

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain even numbered pages as the other language is printed on uneven numbered pages.



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THE PRESIDENCY

No. 1174

7 December 2010

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 18 of 2010: Births and Deaths Registration Amendment Act, 2010.



AIDS HELPLINE: 0800-123-22 Prevention is the cure

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

(English text signed by the President.)
(Assented to 3 December 2010.)

ACT

To amend the Births and Deaths Registration Act, 1992, so as to substitute, insert and delete certain definitions; to revise provisions relating to the registration of births; to revise provisions relating to amendments of birth registration; to provide for the designation of funeral undertakers; to make provision for the recording of adoptions; to revise the provisions relating to secrecy of records obtained under this Act; to clarify provisions relating to the making of regulations; to repeal certain sections; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 51 of 1992, as amended by section 3 of Act 41 of 1995, section 1 of Act 40 of 1996 and section 1 of Act 1 of 2002

1. Section 1 of the Births and Deaths Registration Act, 1992 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

- “[(1)] In this Act, unless the context otherwise indicates—
- ‘biometrics’ means photographs, fingerprints (including palmprints), hand measurements, signature verification or retinal patterns that may be used to verify the identity of individuals; 10
- [(i)] **‘birth’**, in relation to a child, means the birth of a child born alive; [(vii)]
- [(ii)] **‘burial’** means burial in earth or the cremation or any other mode of disposal of a corpse; [(ii)] 15
- [(iii)] **‘burial place’** means any public, private or other place which is used for a burial; [(i)]
- ‘child born out of wedlock’** does not include a child whose parents were married to each other at the time of his or her conception or at any time thereafter before the completion of his or her birth; 20
- ‘Children’s Act’** means the Children’s Act, 2005 (Act No. 38 of 2005);
- ‘competent court’** [includes] means a magistrates’ court, and a children’s court established [as contemplated] in terms of the [Child Care Act, 1983 (Act No. 74 of 1983)] Children’s Act;
- [(iv)] **‘corpse’** means any dead human body, including the body of any still-born child; [(ix)] 25
- [(v)] **‘Department’** means the Department of Home Affairs; [(iv)]
- [(vi)] **‘Director-General’** means the Director-General: Home Affairs; [(v)]

- (vii) **'fingerprints' includes palmprints;** (xvii)
- (viii) **'forename'** means the word or words by which a person is designated as an individual and which precede his surname; [(xix)]
- (ix) **'major' [or 'person of age']** means any person who [has attained the age of] is 18 years or older [or who has under the provisions of section 2 of the Age of Majority Act, 1972 (Act No. 57 of 1972), been declared to be a major, and includes a person under the age of 18 years, who has contracted a legal marriage], and 'person of age' has a similar meaning; [(x)]
- 'marriage' means—**
- (a) a marriage concluded in terms of—
- (i) the Marriage Act, 1961 (Act No. 25 of 1961); or
- (ii) the Recognition of Customary Marriages Act, 1998 (Act No. 120 of 1998);
- (b) a civil union concluded in terms of the Civil Union Act, 2006 (Act No. 17 of 2006); or
- (c) a marriage concluded in terms of the laws of a foreign country;
- ['medical practitioner' includes a suitably qualified person who, on the recommendation of the Director-General: Health by virtue of such person's medical knowledge and experience, is appointed by the Director-General;**
- (x) **'Minister'** means the Minister of Home Affairs; [(xii)]
- (xi) **'minor' or 'minor person'** means any person who is not a major or a person of age; [(xi)]
- (xii) **'police officer' means a member of the Force as defined in section 1 of the Police Act, 1958 (Act No. 7 of 1958);** [(xiii)]
- (xiii) **'population register' means the population register [mentioned] contemplated in section 5 of the Identification Act, [1986 (Act No. 72 of 1986)] 1997 (Act No. 68 of 1997);** [(iii)]
- (xiv) **'prescribed' means prescribed [under this Act or any] by regulation;** [(xviii)]
- (xv) **'regional representative' means any person designated as a regional representative under section 21(1)(a) of the Identification Act, 1986 (Act No. 72 of 1986);** (xvi)
- (xvi) **'registration',** in relation to a birth or a death, means the registration thereof mentioned in section 5; [(xiv)]
- (xvii) **'regulation' means a regulation made and in force under this Act;** (xv)
- (xviii) **'still-born',** in relation to a child, means that it has had at least 26 weeks of intra-uterine existence but showed no sign of life after complete birth, and **"still-birth",** in relation to a child, has a corresponding meaning; [(vi)]
- (xix) **'this Act' includes the regulations. [(viii)]";** and
- (b) by the deletion of subsection (2).

Amendment of section 7 of Act 51 of 1992, as amended by section 1 of Act 67 of 1997

2. Section 7 of the principal Act is hereby amended—

- (a) by the substitution for subsection (2) of the following subsection:
- “(2) If in the course of the administration of this Act it comes to the attention of the Director-General that any particulars in respect of any person in any document submitted or preserved in terms of this Act or included in the population register are not correctly reflected, the Director-General may supplement and [correct] rectify such particulars in consultation with the person in question.”;
- (b) by the substitution for subsection (3) of the following subsection:
- “(3) Any person who is in possession of a certificate or other document purported to be issued in terms of this Act, which does not correctly reflect the particulars in any document referred to in subsection (2) or in the population register, shall within the prescribed period hand over or send by registered post such certificate or document to the Director-General for rectification.”; and

(c) the addition of the following subsection after subsection (3):

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

Substitution of section 8 of Act 51 of 1992

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3. The following section is hereby substituted for section 8 of the principal Act:

“Fees payable

8. The Director-General may with the concurrence of the Minister of **[State Expenditure]** Finance determine the fees payable for any specified act performed in accordance with the provisions of this Act by the Director-General or any person contemplated in section 4, and shall publish such fees in the *Gazette*.”.

Amendment of section 9 of Act 51 of 1992, as amended by section 4 of Act 41 of 1995, section 1 of Act 43 of 1998 and section 2 of Act 1 of 2002

4. Section 9 of the principal Act is hereby amended—

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(a) by the substitution for subsection (1) of the following subsection:

“(1) In the case of any child born alive, any one of his or her parents [or, if neither of his or her parents is able to do so, the person having charge of the child or a person requested to do so by the parents or the said person], or if the parents are deceased, any of the prescribed persons, shall, within 30 days after the birth of such child, give notice thereof in the prescribed manner, and in compliance with the prescribed requirements, to any person contemplated in section 4.”;

(b) by the insertion after subsection (1) of the following subsection:

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

(c) by the deletion of subsection (3);

(d) by the substitution for subsection (3A) of the following subsection:

“(3A) Where the notice of a birth is given after the expiration of [one year] 30 days from the date of birth, the birth shall not be registered, unless the notice of the birth complies with the prescribed requirements for a late registration of birth.”; and

(e) by the addition of the following subsections after subsection (6):

“(7) The Director-General may on application in the prescribed manner issue a prescribed birth certificate from the population register.

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

Amendment of section 11 of Act 51 of 1992, as amended by section 3 of Act 40 of 1996 and section 8 of Act 56 of 1998

5. Section 11 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) Any parent [or guardian] of a child born out of wedlock whose parents married each other after the registration of his or her birth, may, if such child is a minor, or such child himself or herself may, if he or she is of age, apply in the prescribed manner to the Director-General to amend the registration of his or her birth as if his or her parents were married to each other at the time of his or her birth, and thereupon the Director-General shall, if satisfied that the applicant is competent to make the application, that the alleged parents of the child are in fact his or her parents and that they legally married each other, amend the