleted by section 5(b) of Act 18 of 2010)

(4) A person who wishes to acknowledge himself to be the father of a child born out of wedlock, may, in the prescribed manner, with the consent of the mother of the child, apply to the Director-General, who shall amend the registration of the birth of such child by recording such acknowledgement and by entering the prescribed particulars of such person in the registration of the birth of such child.

(4A) An amendment of the particulars of a person who has acknowledged himself as a father of a child as contemplated in subsection (4) and section 10(1)(b) of the Act shall be supported by the prescribed conclusive proof of that person being the father of the child.

(Section 11(4A) inserted by section 5(c) of Act 18 of 2010)

(5) Where the mother of a child has not given her consent to the amendment of the registration of the birth of her child in terms of subsection (4), the father of such a child shall apply to the High Court of competent jurisdiction for a declaratory order which confirms his or her paternity of the child and dispenses with the requirement of consent of the mother contemplated in subsection (4).

(6) When the court considers the application contemplated in subsection (5) the provisions of section 26(b) of the Children's Act shall apply.

(Section 11(6) substituted by section 5(d) of Act 18 of 2010)

(Section 11 amended by section 3 of Act 40 of 1996)

(Section 11(4),(5) and (6) added by section 8 of Act 56 of 1998)

12. Notice of birth of abandoned or orphaned child

(1) 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 Children's Act, by the social worker 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, in the prescribed manner, amplify and correct the said particulars.

- (2) The notice of birth of an orphaned child which does not list any of the persons contemplated in terms of section 9(1), shall be given by a social worker, after conclusion of an enquiry in respect of such child concerned in terms of the Children's Act.

(Section 12 substituted by section 6 of Act 18 of 2010)

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)
 - (a) 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.
 - (b) Where notice of a person's death cannot be given by means of a certificate mentioned in section 15(1) or (2) because a medical practitioner did not attend him or her before his or her death, or was not available to examine the corpse, any person who was present at the death, or who became aware thereof, must give notice of the death in the prescribed manner, and the person contemplated in section 4 must deal with such notice in accordance with the prescribed procedure.
- (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 or she 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 or she shall not issue a burial order and he or she 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 or she shall inform a police officer as to such doubt, and before the police officer acts in terms of the provisions of section 16, he or she shall, if the corpse has not yet been buried, withdraw and cancel the burial order.

(Section 14(1)(b) inserted by section 2 of Act 43 of 1998)

15. Certificate by medical practitioner

- (1) Where a medical practitioner is satisfied that the death of any person who was attended before his or her death by the medical practitioner was due to natural causes, he or she shall issue a prescribed certificate stating the cause of death.
- (2) A medical practitioner who did not attend any person before his or her 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 or she shall not issue a certificate mentioned in subsection (1) or (2) and shall inform a police officer as to his or her 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 or she 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 or she 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

Prepared by:

In partnership with:

- (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 or she 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 or she shall not issue a burial order and he or she 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 or she shall inform a police officer as to such doubt, and before the police officer acts in terms of the provisions of section 16, he or she 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 or her 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 or she 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 Immigration Act, 2002 (Act No. 13 of 2002).

(Section 19(4) substituted by section 7 of Act 18 of 2010)

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 or she 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 or she 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.

22A. Designation of funeral undertakers

- (1) in order to be designated as a funeral undertaker for the purposes of engaging in the activities relating to the registration of deaths in terms of this Act, any person who conducts a business of a funeral parlour may apply, in the prescribed manner and in compliance with the prescribed requirements, to the Director-General, who may approve an application and allocate a designation number to any such person so designated.
- (2) The Director-General shall maintain a register of persons whose applications he or she approved and designated as funeral undertakers in terms of subsection (1).
- (3) The Director-General may remove any person from the said register for failure to comply with prescribed requirements, after having afforded such a person an opportunity to be heard.
- (4) Any administrative action taken in terms of this section is subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000).
- (5) No funeral undertaker other than the persons contemplated in subsection (2) shall engage in the activities relating to the registration of deaths in terms of this Act.

(Section 22A inserted by section 8 of Act 18 of 2010)

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 or her of any forename or surname, any parent of a minor, or a person of age, may apply to the Director-General for the amplification of the registration of his or her birth by the entry of his or her forename or surname, 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.

(Section 23 substituted by section 9 of Act 18 of 2010)

24. Alteration of forename

- (1) Any parent of a minor, or a person of age, may apply in the prescribed manner to the Director-General for the alteration of his or her forename under which his or her birth is registered, and the Director-General may alter such forename accordingly in the prescribed manner.

(Section 24(1) substituted by section 10(a) of Act 18 of 2010)

- (2) ...

(Section 24(2) deleted by section 10(b) of Act 18 of 2010)

25. Alteration of surname of minor

- (1) When –
- (a) the birth of any minor born out of wedlock 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 or her parents' marriage has been dissolved and his or her mother remarries or his or her mother as a widow or divorcee resumes a surname which she bore at any prior time and the father, where the marriage has been dissolved, consents thereto in writing, unless a competent court grants exemption from such consent;
 - (c) the birth of any minor born out of wedlock has been registered under the surname of his or her natural father and the natural father consents thereto in writing, unless a competent court grants exemption from such consent; or
 - (d) a minor is in the care of a guardian,

his or her mother or his or her guardian, as the case may be, may apply to the Director-General for the alteration of his or her surname to the surname of his or her mother, or the surname which his or her mother has resumed, or the surname of his or her 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.

- (1A) Notwithstanding subsection (1)(b) and (c), the natural father's written consent is not required where the mother has sole guardianship of the child concerned.
- (2) Any parent 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 in the prescribed manner to the Director-General for the alteration of the surname of the minor under which his or her 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.

(Section 25(2) substituted by section 11 of Act 18 of 2010)

- (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.

(Section 25 amended by section 2 of Act 67 of 1997)

(Section 25 amended by section 11 of Act 86 of 1997)

(Section 25(1A) inserted by section 3 of Act 1 of 2002)

26. Assumption of another surname

- (1) Subject to the provisions of this Act or any other law, no person shall assume or describe himself or herself by or pass under any surname other than that under which he or she has been included in the population register, unless the Director-General has authorized him or her to assume that other surname: Provided that this subsection shall not apply when -
- (a) a woman after her marriage, assumes the surname of the man with whom she concluded such marriage or after having assumed his or her 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.
- (c) a woman, whether married or divorced, or a widow adds to the surname which she assumed after the marriage, any surname which she bore at any prior time.

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

(Section 26(2) substituted by section 12 of Act 18 of 2010)

(Section 26 amended by section 3 of Act 67 of 1997)

(Section 26(1)(c) amended by section 4 of Act 1 of 2002)

27. Publishing of alterations and amplifications of forenames and surnames

- (1) In the case of an alteration or amplification of forename or surname 55 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*.
- (2) Subsection (1) shall not apply where the alteration was authorized in the prescribed manner under a witness protection plan.

(Section 27(2) inserted by section 3 of Act 43 of 1998)

27A. Alteration of sex description

- (1) If the Director-General grants an application, made in the prescribed manner, or a magistrate issues an order in terms of section 2 of the Alteration of Sex Description and Sex Status Act, 2003 (Act No. 49 of 2003), the Director-General shall alter the sex description on the birth register of the person concerned.

(Section 27A(1) substituted by section 13 of Act 18 of 2010)

- (2) An alteration so recorded shall be dated and after the recording of the said alteration the person concerned shall be entitled to be issued with an amended birth certificate.

(Section 27A inserted by section 4 of Act 49 of 2003)

27B. Recording of adoption in birth register

- (1) The recording of adoption in a birth register contemplated in section 245(1) of the Children's Act shall be made upon application, in the prescribed manner, accompanied by the supporting documents mentioned in section 245(2) of the Children's Act, and any other prescribed requirements in terms of this Act.

- (2) The Director-General shall, subject to the provisions of this Act, record in the prescribed manner the adoption and any change of surname of the adopted child in the birth register in accordance with the adoption order.

(Section 27B inserted by section 14 of Act 18 of 2010)

28. Issuing of certificates

- (1) The Director-General may, upon application in the prescribed manner and in compliance with the prescribed requirements, issue a certificate from the population register in the prescribed form.

(Section 28(1) substituted by section 15 of Act 18 of 2010)

- (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 or she acquired by virtue of his or her 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, in the prescribed manner, with a full exposition of the purposes for which the information is required and who has paid the prescribed fees, if any: Provided that the Director-General is satisfied that the furnishing of that information-
- (i) will not amount to an unreasonable disclosure of that person's personal information as contemplated in section 1 of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000);
- (ii) is for the protection of the rights, and in the interest, of the person whose particulars are being requested; or
- (iii) is in the public interest.

(Section 29(2)(b) substituted by section 16 of Act 18 of 2010)

30. ...

(Section 30 repealed by section 17 of Act 18 of 2010)

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;
- (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; or
- (g) without reasonable cause fails to hand over or send any certificate or document as contemplated in section 7(3),

shall be guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding 15 years or to both such fine and such imprisonment.

(Words following section 31(1)(g) substituted by section 18 of Act 18 of 2010)

- (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.

(Section 31 amended by section 4 of Act 67 of 1997)

32. Regulations

The Minister may make regulations relating to-

- (a) the forms which may be used for the purposes of making applications for processes of the Act;
- (b) the requirements and conditions for making applications in terms of this Act;
- (c) the certificates which may be issued under this Act and the requirements for the issuing of certificates;
- (d) any matter that may be prescribed under this Act; and
- (e) any ancillary or incidental administrative or procedural matter that it is necessary to prescribe for the proper implementation and administration of this Act.

(Section 32 substituted by section 19 of Act 18 of 2010)

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 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 or her birth register.

(Section 33(3) inserted 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

Acts repealed or amended

(Section 33)

No. and year of Act	Title	Extent of repeal or amendment
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Prepared by:

In partnership with:

1 of 1937	Aliens Act, 1937	So much as is unrepealed
25 of 1961	Marriage Act, 1961	Insertion after section 29 of the following section: "Registration of marriages <u>29A. (1) 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> <u>(2) The marriage officer shall forthwith transmit the marriage register and 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>
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".