

BIRTHS, MARRIAGES AND DEATHS

[a81y1963]BIRTHS, MARRIAGES AND DEATHS REGISTRATION ACT 81 OF 1963

[ASSENTED TO 28 JUNE 1963] [DATE OF COMMENCEMENT: 5 JULY 1963]

(Signed by the President)

as amended by

Births, Marriages and Deaths Registration Amendment Act 17 of 1967

Births, Marriages and Deaths Registration Amendment Act 18 of 1968

Births, Marriages and Deaths Registration Amendment Act 58 of 1970

Births, Marriages and Deaths Registration Amendment Act 51 of 1974

ACT

To consolidate the laws relating to the registration of births, marriages and deaths.

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[a81y1963s1]1 Definitions

In this Act, unless the context otherwise indicates-

"adult" means any person of the age of sixteen years or upwards or any married person;

"area" means, when used in relation to a registrar or assistant registrar, the magisterial district or part thereof, police area, country or territory in respect of which such registrar or assistant registrar has been designated or appointed or is acting as such;

"Black"

[Definition of "Black" deleted by sec 9(a) of Act 5 of 1987.]

"birth" means the birth of any viable child whether such child is living or dead at the time of birth;

"birth register" means the form completed under section 5(3) of this Act in respect of the birth of any person, and includes any similar form completed in respect of the birth of a person under a provision of a law which was in force in the Republic or any part thereof;

"body" means any human dead body, including the body of any still-born child;

"burial" means burial in earth, interment or any other form of sepulture or the cremation or any other mode of disposal of a body;

"burial order" means an order given under any provision of this Act, authorizing the burial of a body;

"burial place" means any burial ground, whether public or private, or any place whatsoever wherein is buried, interred, cremated or otherwise disposed of or intended to be buried interred, cremated or otherwise disposed of, one or more bodies;

"chief registrar" means the officer appointed under section 2 as chief registrar of births, marriages and deaths;

"magistrate" includes an additional and an assistant magistrate;

"Minister" means the Minister of the Interior;

[Definition of "Minister" amended by sec 9(b) of Act 5 of 1987.]

"name" includes a surname, except in sections 8 and 9 where it does not include a surname;

"occupier of a dwelling", in relation to any public or charitable institution or barracks, means any governor, deputy governor, superintendent or assistant superintendent, gaoler, or medical or other officer or person in charge thereof; and, in relation to any mine or a compound or residential quarter in connection with a mine, means any manager or superintendent or person in charge thereof; and, in relation to any premises let in lodgings or separate apartments, means any person residing in such dwelling under whom such lodgings or separate apartments are immediately held; and, in relation to any tent, vehicle or other place of residence, or place in or upon which any person may be born or die, means any owner when in occupation or charge thereof, and, if the owner is not in occupation or charge thereof, any lessee or other person in occupation or having the charge, care or custody thereof;

[Definition of "occupier of a dwelling" substituted by sec 9(c) of Act 1987.]

"police officer" means a member-

(a) of a police force established under any law who exercises, performs or carries out police powers, duties and functions; or

(b) of any body who exercises, performs or carries out such powers, duties and functions under any law;

"prescribed" means prescribed under this Act or any regulation;

"register", for the purposes of sections 46, 47 and 48, includes in addition to any register kept under this Act any books, registers or records which were records of any births, marriages or deaths registration office prior to the commencement of this Act:

"registrar" and "assistant registrar" mean respectively a person designated, appointed or acting under section 3 as registrar or assistant registrar of births and deaths;

"regulation" means a regulation made and in force under this Act;

"Republic" includes the territory of South-West Africa;

"Secretary" means the Secretary for Civic Affairs;

[Definition of "Secretary" substituted by sec 9(d) of Act 5 of 1987.]

"still-born" in relation to a child, means that it was viable but showed no sign of life after complete birth;

"urban area" means an area under the jurisdiction of-

(a) the council of any municipality established or constituted or deemed to be established or constituted, under the Municipal Ordinance, 1963 (Ordinance 13 of 1963); or

(b) any village management board constituted or deemed to be constituted, under the Village Management Boards Ordinance, 1963 (Ordinance 14 of 1963); or

(c) the Peri-Urban Development Board established under the Peri-Urban Development Board Ordinance, 1970 (Ordinance 19 of 1970)

"viable", in relation to a child, means that it has had at least six months of intrauterine existence.

[Sec 1 substituted by sec 1 of Act 58 of 1970.]

CHAPTER I

ADMINISTRATION (ss 2-3A)

[a81y1963s2]2 Custody of documents and appointment of officers

(1) The Secretary shall be the custodian of all notices of births and deaths, of all such returns as are required by any regulation to be rendered to him, of all books, registers, returns, forms and other documents required to be rendered under this Act or any marriage law, and of all records of any births, marriages or deaths registration office in existence prior to the commencement of this Act.

(2) The Secretary may from time to time, subject to the laws governing the public service, appoint-

(a) an officer to be styled the chief registrar of births, marriages and deaths, to whom the Secretary may delegate any function assigned to him under this Act or any other law;

(b) one or more officers who may, subject to the directions and control of the chief registrar and subject to any regulations, do anything which may lawfully be done by the chief registrar.

[Sec 2 substituted by sec 2 of Act 58 of 1970.]

[a81y1963s3]3 Registrars and assistant registrars of births and deaths

(1) Subject to the provisions of subsection (2), the Secretary, or any officer or the holder of any office in the public service authorized thereto by him, may for the purposes of the application of this Act, designate officers or employees or the holders of offices in the public service, or other persons, as registrars and assistant registrars of births and deaths in respect of a magisterial district or part thereof.

(2) The police officer in charge of a charge office, police station or police mortuary is ex officio registrar of deaths and still-births of persons which occur in the police area in which such charge office, police station or police mortuary is situated.

[Subsec (2) substituted by sec 2 of Act 5 of 1987.]

(3) The head of the South African diplomatic mission, if there is one, or in default thereof, the head of the South African consular mission, in a country or territory, shall in respect of the births and deaths of South African citizens, and the deaths of persons who are ordinarily resident in the

Republic, which occur in such country or territory, designate a registrar and assistant registrar of births and deaths.

(4) The Secretary shall designate any person in the Republic in the service of the State as registrar of births and deaths in respect of the births and deaths of South African citizens, and the deaths of persons who are ordinarily resident in the Republic, which occur in a country or territory in which there is no South African diplomatic or consular mission.

(5) A registrar and assistant registrar of births and deaths shall perform such duties as may be prescribed by this Act or by regulation.

[Sec 3 substituted by sec 1(1) of Act 18 of 1968 and by sec 3 of Act 58 of 1970.]

[a81y1963s3A]3A

[Sec 3A inserted by sec 4 of Act 58 of 1970 and repealed by sec 11 of Act 5 of 1987.]

CHAPTER II

GENERAL (ss 4-17A)

[a81y1963s4]4 Duties of registrars and assistant registrars

(1) It shall be the duty of every registrar and assistant registrar to inform himself as far as possible of every birth or death which occurs within his area.

(2) If after the expiry of the time allowed under this Act for giving any notice or information of any such birth or death, the notice or information has not been given, the registrar or assistant registrar may, by notice in writing under his hand, require any person whose duty it is under this Act to give such notice or information, to attend within such time as is specified in the notice at the office of the registrar or assistant registrar or any other place mentioned in the notice, there to give to the registrar or assistant registrar or to any other person named in the notice such information as may be necessary concerning the birth or death, as the case may be: Provided that when an inquest or enquiry is being held or has been held concerning the death of any person no such requirement as is in this section mentioned, shall be made by any registrar or assistant registrar for information as to such death.

[Sec 4 substituted by sec 5 of Act 58 of 1970.]

[a81y1963s5]5 Duty of registrar or assistant registrar on receipt of notice of birth or death

(1) On receipt by the registrar or assistant registrar of any information, notice, memorandum, return or certificate in respect of any birth or death given or transmitted under this Act, he shall examine it and cause any omission, defect or inaccuracy therein to be supplied or corrected as far as may be possible, and for the purposes of this section he may require any person whose duty it is to give information under this Act to attend and give information in the manner prescribed by section 4.

(2) It shall be the duty of every registrar or assistant registrar to ensure that every birth or death which occurs within his area and which comes to his notice, is recorded on the form prescribed therefor and that such form is duly completed.

(3) The completion of such form shall constitute the registration of the birth or death recorded thereon.

[Sec 5 substituted by sec 6 of Act 58 of 1970.]

[a81y1963s6]6

[Sec 6 repealed by sec 7 of Act 58 of 1970.]

[a81y1963s7]7 Registration of birth or death after one year

No birth or death shall be registered after the expiry of one year from the date of such birth or death except upon the written authority of the Secretary and the payment of the prescribed fee (if any).

[Sec 7 substituted by sec 8 of Act 58 of 1970.]

[a81y1963s7A]7A Alteration of birth registration to indicate classification in terms of Act 30 of 1950

(1) The Secretary may amend the registration of the birth of any person by substituting for any inscription in respect of the race or in respect of the classification under the Population Registration Act, 1950, of such person or a parent of such person on the birth register of such person an inscription of the classification assigned to such person or parent, as the case may be in terms of that Act.

(1A) If the classification of a person is amended under the Population Registration Act, 1950, and the Secretary who has the custody of the birth register of such person, is not the Secretary who is responsible for the administration of the provisions of this Act in respect of that person, such Secretary shall transmit such birth register to the Secretary who is so responsible, in order to be amended by the last-mentioned Secretary as is required by subsection (1) and, thereafter, to be kept under section 2.

(2)(a) The Secretary shall as soon as practicable after the receipt in his office of a birth register in respect of the birth of a person born on or after the first day of December, 1967, ascertain what classification has been assigned in terms of the Population Registration Act, 1950, to such person and to each parent of such person whose name must be shown on the birth register, respectively.

(b) If any inscription on the birth register in respect of the race or in respect of the classification in terms of that Act of such person or any such parent does not correspond with the classification assigned in terms of that Act to such person or parent, as the case may be, the Secretary shall amend the birth register by inscribing the appropriate classification so assigned thereon in the place of such inscription.

[Sec 7A inserted by sec 2 of Act 18 of 1968 and substituted by sec 9 of Act 58 of 1970.]

[a81y1963s7B]7B Alteration of sex description of person in his birth register

The Secretary may on the recommendation of the Secretary for Health alter, in the birth register of any person who has undergone a change of sex, the description of the sex of such person and may for this purpose call for such medical reports and institute such investigations as he may deem necessary.

[Sec 7B inserted by sec 1(1) of Act 51 of 1974.]

[a81y1963s8]8 Alteration of person's name in his birth register

(1) When the birth of any person has been registered and the name under which his birth was registered, is altered, either of his parents or his guardian, if he is under 18 years of age, or he himself, if he is 18 years of age or over, may apply to the Secretary for the alteration of his name and thereupon the Secretary may, if satisfied that the applicant is competent to make the application, amend the registration of the said person's birth by inscribing the altered name on the birth register of such person filed in his office, but without erasing the original name therefrom.

(2) For the purposes of subsection (1) 'guardian' includes who has in law or in fact the custody or control of any person referred to in that subsection

[Sec 8 substituted by sec 10 of Act 58 of 1970 and substituted by sec 12 of Act 5 of 1987.]

[a81y1963s8A]8A Alteration of surname of person in his birth register

(1) When-

(a) any person has under any law adopted a surname different from that under which his birth is registered;

(b) any person under 21 years of age who was born out of lawful wedlock is known by the surname of a man whom his mother married and not the surname under which his birth is registered;

(c) any person under 21 years of age is known by the surname of a man whom his mother married after the death of his father or after the divorce of his mother and father and not the surname under which his birth is registered;

(d) any person under 21 years of age is known by the surname of his mother which she resumed after the death of his father or after the divorce of his mother and father and not the surname under which his birth is registered;

(e) any person under 21 years of age is known by the surname of his guardian and not the surname under which his birth is registered;

(f) any person under 21 years of age who was born out of lawful wedlock but whose birth is registered under the surname of his father in terms of the provisions of section 10, is known by the surname of his mother and not the surname under which his birth is so registered,

either of his parents or his mother, as the case may be, or his guardian, if such person is under 21 years of age, or he himself, if he is 21 years of age or over, may apply to the Secretary for the alteration of his surname in the birth register of such person to the surname which he has thus adopted or by which he is thus known, as the case may be.

(2) A person under the age of 21 years who was born out of lawful wedlock, and whose birth was registered under his mother's surname, may, if his father acknowledges in writing himself to be the father of that person and the mother of that person grants her consent, apply to the Secretary for the alteration of his surname in the birth register to the surname of his father.

(3) If the man by whose surname a person referred to in paragraph (b), (c) or (e) of subsection (1) is known is still alive, the application shall be accompanied by that man's written consent to the alteration unless the Secretary, if in his opinion there exist sufficient reasons therefor, directs otherwise.

(4) Upon the receipt of any such application the Secretary may, if he is satisfied that the applicant is competent to make the application and, in the case of a person referred to in paragraph (b), (c), (d), (e) or (f) of subsection (1), that such person is known in the manner contemplated in the paragraph in question, amend the registration of the birth of the person concerned by inscribing the surname which he adopted or by which he is known, as the case may be, on the birth register of such person filed in his office, but without erasing the original surname therefrom.

(5) For the purposes of subsection (1) 'guardian' includes any person who has in law or in fact the custody or control of the person concerned who is referred to in that subsection.

[Sec 8A inserted by sec 3 of Act 18 of 1968 and substituted by sec 11 of Act 58 of 1970 and by sec 13 of Act 5 of 1987.]

[a81y1963s9]9 Prohibition of nameless birth registrations and amplification of certain nameless birth registrations

(1) No person's birth shall be registered unless a name has been assigned to him.

(2) If the birth of any person has been registered before the commencement of the Births, Marriages and Deaths Registration Amendment Act, 1970, without the assignment of any name to him, either of his parents or his guardian if he is under twenty-one years of age, or he himself, if he is twenty-one years of age or over, or has no parent or guardian, may apply to the Secretary for the amplification of the registration of his birth by the inscription of his name in connection therewith and thereupon the Secretary shall, if satisfied that the applicant is competent to make the application and upon payment by the applicant of the prescribed fee (if any) amplify the registration of the said person's birth by inscribing his name on the birth register of such person filed in his office in connection with the registration of such birth.

(3) For the purpose of this section 'name' means the word or words by which a person is designated as an individual and which precedes or precede his surname.

[Sec 9 substituted by sec 12 of Act 58 of 1970.]

[Subsec added by sec 14 of Act 5 of 1987.]

[a81y1963s10]10 Registration of birth of illegitimate child

(1) In the case of an illegitimate child, no person shall be required to give information under this Act, as its father concerning its birth, and the registrar or assistant registrar shall not enter in the birth register of the child the name of any person as the father of the child except at the joint request of the mother and of the person who in the presence of the registrar or assistant registrar acknowledges himself in writing to be the father of the child.

(2) Such an acknowledgement, if made, shall be embodied in the birth register of the child and the person so acknowledging himself to be the father of the child shall, in the presence of the registrar or assistant registrar, or of a justice of the peace, or police officer, confirm the acknowledgement with his signature.

(3) The birth of a child born out of lawful wedlock shall be registered under the surname of-

(a) his mother; or

(b) his father, provided the latter has made the acknowledgement referred to in subsection (2) and the mother has consented.

[Sec 10 substituted by sec 13 of Act 58 of 1970.]

[Subsec (3) added by sec 15 of Act 5 of 1987.]

[a81y1963s11]11 Amendment of birth registration of illegitimate child after legitimation

(1) Any parent or guardian of a person born of parents who were not married to each other at the time of his birth, but who married each other after the registration of his birth (whether they could or could not have legally married each other at the time of his birth) may, if such person is under twenty-one years of age, or such person himself may, if he is twenty-one years of age or over, or has no parent or guardian, apply to the Secretary for the registration of his birth as if his parents had been married to each other at the time of his birth and thereupon the Secretary shall, if satisfied that the applicant is competent to make the application, that the alleged parents of such person are in fact his parents and that they legally married each other, register the birth as if such person's parents had been legally married to each other at the time of his birth.

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

[Sec 11 substituted by sec 14 of Act 58 of 1970.]

[a81y1963s12]12 Information as to live new-born child or body of new-born child found abandoned

If any live new-born child or the body of a new-born child is found abandoned, the person finding it shall, as soon as possible, give notice to a justice of the peace or police officer and any justice of the peace or police officer who knows or is informed of the discovery of such a child or body so abandoned, and, in the case of a live new-born child, any person in whose charge such a

child is placed and any person holding any official enquiry into or being aware of any circumstances relating to the abandonment, shall forthwith give to the registrar or assistant registrar of the area wherein the child or body was found the prescribed notice or information.

[Sec 12 substituted by sec 15 of Act 58 of 1970 and sec 16 of Act 5 of 1987]

[a81y1963s13]13 Duty of person holding inquest or other enquiry to give certain particulars

Any person holding in accordance with any law any inquest or other enquiry as to the death of any person shall forthwith on completion such inquest or other enquiry furnish the prescribed particulars in respect of the death to the Registrar or assistant registrar concerned: Provided that if such enquiry is in the form of criminal proceedings, and any inquest or other enquiry instituted under any law as to the death of such person, has not been completed, the prescribed particulars shall be furnished by-

(a) in the case of a summary trial in a lower court, or a preparatory examination, the clerk of the court concerned; or

(b) in the case of a summary trial in a superior court, the registrar of the division concerned.

[Sec 13 substituted by sec 16 of Act 58 of 1970 and by sec 17 of 1987.]

[a81y1963s13A]13A Furnishing of information in respect of deaths of certain persons

(1) Any policeman who, in terms of section 3 of the Inquests Act, 1959 (Act 58 of 1959), investigates or causes to be investigated the circumstances of the death of any person who presumably died from other than natural causes, shall as soon as possible furnish the magistrate of the district in which the death occurred with the prescribed particulars in respect of that death, except the cause of death.

(2) On receipt of the said particulars the magistrate concerned shall, as soon as he is satisfied that the deceased person has been identified, that the date of his death has been determined and that the body is no longer required for the purposes of an inquest or other enquiry furnish, when requested to do so, either any person who is under this Act required to give notice as to the death, or the undertaker or other person who allows the body to be buried, a certificate in the prescribed form, and such undertaker or person shall, if the death occurred in an urban area, within twenty-four hours from receipt of such certificate, and if the death did not occur in any urban area, within fourteen days of the receipt thereof deliver such certificate to the registrar or assistant registrar of the area where the death occurred.

[Sec 13A inserted by sec 1 of Act 17 of 1967 and substituted by sec 17 of Act 58 of 1970.]

[a81y1963s14]14 Burial register to be kept

(1) The custodian or person having the charge or control of any burial place shall keep a book to be called the 'burial register' in which he shall enter the prescribed particulars regarding every burial in such burial place.

(2) The custodian or person aforesaid shall produce such book for inspection whenever so required by the registrar.

[Subsec (2) amended by sec 45 of Act 58 of 1970.]

[a81y1963s15]15 Information by undertaker

Any undertaker or person having charge of any funeral shall obtain, as far as possible, and supply to the custodian or person having charge or control of a burial place, whenever it has been arranged that a burial shall take place therein, such information as may be necessary to enable the custodian or person aforesaid to make the required entries in the burial register referred to in section fourteen.

[a81y1963s16]16 Burial order in case of person dying outside Republic

(1) Any registrar or assistant registrar may issue, to any person having the charge of the body of a deceased person who has died outside the Republic, and whose relatives or friends desire that such body be buried within the area of such registrar or assistant registrar, an order authorizing the burial of such body within such area.

(2) Any police officer in charge of a police station or in charge or temporarily in charge of a police mortuary, or any police officer in charge of a charge office, may issue, on behalf of the registrar or assistant registrar concerned, to a person having the charge of the body of any person who has died outside the Republic, a burial order authorizing the burial of such body, if the place where the body is to be buried is situated within the police area in which the police station, police mortuary or charge office concerned is situated, where such officer considers it necessary to issue such an order in order to avoid delay or inconvenience, and any such officer shall as soon as possible after the issue by him of such an order advise the registrar or assistant registrar concerned in writing of the issue thereof.

[Subsec (2) substituted by sec 18 of Act 5 of 1987.]

(3) The production of any such order shall, notwithstanding anything in this Act contained, be sufficient authority to any person to bury such body or allow such body to be buried or to conduct any funeral or religious service in connection with its burial.

[Sec 16 substituted by sec 18 of Act 58 of 1970.]

[a81y1963s17]17 Registration of death of persons in military or police service, authority for removal and burial of bodies and issue of prescribed certificates

(1) The Secretary may, notwithstanding anything to the contrary contained in this Act or in the Executive Powers (Interior) Transfer Proclamation, 1978 (Proclamation AG. 17 of 1978) after consultation with the military or police authorities, direct that if a person, who is ordinarily resident within the territory of South West Africa dies while he is performing military or police service at a place or in circumstances indicated by the Secretary, the death of such person shall be registered in a manner and by a person determined and indicated by the Secretary, if such particulars concerning such death as may be determined by the Secretary, are furnished.

[Subsec (1) substituted by sec 19 of Act 5 of 1987.]

(2) The particulars referred to in subsection (1) shall be furnished by the officer commanding the military or police unit to which the deceased belonged at the time of his death, or such other person designated by the military or police authorities.

(3) The Secretary may authorize the removal and burial of the body of a person who dies while he is performing military or police service at a place or in circumstances indicated by the Secretary, and any such authorization shall, notwithstanding anything in this Act contained, be sufficient authority to any person to bury such body or to allow such body to be buried.

(4) The Secretary, or any person authorized thereto by him, shall on payment of the prescribed fee (if any) issue a certificate in the prescribed form in respect of a death registered under subsection (1).

[Sec 17 substituted by sec 19 of Act 58 of 1970.]

[a81y1963s17A]17A Registration of certain births and deaths taking place outside Republic

(1) If a person is born outside the Republic, and that person is a South African citizen by virtue of the provisions of section 6(1)(a) of the South African Citizenship Act, 1949 (Act 44 of 1949), if his birth is registered in terms of the provisions of this section, his birth may, subject to the provisions of section 7, be registered by the registrar or assistant registrar concerned contemplated in section 3(3) or (4) provided that the prescribed particulars are furnished to that official and the applicant complies with all other provisions of this Act and the regulations made thereunder.

(2) If a South African citizen dies, outside the Republic, or a person who is usually resident in the Republic dies outside the Republic and the registrar or assistant registrar concerned contemplated in section 3(3) or (4) is furnished with the prescribed particulars relating to the death, he shall register the death.

[Sec 17A inserted by sec 20 of Act 58 of 1970 and substituted by sec 20 of Act 5 of 1987.]

CHAPTER III

INFORMATION AS TO BIRTHS AND DEATHS (ss 18-29)

[Heading substituted by sec 21 of Act 58 of 1970.]

[a81y1963s18]18

[Sec 18 repealed by sec 22 of Act 58 of 1970.]

[a81y1963s19]19 Duty to notify birth of child

(1) In the case of any child born alive it shall be the duty of the father of the child, and, in the event of the death or absence or other inability of the father, then of the mother of the child, and in the event of the death or inability of the mother, then of any person, present at the birth, or of the occupier of the dwelling in which the child is born, and, in the event of the death or absence or other inability of such occupier, then of the person having charge of the child, within fourteen days after

the birth, to give the prescribed notice or information thereof either to the registrar or assistant registrar concerned, or (if the child was born outside an urban area), to any justice of the peace or police officer: Provided that if the father or mother of the child is resident in an area other than that in which the birth occurred, that father or mother may give the prescribed notice or information to the registrar in whose area his or her residential address is.

[Subsec (1) amended by sec 21 of Act 5 of 1987.]

(2) The justice of the peace or police officer to whom notice or information is given under subsection (1), shall forthwith transmit such notice or information to the registrar or assistant registrar of the area in which the birth occurred.

[Sec 19 substituted by sec 23 of Act 58 of 1970.]

[a81y1963s20]20 Duty of medical practitioner or midwife in case of still-born child

(1) In the case of any still-born child, any medical practitioner or registered midwife who was in attendance at the birth, or any medical practitioner who has examined the body of the child shall forthwith sign and give, without fee or reward, either to a person required by this Act to give information concerning a death, or the undertaker or other person who causes the body to be buried, a certificate stating that the child was still-born.

[Subsec (1) substituted by sec 24 of Act 58 of 1970.]

(2) The person to whom a certificate is given in terms of subsection (1), shall forthwith, if the still-birth occurred in any urban area, or within fourteen days thereafter, if the still-birth did not occur in any urban area, deliver such certificate to the registrar or assistant registrar concerned for the registration of a death.

[Subsec (2) substituted by sec 24 of Act 58 of 1970.]

(3) If no medical practitioner or registered midwife was present at the still-birth and no medical practitioner has examined the body of the child, any person who is under this Act required to give notice concerning a death shall make a solemn declaration that the child was not born alive and deliver such declaration, if the still-birth occurred in any urban area, within twenty-four hours thereafter, or if the still-birth did not occur within any urban area, within fourteen days thereafter, to the registrar or assistant registrar concerned for the registration of a death.

[Subsec (3) substituted by sec 24 of Act 58 of 1970.]

(4) Whenever a person not registered as a midwife assisted at the birth, the information to be furnished shall include the name and address of such person.

[a81y1963s21]21 Issue of burial order in case of still-born child

(1) Any registrar or assistant registrar shall, upon receiving such information as is referred to in section 20, accompanied by such a certificate or solemn declaration as is mentioned therein, forthwith as soon as he is required to do so, give, without fee or reward, either to the person giving the information concerning the still-birth or to the undertaker or other person having charge of the

burial of the still-born child, an order under his hand authorizing burial if the body of the child is to be buried in any urban area: Provided that no such order shall be given if the registrar or assistant registrar is not satisfied that the child was still-born.

(2) If the registrar or assistant registrar is not satisfied that the child was still-born he shall report to the magistrate such facts concerning the alleged still-birth as are known to him.

[Sec 21 substituted by sec 25 of Act 58 of 1970.]

[a81y1963s22]22 Notification of death and issue of burial order

(1) It shall be the duty of every adult relative of a deceased person present at his death or in attendance during his last illness or at his dwelling with him and, if there are no such relatives, of every adult person present at the death of any person, and, if there was no such adult person present, then of the occupier of the dwelling in which the death occurred, and, in the event of the death or absence or other inability of such occupier, then of every adult inmate of the dwelling or of the undertaker or other person causing the body to be buried, to give to the registrar or assistant registrar notice in the prescribed manner of the death-

(a) if the death occurred in any urban area, within twenty-four hours thereafter, or the receipt of the certificate referred to in section 13A(2) or 26 (as the case may be); or

(b) if the death did not occur within any urban area, within fourteen days there-after or the receipt of the certificate referred to in section 13A(2) or 26 (as the case may be).

(2) The registrar or assistant registrar shall register and deal with such notice in the prescribed manner and, if he is satisfied that the death was due to natural causes, or if the certificate referred to in section 13A(2) or 26 or the form referred to in section 25 is delivered to him, he shall give, forthwith when it is required of him, without fee or reward, either to the person giving the notice or to the undertaker or other person having charge of the burial, an order under his hand authorizing burial.

(3) If a death is registered after production of the certificate referred to in section 13A(2) or 26, the death shall be registered without stating the cause of death, and a death certificate issued in respect of such death shall not state the cause of death, unless the particulars referred to in section 13 have been received by the registrar or the Secretary.

(4) A notice in terms of subsection (1) may be received, and an order under subsection (2) may be issued, on behalf of the registrar or assistant registrar concerned by any police officer in charge of a police station or in charge or temporarily in charge of a police mortuary, or any police officer in charge of a charge office, in the district or area in which the death occurred, where such officer considers it necessary to receive such notice and to issue such order in order to avoid delay or inconvenience, and any such officer who receives such a notice and issues such an order shall as soon as possible thereafter advise the registrar or assistant registrar concerned in writing accordingly, and at the same time transmit to him the notice and any medical certificate in respect of the cause of death, or any certificate referred to in section 13A(2) or 26, so received by him.

[Sec 22 substituted by sec 26 of Act 58 of 1970.]

[Subsec (4) substituted by sec 22 of Act 5 of 1987.]

[a81y1963s23]23 When deceased not attended by medical practitioner

(1) In the case of the death of any person who has not been attended during his last illness by a medical practitioner, if no inquest or other enquiry has been or is being instituted, or if no certificate by a registered medical practitioner is produced stating that to the best of his knowledge and belief the death was due to natural causes, the registrar or assistant registrar to whom notice of the death is given under section 22, may, if he is satisfied that the death was the result of natural causes, register the death and issue an order whereby the burial of such person is authorized.

(2) Where the registrar or assistant registrar is not so satisfied, he shall not issue such order, but shall forthwith report to the magistrate such facts concerning the death as are known to him.

[Sec 23 substituted by sec 27 of Act 58 of 1970.]

[a81y1963s24]24 Certificate by medical practitioner and issue of burial order

(1) In the case of the death of any person who was attended during his last illness by a medical practitioner, such practitioner shall, if satisfied that such death was due to natural causes, forthwith sign and give, without fee or reward, either to any person required by this Act to give notice concerning the death, or to the undertaker or other person who causes the body to be buried, a certificate stating to the best of his knowledge and belief the cause of death, and such person shall deliver such certificate, together with the notice referred to in section 22, to the registrar or assistant registrar.

[Subsec (1) substituted by sec 28(a) of Act 58 of 1970.]

(2) Whenever a medical practitioner is unable to give such certificate of death, he shall forthwith report his inability to the magistrate.

(3) Any registrar or assistant registrar shall, upon receiving such notice accompanied by such certificate, forthwith as soon as he is required to do so, give, without fee or reward, either to the person giving the notice or to the undertaker or other person having charge of the burial, an order under his hand authorizing burial, if such registrar or assistant registrar is satisfied that the death was the result of natural causes.

[Subsec (3) substituted by sec 28(a) of Act 58 of 1970.]

(4) If the registrar or assistant registrar is not satisfied that the death was due to natural causes or, after having issued an order referred to in subsection (3), he is no longer so satisfied, he shall report to the magistrate of the district in which his area is situate, on such facts concerning the death as are known to him.

[Subsec (4) added by sec 28(b) of Act 58 of 1970.]

[a81y1963s25]25 Duty of magistrate on receipt of report referred to in section 21, 23 or 24

The magistrate shall, on receipt of any such report as is referred to in section 21(2), 23(2) or 24(2) or (4) instruct the district surgeon or other medical practitioner to investigate the cause of

death, and if, in the opinion of the district surgeon or other medical practitioner, death occurred from natural causes, the magistrate shall, on the prescribed form, transmit the opinion of the district surgeon or other medical practitioner to the registrar or assistant registrar of the area in which the death occurred, and such registrar or assistant registrar shall thereupon issue an order authorizing burial.

[Sec 25 substituted by sec 29 of Act 58 of 1970.]

[a81y1963s26]26 Issue of prescribed certificate by magistrate

In any case not provided for in any of the preceding sections the magistrate shall as soon as he is satisfied that the body in question is no longer required for the purposes of an inquest or other proceeding, issue, on the prescribed form, a certificate to that effect, either to any person who is under this Act required to give notice concerning the death or to the undertaker or other person who causes the body to be buried, and such person or undertaker shall within twenty-four hours of the receipt of such certificate, if the death occurred in any urban area, or within fourteen days of the receipt thereof, if the death did not occur in any urban area, deliver it to the registrar or assistant registrar of the area in which the death occurred.

[Sec 26 substituted by sec 30 of Act 58 of 1970.]

[a81y1963s27]27 Production of burial order to person who buries the body

A burial order shall be produced by the person obtaining it or by some person on his behalf to the person who buries the body or conducts any funeral or religious service in connection with the burial.

[a81y1963s28]28 No burial to take place in urban area without burial order except in cases of urgent necessity

(1) Except in a case where-

(a) the immediate burial of the body of a person who has died from infectious disease is ordered by any local authority under any law or by-law or regulation relating to public health; or

(b) in the opinion of a health officer or local authority the body of a deceased person is in such a condition as to be a danger to public health if kept during the time necessary for obtaining the usual burial order; or

(c) unforeseen circumstances arise which would prevent or have prevented the obtaining of a burial order; or

(d) the body is to be buried outside an urban area, no burial shall take place without a burial order.

(2) Any person who under the circumstances described in paragraph (a), (b) or (c) of subsection (1) buries any body in any urban area or conducts any funeral or religious service in connection with the burial of such body, and any person in charge of a burial place shall, within twenty-four hours after the burial, give notice thereof in writing to the registrar or assistant registrar

of the area within which such burial has taken place or such funeral or religious service has been conducted.

[Sec 28 substituted by sec 31 of Act 58 of 1970.]

[a81y1963s29]29 Removal orders

(1) If the burial of any deceased person does not take place within the urban area where the death occurred or, where a person has died outside an urban area, within the magisterial district where the death occurred, a removal order authorizing the removal of the body shall be obtained from the registrar or assistant registrar of the area where the death occurred.

(2) A removal order required in terms of subsection (1) may be issued by any police officer in charge of a police station or in charge or temporarily in charge of a police mortuary, or any police officer in charge of a charge office, in the district or area in which the death occurred where such officer considers it necessary to issue such order to avoid delay or inconvenience, and any such officer who issues such an order shall as soon as possible thereafter advise the registrar or assistant registrar concerned in writing of the issue thereof.

[Sec 29 substituted by sec 32 of Act 58 of 1970.]

[Subsec (2) substituted by sec 23 of Act 5 of 1987.]

CHAPTER IV

[Heading to Chapter IV deleted by sec 33 of Act 58 of 1970.]

[a81y1963s30 to 34 inclusive]30 to 34 inclusive

[Secs 30 to 34 inclusive repealed by sec 34 of Act 58 of 1970.]

CHAPTER V

[a81y1963s35]35

[Sec 35 repealed by sec 34 of Act 58 of 1970.]

[a81y1963s36]36

[Sec 36 substituted by sec 35(1) of Act 58 of 1970 and repealed by sec 24 of Act 5 of 1987.]

[a81y1963s37]37

[Sec 37 repealed by sec 36 of Act 58 of 1970.]

CHAPTER VI

REGISTRATION OF BIRTHS AND DEATHS OCCURRING ON BOARD SHIP OR ON ANY AIRCRAFT (ss 38-38A)

[Heading to Chapter VI substituted by sec 37 of Act 58 of 1970.]

[a81y1963s38]38 Registration of births and deaths occurring on board ship

The receipt by a registrar or an assistant registrar of any return transmitted in terms of subsection (2) of section one hundred and eighty-nine of the Merchant Shipping Act, 1951 (Act 57 of 1951), shall constitute the registration of the birth or death therein recorded, and the provisions of this Act shall thereupon apply as if such birth or death had occurred within the district of such registrar or assistant registrar.

[Sec 38 amended by sec 45 of Act 58 of 1970.]

[a81y1963s38A]38A Registration of births and deaths occurring on aircraft

(1) Within twenty-four hours after the arrival of any aircraft in the Republic, the commander of the aircraft shall deliver or transmit to the officer in charge of the passport control office of the area in which the airport in question is situated, a return in the prescribed form-

(a) in the case of a South African aircraft, of every birth and every death on the aircraft which occurred after the last preceding occasion on which the aircraft left any airport in the Republic; and

(b) in the case of any aircraft other than a South African aircraft, of every birth of a child on the aircraft whose parents reside or intend to reside in the Republic, and of every death of a person on the aircraft who at the time of his death was residing in the Republic, which occurred during the journey.

(2) The officer referred to in subsection (1) shall transmit every such return received by him to the registrar or assistant registrar within whose area the airport is situated.

(3) The receipt by the registrar or assistant registrar of such return shall constitute the registration of the birth or death noted therein, and the provisions of this Act shall thereupon apply as if such birth or death had occurred within the area of such registrar or assistant registrar.

[Sec 38A inserted by sec 38 of Act 58 of 1970.]

CHAPTER VII

REGISTRATION OF MARRIAGES (ss 39-41)

[a81y1963s39]39 Manner of dealing with certain documents

If any officer is in terms of this Act required to transmit any register of a marriage to any other officer he shall transmit with such register to such officer every prescribed document relating to such marriage.

[Sec 39 substituted by sec 39 of Act 58 of 1970.]

[a81y1963s40]40 Preservation of records of a marriage

(1) The marriage officer solemnizing any marriage the parties thereto and at least two competent witnesses shall sign a register and a copy of the register of such marriage in the prescribed form before they leave the premises where the marriage took place.

(2) The said marriage officer shall keep the copy of the register with his records and shall, within three days from the date of the marriage, transmit the original register and the other duplicate of the register to the Secretary, for record.

[Sec 40 substituted by sec 40 of Act 58 of 1970 and by sec 25 of Act 5 of 1987.]

[a81y1963s41]41

[Sec 41 repealed by sec 26 of Act 5 of 1987.]

CHAPTER VIII

MISCELLANEOUS (ss 42-52)

[a81y1963s42]42 Searches and issue of certificates

(1) It shall be the duty of the Secretary, registrar and of every marriage officer, or magistrate upon receipt by him of a written application from any person and upon payment of the prescribed fee, (if any) to cause search to be made in any births, deaths or marriage register which is in terms of this Act or a law relating to the registration of births, marriages or deaths which was in force in the Republic in the custody of such officer, and, subject to the provisions of subsection (4), and of any regulation, to issue a certified copy in the prescribed form of any entry contained in such register or in any document attached to such register.

[Subsec (1) substituted by sec 4(a) of Act 18 of 1968 and by sec 42(1)(a) of Act 58 of 1970 and by sec 27(a) of Act 5 of 1987.]

(2)

[Subsec (2) deleted by sec 42(1)(b) of Act 58 of 1970.]

(3) Every such certificate signed by the Secretary, registrar, or marriage officer, or magistrate, as the case may be, shall in all courts of law and public offices be prima facie evidence the particulars set forth therein.

[Subsec (3) substituted by sec 42(1)(c) of Act 58 of 1970 and by 27(b) of Act 5 of 1987.]

(4)(a) Save as provided by regulations which the Minister is hereby authorized to make, no certificate shall be issued in respect of the birth of a person born on or after the first day of December, 1967, unless the provisions of section 7A have been complied with in relation to the registration of that birth.

[Para (a) amended by sec 42(1)(d) of Act 58 of 1970.]

(b) A certificate in respect of the birth of such person or a person whose registration of birth has been amended under section 7A(1), shall specify the classification assigned to the person concerned in terms of the Population Registration Act, 1950.

[Subsec (4) added by sec 4(b) of Act 18 of 1968.]

[a81y1963s43]43 Solemn declaration under this Act to be exempt from stamp duties

Notwithstanding anything contained in the Stamp Duties Act, 1962 (Act 59 of 1962), no affidavit or solemn declaration made by any person for the purposes of complying with any provision of this Act or the regulations relating to the registration of births and deaths shall be liable to stamp duty.

[a81y1963s44]44 Saving as to registration in respect of Indian immigrants

(1)(a) Nothing in this Act contained shall apply to the registration of the births, marriages and deaths of Indians in the Province of Natal until a date which the State President is hereby authorized to fix by proclamation in the Gazette as a date from which the provisions of this Act shall be extended to such Indians.

(b) Until such date such registration shall in all respects be made in like manner as if this Act had not been passed.

(2) From the date of such extension the Minister or any magistrate or other officer of the public service shall procure and forward to the Secretary a duplicate original register of any marriage solemnized by him under the provisions of the Indian Immigration Law, 1891 (Law 25 of 1891), of Natal.

[Subsec (2) amended by sec 45 of Act 58 of 1970.]

(3) Within six months from the date of such extension the Minister shall furnish the Secretary or cause him to be furnished by an officer of the public service with the registers of all marriages entered into prior to the date of such extension by Indians after their arrival in the Province of Natal.

[Subsec (3) amended by sec 45 of Act 58 of 1970.]

[a81y1963s44A]44A Inscribing of surname in and application of certain provisions to certain registers kept in respect of Indians

When the provisions of this Act have under section 44 been extended to Indians referred to in that section-

(a) the Secretary or any officer authorized thereto by him may, if satisfied that an Indian whose birth or marriage was registered in terms of the Indian Immigration Law, 1891 (Law 25 of 1891), of Natal, without mention of a surname, has adopted a surname or is known by a surname, and if the adoption of or being known by such surname is not contrary to the provisions of any other law, inscribe such surname or cause it to be inscribed in the appropriate register kept in terms of

that Act, and thereafter that surname shall be specified on any certificate issued in respect of the birth or marriage of such Indian;

[Para (a) amended by sec 45 of Act 58 of 1970.]

(b) any provision of this Act or a regulation relating to or conferring a power or imposing a duty in connection with a births, deaths or marriage register kept in terms of this Act or any inscription in any such register, shall mutatis mutandis apply, in so far as it can be applied, in relation to any register kept in terms of the said Indian Immigration Law, 1891, of Natal, of births, deaths or marriages and any inscription therein.

[Sec 44A inserted by sec 5 of Act 18 of 1968.]

[a81y1963s45]45 Penalty for failure to give notice or information

Any person who, without reasonable cause or excuse fails to give or transmit any notice, information, memorandum, return or certificate required by this Act or by any regulation, to be given or transmitted, shall be guilty of an offence: Provided that no person shall be liable to be convicted under this section if it appears that any other person has duly given or transmitted the required notice, Information, memorandum, return or certificate.

[a81y1963s46]46 Penalty for false statement made for insertion in information

Any person who wilfully makes or causes to be made, for the purpose of being inserted in any notice or information or in any births register, deaths register or marriage register, any false statement relating to any of the particulars required by this Act or by any regulation to be made known and registered, shall be guilty of an offence and liable on conviction to the penalties which by law may be imposed for the crime of perjury.

[a81y1963s47]47 Penalty for negligently losing or injuring register

Any person, having the custody of any register or certified copy thereof or of any part thereof, who negligently loses it or injures it or negligently, while it is in his custody, allows it to be injured, shall be guilty of an offence.

[a81y1963s48]48 Offences and penalties

Any person who-

(a) wilfully destroys or injures or renders illegible or causes to be destroyed or injured or rendered illegible any register or certified copy thereof or any part thereof;

(b) falsely makes or counterfeits or causes to be falsely made or counterfeited any part of a register or certified copy thereof or certified extract therefrom;

(c) wilfully inserts or causes to be inserted in any register or certified copy or part thereof or certified extract therefrom or in any certificate issued under this Act, any false entry;

(d) wilfully gives or utters any false certificate purporting to have been issued under this Act;

(e) wilfully gives or utters a false certified extract from any register;

(f) certifies any writing to be a copy of or extract from a register, knowing such writing to be false in any part;

(g) forges or counterfeits the signature, seal, impression or stamp of the Secretary, chief registrar, any magistrate, registrar, assistant registrar or of any marriage officer; or

[Para (g) substituted by sec 28 of Act 5 of 1987.]

(h) having the custody or care of any register, knowingly permits any such act to be committed, shall be guilty of an offence and on conviction be liable to a fine not exceeding one thousand rand or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

[Sec 48 substituted by sec 43 of Act 58 of 1970.]

[a81y1963s49]49 Penalty for contravention where no penalty specially provided

Any person who contravenes or fails to comply with any provision of this Act or of any regulation for the contravention whereof or for the failure to comply whereof no penalty is specially provided shall be liable on conviction to a fine not exceeding R250.

[Sec 49 substituted by sec 29 of Act 5 of 1987.]

[a81y1963s50]50 Regulations

(1) The Minister may make regulations, not inconsistent with this Act-

(a) as to the management of the office of the Secretary in so far as such management relates to the application of the provisions of this Act or of the chief registrar's office or of any registration office;

(b) prescribing the duties and powers of the Secretary, the chief registrar, registrars and assistant registrars;

(c) as to the obtaining or furnishing of particular information respecting all births, marriages and deaths occurring in the Republic and respecting all births, marriages and deaths of South African citizens, and marriages and deaths of other persons ordinarily resident in the Republic, occurring outside the Republic, and prescribing the nature and extent of such information;

(d) authorizing the Secretary to issue directions and to prescribe any forms, certificates, certified extracts, notices or registers to be used in connection with the registration of births, marriages and deaths and as to the purposes for which they may be used; as to the correction or alteration of and addition to any forms, certificates, notices or registers or any forms, certificates, certified extracts, notices or registers deemed to have been prescribed under this Act; and for the disposal, safe custody and preservation thereof;

[Para (d) substituted by sec 30 of Act 5 of 1987.]

(e) prescribing the fees payable for searches made or allowed or certificates given or for any act performed under the provisions of this Act or any regulation, and the persons by whom and to whom such fees are payable;

and generally for the better carrying out of the objects and purposes of this Act: Provided that any regulation relating to any matter referred to in paragraph (e) shall be made in consultation with the Minister of Finance.

(2) Different kinds of birth, marriage and death certificates and different conditions for the issue thereof may be prescribed under paragraph (d) of subsection (1), and different fees may be prescribed under paragraph (e) of subsection (1) in respect of different kinds of searches, certificates or acts and in respect of searches, certificates or acts relating to events that occurred at different times.

(3) The regulations may prescribe penalties for the contravention thereof or failure to comply therewith, not exceeding any case a fine of twenty rand.

[Sec 50 substituted by sec 44(1) of Act 58 of 1970.]

[a81y1963s51]51 Repeal of Laws

(1) Subject to the provisions of subsection (2), the laws specified in the Schedule are hereby repealed.

(2) Any proclamation issued or regulation made or action taken or thing done or deemed to have been issued, made, taken or done under any provision of any law repealed by subsection (1), shall be deemed to have been issued, made, taken or done under the corresponding provision of this Act.

[a81y1963s51A]51A Application of Act in South-West Africa

(1) This Act, except sections 7A and 42(4), and any amendment thereof, and any regulations made under this Act, shall apply also in the territory of South-West Africa, including the Eastern Caprivi Zipfel.

[Subsec (1) substituted by sec 31 of Act 5 of 1987.]

(2) The Births, Marriages and Deaths Registration Ordinance, 1965 (Ordinance 27 of 1965), of South-West Africa is hereby repealed.

[Sec 51A inserted by sec 46 of Act 58 of 1970.]

[a81y1963s52]52 Short title

This Act shall be called the Births, Marriages and Deaths Registration Act, 1963.

Schedule

LAWS REPEALED

| No. and year | Short title |
|----------------|---------------------------------------------------------------|
| Act 17 of 1923 | Births, Marriages and Deaths Registration Act, 1923 |
| Act 7 of 1934 | Births, Marriages and Deaths Registration Amendment Act, 1934 |
| Act 5 of 1943 | Births, Marriages and Deaths Registration Amendment Act, 1943 |
| Act 35 of 1951 | Births and Deaths Registration Amendment Act, 1951 |
| Act 46 of 1955 | Births, Marriages and Deaths Registration Amendment Act, 1955 |
| Act 26 of 1959 | Births, Marriages and Deaths Registration Amendment Act, 1959 |
| Act 5 of 1960 | Births, Marriages and Deaths Registration Amendment Act, 1960 |
| Act 3 of 1962 | Births, Marriages and Deaths Registration Amendment Act, 1962 |