

BIRTHS AND DEATHS REGISTRATION ACT, 2024

No. 22



of 2024

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An Act to re-enact the Births and Deaths Registration Act with amendments to regulate the registration of births, still-births and deaths; and for matters connected thereto.

Date of Assent: 29.10.2024

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

PART I — *Preliminary*

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| Short title and commencement | 1. This Act may be cited as the Births and Deaths Registration Act, 2024 and shall come into operation on such date as the Minister may, by Order published in the <i>Gazette</i> , appoint. |
| Interpretation | 2. In this Act, unless the context otherwise requires — |
| Cap. 28:01 | <p>“adoptive parent” has the same meaning assigned to the term under the Adoption of Children Act;</p> <p>“authorised person” means, in relation to —</p> <p style="padding-left: 20px;">(a) births or still-births, a <i>Kgosi</i> or administrative officer; and</p> <p style="padding-left: 20px;">(b) deaths, an administrator of the deceased’s estate;</p> <p>“birth” means the issuing forth from the mother, at any time, of a child who at any time after being wholly expelled from the mother, breathes or shows any other sign of life;</p> <p>“court” means Magistrate Court or High Court;</p> <p>“District Registrar” means the District Registrar of the district or area in which the relevant birth or death takes place;</p> <p>“foundling” means an abandoned child who is seven years and below;</p> <p>“guardian” has the same meaning assigned to the term under the Children’s Act;</p> <p>“intersex” means a person born with any of several sex characteristics, including chromosome patterns, gonads, and genitals that does not fit typical binary notions of male or female bodies;</p> |
| Cap. 28:04 | |

- “next of kin” means, in relation to the issuing of a certificate —
- (a) a spouse, parent, child or a relative;
 - (b) a guardian; or
 - (c) a social worker;
- “relative”, in relation to a child, includes the child’s —
- (a) grand-parent;
 - (b) sibling;
 - (c) uncle or aunt; or
 - (d) cousin;
- “register” means the Births Register, Still-Births Register or the Deaths Register maintained by the Registrar in accordance with section 5;
- “Registrar” means the Registrar of births, still-births and deaths appointed under section 3;
- “Registration Officer” means the Registration Officer of an area in which the relevant birth, still-birth or death takes place;
- “social worker” has the same meaning assigned to the term under the Children’s Act; and
- “still-born” and “still-birth” shall apply to any child who has issued forth from the mother after the expiration of the 28th week of pregnancy and did not, at any time after being wholly expelled from the mother, breathe or show any other sign of life.

PART II — *Appointment and functions of Registrar, District Registrars and Registration Officers*

3. (1) The Minister may, by Notice published in the *Gazette* appoint, for the purposes of this Act, any officer in the public service as a Registrar.

Appointment and functions of Registrar

- (2) The Registrar shall —
- (a) be the custodian of all notices of births, still-births and deaths and of all registers and records of any births, still-births or deaths;
 - (b) take charge of and preserve all books, registers and records of births, still-births and deaths which occurred prior to the commencement of this Act;
 - (c) require the submission to him or her of any documentary proof he or she may consider necessary to have for the proper discharge of his or her functions;
 - (d) take charge of and preserve all such books, forms, registers and other documents as form part of the records of the Registrar’s Office;
 - (e) receive and deal with applications for searches and for certified copies of births, still-births and deaths registers or other documentary proof and to obtain and furnish such information concerning births, still-births and deaths as may be required; and
 - (f) have the general control and superintendence of the registration of births, still-births and deaths.

Appointment
and functions
of District
Registrars and
Registration
Officers

4. (1) The Minister may appoint such number of —
(a) District Registrars; and
(b) Registration Officers,
as he or she may deem necessary to exercise, subject to the directions
of the Registrar, such of the functions of the Registrar, as the Registrar
may direct from time to time.

(2) The District Registrar shall —

- (a) complete the prescribed forms on behalf of persons who verbally
give information concerning births, still-births or deaths occurring
in his or her district;
- (b) receive forms from Registration Officers of information on births,
still-births and deaths accompanied by declarations, if required,
verifying the information given in the forms;
- (c) examine forms of information received from Registration Officers
and any documents in support of the forms and cause any defect
or inaccuracy in the forms to be corrected;
- (d) transmit all completed forms and any other related documents
received by him or her from any Registration Officer in terms of
this section, to the Registrar;
- (e) superintend and control, subject to the lawful instructions of the
Registrar, the registration of births, still-birth and deaths in his or
her district; and
- (f) ensure that every birth, still-birth and death reported to him or
her is registered.

(3) The Registration Officer shall —

- (a) in respect of the area for which he or she is responsible, subject
to the directions of the Registrar, exercise the same powers and
perform the same duties as, a District Registrar; and
- (b) transmit all completed forms and any other related documents
received by him or her in terms of this section, to the District
Registrar.

Registers and
registration

5. (1) The Registrar shall maintain three registers, to be called the —
(a) Births Register;
(b) Still-Births Register; and
(c) Deaths Register,
into which shall be entered the prescribed details of births, still-births
and deaths.

(2) The entries under subsection (1), shall constitute the registration
of a birth, still-birth or death, as the case may be, to which the entry
relates; and upon such entry, the information form relating to such birth,
still-birth or death and any related documents supplied to the Registrar
in terms of this Act shall be deemed to form part of that register.

PART III — *Compulsory Registration of Births,
Still-Births and Deaths*

6. (1) A prescribed notice of every child born alive or of any still-born child shall be made, within 30 days of such birth or still-birth, to either a District Registrar or a Registration Officer by the —

Duty to notify
birth of child
and still-birth

- (a) father or mother of the child, an adult relative, a social worker or by the occupier of the dwelling in which the child is born, in the case of a birth or still-birth that occurs outside a health institution; or
- (b) medical practitioner, midwife, paramedic, family nurse practitioner or any other person in charge of the birth, in the case of a birth or still-birth that occurs in a health institution.

(2) The notice under subsection (1) shall be accompanied by such information as may be prescribed.

(3) A person who contravenes this section commits an offence and is liable to a fine not less than P200 but not more than P500 or to imprisonment for a term not less than three months but not more than one year, or to both.

7. (1) The notice of birth of a foundling shall be given by a social worker or any person in whose charge such child may be placed after an enquiry by the Police in respect of the child concerned.

Duty to notify
birth of
foundling

(2) The notice under subsection (1) shall be —

- (a) given within 30 days of finding such child;
- (b) made to the District Registrar or a Registration Officer in which such child was found; and
- (c) accompanied by such information as may be prescribed.

(3) A person who contravenes this section commits an offence and is liable to a fine not less than P200 but not more than P500 or to imprisonment for a term not less than three months but not more than one year, or to both.

8. (1) It shall be the duty of —

Duty to notify
deaths

- (a) every adult relative of a deceased person who was present at his or her death or in attendance during his or her last illness or at his or her dwelling with him or her;
 - (b) in the absence of an adult relative under paragraph (a), any adult person present at the death of such deceased person;
 - (c) in the absence of any person present under paragraph (b), the occupier of the dwelling in which the death occurred; or
 - (d) in the case of the death or absence or other inability of any such occupier under paragraph (c), every adult inmate of the dwelling, or of any person who has caused the body to be buried,
- to give to the District Registrar or a Registration Officer notice in the prescribed manner of the death within 30 days of such death.

(2) A person who contravenes this section commits an offence and is liable to a fine not less than P200 but not more than P500 or to imprisonment for a term not less than three months but not more than one year, or to both.

Where notification has not been given

9. (1) The District Registrar or Registration Officer shall, after the expiry of the period allowed under this Act for giving any notice or information of birth, still-birth or death if the notice or information has not been given, require, by notice in writing, any person whose duty it is under this Act to give such information to do so.

(2) The notice referred to under subsection (1) shall state the —

- (a) information to be submitted;
- (b) time within which the information should be submitted; and
- (c) place where the information should be submitted.

(3) A person who contravenes this section commits an offence and is liable to a fine not less than P200 but not more than P500 or to imprisonment for a term not less than three months but not more than one year, or to both.

Duty of District Registrar and Registration Officer on receipt of notice of birth, still-birth or death

10. (1) The District Registrar or Registration Officer shall, on receipt of any —

- (a) notice;
- (b) information; and
- (c) certificate,

in respect of a birth, still-birth or death given or transmitted under this Act, examine the same and cause any omission, defect or inaccuracy in the information given to be supplied or corrected as far as may be possible, and for this purpose he or she may require any person whose duty it is to give, or who has given, information under this Act to attend and give information in the manner provided under section 9.

(2) The District Registrar or a Registration Officer shall ensure that every birth, still-birth or death which comes to his or her notice is recorded in the relevant register and that any required form is duly completed.

(3) The District Registrar or Registration Officer shall, after complying with subsections (1) and (2), transmit the completed form and any other related documents to the Registrar.

Issue of birth, still-birth and death certificates

11. (1) The Registrar shall furnish the next-of-kin or an authorised person with a birth, still-birth or death certificate.

(2) A certificate issued under subsection (1) shall —

- (a) in case of a death certificate, be either an abridged certificate or unabridged certificate;
- (b) in all courts of law and public offices within Botswana, be *prima facie* evidence of the particulars set out in the certificate; and
- (c) be in such form as may be prescribed.

(3) Any parent or guardian who without reasonable excuse refuses the other parent or guardian access to a child's birth certificate commits an offence and is liable to a fine not less than P 2000 but not more than P 5000 or to imprisonment for a term not less than three months but not more than six years, or to both.

(4) The Registrar shall, on being satisfied that a certificate issued in terms of this Act has been lost, damaged or destroyed and upon payment of a prescribed fee, issue a duplicate certificate to the next of kin or an authorised person.

12. (1) When an order from a court has been granted pertaining to a missing person's presumed death under any written law, the person who has been granted the order may apply to the Registrar for the purpose of registering the particulars of the missing person's presumed death.

Registration of
presumed death

(2) An application for registering a presumed death under subsection (1) shall be in the prescribed form and shall be accompanied by —

- (a) such documentation as may be prescribed; and
- (b) payment of the prescribed fee.

(3) The Registrar shall, upon approving an application under subsection (1), issue a death certificate to the person granted the order under this section.

13. (1) Except in accordance with this section, a —

- (a) birth or still-birth shall not be registered after the expiry of 30 days from the date of such birth or still-birth; and
- (b) death shall not be registered after the expiry of 30 days from the date of such death.

Late
registration
of births,
still-births
and deaths

(2) An application for the registration of a birth, still-birth or death after the expiry of the periods stated in subsection (1), shall be referred to as an application for late registration and shall be —

- (a) made in the prescribed form to the District Registrar or Registration Officer in the district or area in which the birth, still-birth or death took place;
- (b) accompanied by the prescribed fee:

Provided that no fee shall be payable in the case of an application for late registration if, at the time of birth, still-birth or death, the law made no provision for its registration; and

- (c) accompanied by such documentation as may be prescribed.

(3) The provisions of section 9 shall apply to this section.

(4) Notwithstanding subsection (2), the Registrar may, where a person's birth has not been registered but the person has renewed his or her identity card three times or more under the National Registration Act, cause such birth to be registered using the information provided by such person during the last renewal of the person's identity card upon verification and vetting.

Cap. 01:02

(5) The Registrar may refuse to register a birth, still-birth or death under this section until such time as material facts required under this Act, relating to such birth, still-birth or death have been proved to the Registrar's satisfaction.

Registration of
births occurring
outside Botswana

14. (1) Where the birth of a child of a Botswana citizen has occurred outside Botswana, a notice of such birth shall be given to the Botswana diplomatic or consular mission by the parents or relative of such child.

(2) The notice of birth under subsection (1) shall be in the manner and form as may be prescribed and shall —

- (a) be made within a period of 30 days of such birth; and
- (b) contain such information as may be prescribed.

(3) The Registrar shall, upon receiving the notice of birth under subsection (2), register such birth and issue to the next-of-kin or authorised person a birth certificate within seven days.

(4) A person who contravenes this section commits an offence and is liable to a fine not less than P200 but not more than P500 or to imprisonment for a term not less than three months but not more than one year, or to both.

Registration of
deaths
occurring
outside
Botswana

15. (1) Where a Botswana citizen dies outside Botswana, a notice of such death shall be given to the Botswana diplomatic or consular mission by the relative or guardian of such person.

(2) The notice of death under subsection (1) shall be in the manner and form as may be prescribed and shall —

- (a) be made within a period of 30 days of such death; and
- (b) contain such information as may be prescribed.

(3) The Registrar shall, upon receiving the notice of death under subsection (2), register such death and issue to the next-of-kin or authorised person a death certificate within seven days.

(4) A person who contravenes this section commits an offence and is liable to a fine not less than P200 but not more than P500 or to imprisonment for a term not less than three months but not more than one year, or to both.

PART IV — *General Provisions Relating to Registration*

Alteration of
births, still-
births and
deaths register

16. (1) The Registrar shall, subject to the provisions of this Act, not alter any register of births, still-births or deaths unless directed by an order of court to do so.

(2) Notwithstanding subsection (1), the Registrar may, without an order of court, on receipt of an application by a person, alter any such register in order to —

- (a) correct errors therein of spelling or transcription alone;
- (b) change the forename or forenames of a minor or of any person where the forename is demeaning or stigmatises the dignity of such minor or of any person;
- (c) add a new forename or rearrange existing forenames;
- (d) change a person's surname where it has been changed under the Change of Surnames Act; and
- (e) alter the sex description of a person who is intersex.

Cap. 15:02

(3) An application for altering any register of births, still-births or deaths under subsection (2) shall be in the prescribed form and shall be accompanied by —

(a) such documentation as may be prescribed; and

(b) a payment of the prescribed fee.

(4) The Registrar shall on receipt of an application under subsection (3) —

(a) alter the registration of the person's birth, still-births or deaths in the relevant births, still-births or deaths register but shall not erase any information originally recorded therein; and

(b) issue the person with the appropriate altered certificate.

(5) A person may, under subsection (2), alter his or her forename for not more than two times under this Act.

(6) A person who wishes to alter his or her forename for the third or more time shall submit his or her application to the Registrar with an order from a court.

17. An application for the alteration of the birth register by the adoptive parents of a child in accordance with the Adoption of Children Act shall be —

Alteration of
births register
as a result
of adoption

(a) in the prescribed form; and

(b) accompanied by a payment of the prescribed fee and such documentation as may be prescribed.

18. (1) A court may on application by the Registrar or by any person, by order authorise or direct the Registrar to alter any register of births, still-births or deaths.

Alteration
of register
through
court order

(2) The Registrar shall not alter any register of births, still-births or deaths without a court order.

19. (1) Any person who wishes to have —

(a) his or her name; or

(b) the name of any other person,

removed from the birth certificate of any child, may apply to court for an order authorising such removal.

Removal of
name from
birth
certificate

(2) Where a person under subsection (1) has been granted an order authorising the removal of a name from the birth certificate, he or she shall apply to the Registrar for the removal of such name.

(3) An application under subsection (2) shall be —

(a) as may be prescribed; and

(b) accompanied by —

(i) a payment of the prescribed fee, and

(ii) such documentation as may be prescribed.

(4) The Registrar shall, on receiving the application under subsection (2) —

(a) where the person is the biological father of the child, effect, an alteration to the certificate of registration of birth and shall not erase the name of the person originally recorded in the Birth Register; and

<p>Authorisation of court to register births, still-births and deaths</p>	<p>(b) where the person is not the biological father of the child, effect an alteration to the certificate of registration of birth and shall erase the name of the person originally recorded in the Birth Register.</p> <p>20. The Magistrate Court may on —</p> <p>(a) application by the Registrar or by any person; and</p> <p>(b) payment of the prescribed fee,</p> <p>by order authorise or direct the Registrar to register a birth, still-birth or death, as the case may be.</p>
<p>Registration of person as biological father</p>	<p>21. (1) An application for amendment to a certificate of registration of birth as the biological father of a child under section 28 (3) of the Children’s Act shall be made in the prescribed form and accompanied by a payment of the prescribed fee and such documentation as may be prescribed.</p> <p>(2) Any person who wishes to have the name of a father of a child who —</p> <p>(a) is deceased;</p> <p>(b) is incompetent to give consent due to mental illness; or</p> <p>(c) cannot be located,</p> <p>entered in the birth register, may apply to court for an order confirming the father’s paternity of the child.</p> <p>(3) Where a person under subsection (2) has been granted an order confirming the father’s paternity of the child, he or she shall apply to the Registrar to have the name of the father entered in the birth register.</p> <p>(4) An application under subsection (3) shall be —</p> <p>(a) as may be prescribed; and</p> <p>(b) accompanied by —</p> <p>(i) a payment of the prescribed fee; and</p> <p>(ii) such documentation as may be prescribed.</p>
<p>Consent for registration as father of the child</p>	<p>22. The District Registrar or Registration Officer shall not enter or cause or permit to be entered in any information form or other place, the name of any person as the father of a child which may be, or is required to be, registered under the Act without the consent of that person, which consent shall be given and recorded in such manner as may be prescribed.</p>
<p>Amendment of birth registration of child born out of wedlock</p>	<p>23. (1) When a 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 or her birth but who married each other after the registration of his or her birth, an application may be made to the Registrar by his or her parents for the registration of his or her birth as if his or her parents had been married to each other at the time of his or her birth.</p> <p>(2) The Registrar shall, if satisfied that the alleged parents of such person under subsection (1) are in fact his or her parents and that they were married to each other, register the birth in the prescribed manner as if such person’s parents had been married to each other at the time of his or her birth.</p>

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

24. A medical practitioner, family nurse practitioner, midwife or a paramedic that has attended a person before such person's death, shall provide the District Registrar or Registration Officer with a certificate of the cause of death in the prescribed form.

Certificate by
medical
practitioner as
to cause of
death

25. (1) Whenever the death of any person is the subject of an —
(a) investigation, report or inquest under the Inquests Act; or
(b) inquiry under the Mines, Quarries, Works and Machinery Act,
the District Registrar or Registration Officer shall not record the cause of death until he or she has been supplied with particulars of the cause of death under subsection (2).

Determination
of cause of
unnatural death
Cap. 07:01
Cap. 44:02

(2) On the —

- (a) conclusion of the inquest or the inquiry referred to in subsection (1);
- (b) issue of a certificate by a District Commissioner under section 7 (b) of the Inquests Act; or
- (c) conclusion of any criminal proceedings arising out of the death of a person under subsection (1),

the person who presided at such inquest or inquiry or who issued a certificate under section 7 (b) of the Inquests Act shall report the cause of death to the District Registrar or Registration Officer in such form as may be prescribed, within seven days.

(3) Notwithstanding subsections (1) and (2), the District Registrar or Registration Officer may, in special circumstances as may be prescribed, record the cause of death before any investigation, report, inquest or inquiry referred to in subsection (1) is made or held, if a certificate of the cause of death is issued by a medical practitioner —

- (a) who performed a post-mortem examination on the body; or
- (b) who has examined the body.

(4) Where the cause of death subsequently reported to the District Registrar or Registration Officer, at the conclusion of an inquest or inquiry under this section differs from that contained in the certificate issued by a medical practitioner, the District Registrar or Registration Officer shall amend his or her record by substituting the report of the inquest or inquiry for the certificate issued by the medical practitioner.

26. (1) Any person aggrieved by any decision of the Registrar under this Act may appeal, in writing, to the Minister within 14 days of notification of that decision.

Appeals

(2) A person aggrieved by a decision of the Minister under subsection (1) may appeal against that decision to the High Court.

PART V — *Miscellaneous*

Offences and penalties

27. (1) Any person who contravenes any provisions of this Act where penalty is not provided, commits an offence and is liable to a fine not less than P200 but not more than P500 or imprisonment for a term not less than three months but not more than one year, or to both.

(2) Any person who —

(a) furnishes false information or makes any false statement in the application for registration of birth, still-birth or death or in any sworn affidavit under this Act, commits an offence and is liable to a fine provided under the section 131 of the Penal Code;

Cap. 08:01

(b) forges any document for the purpose of obtaining birth, still-birth or death registration under this Act commits an offence and is liable to a fine provided under the section 344 of the Penal Code; and

(c) in any way seeks to illegally influence the decision of the Registrar, commits an offence and is liable to a fine provided under the section 24 of the Corruption and Economic Crime Act.

Cap. 08:05

Regulations

28. (1) The Minister may make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations providing for —

(a) the fees which may be charged under this Act;

(b) the forms of all registers and other documents required for purposes of this Act;

(c) the inspection of registers and indices and for the issue of certified copies; and

(d) anything which under this Act requires to be prescribed.

Repeal of Cap. 30:01

29. The Births and Deaths Registration Act (hereinafter referred to as the “repealed Act”) is hereby repealed.

Savings and transitional provisions

30. (1) Any subsidiary legislation made under the repealed Act and in force immediately prior to the coming into operation of this Act shall, in so far as such legislation is consistent with the provisions of this Act, continue to be in force as if made under this Act.

(2) Any register kept, registration effected, certificate, notice, authorisation or any other documentation which were issued under the repealed Act shall be given effect as if had been kept, effected or issued under this Act.

(3) The details of birth, still-birth or death which were entered in a register of births, still-births or deaths in the custody of the Registrar which was kept under any law in force at any time before this Act came into operation by which provision was made for the registration of births, still-births or deaths, any information form and any other document in the custody of the Registrar, submitted under that law, shall, for the purposes of this Act, be deemed to form part of that register.

(4) Any births and deaths that occurred outside Botswana before the coming into force of this Act and had not been registered, shall be registered by the person required to register such deaths within a period of 24 months after the commencement of this Act.

(5) Any action, suit or legal proceedings in respect of any offence committed or alleged to be committed under the repealed Act shall be carried out or prosecuted as if commenced under this Act.

PASSED by the National Assembly on this 20th day of August, 2024.

BARBARA N. DITHAPO,
Clerk of the National Assembly.