

THE BIRTHS, MARRIAGES AND DEATHS REGISTRATION ACT, 1983.

Date of commencement: 6th January, 1984.

Date of Assent: 23rd June, 1983.

An Act to provide for the compulsory registration of births, marriages and deaths.

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PART I

PRELIMINARY

Short title, commencement and application.

1. (1) This Act may be cited as the Births, Marriages and Deaths Registration Act, 1983 and shall come into operation on such date as the Minister may, by notice in the Gazette, appoint.

(2) The Minister may, by notice in the Gazette, declare any provision of this Act or any law made thereunder to be applicable to citizens of Swaziland living in or outside Swaziland and to any other person residing in Swaziland.

Interpretation.

2. In this Act, unless the context otherwise requires —

- “adult” means a person of the age of twenty-one years or more or any married person;
- “birth” means the birth of any viable child whether such child is living or dead at the time of birth;
- “body” means a corpse and includes the corpse of a still-born child;
- “dwelling” means any structure inhabited by a person whether on a temporary or on a permanent basis;
- “marriage” means the voluntary union between a man and a woman and intended to last for their joint lives and any reference in this Act to a marriage means a marriage whether contracted before of after the commencement of this Act and whether contracted in Swaziland or elsewhere under any law or custom;
- “marriage officer” means a person appointed under section 16 of the Marriage Act, 1964 to be a marriage officer;
- “Minister” means the Minister responsible for legal affairs;
- “occupier” means in respect of any —
- (a) public or charitable institution or barracks, every governor, deputy governor, superintendent, or assistant superintendent, gaoler or medical or other officer or person in charge thereof;
 - (b) mine or compound or location in connection with a mine, every manager, or superintendent or person in charge thereof;
 - (c) premises let in lodgings or separate apartments, any person residing in such dwelling under whom such lodgings or separate apartments are immediately held; and
 - (d) tent, vehicle or other place of residence or place in or upon which any person may be born or die, every owner when in occupation or charge thereof, and if the owner is not in occupation or charge thereof, every lessee or other person in occupation or having the charge, care or custody thereof;
- “register” includes any books, registers or records which were kept in respect of any births, marriages and deaths before or after the commencement of this Act;
- “Registrar” means the person appointed in the public service to be Registrar-General or Senior Assistant Registrar or Assistant Registrar and includes any person acting in any of the capacities;
- “registration information officer” means the officer nominated or appointed under section 3(3) to whom the occurrence of births and deaths will be reported;
- “registration officer” means a district registrar, or assistant district registrar appointed in the public service under section 3(2);

“still-born” in relation to a child means a viable child which showed no sign of life after complete birth;

“viable” in relation to a child means an infant six or more months of intrauterine existence.

PART II

ADMINISTRATION

Appointment of Registrar and other officers.

3. (1) There shall be appointed to the public service a person to be known as the Registrar of Births, Marriages and Deaths who shall be the custodian of all notices of births, marriages and deaths and of all such returns as are required to be rendered to him by registration officers under this Act or any other law and of all records of any birth or death or marriage prior to the commencement of this Act.

(2) There shall be appointed to the public service a person to be known as the district registrar or assistant district registrar for a district or sub-district respectively who shall perform such duties and functions as are set out in this Act.

(3) The registration officer shall, in the performance of his duties and functions, be assisted by such number of registration information officers as may be nominated or appointed for that purpose in relation to any particular area or in relation to any matter provided for in this Act.

Power to demand information.

4. (1) A registration officer shall inform himself as far as possible of every birth, marriage or death which occurs within the area for which he has been appointed; and, after the expiry of the time allowed under this Act for giving any notice or information of any such birth, marriage or death, if such notice or information has not been given, the registration officer may, by notice in writing under his hand require any person whose duty it is under this Act to give any such information to attend, within the time specified in such notice, at the office, of the registration officer or any other place mentioned in such notice, there to give the registration officer or any other person named in the notice such information as may be necessary concerning such birth, marriage or death:

Provided that if any inquest or enquiry is being held or has been held concerning the death of any person, no such requirement shall be made by a registration officer for information as to the cause of such death.

(2) Where the notice referred to in subsection (1) is not complied with within 30 days, the person to whom the notice was issued shall be guilty of an offence and liable on conviction to the penalty imposed under section 34.

Correction of returns.

5. On receipt by the registration officer of any notice, information, memorandum, return or certificate in respect of a birth, marriage or death given or transmitted under this Act, he shall examine the same and cause any omission, defect or inaccuracy therein to be supplied or corrected as far as may be possible, and for the purpose 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 in section 4.

Registers.

6. (1) Births, marriages and deaths registers shall be kept by each registration officer wherein shall be recorded the registration of births, marriages and deaths respectively occurring in the area falling under their jurisdiction.

(2) There shall be transcribed into such registers such information as to births, marriages and deaths respectively as is prescribed.

(3) The Registrar shall keep registers in the prescribed form in which shall be recorded in alphabetical order —

- (a) the birth or every child whether born alive or still-born;
- (b) the marriage of every person;
- (c) the death of every person.

Late registration of births and deaths.

7. (1) No birth or death shall be registered after the expiry of the period prescribed in sections 15 and 16 except with the written authority of the Registrar which may be granted after the applicant has completed the prescribed forms of application for registration and on payment of the prescribed fee.

(2) If a person is aggrieved by the refusal or failure of the Registrar to grant the authority in subsection (1), he may, within 14 days of such refusal or failure, appeal to the Minister whose decision thereon shall be final.

Alteration of names in births register.

8. (1) If the birth of any person has been registered, whether under this Act or under any law repealed thereby, and the first name or names under his birth was registered, is or are altered, he if he is twenty-one years of age or over, or either of his parents or his guardian, if he is under twenty-one years of age, may apply to the Registrar for the alteration of his first name or names in the births register, and thereupon the Registrar may, if satisfied that the applicant is competent to make the application and upon payment by him of the prescribed fees, amend the registration of such person's birth by entering the altered first name or names in the register and on the original birth information form filed in his office in connection with the registration of such birth, without erasing the original first name or names therefrom, and shall instruct the registration officer concerned to make a similar entry in his births register and duplicate birth information form filed in his office.

(2) If any order has been made by the proper authority for the change of the surname of a person whose birth has been registered, whether under this Act or under any law repealed thereby, he, if he is 21 years of age or over, or either his parents or guardian if he is 21 years of age may apply to the Registrar directly or through a registration officer for alteration of surname in the births register. Thereupon the Registrar shall, if satisfied that the applicant is competent to make the application and on production of the order for the change of surname or certified copy thereof and on payment of the prescribed fee amend the registration of such person's birth by entering the change of surname on the original birth information form and

other related documents filed in his office in connection with the registration of such birth, but without erasing the original surname therefrom, and shall instruct the registration officer concerned to make a similar entry in his births register and duplicate birth information form filed in his office.

(3) If after registration of birth, the change in any other particular of a person not provided for in this section has occurred, he, if he is twenty-one years of age, or either of his parents or his guardian if he is under twenty-one years of age, may apply to the Registrar directly or through respective district registrar or assistant district registrar for alteration of such a particular in the births register. Thereupon the Registrar shall, if satisfied that the applicant is competent to make the application and on production of documentary proof (in case of change of sex of the child medical certificate from the medical practitioner shall be produced) and on payment of the prescribed fee, cause the said particular of the person to be altered in the original birth information form filed in his office, but without erasing the original entry, and shall instruct the registration officer of the district or sub-district in which the birth of the person was registered to make a similar inscription in his births register and duplicate birth information form filed in his office.

Late registration of names in births register.

9. If the birth of any person was registered under this Act or any law repealed by this Act, without the assignment of any name to him he if he is twenty-one years of age or over, or either of his parents or his guardian, if he is under twenty-one years of age, or if he has no parent or guardian, he may apply to the Registrar for the amplification of the registration of birth by the entry of his name and the Registrar shall if satisfied that he is competent to make the application and upon his paying of the prescribed fee, amplify the registration of such person's birth by entering his name in the register and on the original birth information form filed in his office in connection with the registration of such birth and shall instruct the registration officer concerned to make a similar entry in his births register and duplicate birth information form filed in his office.

Children born out of wedlock.

10. (1) A person who is the father of a child born out of wedlock shall not be required to give information under this Act concerning the birth of such child.

(2) A registration officer shall not enter the name of any person as the father of any child born out of wedlock in a birth information form or any register except at the joint request of the mother and the person who, in the presence of the registration officer acknowledges himself in writing to be the father of such child.

(3) Such acknowledgement, if made, shall be embodied in the birth information form or notice and the person so acknowledging himself to be the father of such child shall together with its mother and in the presence of the registration officer or the chief of the area or his induna or registration information officer sign the birth information form or notice.

Registration after legitimation by subsequent marriage.

11. (1) If any person was born, whether before or after the commencement of this Act, 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, he, if he is twenty-one years of age or over, or either of his

parents or his guardian, if he is under twenty-one years of age, or, if he has no parent or guardian, he may apply to the Registrar or through a registration officer for the registration of his birth as if his parents had been married to each other at the time of his birth, and the Registrar 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 were legally married to each other, thereupon make necessary corrections to this effect on the original birth information form filed in his office and instruct the registration officer to make a similar inscription in his births register and on duplicate birth information form filed in his office.

(2) If a person's parents were not married to each other at the time of his birth, but have 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.

Alteration of births register, or new registration as a result of adoption.

12. (1) If an order has been made for the adoption of a child whose birth has been registered under this Act, the Registrar shall on the application of the adoptive parent made to him or through a registration officer and on production of the order of adoption or a certified copy thereof and on payment of the prescribed fee, cause the fact of adoption and a statement whether the name of the adoptive parent was or was not conferred upon the child by virtue of such adoption to be recorded on the original birth information form filed in his office and direct the registration officer of the district or area in which such birth was recorded to make a similar inscription in the births register and duplicate birth information form kept by him.

(2) If an order has, at any time, been made for the adoption of a child whose birth has not been registered under this Act or of a child born outside Swaziland, the Registrar shall, on the application of the adoptive parent made to him or through a registration officer and on production of —

- (a) such order or a certified copy thereof;
- (b) such documentary proof of the birth of the child as the Registrar may deem sufficient; and
- (c) the form prescribed for information of a birth, adapted where necessary, completed as far as possible and signed by the adoptive parent;

and on payment of the prescribed fee, cause the birth of the child born outside Swaziland to be recorded in the external births register kept by him, and in case of a child born but not registered in Swaziland to be registered in the births register kept by the registration officer of the district or sub-district in which such order was made.

(3) The Registrar shall cause the fact of adoption and statement whether the name of the adoptive parent was or was not conferred upon the child by virtue of such adoption, to be recorded on the form produced to him under subsection (2)(c) against the entry of such birth which occurred outside Swaziland in the external births register kept by him and in the case of a child born but not registered under this Act, in the birth register kept by the registration officer of the district in which the order of adoption was made.

Alteration of particulars of parents in births register.

13. If after registration of a birth, any particulars of a parent shown in the births register have changed on account of the alteration of any name or change of surname, or change of any other particular due to some other reasons not provided for in this section, the Registrar shall, on application of such parents and on production of the certified copy of an order which

effected the alteration in the said particular or of documentary proof in support of the alteration required and on payment of the prescribed fee, cause the said particular of the parents to be altered in the original birth information form filed in his office and shall instruct the registration officer of the district or sub-district in which the birth of the child of such parents was registered to make a similar entry in the births register and duplicate birth information form kept by him.

Determination of cause of death.

14. (1) If the death of any person to whom this Act applies, is the subject of an inquest or criminal proceedings, the fact of such death shall be notified and recorded in the prescribed manner, but the cause of such death shall not be recorded until notified by the officer presiding at the inquest, summary trial or preparatory examination.

(2) Every officer so presiding shall upon entering his findings or verdict, or at the conclusion of such preparatory examination forthwith furnish the particulars of the cause of death of the deceased person to the registration officer.

(3) The registration officer shall thereupon enter such cause against the entry of such death in the deaths register and duplicate death information form kept by him and inform the Registrar of the cause of death and of the fact that the necessary entry has been made whereupon the Registrar shall make a corresponding entry in the original death information form kept by him.

PART III

REGISTRATION OF BIRTHS AND DEATHS

Information as to births.

15. (1) In the case of any children whether born alive or still-born the father of the child and, in the event of the death or absence or other inability of the father, any person present at the birth, or 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, the person having charge of such child, shall within sixty days after its birth give the prescribed notice thereof to a registration officer or a chief of the area or his induna or a registration information officer nominated or appointed for this purpose.

(2) Any such chief or his induna or registration information officer shall on receipt of such notice within 10 days give written information of the birth on the prescribed form, to be filled in triplicate, to the registration officer of the district or sub-district in which such child was born for the registration and issue of a birth certificate in the prescribed form.

Information as to deaths.

16. (1) Every adult relative of a deceased person present at his death or in attendance during his last illness before death or at his dwelling with him and, if there is no such relative, any adult person present, at the death of any person and, if there was no such adult person present, 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, any adult resident of the dwelling or any person who has caused a body to be buried shall give notice in the prescribed manner of such death within sixty days after its occurrence to a registration officer or a chief of the area or his induna or a registration information officer nominated or appointed for this purpose.

(2) Any such chief or his induna or registration information officer shall on receipt of such notice within 10 days give written information of such death of the prescribed form to be filled in triplicate to the registration officer of the district or sub-district in which such death occurred for registration and issuance of a death certificate in the prescribed form.

Still-born children.

17. (1) Any medical practitioner or registered midwife who was in attendance at the birth of any still-born child, or any medical practitioner who has examined the body of such child shall within seven days sign and give, without fee or reward, to any of the persons required under this Act to give information concerning a birth, a certificate stating that such child was still-born.

(2) Any person who is required by this Act to give information concerning the birth, shall within seven days deliver a certificate to a registration officer which shall be transmitted to the Registrar with the original birth information form.

(3) If no medical practitioner or registered midwife was present at the still-birth or no medical practitioner has examined the body of the child, the person referred to in subsection (2) shall make a solemn declaration that the child, was not born alive and deliver such declaration within thirty days of the still-birth to a registration officer.

(4) If any person other than a registered midwife assisted at the birth, the declaration to be furnished shall include the name and address of such person.

Certificate of cause of death.

18. (1) Any medical practitioner who has attended to any person prior to such person's death shall within seven days without fee or reward, issue on the prescribed form a certificate of cause of death unless he believes that death was not the result of natural causes, to the informant of such death.

(2) The informant to whom such a certificate is issued shall within seven days transmit it to the registration officer or the chief or his induna or the registration information officer for submission to the registration officer with the death information form who shall transmit it to the Registrar with the original death information form.

Removal of body.

19. No person shall remove or assist or attempt to remove or procure the removal of a dead body from Swaziland without a removal order from a registration officer.

Supply of information as to births and deaths by hospitals, clinics, etc.

20. (1) The person in charge of any hospital, clinic, maternity home, nursing home, orphanage or similar institution shall, within 15 days after the end of each month, furnish a monthly return of live births, still-births, and deaths occurring in such institution.

(2) Such return shall in case of a birth show the date thereof and the name and address of the mother, and in case of a death, the date and the name and address of the deceased.

(3) On receipt of this return, the district registrar or assistant district registrar shall ensure that the births and deaths indicated therein, have been registered by him.

PART IV

REGISTRATION OF BIRTHS AND DEATHS OCCURRING OUTSIDE SWAZILAND

Application of Part.

21. This part shall apply to a person who is a citizen of Swaziland and was either born or died outside Swaziland on or after the 6th September, 1968.

External births and deaths registers.

22. The Registrar shall keep registers to be called the external births register and external deaths register, in which shall be entered all information relating to births and deaths supplied in accordance with this Part.

Births and deaths occurring outside Swaziland.

23. (1) Any person desiring to register the birth of a child or the death of a person to whom this Part applies shall, within ninety days after the birth of a child or the death of a person, or within such later period as the Registrar may on written application to him allow, make written application to him or the ambassador or such other representative of Swaziland as may be designated in the country in which the child was born or the person died, for the registration of the birth of such child or death of such person and issuance of relevant certificates in such cases.

(2) Such application shall be accompanied by the prescribed birth or death information form and the prescribed fee.

(3) Where the application is made to an Ambassador or such other representative shall forthwith transmit the application and the fee to the Registrar.

(4) The Registrar shall enter the relevant information accompanied by any application referred to in this section in the external births register or the external deaths register as the case may be.

PART V

REGISTRATION OF MARRIAGES

Transmission of special marriage licences.

24. The marriage information form referred to in section 25(2), shall be transmitted by the officer who solemnized the marriage together with every special marriage licence to the registration officer in whose district or sub-district the marriage was solemnized.

Marriages solemnized by marriage officers.

25. (1) The marriage officer solemnizing any marriage, the parties thereto and two or more competent witnesses shall sign a marriage information form of such marriage in triplicate before they leave the premises where the marriage took place.

(2) The marriage officer shall keep the triplicate copy of the marriage information form for his record and shall, within seven days from the date of the marriage, transmit the original and duplicate copies of the marriage information form along with the prescribed fee

in the form of revenue stamps, to the registration officer in whose district or sub-district the marriage was solemnized for issuance of a marriage certificate.

(3) A marriage officer who fails to transmit the original and duplicate copy of the marriage information form in terms of subsection (2) shall be guilty of an offence and liable on conviction to a fine not exceeding fifty Emalangeni.

Marriages solemnized other than by a marriage officer in accordance with Swazi law and custom or any other law or custom.

26. (1) A chief in whose area a marriage in accordance with the Swazi law and custom or any other law or custom has been entered into or if he is not present at the marriage, an indvuna or umgijimi appointed by him to attend such marriage, or the person solemnizing the marriage, shall forthwith complete in triplicate a marriage information form of such marriage in the prescribed form and, within fourteen days from the date of such marriage, transmit the original and duplicate copies of the marriage information form to the district registrar or assistant district registrar in whose district or sub-district such marriage was solemnized.

(2) The chief or the person who solemnized the marriage shall keep the triplicate copy of marriage information form for his records.

(3) A chief or his induna or umgijimi or the person solemnizing the marriage, as the case may be, who fails to transmit the original and duplicate copy of the marriage information form in terms of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding fifty Emalangeni.

Alteration of particulars in marriage register.

27. If after registration of a marriage, any particular of the bride or bridegroom shown in the marriage register has changed on account of the alteration of a name or names, or change of surname, or change of any other particular due to any other reason, the Registrar shall, on joint application of the couple and on production of the certified copy of an order which necessitated the alteration of the said particular or documentary proof in support of the alteration required and payment of the prescribed fee, cause the said particular of the bride or bridegroom to be altered in the original marriage information form under his custody and shall instruct the registration officer of the district or sub-district in which such marriage was solemnized to make a similar entry in the marriages register and duplicate marriage information form kept by him.

PART VI

MISCELLANEOUS

Issue of certificates.

28. (1) Upon receipt of any birth, marriage or death information form in duplicate and the prescribed fee, from a registration information officer or the marriage officer or the informant, as the case may be, of the birth, marriage or death of a person and after registering it and recording its details in the relevant registers, the registration officer shall issue to the informant a certificate to be known as a birth, marriage, or death certificate, as the case may be, in the prescribed form, and shall furnish to the Registrar a copy thereof along with the

original birth, marriage and death information form:

Provided that in the case of a still-birth such a certificate shall not be issued but may, if so required, be issued only by the Registrar on the letter-head paper.

(2) The Registrar shall upon receipt by him of a written application from any person and upon payment of the prescribed fee, cause a search to be made in any births, marriages or deaths register which is under this Act or any prior law in his custody, and issue a certified copy of any entry contained therein in the prescribed form or of any documents attached thereto.

(3) Every such certificate signed by the Registrar, or registration officer, shall be *prima facie* evidence of the particulars set forth therein in all courts of law and public offices.

Stamp duty not payable.

29. Notwithstanding any law relating to the payment of stamp duty, no affidavit or solemn declaration made by any person for the purpose of complying with this Act or the regulations relating to the registration of births, marriages and deaths shall be liable to stamp duty.

Failure to give notice.

30. Any person who, without reasonable cause or excuse, fails to give or transmit any notice, information, memorandum, return or certificate required to be given or transmitted under this Act 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.

Giving of false information.

31. Any person who wilfully, and for the purpose of inserting in any notice, information, birth, marriage or death register makes or cause to be made any false statement relating to any of the particulars required to be made known and registered under this Act, shall be guilty of any offence.

Loss or damage to forms or registers.

32. Any person, having the custody or care of any birth, marriage and death information form or register or a certified copy thereof or of any part thereof, who negligently loses or damages it or who, while it is in his custody, negligently allows it to be damaged, shall be guilty of an offence.

Destruction and forgery of forms, registers, signatures, etc.

33. Any person who —

- (a) wilfully destroys or damages any births, marriages and deaths information form or register or a certified copy thereof or any part thereof;
- (b) renders it illegible or causes or permits it to be destroyed or damaged or rendered illegible;

- (c) falsely makes any part of a register or certified copy thereof or causes or permits it to be falsely made;
- (d) wilfully inserts or causes or permits any false entry to be inserted in any birth, marriage and death information form or register or a certified copy or part thereof;
- (e) wilfully gives or utters any false certificate or certifies any writing to be a copy or extract from the register knowing that such copy or extract is false in any part; or
- (f) forges the signature, seal, impression, or stamp of Registrar, registration officer or of any marriage officer,

shall be guilty of an offence and liable on conviction to the penalty imposed.

Offences and penalties.

34. (1) A person shall be guilty of an offence if he —
- (a) fails or refuses to comply with any lawful notice or requirement or a registration officer under section 4;
 - (b) contravenes or fails to comply with sections 15, 16, 17, 18, 19 and 20.
- (2) Any person found guilty of an offence under subsection (1) or under sections 30, 31, 32 or 33 shall be liable on conviction of a fine not exceeding fifty Emalangeni or in default of payment thereof imprisonment not exceeding three months.

Regulations.

35. The Minister may make regulations, not inconsistent with this Act —
- (a) relating to the management of a Registrar's Office or of any district or sub-district registration office;
 - (b) prescribing the duties and powers of registration officers;
 - (c) regulating the obtaining of information in respect of births, marriages and deaths occurring in Swaziland and births and deaths occurring outside Swaziland which are registered under Part IV and prescribing the nature and extent of such information;
 - (d) prescribing any forms, certificates, notices, or registers to be used in connection with the registration of births, marriages and deaths and regulating their use;
 - (e) prescribing the fees payable for searches made or allowed, certificates given, or any act performed under this Act, and the person by whom and to whom such fees are payable;
 - (f) prescribing what punishment may be imposed thereunder; and
 - (g) generally for giving effect to the purposes of this Act.

Validity of prior Acts, Orders, Registers, Records, etc..

36. All acts, orders, regulations, registers, entries, records or documents done, issued or kept in good faith by officers of the Government prior to the taking effect of this Act or under any law then in force, or purporting to have been so done, issued or kept, shall be as valid as if

such officers had been duly appointed as registration officers and shall endure for the purpose of this Act as full and effectually as if they had at all times been so valid.

Repeal.

37. The Births, Marriages and Deaths Registration Act, 1927 is hereby repealed.
