

Annex I - South Africa's International Obligations

South Africa has not acceded to the 1954 Convention Relating to the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. However, it has various international obligations to protect the right to a nationality and the rights of stateless persons on the basis of other UN treaties to which it is a party. These include, among others, the CRC, the ICCPR¹, the CEDAW², the CRPD³ and the CERD⁴.

Annex II - The previous periodic country report of South Africa to the CRC Committee and previous recommendations made to the State by the CRC Committee and the CESCR Committee.

Previous periodic country report of South Africa to the CRC Committee

1. In South Africa's previous periodic country report to the CRC (reporting period: January 1998 – April 2013) submitted in 2014, it states that the government has “*taken measures to protect and promote children's rights to birth registration, a name and nationality and the preservation of identity*”.⁵
2. It specifically notes that the rate of early birth registration has increased significantly since 2003 as a result of improved strategy and legislative amendments to *inter alia*:
 - a) provide mechanisms for birth registration of orphaned, abandoned and adopted children;
 - b) provide birth certificates for children born in South Africa to refugees or asylum-seeker parents; and
 - c) allow a child who has undergone gender reassignment to preserve his or her or their identity by applying to have the birth register amended.⁶
3. The report further notes that the government has adopted special protection measures for migrant, asylum-seeking and refugee children in South Africa.⁷

Previous recommendations made to the State by the CRC Committee.

4. In its Concluding Observations to that report, the Committee noted with concern the barriers in obtaining birth registration, including late fees; the strict conditions set by the Citizenship Act (Act

¹ Article 24(3)

² Article 9

³ Article 18

⁴ Article 5(d)(iii)

⁵ CRC/C/ZAF/2, 17 March 2015 para 123, available at: <https://undocs.org/CRC/C/ZAF/2>

⁶ Id. para 125-126

⁷ Id. para 322

No. 88 of 1995) regarding granting nationality to certain groups of children and allowing the deprivation of nationality from children due to their parents' loss of nationality; the number of children in care centres who are undocumented and/or whose births are not registered; and that the possession of a birth certificate is a prerequisite to access social and child protection services.”⁸ In this regard, the Committee recommended the State Party to:

“(a) Review and amend all legislation and regulations relevant to birth registration and nationality to ensure their full conformity with the Convention, including through the removal of requirements that may have punitive or discriminatory impacts on certain groups of children;
(b) Put in place regulations to grant nationality to all children under the jurisdiction of the State party who are stateless or are at risk of being stateless;
(c) Carry out regular monitoring and ensure that measures adopted in such legislation, regulations and guidelines guarantee the birth registration of all children in the State party, including non-nationals;
(d) Systematically identify all undocumented children currently residing in child and youth care centres in all parts of the State party and ensure their access to a birth certificate and a nationality;
(e) Ensure that a lack of birth registration does not hinder access to child protection services and basic social services, while enhancing its efforts for universal birth registration;
(f) Consider ratifying the Convention relating to the Status of Stateless Persons, of 1954, and the Convention on the Reduction of Statelessness, of 1961;
(g) Seek technical assistance from the Office of the United Nations High Commissioner for Refugees (UNHCR) and UNICEF, among others, for the implementation of these recommendations.”⁹

5. The Committee further noted that with respect to the special protection measures for migrant, asylum-seeking and refugee children in South Africa, there is still inadequate information and data on the situation of unaccompanied and separated children who have migrated to South Africa.¹⁰

Previous recommendations made to the State by the CESCR Committee.

6. In 2018, the CESCR Committee welcomed the ability to register children in hospitals where they are born and that late registration fees ceased to apply but noted its concern that 10 per cent of children

⁸CRC/C/ZAF/CO/2, 27 October 2016, para 31, available at: <https://undocs.org/en/CRC/C/ZAF/CO/2>

⁹ Id. para 32

¹⁰ Id. para 61

remain unregistered and that those with one or more foreign parents and those of single fathers face obstacles due to requirements such as paternity testing. The CESCR Committee urged the State party to streamline the registration procedure and help parents by reimbursing paternity tests. It also urged the State to apply section 4(3) of the Citizenship Amendment Act (2010)¹¹ on citizenship by naturalization to all children of foreign nationals, including those born before the Act came into force, in 2013 as it will otherwise expose those born before that date to the risk of statelessness.¹²

7. Despite these recommendations, as it is set out in this submission, there still remain vital gaps in the law and its implementation, which leave children stateless or at risk of statelessness in South Africa, in violation of their right to acquire a nationality.

Annex III – Excerpts of relevant South African legislation

The Constitution of South Africa, Act 108 of 1996

Section 20 “No citizen may be deprived of citizenship”

Section 28(1)(a) “every child has a right to a name and a nationality from birth”.

Section 28(2) “A child’s best interests are of paramount importance in every matter concerning the child.”

South African Citizenship Act 88 of 1995

Section 2: (1) Any person –

- (a) who immediately prior to the date of commencement of the South African Citizenship Amendment Act, 2010, was a South African citizen by birth; or
- (b) who is born in or outside the Republic, one of his or her parents, at the time of his or her birth, being a South African citizen,

shall be a South African citizen by birth.

(2) Any person born in the Republic and who is not a South African citizen by virtue of the provisions of subsection (1) shall be a South African citizen by birth, if –

- (a) he or she does not have the citizenship or nationality of any other country, or has no right to such citizenship or nationality; and
- (b) his or her birth is registered in the Republic in accordance with the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992). [Hereinafter: BRDA]

¹¹ No. 17 of 2010: South African Citizenship Amendment Act, 2010. Available at: https://www.gov.za/sites/default/files/gcis_document/201409/a1720100.pdf

¹² E/C.12/ZAF/CO/1, 29 November 2018, para 50-51, Available at: <https://undocs.org/E/C.12/ZAF/CO/1>

(3) Any person born in the Republic of parents who have been admitted into the Republic for permanent residence and who is not a South African citizen, qualifies to be a South African citizen by birth, if –

- (a) he or she has lived in the Republic from the date of his or her birth to the date of becoming a major; and
- (b) his or her birth is registered in the Republic in accordance with the BDRA.”

Section 3: Any person who is adopted in terms of the provisions of the Children’s Act by a South African citizen and whose birth is registered in accordance with the provisions of the BDRA, shall be a South African citizen by descent.”

Section 4(3): Any child born in the Republic of parents who are not South African citizens or who have not been admitted into the Republic for permanent residence, qualifies to apply for South African citizenship upon becoming a major if –

- (a) he or she has lived in the Republic from the date of his or her birth to the date of becoming a major; and
- (b) his or her birth has been registered in accordance with the provisions of the BDRA.

Section 6: (1) Subject to the provisions of subsection (2), a South African citizen shall cease to be a South African citizen if –

- (a) he or she, whilst not an being a minor, by some voluntary and formal act other than marriage, acquires the citizenship or nationality of a country other than the Republic; or
- (b) he or she in terms of the laws of any other country also has the citizenship or nationality of that country, and serves in the armed forces of such country while that country is at war with the Republic.

(2) Any person referred to in subsection (1) may, prior to his or her loss of South African citizenship in terms of this section, apply to the Minister to retain his or her South African citizenship in terms of this section, apply to the Minister to retain his or her South African citizenship, and the Minister may, if he or she deems it fit, order such retention.

(3) Any person who obtained South African citizenship by naturalisation in terms of this Act shall cease to be a South African citizen if he or she engages, under the flag of another country, in a war that the Republic does not support.”

Section 7: (1) A South African citizen who intends to accept the citizenship or nationality of another country, or who also has the citizenship or nationality of a country other than the Republic, may make a declaration in the prescribed form renouncing his or her South African Citizenship.

(2) The Minister shall upon receipt of a declaration made under this section cause such declaration to be registered in the manner prescribed, and thereupon the person who made the declaration shall cease to be a South African citizen.

(3) Whenever a person ceases under subsection (2) to be a South African citizen, his or her minor children who are under the age of 18 years shall also cease to be South African citizens if the other parent of such children is not, or does not remain, a South African citizen. “

Section 8: (1) The Minister may by order deprive any South African citizen by naturalisation of his or her South African citizenship if he or she is satisfied that –

- (a) the certificate of naturalisation was obtained by means of fraud, false representation or the concealment of a material fact; or
- (b) such certificate was granted in conflict with the provisions of this Act or any prior law.

(2) The Minister may by order deprive a South African citizen who also has the citizenship or nationality of any other country of his or her South African citizenship if –

- (a) such citizen has at any time been sentenced in any country to a period of imprisonment of not less than 12 months for any offence which, if it was committed outside the Republic, would also have constituted an offence in the Republic; or
- (b) the Minister is satisfied that it is in the public interest that such citizen shall cease to be a South African citizen.

(3) Whenever the Minister deprives a person of his or her South African citizenship under this section or section 10, that person shall cease to be a South African citizen with effect from such date as the Minister may direct and thereupon the certificate of naturalisation or any other certificate issued under this Act in relation to the status of the person concerned, shall be surrendered to the Minister and cancelled, and any person who refuses or fails on demand to surrender any such certificate which he or she has in his or her possession, shall be guilty of an offence and liable to a fine or imprisonment for a period not exceeding five years, or to both such fine and imprisonment.”

Section 10: Whenever the responsible parent of a minor has in terms of the provisions of section 6 or 8 cease to be a South African citizen, the Minister may, with due regard to the provisions of the Children’s Act, order that such minor, if he or she was born outside the Republic and is under the age of 18 years, shall cease to be a South African citizen.”

Regulations to the South African Citizenship Act, 1995

Regulation 2: (1) If a child of a South African citizen is born outside the Republic, an application for the registration of the birth of that child must be submitted to the office of a South African Diplomatic or Consular Mission or to any office of the Department in the Republic within 30 days after the birth of such child.

(2) When a birth is registered in terms of section 13 of the BDRA, the Director-General must issue a birth certificate to acknowledge South African citizenship.”

Birth and Deaths Registration Act 51 of 1992 (BDRA)

Section 9: (1) In the case of any child born alive, anyone of his parents 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.

(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 10: (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 12: (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 13: 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.”

Section 27B: (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 change of surname of the adopted child in the birth register in accordance with the adoption order.

Regulations on registration of birth

3. Notice of birth for children born of South African citizens

(1) Any South African citizen must give notice of the birth of his or her child within 30 days of the birth as contemplated in subregulation (3).

(2) Where both parents of a child whose birth is sought to be registered in terms of subregulation (1) are deceased, the notice of birth must be made by the next-of-kin or legal guardian of the child.

(3) A notice of birth referred to in subregulation (1) must be given by, where possible, both parents to the Director-General on Form DHA-24 illustrated in Annexure 1A and be accompanied by -

(a) proof of birth on Form DHA-24/PB illustrated in Annexure 1D attested to by a medical practitioner who (i) attended to the birth; or (ii) examined the mother or the child after the birth of the child;

(b) an affidavit attested to by a South African citizen who witnessed the birth of the child where the birth occurred at a place other than a health institution on Form DHA-24/PBA illustrated in Annexure 1E;

(c) biometrics, in the form of a palm, foot or fingerprint of the child whose birth is sought to be registered in the appropriate space on Form DHA-24 illustrated in Annexure 1A;

(d) fingerprints of the parents, which shall be verified online against the national population register: Provided that where the fingerprints cannot be verified online, the full set of fingerprints of the parents shall be taken on Form DHA-24/A illustrated in Annexure 1C;

(e) a certified copy of the identity document of the biological or adoptive mother or father or both parents of the child whose birth is sought to be registered, as the case may be;

(f) a certified copy of a valid passport and visa or permit, where one parent is a non- South African citizen;

(g) where applicable, a certified copy of a death certificate of any deceased parent;

(h) where applicable, a certified copy of the marriage certificate of the parents of the child whose birth is sought to be registered;

(i) where applicable, a certified copy of the identity document or valid passport and visa or permit of the next-of-kin or legal guardian; and

(j) where applicable, Form DHA-288/B illustrated in Annexure 2C.

(4) Where a woman gives birth to more than one child during a single confinement, a notice of birth referred to in subregulation (1) must, be given for each child on a separate Form DHA-24 illustrated in Annexure 1A with all the supporting documents contemplated in subregulation (3) and the exact time of each birth must be recorded on this Form.

(5) A notice of birth which does not meet the requirements of subregulations (3) and (4), shall not be accepted.

4. Late registration of birth of children of South African citizens

(1) A notice of birth given later than 30 days after the birth but before the child is older than one year, shall be given in accordance with subregulation (3).

(2) Where both parents of a child whose birth is sought to be registered in terms of subregulation (1) are deceased, the notice of birth must be given by the next-of-kin or legal guardian of the child.

(3) A notice of birth referred to in subregulation (1) must be given by, where possible, both parents to the Director-General on Form DHA-24/LRB illustrated in Annexure 1B and be accompanied by -

- (a) proof of birth on Form DHA-24/PB illustrated in Annexure 1D attested to by a medical practitioner who (i) attended to the birth; or (ii) examined the mother or the child after the birth of the child;
- (b) an affidavit attested to by a South African citizen who witnessed the birth of the child where the birth occurred at a place other than a health institution on Form of DHA-24/PBA illustrated in Annexure 1E;
- (c) biometrics, in the form of a palm, foot or fingerprint, of the child whose birth is sought to be registered in the appropriate space on Form DHA-24 illustrated in Annexure 1A;
- (d) fingerprints of the parents, which shall be verified online against the national population register: Provided that where the fingerprints cannot be verified online, the full set of fingerprints of the parents shall be taken on form DHA-24/A illustrated in Annexure 1C;
- (e) a certified copy of the identity document of the biological or adoptive mother or father or both parents of the child whose birth is sought to be registered, as the case may be;
- (f) a certified copy of a valid passport and visa or permit, where one parent is a non- South African citizen;
- (g) where applicable, a certified copy of the death certificate of any deceased parent;
- (h) where applicable, a certified copy of the marriage certificate of the parents of the child whose birth is sought to be registered;
- (i) where applicable, a certified copy of the identity document or valid passport and visa or permit of the next-of-kin or legal guardian;
- (j) Form DHA-288/A illustrated in Annexure 2A;
- (k) where applicable, Form DHA-288/B illustrated in Annexure 2C; and
- (l) proof of payment of the applicable fee.

(4) Where a woman gives birth to more than one child during a single confinement, the notice of birth contemplated in subregulation (1) must be given for each child separately on Form DHA-24 illustrated in Annexure 1A with all the supporting documents contemplated in subregulation (3) and the exact time of each birth must be recorded in that Form.

(5) A notice of birth which does not meet the requirements of subregulations (3) and (4), shall not be accepted.

5. Late registration of birth of children older than one year born of South African citizens

(1) A notice of birth for a child or a person who is older than one year must be made by the biological parents of the child or a person as contemplated in subregulation (3).

(2) Where both parents of a child or person whose birth is sought to be registered in terms of subregulation (1) are deceased, the notice of birth must be given by the next-of-kin or legal guardian of the child or person: Provided that where the person whose birth is sought to be registered is 18 years or older, such a person may give notice of his or her own birth.

(3) A notice of birth referred to in subregulation (1) must be given by, where possible, both parents to the Director-General on Form DHA-24/LRB illustrated in Annexure 1B and be accompanied by -

- (a) proof of birth on Form DHA-24/PB illustrated in Annexure 1D attested to by a medical practitioner who (i) attended to the birth; or (ii) examined the mother or the child after the birth of the child;
- (b) an affidavit attested to by a South African citizen who witnessed the birth of the child or the person where the birth occurred at a place other than a health institution on Form DHA-24/PBA illustrated in Annexure 1E;
- (c) biometrics, in the form of a palm, foot or fingerprint, of any child younger than 7 years whose birth is sought to be registered in the appropriate space on Form DHA-24 illustrated in Annexure 1A;
- (d) fingerprints of the parents and the child or person who is 7 years or older, which shall be verified online against the national population register: Provided that where the parents, or the child or the person's fingerprints cannot be verified online, the full set of fingerprints of the parents, the child or the person shall be taken on Form DHA-24/A illustrated in Annexure 1C;
- (e) two recent identity size photographs of a child or person who is 7 years or older, affixed to the appropriate space on Form DHA-24/A illustrated in Annexure 1C;
- (f) a certified copy of the identity document or passport and visa or permit of the parents of the child or person whose birth is sought to be registered, where one of the parents is a non-South African citizen;
- (g) where applicable, a certified copy of the death certificate of any deceased parent of the child or person;
- (h) where applicable, a certified copy of the marriage certificate of the parents of the child or person;
- (i) where applicable, a certified copy of the identity document or passport and visa or permit of the next-of-kin or legal guardian of the child or person;
- (j) Form DHA-288/A illustrated in Annexure 2A;
- (k) Form DHA-288 illustrated in Annexure 2B;
- (l) where applicable, Form DHA-288/B illustrated in Annexure 2C; and
- (m) proof of payment of the applicable fee.

(4) Where a woman gives birth to more than one child during a single confinement, the notice of birth contemplated in subregulation (1) must be given for each child separately on Form DHA-24 illustrated in Annexure 1A with all the supporting documents contemplated in subregulation (3) and the exact time of each birth must be recorded in that Form.

(5) A notice of birth which does not meet the requirements of subregulations (3) and (4), shall not be accepted.”

6. Verification, approval or rejection of notice of birth

(1) Upon approval of a notice of birth given in accordance with regulations 3,4 and 5 the Director-General must issue to the parents - (a) a birth certificate on Form DHA-5 illustrated in Annexure 4; or (b) an acknowledgement of receipt on Form DHA-25 illustrated in Annexure 3, if, for any reason, the birth certificate cannot be issued immediately.

(2) Any person who is issued with a birth certificate must verify the information contained therein and if found to be incorrect must, within 7 days of receipt of the birth certificate, return such birth certificate to the Director-General for rectification as contemplated in section 7 of the Act.

(3) The Director-General must, in respect of each notice of birth contemplated in regulations 3, 4 and 5, authenticate the veracity of the information furnished to him or her and either approve or reject the notice.

(4) For the purposes of subregulation (3), the Director-General may prior to approval of notice of birth contemplated in regulation 3, 4 or 5 cause any person who gives the notice or supported such notice to be interviewed by a screening committee established by him or her.

(5) The screening committee must, after interviewing all relevant persons relating to the information contained in the notice, make recommendations to the Director-General who shall consider and approve or reject the notice.

(6) Where it is apparent from a notice of birth that the child or the person whose birth is sought to be registered is a non-South African citizen, the Director-General may deal with the notice as contemplated in regulation 8.

(7) The date of birth or identity number allocated to a child or person whose notice of birth was approved as contemplated in subregulation (1) may not be rectified after the period contemplated in subregulation (2).

(8) Where a notice of birth is rejected, the Director-General shall inform the parents, in writing, of the rejection of the notice.

(9) If at any time after a birth certificate has been issued it becomes apparent that the birth certificate was issued erroneously to any person, the Director-General must cancel the birth registration, birth certificate and any other documents, including an identity document or passport issued to the holder of such birth certificate.

7. Notice of birth of children born of permanent residents and refugees

(1) Regulations 3, 4, 5 and 6 shall apply with the necessary changes to persons who hold permanent residence status in terms of section 26 or 27 of the Immigration Act and to persons who hold refugee status in terms of section 24 of the Refugees Act.

(2) Upon approval of a notice of birth, the Director-General must issue to the parents a birth certificate with an identity number for holders of a valid - (a) permanent residence permit issued in terms of the Immigration Act, on a Form DHA-19 illustrated in Annexure 24, as contemplated in terms of section 7(2)(b) of the Identification Act; or (b) refugee permit issued in terms of section 24 of the Refugees Act, on Form DHA-19 illustrated in Annexure 24, as contemplated in terms of section 7(2)(b) of the Identification Act.

8. Notice of birth of children born of parents who are non-South African citizens

(1) A notice of birth of a child born of parents who are non-South African citizens and who are not permanent residents or refugees must be given as contemplated in subregulation (3) by either parent of the child within 30 days of the birth of the child in the Republic.

(2) Where the parents of the child whose birth is sought to be registered as contemplated in subregulation (1) are deceased, the notice of birth may be given by the next-of-kin or legal guardian of the child.

(3) A notice of birth referred to in subregulation (1) must be given to the Director-General on Form DHA-24 illustrated in Annexure 1A and be accompanied by -

- (a) proof of birth on Form DHA-24/PB illustrated in Annexure 1D attested to by a medical practitioner who - (i) attended to the birth; or (ii) examined the mother or the child after the birth of the child;
- (b) an affidavit attested to by a person who witnessed the birth of the child where the birth occurred at a place other than a health institution on Form DHA-24/PBA illustrated in Annexure 1F;
- (c) a certified copy of a valid passport and visa or permit of the mother or father, or both parents, of the child, as the case may be;
- (d) where applicable, a certified copy of the valid identity document or passport and visa or permit of the next-of-kin or legal guardian;
- (e) where applicable, a certified copy of an asylum seeker permit issued in terms of section 22 of the Refugees Act of the mother or father or both biological parents of the child;
- (f) where applicable, a certified copy of the death certificate of any deceased parent of the child;
- (g) where applicable, a certified copy, of the marriage certificate of the parents of the child whose birth is sought to be registered;
- (h) where applicable, Form DHA-288/B illustrated in Annexure 2C; and
- (i) proof of payment of the applicable fee.

(4) Where a woman gives birth to more than one child during a single confinement, the notice of birth contemplated in subregulation (1) must be given for each child separately on Form DHA-24 illustrated in Annexure 1A with all the supporting documents contemplated in subregulation (3) and the exact time of each birth must be recorded in that Form.

(5) Upon approval of a notice of birth, the Director-General must issue to the parents a birth certificate without an identity number on Form DHA-19 illustrated in Annexure 24, in terms of section 5(3) of the Act.

9. Notice of birth of abandoned or orphaned children

(1) A notice of birth of an abandoned or orphaned child in terms of section 12 of the Act must be given on Form DHA-24 illustrated in Annexure 1A by a social worker within 60 days of obtaining a court order in terms of section 156 of the Children's Act, and must be accompanied by -

- (a) a court order issued by the children's court;
- (b) a certified copy of the identity document or valid passport and visa or permit of the social worker;
- (c) where available, a certified copy of the identity document or passport and visa or permit of the parents of the child;
- (d) where available, a certified copy of the death certificate of the parents of the child; and
- (e) a social workers' report that was presented to the children's court.

(2) Where it is apparent from a notice of birth that the child whose birth is sought to be registered in terms of the court order is a non-South African citizen, the Director-General may deal with the notice as contemplated in regulation 8 and inform the relevant children's court accordingly.

(3) The social worker who submits a notice of birth of a child referred to in subregulation (1), must give a name or surname, or both name and surname, to that child if the name or surname or both name and surname have not been given to the child.

(4) A birth certificate issued in terms of section 12 of the Act must contain the particulars of the parents of the child where such particulars are known.

10. Recording of adoption in birth register

(1) An application for recording of adoption referred to in section 27B of the Act must be made by the adoptive parents, within 90 days of the registration of the adoption order by the adoption registrar, on Form DHA-1773 illustrated in Annexure 13.

(2) The application contemplated in subregulation (1) must be supported by the documentation referred to in section 245 of the Children's Act, which are -

- (a) a certified copy of the adoption order;
- (b) a certified copy of the original birth certificate of the child; and
- (c) where applicable, proof of payment of the applicable fee.

(3) Upon approval of the application to record the adoption of the child on the birth register, the old identity number of the adopted child must be blocked and marked and a new identity number issued, together with a corresponding birth certificate recording the names of the adoptive parents.

11. Birth outside Republic

(1) A notice of birth given for a child born of South African citizens outside the Republic as contemplated in section 13 of the Act shall be on Form DHA-24 illustrated in Annexure 1A and be accompanied by -

- (a) Form DHA-529 illustrated in Annexure 5; and
- (b) an unabridged birth certificate or other similar document issued by the relevant authority in the country where the birth occurred.

(2) A notice of birth contemplated in subregulation (1) must comply with the requirements as set out in regulation 3, 4 or 5, as the case may be.

(3) A notice of birth contemplated in subregulation (1) must be given to the Head of a South African diplomatic or consular mission or to any district or regional office of the Department in the Republic.

(4) The Director-General must, in respect of each notice received in terms of this regulation, determine the citizenship of the parents in accordance with the provisions of the South African Citizenship Act, and if one of the parents is a South African citizen, register the birth in terms of section 5(2) of the Act and issue a birth certificate to the parents.

(5) Any person who, in terms of section 6 of the South African Citizenship Act, has lost and subsequently applied for resumption of his or her South African citizenship and requires his or her child to be registered in terms of this regulation, must give such notice in the Republic.

12. Notice of birth of child born out of wedlock

(1) A notice of birth of a child born out of wedlock shall be made by the mother of the child on Form DHA-24 illustrated in Annexure 1A or Form DHA-24/LRB illustrated in Annexure 1A, whichever applicable.

(2) The person who acknowledges that he is the father of the child born out of wedlock must -

(a) enter his particulars and sign on Part D of Form DHA-24 illustrated in Annexure 1A or on Part D of Form DHA-24/LRB illustrated in Annexure 1B, as the case may be, at the offices of the Department and in the presence of an official of the Department as contemplated in section 10(1)(b) of the Act;

(b) submit an affidavit on Form DHA-288/C illustrated in Annexure 2D in which he - (i) states his relationship to the mother; and (ii) acknowledges paternity of the child; and

(c) have his fingerprints verified online against the national population register: Provided that in the event of the father being a non-South African citizen, he must submit a certified copy of his valid passport and visa or permit, permanent residents identity document or refugee identity document.

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

(1) An application for an amendment of birth registration referred to in section 11(1) of the Act shall be made on Form DHA-59 illustrated in Annexure 7.

(2) The Director-General must upon the approval of the application contemplated in subregulation (1), amend the registration of the birth and issue a new birth certificate in accordance with the said application.

14. Application for insertion of unmarried father's particulars in birth register of child born out of wedlock

(1) An application for the insertion of the father's particulars in terms of section 11(4) of the Act shall be made on Form DHA-1682 illustrated in Annexure 6.

(2) An application contemplated in subregulation (1) made by a person who is a non-South African citizen shall be accompanied by original paternity test results, not older than 3 months, from an institution designated by the Director-General confirming that such person is the biological father of the child.

(3) The Director-General must authenticate the veracity of the information furnished to him or her in respect of the application contemplated in subregulation (1) before approving the application.

(4) Upon approval of the application, the Director-General must record the particulars of the person as the father of the child on the birth register of the child and issue to such person -

(a) a birth certificate on Form DHA-5 illustrated in Annexure 4; or

(b) an acknowledgement of receipt on Form DHA-25 illustrated in Annexure 3, if, for any reason, the birth certificate cannot be issued immediately.

15. Alteration of particulars of registered father of child born out of wedlock

(1) Any person who requires to alter the particulars of a father whose particulars already appear in the birth register of a child as the father as contemplated in sections 10(1)(b) and 11(4) of the Act, shall submit an

application on Form DHA-1682 illustrated in Annexure 6, supported by conclusive proof contemplated in subregulation (2).

(2) The conclusive proof contemplated in subregulation (1) shall be in the form of original paternity test results not older than 3 months, obtained at the cost of the applicant from an institution designated by the Director-General.

Annex IV - About the co-submitting organisations and this submission

The [Scalabrini Centre of Cape Town](#) is a not-for-profit organisation specialising in working with migrants, refugees and asylum seekers. The Centre's vision is to foster the cultural, social and economic integration of migrants, refugees and South Africans into local society. The Centre's Advocacy Programme provides one-on-one assistance to migrant, refugee and asylum seeker clients, as well as engaging in policy advocacy, high level advocacy and strategic impact litigation in order to strengthen the human rights of persons on the move in South Africa.

[Lawyers for Human Rights](#) is an independent human rights organisation with a 35-year track record of human rights activism and public interest litigation in South Africa. LHR uses the law as a positive instrument for change and to deepen the democratisation of South African society and operates a Refugee and Migrants Rights Programme which has a specialist focus on issues of citizenship, nationality and statelessness.

The [Centre for Child Law](#) is an impact litigation organisation that was established in 1998. The Centre is registered as a Law Clinic and is based in the Faculty of Law at the University of Pretoria. The Director of the Centre is Ms Karabo Ozah. The vision of the Centre is to establish child law and uphold the rights of children in South Africa, within and international and regional context, particularly insofar as these interests pertain to their legal position. The Centre's mission is to work towards the development of child law and the realisation of children's rights in South Africa, within a regional and international context.

[The Institute on Statelessness and Inclusion](#) (ISI) is the first and only human rights NGO dedicated to working on statelessness at the global level. ISI's mission is to promote inclusive societies by realising and protecting everyone's right to a nationality. Addressing childhood statelessness is one of the core thematic priorities of the Institute. As part of this work, ISI has made over fifteen country submissions to the Committee,¹³ developed a range of resources on the child's right to a nationality and childhood statelessness, including a Toolkit on Addressing the Right to a Nationality through the Convention on the Rights of the Child¹⁴, Statelessness Essentials Booklets on Childhood Statelessness,¹⁵ the Convention on the Rights of the Child¹⁶ and other related issues,¹⁷ The 2017 World's Stateless Report:

¹³ <https://www.institutesi.org/core-activities/human-rights-advocacy-crc>

¹⁴ Institute on Statelessness and Inclusion, Addressing the right to a nationality through the Convention on the Rights of the Child: A Toolkit for Civil Society, June 2016, available at: https://files.institutesi.org/CRC_Toolkit_Final.pdf

¹⁵ Institute on Statelessness and Inclusion, Statelessness Essentials, Childhood Statelessness, 2018 available at: <https://files.institutesi.org/childhood-statelessness.pdf>

¹⁶ Institute on Statelessness and Inclusion, Statelessness Essentials, Statelessness & Human Rights, The Convention of the Rights of the Child, 2018, available at: <https://files.institutesi.org/statelessness-and-CRC.pdf>

¹⁷ For all the Essentials Booklets, see: <https://www.institutesi.org/core-activities/statelessness-essentials-booklet-series>.

Children;¹⁸ and a range of resources for children, which can be found online.¹⁹ ISI has also contributed its expertise and information towards General Recommendations of the Committee as well as Joint General Recommendations by the Committee and the CMW.

This submission draws on the extensive work and research carried out by LHR in South Africa under its Statelessness Project.²⁰ It also draws on research and analysis carried out by the Institute, on all Concluding Observations and Recommendations made by the Committee in relation to the right of every child to acquire a nationality under Article 7 of CRC.²¹

¹⁸ Institute on Statelessness and Inclusion, *The World's Stateless children*, January 2017, available at: <https://files.institutesi.org/worldsstateless17.pdf>

¹⁹ <http://kids.worldsstateless.org/>

²⁰ For more details of LHR's statelessness project, see: <https://www.lhr.org.za/lhr-units/statelessness-project/>

²¹ This research has been made publicly available in the form of a comprehensive analytical database of all Concluding Observations, a Factsheet summarizing state party obligations and a longer draft policy paper, and was shared with the Committee at a briefing in September 2015. To access these materials, visit: <http://www.institutesi.org/ourwork/children.php>