



# BIRTH REGISTRATION

A Comparative Report Prepared for UNICEF

November 2015



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# PREFACE

## Please note the following in relation to the research questionnaires:

1. The purpose of this report is to compare the legal frameworks governing birth registration in eleven jurisdictions. Birth registration is the process by which a child's birth is recorded in the civil register by the applicable government authority. It provides the first legal recognition of the child.
2. The questionnaires have been prepared by lawyers from the UK and other jurisdictions performing desk based research. We have endeavoured to make the questionnaires as comprehensive as possible, but they should not be regarded as exhaustive.
3. Every attempt has been made to access English versions of all relevant and up to date legislation. However, given the nature of desk based research, some legislation was not available in English (or at all) and some may be outdated, although it was not always clear when this was the case. Where possible we have attempted to provide hyperlink references to online versions of legislation or provided scanned copies as an appendix to the questionnaire.
4. For many jurisdictions, reports and resources may be several years old. Due to a lack of up to date resources, in some cases older resources have been cited and relied upon as representing current practice. We would recommend referring to footnotes before relying on information.
5. The lawyers preparing these questionnaires are not experts on civil registration law or on the law of the jurisdictions which they researched, but have applied their general research skills to prepare answers to the questions. Words such as 'child', 'registration', and 'certificate' may not always be used with the strict definition ascribed to them by that jurisdiction's legislation.
6. Eleven groups of lawyers from different jurisdictions have carried out the research presented in these questionnaires and may have taken slightly different approaches to answering the questions. The questions requiring an answer of 'Yes' or 'No' are there to provide an easy-to-read overview of each jurisdiction and cannot capture all the relevant information and qualifications. In light of this, we recommend that the answer to each question is read in full and in the context of the questionnaire as a whole.
7. The final section of the questionnaire deals with the requirement for birth registration in order to access services. Where the answer to a particular question is 'Yes', we have made every attempt to provide the relevant legislative provision or have referred to the fuller narrative explanation below. Where the answer is 'No', we have either provided the legislative provision (if relevant) or left the space blank. Where the answer is 'Unclear', we have left the space blank.
8. The scope of the questionnaires is limited to the domestic legal framework in relation to birth registration for each of the relevant jurisdictions. A small number of questionnaires refer to specific international treaty obligations relating to child rights or birth registration in order to provide a fuller picture of the situation within that jurisdiction. However, the absence of a reference to an international treaty does not imply that a country is not a party to it or that the treaty itself is not relevant to the issue of birth registration as a matter of international law.
9. The questionnaires focus on the registration of births occurring within the relevant jurisdiction. A number of questionnaires also refer to the registration of children born outside the jurisdiction to

citizens of that country, i.e. consular birth registration, but this information has not been included in every questionnaire.

10. The legal definitions of citizenship and nationality may not be identical in each jurisdiction, and there are some jurisdictions which do not distinguish clearly between the two concepts. In a number of questionnaires we have referred to both citizenship and nationality in order to provide a more comprehensive picture of the legal framework in relation to birth registration. Where possible, we have tried to use the particular terminology that appears in the relevant jurisdiction's legislation.
11. We would recommend that more exhaustive research is undertaken to verify particular information before reliance is placed on particular content for the purposes of publication or disclosure to third parties. This report may not be relied upon by any party other than UNICEF.
12. Where fees or fines have been quoted in US Dollars, the conversion was approximate and made at the time of writing the questionnaires using a commercial exchange rate, available at [www.xe.com](http://www.xe.com).

# ANGOLA

## QUESTIONNAIRE ON BIRTH REGISTRATION - ANGOLA

### Key Points

- Births in Angola must be registered at the local Civil Registration Office for the location where the birth occurred within 30 days.
- Birth registration fees have been suspended by Presidential order until 2016.
- Birth registration is required to obtain a national identity card, but it is unclear whether it is possible to access other services without a birth certificate.

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### Name of official authority in charge of registering a child's birth:

Central Registry Office and Civil Registration Offices.

### Where is the civil registry located in the government?

- (X) Ministry of Justice - Ministry of Justice and Human Rights
- ( ) Ministry of Interior
- ( ) Electoral Agency
- ( ) Independent Entity
- ( ) Other

Law: Decree Law 47678 – Civil Registry Code ("**Civil Registry Code**").<sup>1</sup>

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### Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

*Jus Sanguinis*: Article 9(2) of the Constitution of the Republic of Angola ("**Constitution**")<sup>2</sup> states that "*the child of a father or mother with Angolan nationality, born in Angola or abroad, shall be an Angolan citizen by origin*".

However, Article 9(3) of the Constitution states that "*a newborn child found in Angolan territory shall be presumed an Angolan citizen by origin*".

### Is there any legal obligation to register children?

Yes (X) No ( )

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<sup>1</sup> Decree Law 47678 – Civil Registry Code.

<sup>2</sup> Constitution of the Republic of Angola, available at <http://www.comissaconstitucional.ao/pdfs/constituicao-da-republica-de-angola-versao-ingles.pdf>.

**If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.**

Articles 1 and 2 of the Civil Registry Code require that certain events must be registered at the Civil Registration Offices. These events include the birth of a child.

**Does the child need to be registered within a certain amount of time from birth?**

Yes (X) No ( )

**If yes, by when?**

Article 119 of the Civil Registry Code provides that the birth must be registered within 30 days of the birth. This should be done at the Civil Registration Office for the place where the birth occurred.

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**Is a paper certificate issued as a result of the registration?**

Yes (X) No ( )

**Different by region/area**

Yes ( ) No (X)

**If it's different by region/or area, please provide us more detail.**

Not applicable.

**Is there a separate fee for the issuance of a paper certificate?**

Yes ( ) No (X)

**Different by region/area**

Yes ( ) No (X)

**If it's different by region/or area, please provide us more detail.**

Not applicable.

**Birth Registration Fee**

Yes ( ) No ( ) Conditional (X)

**If yes, amount in USD:**

See explanation below.

**If it's conditional, please provide reasons/cases for exemption.**

The birth registration fee would be approximately USD 3.52.<sup>3</sup> However, in accordance with Presidential Dispatch 80/13, 5 September<sup>4</sup> and Executive Decree 309/13, 23 September,<sup>5</sup> there is no birth registration fee for births registered between 2013 and 2016.

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<sup>3</sup> All conversions are approximate and were made at the time of writing the report using a commercial exchange rate, available at [www.xe.com](http://www.xe.com).

**Are there fees for registering a birth after a certain period of time ("late registration" or "delayed registration")**

Yes (X) No ( )

**If yes, amount in USD: (please see below)**

For births registered within one year of the deadline, the fee is approximately USD 4.22.

For births registered more than one year after the deadline, the fee is approximately USD 7.03.

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**Requirements for Birth Registration (tick what applies):**

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status (X)

**Are Stateless / Refugee Births Registered?**

Yes (X) No ( )

Articles 1 and 2 of the Civil Registry Code require all births to be registered at the Civil Registration Office for the place where the birth occurred.

Article 9(3) of the Constitution states that any newborn child found in Angolan territory shall be presumed an Angolan citizen by origin. In accordance with this constitutional provision, Article 14 of Law 1/05, 1 July<sup>6</sup> provides that certain individuals born in Angola can apply for Angolan nationality. This includes individuals who do not have another nationality, individuals whose parents are stateless or of unknown nationality, and individuals whose parents are not known.

**Are children of single parents registered?**

Yes (X) No ( )

Articles 1 and 2 of the Civil Registry Code require all births to be registered at the Civil Registration Office for the place where the birth occurred.

**Are all children born in the territory registered?**

Yes (X) No ( )

Articles 1 and 2 of the Civil Registry Code require all births to be registered at the Civil Registration Office for the place where the birth occurred.

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<sup>4</sup> Presidential Dispatch 80/13, 5 September.

<sup>5</sup> Executive Decree 309/13, 23 September.

<sup>6</sup> Law 1/05, 1 July.



If no, please provide list of those not registered.

Not applicable.

Other Requirements (if none, put n/a)

Not applicable.

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### Registration System Set-up

Electronic Submission ( ) Paper Submission (X) Both ( )

Article 119 of the Civil Registry Code states that the birth must be declared orally. Therefore, we can infer that an oral / paper-based registration system is the only method available.

### Location of registration facilities

Capital city Yes (X) No ( )

Other cities Yes (X) No ( )

Villages Yes (X) No ( )

Other \_\_\_\_\_

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### Birth Registration is required for:

#### Access to education

Yes ( ) No (X) Law \_\_\_\_\_

The Constitution provides for a general right to education. Article 79(1) of the Constitution states that the State shall promote access for all to literacy, education, culture and sport. However, in practice enrolment at educational institutions requires birth registration (see below).

#### Obtaining a primary school diploma

Yes (X) No ( ) Law *Presidential Decree 16/11, 11 January.*

Article 24(1) of Presidential Decree 16/11, 11 January, also known as the General Education Subsystem Statute ("**Education Statute**"),<sup>7</sup> states that submitting a birth registration certificate or a copy of the person's identity card is mandatory for primary education enrolment. Although only one of these documents is required for enrolment, it is not possible to acquire an identity card without birth registration. Thus, in practice, birth registration is a requirement.

#### Obtaining a secondary school diploma

Yes (X) No ( ) Law *Presidential Decree 16/11, 11 January.*

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<sup>7</sup> Presidential Decree 16/11, 11 January.

Article 24(2) of the Education Statute states that, in relation to secondary school, a copy of the identity card is mandatory for enrolment. This means, in practice, that birth registration is a necessary requirement for to a person to be admitted to secondary school.

#### Access to health (emergency services only)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

Article 77(1) of the Constitution states a general right to medical and health care. Article 77(2) requires the State to develop and ensure an operational health service throughout Angola. This means that in theory all persons should have the right to healthcare in general terms.

*"1. The state shall promote and guarantee the measures needed to ensure the universal right to medical and health care, as well as the right to child care and maternity care, care in illness, disability, old age and in situations in which they are unable to work, in accordance with the law.*

*2. In order to guarantee the right to medical and health care, the state shall be charged with:*

- a) Developing and ensuring an operational health service throughout national territory;*
- b) Regulating the production, distribution, marketing, sale and use of chemical, biological and pharmaceutical products and other means of treatment and diagnosis;*
- c) Encouraging the development of medical and surgical training and research into medicine and health care.*

*3. Private and cooperative initiatives in the spheres of health care, welfare and social security shall be overseen by the state and exercised under the conditions prescribed by law".*

No specific provisions requiring a birth certificate were found in the National Health Policy.

#### Access to health (primary health services only)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

Please refer to the previous answer on 'Access to health (emergency services only)' as the same legal provisions apply.

#### Access to health (all services)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

Please refer to the previous answer on 'Access to health (emergency services only)' as the same legal provisions apply.

#### Access to social security programmes / cash benefits

Yes ( ) No ( ) Unclear (X) Programme name \_\_\_\_\_ Law \_\_\_\_\_

No relevant specific legislative provisions were found in Law 8/91, 20 April, also known as the Social Security Law.<sup>8</sup>

<sup>8</sup> Law 8/91, 20 April.

No specific provisions were found in government policies that would require a birth registration certificate in order to access social security programmes or cash benefits.

### Nationality

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

Chapter II of Law 1/05, 1 July, also known as the Angolan Citizenship Law ("**Citizenship Law**")<sup>9</sup> defines that any child of an Angolan father or mother, whether born in Angola or outside Angola, is considered an Angolan citizen by origin. Article 24 of the Citizenship Law states that for such persons born in Angola to an Angolan parent the birth certificate acts as proof of nationality, and Article 19 clarifies that there are no further registration requirements, where nationality has been allocated through birth registration in the civil register. Article 4 of the Citizenship Law states that Angolan nationality takes effect from birth.

No specific provisions were found in Decree 1/86, 11 January, also known as the Regulatory Law of the Citizenship Law.<sup>10</sup>

### Identification card

Yes (X) No ( ) Law Law 4/09, 30 June.

Law 4/09, 30 June ("**Civil Identity Law**")<sup>11</sup> governs the legal regime of civil identity and the issuance of identity cards. Article 20(1)(b) of the Civil Identity Law states that the formal request for issuing an identity card must be submitted on paper and must include a copy of the birth registration certificate.

### Passport

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

No specific legal provisions or government policies were found with specific reference to the requirement for a birth registration certificate. The website of the Angolan Embassy in the United Kingdom<sup>12</sup> states that an application for an Angolan passport submitted through the Embassy must be supported by an original and photocopy of one of the following three documents: "*Expired passport, Angolan identity card, Birth certificate issued in Angola (authenticated by the Registry Office of the Ministry of External Relations)*".

### Other (Please specify e.g. enrolment for social protection programme/ food bank)

No specific legal provisions were found relating to this point. However, it is worth mentioning that Angolan nationality, and a document that proves it, may be a requirement to open a bank account or to invest in Angola in many sectors. For example, to be the shareholder of an Angolan company

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<sup>9</sup> Law 1/05, 1 July.

<sup>10</sup> Decree 1/86, 11 January.

<sup>11</sup> Law 4/09, 30 June.

<sup>12</sup> Angolan Embassy in the United Kingdom, "Angolan Passports", available at [http://www.angola.org.uk/en/passport\\_adult.html](http://www.angola.org.uk/en/passport_adult.html).

without any prior authorisation of the Government, Angolan nationality (and a national identity card) is necessary.

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## References

### Legislation and Policies Reviewed:

- Constitution of the Republic of Angola;
- Decree 1/86, 11 January;
- Decree Law 47678 – Civil Registry Code;
- Executive Decree 309/13, 23 September;
- Law 8/91, 20 April;
- Law 1/05, 1 July;
- Law 4/09, 30 June;
- Presidential Decree 16/11, 11 January;
- Presidential Dispatch 80/13, 5 September;
- National Health Policies.

# BANGLADESH

## QUESTIONNAIRE ON BIRTH REGISTRATION - BANGLADESH

### Key Points

- In 2001 the Birth and Death Registration Project was established under the Local Government Division to promote birth registration, and in 2006 new legislation came into force which imposes a legal obligation on parents or guardians of children to register their births within 45 days.
- Registration within two years of birth is free, while small fees are charged for late birth registration.
- Bangladeshi legislation states that birth registration is required for many activities in the public and private spheres, ranging from acquiring a passport to obtaining utility connections.

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### Name of official authority in charge of registering a child's birth:

According to section 6 of the Birth and Death Registration Act 2004 (Act No. 29 of 2004) (as amended) ("**Registration Act**")<sup>13</sup> the "Registrar" is responsible for registering births, maintaining the birth register and issuing birth certificates in Bangladesh.

Section 4(1) of the Registration Act provides that the identity of the "Registrar" is determined by where a person is born or where they permanently reside, namely:

- a) for a person born or who permanently resides in a city corporation,<sup>14</sup> the Mayor (or any officer or commissioner to whom they have delegated responsibility) shall act as Registrar;
- b) for a person born or who permanently resides in the jurisdiction of a Paurashava,<sup>15</sup> the Chairman of the concerned Paurashava (or any officer or commissioner to whom they have delegated responsibility) shall act as Registrar;
- c) for a person born or who permanently resides in the jurisdiction of a Union Parishad,<sup>16</sup> the Chairman of the concerned Union Parishad (or any officer or member to whom they have delegated responsibility) shall act as Registrar;

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<sup>13</sup> The Birth and Death Registration Act 2004, Act No. 29 of 2004 (as amended by the Birth and Deaths Registration (Amendment) Act 2013, Act No. 34 of 2013). In writing this questionnaire, we used a copy of the legislation received from Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division, on 26 May 2015; a scan of this copy is included in this questionnaire at Appendix 1. The copy provided by Mr Yousuf differs slightly from the version found online at <http://www.refworld.org/pdfid/511b54192.pdf%20>, which we assume to be an older version which does not include the most recent amendments.

<sup>14</sup> For example, Chittagong CC, Comilla CC, Dhaka North CC, Dhaka South CC, Gazipur CC, Narayanganj CC, Barisal CC, Khulna CC, Rajshahi CC, Rangpur CC and Sylhet CC.

<sup>15</sup> These are also known as "municipal corporations" and there are over 60, including Chandpur, Laksam, Jamalpur, Tangail, Kushtia, Narail, Bogra, Pabna, Saidpur, Panchagarh, Habiganj and Beanibazar.

d) for a person born or who permanently resides in the jurisdiction of a cantonment board,<sup>17</sup> the Executive Officer of the cantonment board (or any officer to whom they have delegated responsibility) shall act as Registrar; and

e) for a Bangladeshi born abroad, any officer empowered by the Ambassador of Bangladesh in the concerned country shall act as Registrar.

The effect of the above provisions mean that a child born whilst on holiday in or visiting a particular jurisdiction (i.e. a city corporation, a Paurashava, a Union Parishad, a cantonment area or overseas), but whose family resides permanently (i.e. for at least three years) in a different jurisdiction within Bangladesh, can either be registered in the jurisdiction of their permanent residence or in the jurisdiction of their birth.<sup>18</sup> For the avoidance of doubt, there is no explicit guidance or detail in the legislation (and we have not been able to obtain further clarity) relating to whom precisely is required to “permanently reside”, but this will presumably be the mother and/or the father.

Section 4(2) of the Registration Act provides that only one person shall act as Registrar in any “single area” (i.e. jurisdiction). Section 7(a)(1) of the Registration Act provides for the role of a “Registrar General” and states the Registrar General's duties and functions shall be determined by “rules”. We have not however, been able to access any such rules. Commentaries from in-country reports suggest that the Registrar General's role is to oversee the Registrar.<sup>19</sup> Please note that we have been informed by an employee at the Birth and Death Registration Project in Bangladesh that the Registrar General's office, which was announced in September 2013, is in the process of being established and, at the time of writing, an appointee has not yet been confirmed.<sup>20</sup>

#### Where is the civil registry located in the government?

- ( ) Ministry of Justice
- ( ) Ministry of Interior
- ( ) Electoral Agency
- ( ) Independent Entity

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<sup>16</sup> These are also known as "Union Councils", and there are over 4450, including Kushumhati UP, Mahmudpur UP, Dania UP, Uttarkhan UP, Pathalia UP, Savar UP, Kalakopa UP, Basta UP, Sakta UP, Kulaa UP and Suapur UP.

<sup>17</sup> This refers to military districts and includes Dhaka Cantonment, Alikadam Cantonment, Jalalabad Cantonment and Rangpur Cantonment.

<sup>18</sup> Confirmation provided by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2.

<sup>19</sup> World Health Organisation Report, "Registering Millions: Celebrating the Success and Potential of Bangladesh's Civil Registration and Vital Statistics System", (2014), p. 4, available at [http://apps.searo.who.int/PDS\\_DOCS/B5114.pdf](http://apps.searo.who.int/PDS_DOCS/B5114.pdf). See also UNICEF Bangladesh Country Office, "Birth Registration Factsheet", May 2014, available at [http://www.unicef.org/bangladesh/Birth\\_Registration\(2\).pdf](http://www.unicef.org/bangladesh/Birth_Registration(2).pdf).

<sup>20</sup> Confirmation provided by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2.

(X) Other - Local Government Division, Ministry of Local Government, Rural Development and Cooperatives

Law: \_\_\_\_\_

The Local Government Division of the Ministry of Local Government, Rural Development and Cooperatives (“**Local Government Division**”) has the legal mandate for birth and death registration in Bangladesh.<sup>21</sup> Within the Local Government Division, the Birth and Death Registration Project has responsibility for assisting with issues relating to birth registration.<sup>22</sup> As mentioned above, it seems that the Bangladesh Government is in the process of appointing a Registrar General, and once this is completed, the responsibilities currently undertaken by the Birth and Death Registration Project will be transferred to the Registrar General.<sup>23</sup>

We have not been able to locate any specific legislation that provides for birth registrations to fall under the remit of the Local Government Division, however, we note that the definitions section of the Registration Act defines “*Government*” as the “*Local Government Division, Ministry of Local Government, Rural Development and Cooperatives*”. The Local Government Division is granted various powers under the Registration Act, including the ability to appoint a Registrar General to take responsibility for birth registrations.<sup>24</sup> This aligns with our understanding that the role will transition to the Registrar General. Section 7(a)(2) of the Registration Act alludes to further rules being issued regarding the Registrar General, so we anticipate further detail to be issued in due course.

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**Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?**

Article 6 of the Constitution of Bangladesh (“**Constitution**”) states that “*the citizenship of Bangladesh shall be determined and regulated by law*”.<sup>25</sup> There are two key pieces of legislation concerning citizenship in Bangladesh: the Citizenship Act of 1951 (as amended) (“**Citizenship Act**”)<sup>26</sup> and the Bangladesh Citizenship (Temporary Provisions) Order 1972 (as amended) (“**Citizenship Order**”).<sup>27</sup>

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<sup>21</sup> World Health Organisation (2014), op.cit.

<sup>22</sup> Information provided by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2.

<sup>23</sup> Information provided by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2.

<sup>24</sup> Section 7(a)(1), Registration Act.

<sup>25</sup> Article 6, Constitution of Bangladesh 1972 (last amended in 2014), available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=3ae6b5684&skip=0&query=constitution&coi=BGD>.

<sup>26</sup> The Citizenship Act 1951, Act 2 of 1951, as amended by the Bangladesh (Adaptation of Existing Laws) Order, 1972 (President's Order No. 48 of 1972) and the Citizenship (Amendment) Act 2009, Act 17 of 2009, available at [http://bdlaws.minlaw.gov.bd/print\\_sections\\_all.php?id=242](http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=242).

<sup>27</sup> President's Order No. 149 of 1972, "The Bangladesh Citizenship (Temporary Provisions) Order 1972" (as amended), available at <http://www.refworld.org/cgi->

The Citizenship Order seems to have come into force in order to implement temporary provisions which were intended to meet the immediate needs that arose out of the changed circumstances following Bangladesh's independence. We have not found any evidence to suggest that these provisions have been repealed. Article 2(i) of the Citizenship Order provides that a person shall be deemed to be a citizen of Bangladesh if their father or grandfather was born in a territory that was considered part of Bangladesh on or after 25 March 1971 ("**Independence Day**"), and was a permanent resident at that time and continues to be a permanent resident in such territory. Article 2(ii) of the Citizenship Order provides that any person who was a permanent resident of such a territory and continues to be so resident shall also be deemed to be a citizen of Bangladesh. There are some exceptions to the above rules (for example, Article 2A provides that a person to whom Article 2 would have applied but for their residence in the UK, shall be deemed to continue to be a permanent resident in Bangladesh, and Article 2B provides the Government may grant citizenship to European or North American citizens). However, generally this law provides for a citizenship system of *jus sanguinis*.

The Citizenship Act provides for various categories of citizenship including "*citizenship at the date of the commencement of the Citizenship Act*" (which includes those whose parents or grandparents were born in particular territories prior to the Citizenship Act),<sup>28</sup> "*citizenship by birth*" (which includes those who are born in Bangladesh after the commencement of the Citizenship Act),<sup>29</sup> and "*citizenship by descent*" (which applies to those born after the commencement of the Citizenship Act whose father or mother is a citizen of Bangladesh).<sup>30</sup> This law therefore recognises both *jus sanguinis* and *jus soli*.

The Citizenship Order did not repeal the Citizenship Act and nor was the Citizenship Order expressed as amending the Citizenship Act. Instead it seems that the Citizenship Order (itself expressed as "*temporary*") co-exists alongside the Citizenship Act. This situation has resulted in requests for the citizenship law of Bangladesh to be consolidated into a single comprehensive law<sup>31</sup> and unofficial sources suggest that this process is underway.<sup>32</sup> The enactment of a single comprehensive law would help to clarify the position.

### Is there any legal obligation to register children?

Yes (X) No ( )

### If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The main legislation that governs birth registration in Bangladesh is the Registration Act which came into force on 3 July 2006, and was subsequently amended, most recently in 2013.

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[bin/texis/vtx/rwmain?page=country&category=&publisher=NATLEGBOD&type=&coi=BGD&rid=&docid=3ae6b51f10&skip=0](http://www.natlegbod.gov.bd/bin/texis/vtx/rwmain?page=country&category=&publisher=NATLEGBOD&type=&coi=BGD&rid=&docid=3ae6b51f10&skip=0).

<sup>28</sup> Section 3, Citizenship Act.

<sup>29</sup> Section 4, Citizenship Act.

<sup>30</sup> Section 5, Citizenship Act.

<sup>31</sup> The Law Commission of Bangladesh, "Report on the Proposed Law of Citizenship of Bangladesh", (2005), available at <http://www.lc.gov.bd/reports/67.pdf>.

<sup>32</sup> The Dhaka Tribune, "Scrutiny of draft citizenship act under way", 5 October 2014, available at <http://www.dhakatribune.com/bangladesh/2014/oct/05/scrutiny-draft-citizenship-act-under-way>.



Section 8 of the Registration Act provides that “*the father or mother or guardian of the child or any prescribed person shall be liable to submit information relating to the birth of a child to the Registrar within 45 days of the child's birth*”.

Section 9(1) of the Registration Act lists the prescribed persons who can provide information to the Registrar, namely:

"[...]

- a) *member and secretary of a Union Parishad;*
- b) *village police;*
- c) *a councillor of a City Corporation or Paurashava;*
- d) *health and family welfare worker appointed in the Union Parishad, Paurashava, City Corporation or Cantonment area;*
- e) *field worker appointed by a non-government organisation engaged in the health and family welfare sector;*
- f) *for births taking place in government or non-government hospitals or clinics or maternity centres or in any other institutions, the medical officer in charge of such institution or a physician or any other officer delegated on his behalf;*
- g) *superintendent of any graveyard or crematorium;*
- h) *any other officer or staff engaged by the Registrar;*
- i) *in case of a birth inside a jail, the jail super<sup>33</sup> or any person delegated by him on his behalf;*
- j) *in the case of any “abandoned child found in the public place”, the officer in charge of the police station concerned with such public place; or*
- k) *any other prescribed person or institution”.*

Section 9(2) of the Registration Act appears to place a continuing obligation on a person who provides information to the Registrar in relation to a birth, in that it provides that any such person shall also take the necessary steps to register the birth of the concerned person or provide them with assistance to register.

#### **Does the child need to be registered within a certain amount of time from birth?**

Yes (X) No ( )

#### **If yes, by when?**

According to section 8 of the Registration Act, a child's birth must be registered within 45 days of the birth. Section 10 of the Registration Act provides that the name of the child should be fixed before

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<sup>33</sup> Please note that this is the wording used in the unofficial translation of the Registration Act. We assume that "super" is a reference to the superintendent or managing supervisor of the jail.

registering their birth, however, if no name has been given, then the name should be provided to the Registrar within 45 days of registration.

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### Is a paper certificate issued as a result of the registration?

Yes (X) No ( )

Section 6(d) of the Registration Act provides that issuing birth certificates is one of the Registrar's duties and section 11 provides that “*on the basis of the petition by any person, the Registrar shall issue a birth certificate for a prescribed fee and in due process.*” The use of the words “*on the basis of the petition by any person*” suggests that there is a separate process for obtaining a certificate, however no further information is provided in relation to this process or the applicable fee. Based on the legislation, it is not therefore clear whether the certificate is issued automatically as a result of registration.

According to local sources, once a birth has been registered, a birth certificate will be automatically issued.<sup>34</sup> According to the Birth and Death Registration website,<sup>35</sup> there is no additional fee for the original birth certificate, although there will be a fee of Taka 25.00 (USD 0.32),<sup>36</sup> if any additional copies are requested.

The birth certificate contains a 17 digit Birth Registration Number (“**BRN**”).<sup>37</sup>

### Different by region/area

Yes ( ) No (X)

### If it's different by region/or area, please provide us more detail.

Not applicable.

### Is there a separate fee for the issuance of a paper certificate?

Yes ( ) No (X)

Section 11 of the Registration Act refers to there being a “*prescribed fee and due process*” for the issuance of the birth certificate however (as stated above) no further detail is provided in the Registration Act as to the fee or the process and we have not been able to obtain copies of any

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<sup>34</sup> See email from Khaled Bin Yousuf, Assistant Programmer at the Birth & Death Registration Project, Local Government Division, dated 19 June 2015, see Appendix 2.

<sup>35</sup> Local Government Division Website, "Birth and Death Registration Project", available at <http://br.lgd.gov.bd/>.

<sup>36</sup> All conversions were made at the time of writing the report using a commercial exchange rate, available at [www.xe.com](http://www.xe.com).

<sup>37</sup> UNICEF and Ministry of Planning of Government of Bangladesh, Birth and Death Registration presentation, 2013, <http://www.oicvet.org/imgs/news/image/829-s4-presentation-bangladesh.pdf>,

legislation or rules that provide further clarity. Local sources suggest that there is no separate fee for the issuance of an original birth certificate, unless additional or duplicate copies are required.<sup>38</sup>

#### Different by region/area

Yes ( ) No (X)

#### If it's different by region/or area, please provide us more detail.

Not applicable.

#### Birth Registration Fee

Yes (X) No ( ) Conditional ( )

The Bangladesh Local Government Division website contains a "Birth and Death Registration Project" homepage ("**LGD Website**") which suggests that if registration occurs within two years from the date of birth then there is no charge.<sup>39</sup> Failure to register within two years however, means that a charge of Taka 5.00 (USD 0.06) (for those registering in Union Parishads and Municipalities) and Taka 10.00 (USD 0.13) (for those registering in City Corporations and Cantonment Board areas) shall apply for every year thereafter.

#### If yes, amount in USD:

USD 0.06-0.13.

#### If it's conditional, please provide reasons/cases for exemption.

As noted above, if a birth is registered within two years from the date of birth, a registration fee does not apply. The LGD Website provides a table setting out the applicable fees.<sup>40</sup>

#### Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ( )

Section 13 of the Registration Act provides that if a birth is not registered within the stipulated time (i.e. 45 days from the date of birth in accordance with section 8 of the Registration Act), the birth can be registered at a later date with payment of a late fee and in accordance with the prescribed process. The cost of the "late fee" or details of the "prescribed process" are not set out in the Registration Act and we have not been able to obtain further information on this. When we asked an employee at the Birth and Death Registration Project to confirm the amount of the late fee under Section 13 of the Registration Act we were referred to the Taka 5.00-10.00 (USD 0.06-0.13) charge that is applicable if registration occurs after two years.

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<sup>38</sup> See email from Khaled Bin Yousuf, Assistant Programmer at the Birth & Death Registration Project, Local Government Division, dated 19 June 2015, see Appendix 2.

<sup>39</sup> LGD Website, op.cit.

<sup>40</sup> LGD Website, op.cit.

It is not therefore clear whether the late fee envisaged under the Registration Act is the fee that is payable if registration does not occur within two years (albeit there is an inconsistency with the 45 day period envisaged under the Registration Act), or whether a person who registers a birth outside of the 45 day period, but within the two year period, qualifies for free birth registration, but is subject to a separate late fee.

We note that section 21 of the Registration Act provides for a penalty of up to Taka 5000 (USD 64) for breach of the Registration Act, however, it seems unlikely that such a punitive penalty would be applied for a late registration.<sup>41</sup>

**If yes, amount in USD:**

Varies depending on when a birth is registered and increases by Taka 5-10 (USD 0.06-0.13) for every year of late registration following the initial two years after the date of birth.

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**Requirements for Birth Registration (tick what applies):**

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status ( )

Section 5(2) of the Registration Act states that “*for the purpose of registration of the birth (...) of any person, information should be submitted to the Registrar within the specified time and prescribed manner*”. This suggests that there is a requirement for certain documentation to be submitted at the time of registering a birth. The Registration Act does not, however, specify what is required beyond stating that a declaration as to the accuracy of the information being submitted must be provided, together with confirmation that such birth has not been registered previously<sup>42</sup> and that the Registrar is empowered to make inquiries about the authenticity of information submitted.<sup>43</sup>

According to the Birth and Death Registration Project, when registering a birth it is necessary to submit the following information:

- Full name;
- Date of Birth;
- Place of Birth (including name of district);
- Gender;
- Mother's full name and nationality;
- Father's full name and nationality;
- Permanent residence (i.e. ancestral address, or home for over three years);

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<sup>41</sup> Section 21, Registration Act.

<sup>42</sup> Section 5(3), Registration Act.

<sup>43</sup> Section 7(1), Registration Act.

- Present residence (not mandatory, but can be submitted).<sup>44</sup>

In addition to the above, other sources suggest that when registering the birth of a new born, a medical birth certificate or immunisation card must be provided, and, if registration takes place more than 45 days after birth, then either a medical certificate or a school certificate or any other document which can prove the date of birth of the person being registered must be provided.<sup>45</sup>

#### Are Stateless / Refugee Births Registered?

Yes (X) No ( )

Section 3 of the Registration Act states that “*the birth and death of any person has to be registered according to the provisions of this Act*”. Under Section 2(n) of the Registration Act, a “Person” is defined as any Bangladeshi or any foreigner living in Bangladesh and also any refugees taking shelter in Bangladesh.

#### Are children of single parents registered?

Yes (X) No ( )

Section 3 of the Registration Act states that “*the birth and death of any person has to be registered according to the provisions of this Act*”.

#### Are all children born in the territory registered?

Yes (X) No ( )

Section 3 of the Registration Act states that “*the birth and death of any person has to be registered according to the provisions of this Act*”. Under Section 2(n) of the Registration Act, a “Person” is defined as any Bangladeshi or any foreigner living in Bangladesh and also any refugees taking shelter in Bangladesh.

#### If no, please provide list of those not registered

Not applicable.

#### Other Requirements (if none, put n/a)

Not applicable.

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#### Registration System Set-up

Electronic Submission ( ) Paper Submission ( ) Both (X)

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<sup>44</sup> Confirmation provided by Khaled Bin Yousuf, Assistant Programmer at the Birth & Death Registration Project, Local Government Division, on 26 May 2015.

<sup>45</sup> Ministry of Planning, "Birth and Death Registration in Bangladesh", slide 13, available at <http://www.oicvet.org/imgs/news/image/829-s4-presentation-bangladesh.pdf>.

The LGD Website suggests that births can be registered either by submitting a handwritten application form to the Registrar or by completing an application form online.<sup>46</sup> The Online Birth Registration System ("BRIS") was launched in October 2010 and the Birth and Death Registration Project's aim is to move away from manual registration.<sup>47</sup> A World Health Organisation report from 2014 suggests that online birth registration can now be carried out at 5,000 birth registration service points across the various Union Parishads, City Corporations and Cantonment Boards, and at various Bangladesh embassies abroad.<sup>48</sup>

#### Location of registration facilities

Capital city Yes (X) No ( )

Other cities Yes (X) No ( )

Villages Yes (X) No ( )

Other There are also 52 Bangladeshi embassies abroad which can register births.<sup>49</sup>

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#### Birth Registration is required for:

##### Access to education

Yes (X) No ( ) Law Sections 18(1) and 18(3)(c), Registration Act.

Section 18(1) Registration Act provides that a birth certificate shall amount to sufficient proof of age and birth before any school or college, and section 18(3)(c) of the Registration Act provides that a birth certificate shall be used to prove the age of a person applying for admission to academic institutions.

Section 18(4) of the Registration Act<sup>50</sup> further provides that:

*"Notwithstanding anything contained in the sub-section (3), the Government, by notification in the official gazette may provide any individual or class of individuals or office or organisation or special class of office or organisation with waiver from the application of the provision of the sub-section (3) for a period specified by it".*

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<sup>46</sup> LGD Website, op.cit.

<sup>47</sup> LGD Website, op.cit.

<sup>48</sup> World Health Organisation (2014), op.cit.

<sup>49</sup> Information provided by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2. We note that other sources suggest that in 2014 it was possible to register at 28 different Bangladesh embassies overseas (see World Health Organisation (2014), op.cit.) and we suspect this discrepancy reflects the increasing number of embassies that provide this service.

<sup>50</sup> Please note that the unamended version of section 18(4) of the Registration Act (available at <http://www.refworld.org/pdfid/511b54192.pdf>) states that "Notwithstanding anything-contained in sub-section (3), any educational institution can admit students without a birth certificate, and in that case it shall be necessary to submit the birth certificate to the educational institute within 45 days from the date of such admission".

However, we have not found evidence of a notification waiving the requirement for a birth certificate for access to academic institutions.

#### **Obtaining a primary school diploma**

Yes (X) No ( ) Law *Sections 18(1) and 18(3)(c), Registration Act.*

Whilst we have not found any legislation that specifically concerns primary school diplomas, section 18(1) Registration Act provides that a birth certificate shall amount to sufficient proof of age and birth before any school or college, and section 18(3)(c) provides a birth certificate shall be used for admission to academic institutions, which presumably includes primary school.

#### **Obtaining a secondary school diploma**

Yes (X) No ( ) Law *Sections 18(1) and 18(3)(c), Registration Act.*

Whilst we have not found any legislation that specifically concerns secondary school diplomas, section 18(1) Registration Act provides that a birth certificate shall amount to sufficient proof of age and birth before any school or college, and section 18(3)(c) provides a birth certificate shall be used for admission to academic institutions, which presumably includes secondary school.

#### **Access to health (emergency services only)**

Yes ( ) No (X) Law \_\_\_\_\_

We have not found any legislation which requires birth registration in order to access emergency healthcare.

#### **Access to health (primary health services only)**

Yes ( ) No (X) Law \_\_\_\_\_

We have not found any legislation which requires birth registration in order to access primary healthcare.

#### **Access to health (all services)**

Yes ( ) No (X) Law \_\_\_\_\_

We have not found any legislation which requires birth registration in order to access healthcare services.

#### **Access to social security programmes / cash benefits**

Yes ( ) No ( ) Unclear (X) Programme name \_\_\_\_\_ Law \_\_\_\_\_

Whilst we have not located legislation that suggests that access to social services is dependent on the possession of a birth certificate, a UN Report regarding Bangladesh's compliance with the Convention

on the Rights of the Child suggests that the lack of registration is a basis for discrimination and exclusion from access to social services.<sup>51</sup>

### Nationality

Yes (X) No ( ) Law Section 18(3)(a), Registration Act and the Birth and Death Registration Rules 2006.

Birth registration and a birth certificate are required to obtain a passport and National ID card according to section 18(3)(a) of the Registration Act and the Birth and Death Registration Rules 2006 ("**Registration Rules**").<sup>52</sup>

### Identification card

Yes (X) No ( ) Law Section 18(3)(gg), Registration Act.

Section 18(3)(gg) of the Registration Act provides that a birth certificate shall be used as proof of age for obtaining a national identity card.

### Passport

Yes (X) No ( ) Law Section 18(3)(a), Registration Act.

Section 18(3)(a) of the Registration Act provides that a birth certificate shall be used as proof of age for a person applying for a passport.

### Other (Please specify e.g. enrolment for social protection programme/ food bank)

Section 18(2) of the Registration Act provides that the birth certificate shall be deemed to be one of the primary evidences of age and birth, and a birth certificate is regarded under the Evidence Act 1872 as a "Public Document", within the same category of documents as documents produced by courts and government bodies.<sup>53</sup>

Section 18(3) of the Registration Act provides that a birth certificate shall be used to prove the age of a person in the following additional circumstances:

"(...)

(a) registration of marriage; (...)

(b) appointment to government, non-governmental or "autonomous" organisations;

(c) issuance of driving licence;

(d) preparation of voter list;

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<sup>51</sup> Committee on the Rights of the Child, 'Concluding Observations: Bangladesh', 26 June 2009, available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=4a8e977d0&skip=0&query=birthregistration&coi=BGD>.

<sup>52</sup> Information provided by Khaled Bin Yousuf Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2.

<sup>53</sup> Section 74, Evidence Act 1872 (as amended).



- (e) *land registration; (...)*
- (f) *life insurance policy; and*
- (g) *in any other case prescribed by the rules".*

The Registration Rules also provide that a birth certificate is mandatory in the following circumstances: opening a bank account, obtaining an export and import licence, obtaining utility connections (i.e. gas, water, telephone, electricity), issuance of a tax ID number, obtaining a contractor licence, approval for building construction designs/plans, vehicle registration, and procuring a trade licence.<sup>54</sup> Whilst we have not managed to obtain copies of such rules, the LGD Website confirms that a birth certificate is required in these cases.<sup>55</sup>

Section 18(4) of the Registration Act, however, provides that the Government may waive the requirement for a birth certificate under the Registration Act (or a requirement under any related rules, such as the Birth and Death Registration Rules 2006) for a given individual or class of individuals.

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## References

### Legislation Reviewed:

- Birth and Death Registration Act 2004, Act No. 29 of 2004 (as amended by the Birth and Death Registration (Amendment) Act 2013, Act 34 of 2013); the text reproduced at Appendix 1 was provided by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division.
- Constitution of Bangladesh 1972 (as amended, most recently in 2014), available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?page=search&docid=3ae6b5684&skip=0&query=constitution&coi=BGD>
- Citizenship Act 1951, Act 2 of 1951, as amended by the Bangladesh (Adaptation of Existing Laws) Order 1972 (President's Order No. 48 of 1972) and the Citizenship (Amendment) 2009, Act 17 of 2009, available at [http://bdlaws.minlaw.gov.bd/print\\_sections\\_all.php?id=242](http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=242)
- Evidence Act 1872, as amended by the Repealing Act of 1938, the Bangladesh Laws (Revisions and Declaration) Act 1973;
- President's Order No. 149 of 1972, The Bangladesh Citizenship (Temporary Provisions) Order 1972 as amended by the Bangladesh Citizenship (Temporary Provisions) (Amendment) Ordinance, 1973 (Ordinance No. X of 1973), the Bangladesh Citizenship (Temporary Provisions)

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<sup>54</sup> Information provided by Khaled Bin Yousuf Assistant Programmer at the Birth and Death Registration Project, Local Government Division, in an email dated 19 June 2015, see Appendix 2. See also International Development Law Organisation, "Bangladesh Country Report 2010", p. 18, available at [http://www.idlo.org/DOCCalendar/BangladeshReport\\_Final.pdf](http://www.idlo.org/DOCCalendar/BangladeshReport_Final.pdf), and the LGD Website, op.cit.

<sup>55</sup> LGD Website, op. cit.

(Amendment) Ordinance, 1978 (Ordinance No. VII of 1978) and The Bangladesh Citizenship (Temporary Provisions) (Amendment) Act, 1990 (Act No. LVIII of 1990), available at

<http://www.refworld.org/cgi-bin/telex/vtx/rwmain?page=country&category=&publisher=NATLEGBOD&type=&coi=BGD&rid=&docid=3ae6b51f10&skip=0>

#### Further Sources:

- Birth and Death Registration Project website, Local Government Division, available at <http://br.lgd.gov.bd/>
- Committee on the Rights of the Child, "Concluding Observations: Bangladesh", 26 June 2009, available at <http://www.refworld.org/cgi-bin/telex/vtx/rwmain?page=search&docid=4a8e977d0&skip=0&query=birthregistration&coi=BGD>
- International Development Law Organisation, "Bangladesh Country Report 2010", available at [http://www.idlo.org/DOCCalendar/BangladeshReport\\_Final.pdf](http://www.idlo.org/DOCCalendar/BangladeshReport_Final.pdf)
- Khaled Bin Yousuf, Assistant Programmer, Birth and Death Registration Project, Local Government Division, Answers to Questions provided by email on 19 June 2015; the text is reproduced at Appendix 2.
- Law Commission of Bangladesh, "Report on the Proposed Law of Citizenship of Bangladesh 2005", available at <http://www.lc.gov.bd/reports/67.pdf>
- Ministry of Planning, "Birth and Death Registration in Bangladesh", (2013), available at <http://www.oicvet.org/imgs/news/image/829-s4-presentation-bangladesh.pdf>
- The Dhaka Tribune, "Scrutiny of draft citizenship act under way", 5 October 2014, available at <http://www.dhakatribune.com/bangladesh/2014/oct/05/scrutiny-draft-citizenship-act-under-way>
- UNICEF Bangladesh Country Office, "Birth Registration Factsheet", May 2014, available at [http://www.unicef.org/bangladesh/Birth\\_Registration\(2\).pdf](http://www.unicef.org/bangladesh/Birth_Registration(2).pdf)
- UNICEF, "A Passport to Protection: A Guide to Birth Registration Programming", (2013), available at [http://www.unicef.org/protection/files/UNICEF\\_Birth\\_Registration\\_Handbook.pdf](http://www.unicef.org/protection/files/UNICEF_Birth_Registration_Handbook.pdf)
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- US State Department, "Country Human Rights Report 2013: Bangladesh", available at <http://www.state.gov/documents/organization/220600.pdf>
- World Health Organisation, "Registering Millions: Celebrating the Success and Potential of Bangladesh's Civil Registration and Vital Statistics System", (2014), available at [http://apps.searo.who.int/PDS\\_DOCS/B5114.pdf](http://apps.searo.who.int/PDS_DOCS/B5114.pdf)

# Appendix 1 - Birth and Death Registration Act 2004

This copy of the Birth and Death Registration Act 2004 was provided by email by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division.

The Birth and Death Registration Act, 2004.

The Birth and Death Registration Act, 2004.  
( Act 29 of 2004)

[7 December , 2004]

## An Act to amend and consolidate the law relating to the Births and Deaths Registration.

WHEREAS it is expedient and necessary to amend and consolidate the existing law relating to the Births and Deaths registration;

it is hereby enacted as follows:-

### Chapter-1 Preliminary

Short title and commencement	1. (1) This Act shall be called the Birth and Death Registration Act, 2004. (2) This Act shall come into force on the date as the Government shall determine, by notification in the official gazette.
Definitions	2. In this Act, unless there is anything repugnant in the subject or context— (a) "Guardian" means the guardian defined in the The Guardians and Wards Act, 1890 (Act VIII of 1890); <sup>1</sup> [ (b) "Union Parishad" means the Union Parishad defined in the The Local Government (Union Parishad) Ordinance, 1983 ( Act LI of 1983);] (c) "Ward" means any ward of the City Corporation or Paurashava or Union Parishad; <sup>2</sup> [(d) "Councillor" means any Councillor of the City Corporation or Paurashava;] (e) "Cantonment" means any Cantonment constituted under Cantonment Act, 1924 (Act II of 1924); <sup>3</sup> [ (f) "Birth and Death certificate" means the Birth and Death certificate given by the Registrar on the basis of the information recorded in the Birth and Death Register;] (g) "Birth" means live birth of any person; (h) "Prescribed" means prescribed by the rules made under this Act; (i) "Registrar" means any person entrusted with the responsibility under section-4; (j) "Registration" means registering the birth or death of any person in the register; <sup>4</sup> [(k) "Register" means any register made by hand writing or by means of IT in which birth or death of any person is recorded;] <sup>5</sup> [(l) "Paurashava" means any paurashava constituted under The Local Government (Paurashava) Ordinance, 1977 (Ordinance XXVI of 1977); <sup>6</sup> [(m) " Administrator" means any administrator under The Local Government (City Corporation) Act, 2009 (Act 60 of 2009) or, as appropriate, The Local Government (Paurashava) Act, 2009 ( Act 58 of 2009);]

- (n) "Person" means any Bangladeshi or any foreigner residing in Bangladesh, and any refugee taking shelter in Bangladesh;
- (o) "Death" means termination of the life of any person;
- (p) "Member" means any member of the Union Parishad;
- (q) "Government" means Local Government Division, Ministry of Local government, Rural Development and Cooperative; <sup>7</sup>[ \*\*\*]
- <sup>8</sup>[ (r) "City Corporation" means City Corporation constituted under The Local Government(City Corporation) Act, 2009(Act 60 of 2009); and]
- <sup>9</sup>[ (s) "Registrar General" means Registrar general appointed under section 7(a).

- Predominance of the law 3. Notwithstanding anything contained in any other law, after this act comes into force, birth or death of any person shall have to be registered in accordance with the provisions of this act.

## Chapter-2

### Registrar and Registration

- Registrar 4. <sup>10</sup>[(1) Subject to the provision of the sub-section (2), for the purpose of the birth and death registration, the following persons shall discharge the duties as Registrars, such as :-]
- (a) In the case of the person born, died or resided permanently within the City Corporation area, the Mayor of the City Corporation concerned or, as appropriate, any officer or councilor empowered by the Administrator, for the specific time and jurisdiction;
- (b) In the case of the person born, died or resided permanently within the Paurashava area, the Chairman or, as appropriate, the Administrator or any officer or councillor empowered by him for the specific time and jurisdiction;
- (c) In the case of the person born, died or resided permanently within the Union Parishad area, the Chairman of the Union Parishad concerned or any officer or member empowered by the Government for the specific time and jurisdiction;
- (d) In the case of the person born, died or resided permanently within the Cantonment area the Executive officer of the Cantonment Board concerned or any officer empowered by him;
- (e) In the case of any Bangladeshi born and died abroad or any Bangladeshi residing abroad upto the time or date specified by the Government by notification in the official gazette, any officer empowered by the High Commissioner of Bangladesh High Commission ;
- (2) For the purpose of birth and death registration, not more than one person can discharge duties as the Registrar in any single area;
- Registration 5. (1) The Registrar shall record births and deaths of all the persons in the register irrespective of race, religion, caste, clan or sex;
- (2) For the purpose of registration of the birth and death of any person, information should be submitted to the registrar within the specified time and prescribed manner ;
- (3) In the case of submitting information under this section for the purpose of registration of birth and death, there shall be a declaration by the informant that such information is correct and such birth or death has not been registered previously.

Duties of the Registrar	6.	<p>The Registrar shall have the following duties, such as:-</p> <p>(a) To ensure registration of the births and deaths of all the persons;</p> <p>(b) To collect information necessary for registration, print or procure form, register and certificate;</p> <p><sup>11</sup>[(c) To preserve tasks, files or registers relating to the registration;]</p> <p>(d) To issue birth and death registration certificate, and</p> <p>(e) Any other duties prescribed by the rules.</p>
Power of Registrar	7.	<p>(1) For the necessity of verifying the authenticity of information concerning the registration of any person, the Registrar can make inquiry by himself or by anybody else empowered by him;</p> <p>(2) If birth or death of any person is not registered within the prescribed time limit, the Registrar can issue notice, with instruction to submit information relating to the birth and death, upon the parent or son or daughter or guardian of the person concerned or any prescribed person;</p> <p>(3) For the interest of inquiry under sub-section (1) the Registrar or person empowered by him can ask for the register and if necessary, can issue notice upon any person for giving evidence.</p>
Appointment of Registrar General etc		<p><sup>12</sup>[7a.(1) The Government , with a view to fulfill the purpose of this Act, may appoint a Registrar general and necessary number of officers and staff and terms of their services shall be determined by the Government;</p> <p>(2) Duties and functions of the Registrar General shall be determined by the rules;]</p>
Person liable for giving information on Births and Deaths	8.	<p>(1) Father or mother or guardian of the child or any prescribed person shall be liable to submit information relating to the birth of a child to the Registrar within 45(forty five) days' of the child's birth;</p> <p>(2) The son or daughter or guardian of the deceased or the prescribed person shall be liable for submitting information related to the death of a person to the Registrar within 13[ 45(forty five)] days of the death.</p>
Duties of certain officer or staff	9.	<p>(1) The following persons can submit information to the Registrar for registration of the birth and death of any person, such as:-</p> <p>(a) Member and secretary of the Union Parishad;</p> <p>(b) Village Police;</p> <p>(c) 14 [Councilor] of the City Corporation or Paurashava;]</p> <p>(d) Health Worker and Family Welfare Worker posted in the Union Parishad, Paurashava, City Corporation or the Cantonment area;</p> <p>(e) Field Worker of the Non-Government Organisation (NGO) engaged in the Health and Family Welfare;</p> <p>(f) In the case of birth and death in the Government or Non-Government Hospital or Clinic or maternity Centre or any other Institution, the Medical Officer in charge of that or Doctor or any authorised Officer;</p>



- (g) Superintendent of any graveyard or Crematorium;
  - (h) Any other Officer or Staff engaged by the Registrar;
  - (i) In the case of birth or death in the jail, the Jail Super or Jailer or any person empowered by him;
  - (j) In the case of abandoned children or unidentified dead person lying in the public place, the Officer- in-Charge of a Police station concerned; and
  - (k) Any other prescribed person or organization.
- (2) If information relating to the birth or death of any person is provided to the person mentioned in the sub-section (1), he will take necessary steps by himself for registration of that or provide necessary assistance to the informant with advice for registration.
- Giving name of the child**      10. Name of the child should be given before birth registration:  
 Provided that birth of any child may be registered, if the child is not given any name and in that case, his name should be submitted within the next 45(forty five) days of registration.
- Issuance of Birth and Death Certificate**      11. On the basis of the petition by any person, the Registrar shall issue birth and death certificate for prescribed fee and in due process.
- Requisition for information relating to registration**      12. (1) Subject to depositing prescribed fee anybody can submit petition to the Registrar for any information or extract in the birth and death register :  
 Provided that causes of death cannot be included into the Extract given under sub- section (1).  
 (2) All information and extract given under sub-section (1) should be certified by the Registrar and that shall be admissible as evidence.
- Delayed Registration**      13. If information on birth or death is not sent to the Registrar within the specified time mentioned in the section 8 it can be registered later on within the prescribed time, process, and subject to the payment of fee:  
 Provided that in the case of registration of the person alive and dead before commencement of this act, no fee shall be required within 2(two) years of commencement of this act.

### Chapter-3

#### Preservation, Correction and inspection of the Registrar

- Preservation of Records**      14. (1) The Registrar shall preserve the register in a prescribed manner and format and the register shall be treated as the permanent record.  
 (2) The Registrar shall be responsible for loss or destruction of the register.  
 (3) In absence of the register, information relating to the birth and death can be preserved in the prescribed manner.
- Correction of the Registrar**      15. <sup>15</sup>[ (1)If incorrect information is recorded in the register or, as appropriate, birth or death certificate, petition for correction of that can be made with prescribed fee.  
 (2) If the petition under sub-section (1) is received within 90(ninety) of the issue of the birth or death certificate, the Registrar within 30(thirty) working days of receiving the petition-  
 (a) if considers the petition proper-

- (i) will correct the register or ,as appropriate, birth or death certificate;
  - (ii) put his signature with date in the place of correction in the register; and
  - (iii) Will take back, for preservation, the certificate given earlier after issuing a corrected new birth or death certificate;
- (b) Will inform the petitioner in writing after rejecting the petition, if there is no justified reason for consideration of the petition.
- (3) If petition under sub-section (1) is received after lapse of 90(ninety) days from the issue of the birth or death certificate, within 10(ten) working days of receiving that petition-
- (i) Registrar mentioned in the clauses (a) , (b) and (d) of the section 4 of the subsection (1) is the Deputy Commissioner concerned ;
  - (ii) Registrar mentioned in the clause (c) is the Upazila Nirbahi Officer concerned; and
  - (iii) Registrar mentioned in the clause (e) send that to the Registrar General for consideration.
- (4) Within 15 (fifteen) days of receiving the petition under sub-section (3), as appropriate, the concerned Nirbahi Officer, Deputy Commissioner or Registrar General, after examining that petition, issuing order granting or rejecting the petition, shall send that order to the Registrar concerned.
- (5) If the petition is rejected under sub-section (4), the concerned Registrar shall inform the petitioner, in writing, within 7(seven) working days of receiving that order.
- (6) If the petition is granted under section (4), the Registrar concerned, within 7(seven) working days of receiving that order-
- (i) shall correct the register or, as appropriate, the birth or death certificate;
  - (ii) put signature with date in the place of correction in the register; and
  - (iii) take back, from the petitioner, the birth or death certificate given earlier for preservation after giving the new corrected birth or death certificate.]

Cancelling of birth or death certificate	16[15A	If any birth or death certificate is given for reason of giving wrong information or false declaration, petition for cancellation of that is submitted by anybody with prescribed fee, the Registrar shall cancel the birth or death certificate concerned following the provisions of the sub-section (2) to (6) of the section15 and accordingly, put signature after correcting the related portion in the register.]
Supervision and Inspection	16.	Any person empowered by the Government, on this behalf, may supervise and inspect the office of the Registrar, register and all activities relating to the registration.
Reporting	17.	The Government, if necessary, may call for information relating to the registration or report thereof from the Registrar at any time and the Registrar shall be bound to provide that.

## Chapter-4 Miscellaneous

Evidentiary Value of Birth or Death Certificate	18.	<p>(1) As the proof of the information relating to the age, birth and death of any person before any Office or Court or School-College or Government and Non-Government Organisations, Birth or Death Registration Certificate given under this Act shall be deemed to be admissible as evidence.</p> <p>(2) All the files and registers relating to the registration shall be deemed to be the Public Document in the meaning as the expression 'Public Document' has been used to mean in The Evidence Act, 1872(Act I of 1872) .</p> <p>(3) Notwithstanding anything in any other law, the Birth Certificate as a proof of age should be used in the following cases , such as :-</p> <p>(a) Issuance of Passport;</p> <p>(b) Registration of Marriage;</p> <p>(c) Admission into the Academic Institutions;</p> <p>(d) Appointment in the Government, Non-Government or Autonomous Organisations ;</p> <p>(e) Issuance of Driving License;</p> <p>(f) Preparation of Voter List;</p> <p>(g) Land Registration, <sup>17</sup>[ ***]</p> <p><sup>18</sup>[(gg) National Identity Card;</p> <p>(ggg) Life Insurance Policy; and;]</p> <p>(h) In any other case prescribed by the rule.</p> <p><sup>19</sup>[ (3a) Notwithstanding anything contained in any other law, as a proof of death of a person death certificate given under this Act should be used, such as :-</p> <p>(a) Getting succession certificate;</p> <p>(b) Getting family pension;</p> <p>(c) Claim of the Life Insurance of the deceased person;</p> <p>(d) Getting mutation and division of holding;</p> <p>(e) Any other matter specified by the rule.]</p> <p><sup>20</sup>[ (4) Notwithstanding anything contained in the sub-section (3), the Government, by notification in the official gazette may provide any Individual or class of individuals or office or organization or special class of office or organization with waiver from the application of the provision of the subsection (3) for a period specified by it.]</p> <p><sup>21</sup>[(5) Any Birth or death Certificate given under any other law immediately before commencement of this Act, can be used to fulfill the purpose of the sub-section (3) and (3a).]</p>
Public Servant	19.	<p>The Registrar shall be deemed to be the Public Servant in the meaning as the expression 'Public Servant' has been used to mean in the section 21 of The Penal Code (Act XLV of 1860) .</p>
Appeal	20.	<p><sup>22</sup>[(1) Any person aggrieved by any order of the Registrar may lodge appeal to the following authorities within 30(thirty ) days of the order, such as:-</p> <p>(a) Upazila Nirbahi Officer, against the order of the Chairman or authorized Officer or Member of the Union Parishad;</p> <p>(b) District Magistrate, against the order of the Mayor or Administrator or Officer or Councilor of the Paurashava authorized by him;</p> <p>(c) District Magistrate, against the order of the Executive Officer of the Cantonment Board or any Officer authorised by him;</p> <p>(d) District Magistrate, against the order of the Mayor or Administrator of the City Corporation or any Officer or Councilor authorised by him ; and</p>



(e) Registrar General, against the order of the Officer authorized by the High Commissioner.

(2) Any person aggrieved by any order under sub-section (4) of the section 15 and section 15a, may lodge appeal within 30(thirty) days of the order to the following authorities, such as :-

- (a) Deputy Commissioner against the order of the Upazila Nirbahi Officer;
- (b) Registrar General against the order of the Deputy Commissioner; and
- (c) Secretary, Local Government Division against the order of the Registrar General.]

Penalty	21	<p>(1) Any person violating the provision of this act or the rule made there under shall be punished with fine not exceeding Taka 5000.00(five thousand).</p> <p>(2) Notwithstanding anything contained in the sub-section (1), if any person, for the purpose of birth or death registration, gives false information or gives any such written statement or declaration, which he knows or believes to be false, then that person shall be punished with a fine not exceeding Taka 5000.00(five thousand) or with simple imprisonment not exceeding 1(one) year or with both .</p> <p>(3) Notwithstanding anything contained in the sub-section (1), if any Registrar registers birth or death , despite his knowledge about the false information, written statement or declaration mentioned under sub-section (2), then the concerned Registrar shall be punished with a fine not exceeding Taka 5000.00(five thousand) or with simple imprisonment not exceeding 1(one) year or with both, if does not succeed to prove that that offence has been committed beyond his knowledge or he tried to stop the said offence to the best of his ability]</p>
Filing Case	22.	<p>Any person aggrieved by non-compliance of duties under this Act or the Registrar <sup>24</sup>[ or Registrar General] may file case in the court of the Magistrate.</p>
Power of making	23.	<p>The Government, with a view to fulfill the purpose of this Act, may make Rules by notification in the official Gazette.</p>
Repeal and Savings	24.	<p>(1)The Births and Deaths Registration Act, 1873(Bengal Act IV of 1873) is hereby repealed.</p> <p>(2) Provisions of The Births, Deaths and Marriages Registration Act, 1886(Bengal Act VI of 1886) applicable to the Births and Deaths Registration are hereby repealed.</p> <p>(3) Despite annulment under sub-section (1) and (2), all tasks performed or actions taken under the annulled Act and rules shall be deemed to have been performed or taken under this Act.</p>

<sup>1</sup> Clause (b) has been substituted by section 2(a) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

<sup>2</sup> Clause (d) has been substituted by section 2(b) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

<sup>3</sup> Clause (f) has been substituted by section 2(c) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

<sup>4</sup> Clause (k) has been substituted by section 2(d) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

<sup>5</sup> Clause (l) has been substituted by section 2(e) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

<sup>6</sup> Clause (m) has been substituted by section 2(f) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

<sup>7</sup> The word "and" has been substituted by section 2(g) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

<sup>8</sup> Clause (r) has been substituted by section 2(h) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

- <sup>9</sup> Clause (s) has been substituted by section 2(h) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- <sup>10</sup> Section 4 has been substituted by section 3 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- <sup>11</sup> Clause (c) has been substituted by section 4 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- <sup>12</sup> Clause (7a) has been substituted by section 5 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- <sup>13</sup> The number, bracket and word "45(forty five)" has been substituted for the number, bracket and Word "30(thirty)" by section 6 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- <sup>14</sup> The word "Councillor" has been substituted for the word " Commissioner" by section 7 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- <sup>15</sup> Section 15 has been substituted by section 8 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- <sup>16</sup> Section 15a has been substituted by section 9 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- <sup>17</sup> The word "and" has been repealed by section 10(a) of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- <sup>18</sup> Clauses (gg) and (ggg) have been inserted by section 10(a) of the Births and Deaths Registration (Amendment) Act, 2013(Act 34 of 2013).
- <sup>19</sup> Sub-section (3a) has been inserted by section 10(b) of the Births and Deaths Registration (Amendment) Act, 2013(Act 34 of 2013).
- <sup>20</sup> Sub-section (4) has been substituted by section 2 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- <sup>21</sup> Sub-section (5) has been substituted by section 10(c) of the Births and Deaths Registration (Amendment) Act, 2013(Act 34 of 2013).
- <sup>22</sup> Section 20 has been substituted by section 11 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- <sup>23</sup> Section 21 has been substituted by section 12 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).
- <sup>24</sup> The words " or Registrar General" have been inserted after the word "Registrar" by section 13 of the Births and Deaths Registration(Amendment) Act, 2013(Act 34 of 2013).

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## Appendix 2 - Additional Information

**This information was provided by email on 19 June 2015 by Khaled Bin Yousuf, Assistant Programmer at the Birth and Death Registration Project, Local Government Division.**

### Questions

1. **Who is the Registrar** - Article 4 of the Births and Deaths Registration Act sets out who the Registrar is, which is determined by where a person is born, dies or resides permanently. I understand if someone is born in Chittagong CC then their birth should be registered with the Chittagong CC Registrar, but (for example) if someone is born when they are on holiday in Dhaka North CC but their parents (and they will permanently reside in Chittagong CC will they: a) have to be registered in Chittagong CC b) be registered in Dhaka North CC or c) can be registered in either.

Ans: According to law the person can do their birth registration with in birth place address or permanent address. Anyone can do their babies birth registration by showing necessary documents if the baby born in holiday . For city corporation the permanent address means if any one live in a place at least 3 years or people migrate here for river erosion or any one purchase property in the particular place.

2. **Which governmental department** - which governmental department is the civil registry (i.e. the Registrars and the Registrar General) located? (i.e. the ministry of interior, ministry of justice, local government, etc)

Ans: The registrar general appointment is still in under process. Right now the Under the project Director office there are more than 5003 registrar office (Union Parishad, Municipality, City Corporation, Cantonment Board) in country and 52 embassies in abroad who are doing Birth & death registration,

This massive works are done by Birth & Death Registration Project which is under Local Govt. division, MoLGRD, Bangladesh. Hope very soon Gov't will appointment a registrar general and then this work will transfer to that office.

3. **Registrar General** - who is the Registrar General (Article 7(a)) and what are their duties. Is there a law regarding the Registrar General?

Ans: The Government , with a view to fulfill the purpose of this Act, may appoint a Registrar general and necessary number of officers and staff and terms of their services shall be determined by the Government. Some duties are already listed in act and also a set of rule is now under process , which will specifically describe his duty.

4. **Birth Registration fee** - is it correct that registering a birth within 2 years of the birth is free, and registering after 2 years of the birth is Rs 5.00 - Rs 10.00 (based on your website).

Events:	Registrars:	Union Parishad & Municipality	City Corporation & Cantonment Board
Within 2 years of occurrences		Nil	Nil
For every year, after 2 years of occurrences		@ ₳ 5.00	@ ₳ 10.00
For original Birth or Death Certificates (either in English or Bangla)		Nil	Nil
For duplicate copies of Birth or Death Certificates (either in English or Bangla)		@ ₳ 25.00	@ ₳ 25.00
For the correction of any clerical mistake.		@ ₳ 10.00	@ ₳ 10.00

5. **Late registration** - Article 13 concerns late registration and refers to a late fee and prescribed process - how much is the late fee and what is the process. Where are these detailed (i.e. in rules or in a law?) Is it the same across the country?

Ans: The answer regarding fee already given by in question 4.

6. **Documents needed when registering** - Article 5(2) refers to information being submitted to the Registrar when registering a birth. What information / documents are needed to register a birth? For example, mother and father's name and nationality? address?

Ans: "Birth Registration" means recording a person's following information in a register either manually or through online under "Birth and Death Registration Act 2004" :

Name: Full name.

Date of birth: According to Gregorian calendar in the format of dd-mm-yyyy.

Place of birth: Including the name of district.

Sex: male/female.

Father's Name and Nationality: Full name, no need to mention Mr., Late, or any designation.

Mother's Name and Nationality: Full name, no need to mention Mrs., Late, or any designation.

Permanent Address: Generally ancestral address or where lives for more than three years.

Present Address: Not mandatory.

Then issuing a certificate with a unique number containing 17 digits called BRN (Birth Registration Number).

### HOW TO CREAT BRN

A 17 digits unique number as BRN is allocated for every person as shown below:

Geo Code																
#	#	#	#	#	#	#	#	#	#	#	#	#	#	#	#	#
Year of birth (4)				District Code (2)		R M O	B (2)		C(2)		Sequential number (6)					

- A. RMO: 1 for Union Parishad, 2 for Municipality, 3 for Union parishad where situated Upazila Parishad offices but no municipality, 5 for Cantonment, 7 for enclave, 8 for forest or barren land, 9 for City Corporation and 0 for Embassy.
- B. Upazila Code for Union Parishad, Municipality Code, City Corporation Code, Cantonment Code and Embassy Code.
- C. Union Parishad Code for Union Parishad and Ward Code for Municipality, City Corporation and Cantonment and Consulate code for Embassy.
- D. The Embassy should use 00 in the place of district code.
- Geo Code are derived by Bangladesh Bureau of Statistics.

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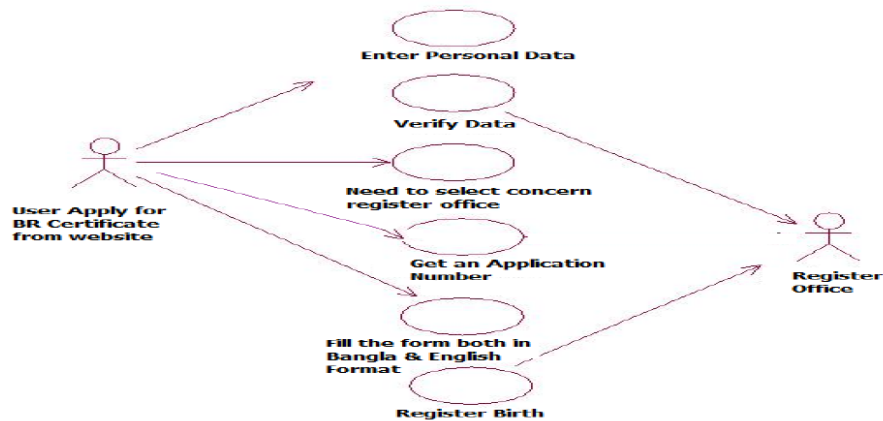
7. **Who should be registered** - is it true that every birth in Bangladesh must be registered, including refugee births, births from single parents, births from foreigners living in Bangladesh, etc?

Ans: Yes. According to law and rules every birth must need to register.

8. **Registration process** - is it correct that births are registered either by submitting a paper application to the Registrar or by completing an online application - and the online application can be completed at the office of the Registrar (ie using a computer there).

Ans: Yes. For your better understanding here I attached a clear picture .

### System of Online Birth Application & Registration :



9. **Birth Certificate** - (Article 11) - does everyone get a birth certificate when they register, or is there an additional application process and fee for a birth certificate? what is the process and how much is the fee and where is this set out (i.e. in what rules or in what law?) Is this the same across the country?

Ans: After registration all will get a certificate

The answer regarding fee already given by in question 4.

10. **Evidentiary value of birth certificate** - Article 18 sets out the circumstances where a birth certificate can be used to prove a person's age, and it mentions "in any other case prescribed by the rules". Are there any such rules? I have read that a birth certificate is required to open a bank account, obtain utility connections, obtain a tax ID number, etc. Do you have a translation of these rules or can you let me know when else a birth certificate is required. For example, does a person need a birth certificate to access healthcare (emergency and primary health services) to access social security programmes / cash benefits, or to obtain a primary or secondary school diploma, or to prove their nationality?



- According to Birth & Death Registration Act 2004 uses of birth certificate is mandatory to get:

Passport

Marriage Registration

Enrolment in School

Job

Driving License

Enrolment in Voters List

Land Registration

Parliament House of Bangladesh

Any others, which government may fixed by Rules.

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- According to Birth & Death Registration Rules 2006, uses of birth certificate is mandatory to get:

Opening bank account

Export & Import license

Utility connection

TIN

Contractor license

Building plan

Car Registration

Trade license

National ID card

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# INDIA

## QUESTIONNAIRE ON BIRTH REGISTRATION - INDIA

### Key Points

- Birth registration in India is compulsory, but the relevant laws are neither widely observed nor enforced.
- Registration within 21 days of the birth is free of charge, while late registration incurs a small fee.
- Birth registration may be required to obtain identity documents in some circumstances, but it is unlikely to be required to access essential services.

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### Name of official authority in charge of registering a child's birth:

Office of the Registrar General, India ("**ORGI**").<sup>56</sup> The functions of the Office of the Registrar General are administered by:

- The Registrar General (at the Central/Federal level);
- The Chief Registrar (at the State level);
- District Registrars (for each Revenue District);
- Additional District Registrars (who work under the direct control and supervision of the District Registrars); and
- Registrars for local areas (at the Municipality level).

### Where is the civil registry located in the government?

- Ministry of Justice
- Ministry of Interior - The Ministry of Home Affairs<sup>57</sup>
- Electoral Agency
- Independent Entity
- Other

Law: The relevant sections of the Registration of Births and Deaths Act 1969 refers to the "Central Government", but does not specify which Government Ministry or Minister would be responsible.<sup>58</sup>

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<sup>56</sup> Sections 3, 4, 5, 6 & 7, Registration of Births and Deaths Act 1969 (Act No. 18 of 1969).

<sup>57</sup> Ministry of Home Affairs, "Attached / Subordinate Offices", available at <http://www.mha.nic.in/attached>; see also South Asia Terrorism Portal, "Mandate and Organisational Structure of the Ministry of Home Affairs", available at <http://www.satp.org/satporgtp/countries/india/document/papers/MHA09-10/1.pdf>.

The website of the Ministry of Home Affairs shows that the Ministry of Home Affairs is responsible for matters relating to birth registration.

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**Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?**

India applies a combination of both, but largely follows *jus sanguinis*.<sup>59</sup>

According to section 3 of the Citizenship Act 1955 (as amended in 1986, 1992, 2003, 2005 and 2015) ("**Citizenship Act**"):<sup>60</sup>

*Citizenship by birth*

- A person born in India on or after 26 January 1950, but before 1 July 1987, shall be a citizen by birth, irrespective of the nationality of his parents;
- A person born in India on or after 1 July 1987, but before 3 December 2004, shall be a citizen of India by birth, if either of his parents is a citizen of India at the time of his birth;
- A person born in India on or after 3 December 2004 shall be a citizen of India by birth, if both his parents are citizens of India or one of the parents is a citizen of India and the other is not an illegal migrant at the time of his birth. For the purposes of the Citizenship Act, an illegal migrant means a foreigner who has entered into India (i) without a valid passport or other travel documents; or (ii) with a valid passport or other travel documents, but remains in India beyond the permitted period of time.<sup>61</sup>

According to section 4 of the Citizenship Act:

*Citizenship by descent*

- A person born outside India on or after 26 January 1950, but before 10 December 1992, is a citizen of India by descent, if his father was a citizen of India by birth at the time of his birth. In cases where the father was a citizen of India by descent only, that person shall not be a citizen of India unless his birth is registered at an Indian Consulate within one year from the date of birth. Where that one year period has expired, that person will only be a citizen of India where permission has been granted by the Central Government.
- A person born outside India on or after 10 December 1992, but before 3 December 2004, shall be a citizen of India if either of his parents was a citizen of India by birth at the time of his birth. In cases where either of the parents was a citizen of India by descent, that person shall not be a citizen of India unless his birth is registered at an Indian Consulate within one year from the

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<sup>58</sup> See, for example, section 3, Registration of Births and Deaths Act 1969. Also see the website of the Ministry of Home Affairs, op.cit.

<sup>59</sup> Ministry of Home Affairs Foreigners Division, "Acquisition of Indian Citizenship", available at <http://indiancitizenshiponline.nic.in/acquisition1.htm>.

<sup>60</sup> Citizenship Act 1955 (as amended in 1986, 1992, 2003, 2005 and 2015).

<sup>61</sup> Section 2(b), Citizenship Act 1955.



date of birth. Where that one year period has expired, that person will only be a citizen of India where permission has been granted by the Central Government.

- A person born outside India on or after 3 December 2004 shall not be a citizen of India unless the parents declare that the minor does not hold a passport of another country and his birth is registered at an Indian Consulate within one year of the date of birth. Where that one year period has expired, that person will only be a citizen of India where permission has been granted by the Central Government.

The Indian Constitution ("**Constitution**")<sup>62</sup> also has some provisions dealing with citizenship rather than nationality. Article 5 of the Indian Constitution states that those meeting the following criteria shall be citizens of India:

- a person domiciled in India and born in India;<sup>63</sup>
- a person domiciled in India (but not born in India) and either of whose parents was born in the territory of India; or
- a person domiciled in India (but not born in India) but who has been ordinarily resident in India for not less than five years immediately preceding the commencement of the Constitution.

#### Is there any legal obligation to register children?

Yes (X) No ( )

#### If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The Registration of Births and Deaths Act 1969 (Act No. 18 of 1969) ("**Registration Act**") is federal legislation that governs the registration of births and deaths in India. Sections 8, 9 and 10 of the Registration Act make it compulsory to register live births as well as still births. Who is required to notify the Registrar of the birth will depend on the location of the birth.

#### *Children born outside India*

Section 4(1) of the Citizenship Act provides for citizenship by descent, i.e. circumstances under which a person despite being born outside India will be a citizen of India. The Citizenship Rules 2009 ("**Citizenship Rules**") state that in the case of a child born outside India, the birth can be registered at the Indian Consulate of the country where such a child was born. A declaration stating that the child does not hold the passport of any other country will have to be given.

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<sup>62</sup> Constitution of India, available at <http://indiacode.nic.in/coiweb/welcome.html> or <http://india.gov.in/my-government/constitution-india>.

<sup>63</sup> In the case of Kirandeep Kaur v Regional Passport Office and Ors (W.P.(C) 8422/2005 & CM No. 6214/2005), which concerned section 3 of the Citizenship Act 1955, the High Court of Delhi stated inter alia that "citizenship and domicile are distinct legal concepts and it is possible for a citizen of Country A to be domiciled in County I" and "The word 'domicile' has not been defined in the Constitution or in the Citizenship Act 1955. In the ordinary legal parlance domicile can be defined as an intention to reside in a particular territory which is not transient or for a limited period or purpose only".

In addition, section 20 of the Registration Act provides that the Registrar General shall cause to be registered information as to births of citizens of India outside India received by him under the rules relating to the registration of such citizens at the Indian Consulate made under the Citizenship Act. Every such registration will be deemed to have been duly made under the provisions of the Registration Act.

In the case of a child born outside India in respect of whom information has not been received (under the rules of registration under the Citizenship Act), if the parents of the child return to India with a view to settling therein, they may at any time, within 60 days from the date of arrival of the child in India, get the birth of the child registered under the Registration Act, in the same manner as if the child was born in India. If such a child is not registered within the 60 day period, the provisions under section 13 of the Registration Act relating to delayed registration of births and deaths will apply.

#### Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ( )

#### If yes, by when?

A child needs to be registered within 21 days of birth. This time period has been provided for in the Model Registration of Births and Deaths Rules 1999 (“**Model Rules**”).<sup>64</sup> The Model Rules were enforced with effect from 2000 and were required to be implemented by every State Government of India.

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#### Is a paper certificate issued as a result of the registration?

Yes (X) No ( )

Under section 12 of the Registration Act the Registrar must provide the informant with an extract of particulars from the register relating to births and deaths, i.e. a certificate, as soon as the registration of a birth or death has been completed.

Since this requirement has been prescribed in the federal legislation, the Registrar or any other authorised officer at the State level, district level and local municipality/panchayat level must comply with it. The Model Rules provide that the extract / certificate should be provided in Form 5.<sup>65</sup>

#### Different by region/area

Yes ( ) No (X)

#### If it's different by region/or area, please provide us more detail.

Not applicable.

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<sup>64</sup> Model Registration of Births and Deaths Rules 1999, available at [http://crsorgi.gov.in/web/uploads/download/Births\\_and\\_Deaths\\_Rules\\_1999.pdf](http://crsorgi.gov.in/web/uploads/download/Births_and_Deaths_Rules_1999.pdf).

<sup>65</sup> Rule 8, Model Rules.

**Is there a separate fee for the issuance of a paper certificate?**

Yes ( ) No (X)

In accordance with section 12 of the Registration Act, the first copy of such an extract will be issued free of charge. All additional copies will be issued at a fee of 5 rupees (approximately USD 0.08)<sup>66</sup> per copy.<sup>67</sup>

**Different by region/area**

Yes ( ) No (X)

**If it's different by region/or area, please provide us more detail.**

Not applicable.

**Is there a Birth Registration Fee**

Yes ( ) No (X) Conditional ( )

There is no birth registration fee, if the birth is registered within the specified period, which, according to the Model Rules, is 21 days.

**If yes, amount in USD:**

Not applicable.

**If it's conditional, please provide reasons/cases for exemption.**

Not applicable.

**Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')**

Yes (X) No ( )

Section 13 of the Registration Act makes provision for delayed registration of births and deaths.

*"13.(1) Any birth of which information is given to the Registrar after the expiry of the period specified therefore, but within thirty days of its occurrence, shall be registered on payment of such late fee as may be prescribed.*

*(2) Any birth or death of which delayed information is given to the Registrar after thirty days but within one year of its occurrence shall be registered only with the written permission of the prescribed authority and on payment of the prescribed fee and the production of an affidavit made before a notary public or any other officer authorised in this behalf by the State Government.*

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<sup>66</sup> All conversions were made at the time of writing the report using a commercial exchange rate, available at [www.xe.com](http://www.xe.com).

<sup>67</sup> Rule 13, Model Rules.

(3) Any birth or death which has not been registered within one year of its occurrence, shall be registered only on an order made by a Magistrate of the first class or a Presidency Magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee.

(4) The provisions of this section shall without prejudice to any action that may be taken against a person for failure on his part to register any birth or death within the time specified therefor and any such birth or death may be registered during the pendency of any such action".

The late fee for an application within 30 days of birth under section 13(1) is prescribed in Rule 9(1) of the Model Rules and stands at 2 rupees.

The late fee for an application within one year of birth under section 13(2) is prescribed in Rule 9(2) of the Model Rules and stands at 5 rupees.

The late fee for an application under section 13(3) is prescribed in Rule 9(3) of the Model Rules and stands at 10 rupees.

**If yes, amount in USD:**

USD 0.03- 0.16 (2-10 rupees above).

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**Requirements for Birth Registration (tick what applies):**

Identification of Child's Father (X) His Nationality ( )

Identification of Child's Mother (X) Her Nationality ( )

Marital Status ( )

Rule 5 of the Model Rules, prescribes that information given to the Registrar about a live birth must be made on Form 1.<sup>68</sup>

**Are Stateless / Refugee Births Registered?**

Yes (X) No ( )

India has acceded to or ratified a number of international human rights instruments, one such instrument being the 1989 Convention on the Rights of the Child.<sup>69</sup> Article 2 of the Convention requires that:

*"State parties shall respect and ensure the rights set forth in the Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, political or other opinion, national, ethnic or social origin, property, disability, birth or other status".*

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<sup>68</sup> See, for example, the form published by the Municipal Corporation of Delhi (Health Department), available at [http://mcdonline.gov.in/tri/sdmc\\_mcdportal/dwdforms/birth.pdf](http://mcdonline.gov.in/tri/sdmc_mcdportal/dwdforms/birth.pdf).

<sup>69</sup> Convention on the Rights of the Child, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>.

In relation to birth registration, Article 7 of the Convention requires that:

*“The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and the right to as far as possible, know and be cared for by his parents. (2) State Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular, where the child would otherwise be stateless.”*

Domestic legislative provisions upholding the above obligations include:

- Section 3 of the Citizenship Act states that a person born in India on or after 26 January 1950, but before 1 July 1987, shall be a citizen of India by birth irrespective of the nationality of his parents. This means that refugee children born in India before 1987 are deemed citizens of India by birth.
- Section 7(2) of the Registration Act provides that:

*“Every registrar shall, without fee or reward, enter in the register maintained for the purpose all information given to him under section 8 or section 9 and shall also take steps to inform himself carefully of every birth and of every death which takes place in his jurisdiction and to ascertain and register the particulars required to be registered”.*

Available guidance appears to suggest that section 7(2) of the Registration Act provides for the registration of every birth and death irrespective of nationality and the birth of the child of a foreign national may be registered by the local Registrar and a birth certificate to this effect may be issued under section 12 of the Registration Act. However, section 20(1) of the Registration Act (special provision as to the registration of births and deaths of citizens outside India) is not applicable in such cases. This is further supported by the fact that Form 1 which is the form prescribed by the Model Rules for the registration of a birth does not require the applicant to mention the 'nationality' of the parents. The only details required are:

- 1) the child's date of birth;
- 2) the child's sex;
- 3) the name of the child, if any;
- 4) the name of the parents;
- 5) the permanent address of the parents and the address of the parents at the time of birth of the child; and
- 6) the child's place of birth.

In addition, the Indian judiciary recognises the lack of a domestic legislative framework upholding India's international obligations and has been trying through its decisions to bridge the gap between domestic law and India's obligations under international law. In *National Human Rights Commission v State of Arunachal Pradesh*<sup>70</sup> the Supreme Court of India stated that Chakma<sup>71</sup> refugee children born

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<sup>70</sup> *National Human Rights Commission v. State of Arunachal Pradesh* (1996) 1 SCC 742.

in the State of Arunachal Pradesh were entitled to Indian citizenship by birth under section 3 of the Citizenship Act 1955, prior to the amendment made to it in 1987 requiring one of the parents to be an Indian citizen.<sup>72</sup>

#### Are children of single parents registered?

Yes (X) No ( )

Section 7(2) of the Registration Act states that every Registrar shall take steps to inform himself carefully of every birth that takes place in his jurisdiction and to ascertain and register the particulars required to be registered. Therefore, the procedure for registering children of single parents is the same.

#### Are all children born in the territory registered?

Yes (X) No ( )

Section 7(2) of the Registration Act states that every Registrar shall take steps to inform himself carefully of every birth that takes place in his jurisdiction and to ascertain and register the particulars required to be registered.

#### If no, please provide list of those not registered

Not applicable.

#### Other Requirements (if none, put n/a)

Not applicable.

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### Registration System Set-up

Electronic Submission ( ) Paper Submission ( ) Both (X) - electronic submission only in New Delhi

The following observation is made based on a study of the four major metropolitan cities of India (New Delhi, Mumbai, Kolkata and Chennai); the observation does not cover other administrative regions of India. Currently only the Municipal Corporation of Delhi accepts electronic submission of birth registration details. This is done through the On Line Institutional Registration of Births and Deaths scheme ("OLIR").<sup>73</sup>

According to the Ministry of Home Affairs, applications to register a minor child born outside India at an Indian consulate under section 4(1) of the Citizenship Act can be made online for the purposes of

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<sup>71</sup> The Chakma community is a minority Buddhist tribe from Bangladesh.

<sup>72</sup> V. Vijayakumar, "Protection of Refugee Children in India", *Refuge: Canada's Journal on Refugees*, Volume 20 No.2 (2002), available at <http://pi.library.yorku.ca/ojs/index.php/refuge/article/view/21254>.

<sup>73</sup> North Delhi Municipal Corporation, "Registration and Issue of Birth and Death Certificates", available at <http://111.93.47.72/csbndmc/rbd/>.

acquiring Indian citizenship.<sup>74</sup> However, this is not purely an electronic submission as hard copies of the application (along with supporting documents) have to be submitted to the designated Indian consulate responsible for Indians in the country where the child was born.

### Location of registration facilities

The following information was taken from official Indian Government websites.<sup>75</sup>

Capital city      Yes (X) No ( )

Other cities      Yes (X) No ( )

Villages          Yes (X) No ( )

Other \_\_\_\_\_

In accordance with section 7 of the Registration Act, Registrars and Sub-Registrars are appointed for each local area, comprising the area within the jurisdiction of a municipality, panchayat or other local authority. Registrars may in turn, with the prior approval of the Chief Registrar, appoint Sub-Registrars and assign to them any or all of their powers and duties in relation to specified areas within their respective jurisdictions.

Registrars and Sub-Registrars are separately appointed for rural and urban areas.

Rural Areas - The following have been appointed as Registrars of Births and Deaths:

- Panchayat Secretaries / Karmi / Gram Sevak in 15 States and three Union Territories.<sup>76</sup> These states are: Andhra Pradesh, Bihar, Chhattisgarh, Goa, Gujarat, Himachal Pradesh, Jharkhand, Kerala, Madhya Pradesh, Maharashtra, Rajasthan, Tripura, Uttar Pradesh, Uttarakhand and West Bengal. The three Union Territories are Daman & Diu, Dadra & Nagar Haveli and Puducherry.
- Medical Officer in Charge or equivalent in seven States and three Union Territories. These states are Assam, Haryana, Meghalaya, Orissa, Sikkim and Manipur (partly). The three Union Territories are Andaman and Nicobar Islands, Delhi and Lakshadweep.
- Village Accountants / Village Administrative Officers in two States. The two States are Karnataka and Tamil Nadu.
- Station House Officer / Police officers in Jammu and Kashmir and in the Union Territory of Chandigarh.
- School Teachers in Mizoram and Nagaland.
- Circle Officer / Village Level workers in Arunachal Pradesh.

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<sup>74</sup> Ministry of Home Affairs Foreigners Division, "Online Indian Citizenship", available at <http://indiancitizenshiponline.nic.in/>.

<sup>75</sup> Office of the Registrar General and Census Commissioner of India, "Frequently Asked Questions", available at <http://www.censusindia.gov.in/2011-FAQ/FAQ-CRS.html>.

<sup>76</sup> Union Territory is a type of administrative division in the Republic of India which is ruled directly by the Union / Federal Government as opposed to States that are ruled by the elected State governments.

- Urban Areas - The Municipal Health Officer, Health Officer or Equivalent Officers are appointed as Registrar of Births and Deaths.

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### Birth Registration is required for:

Our research suggests that, whilst a legislative framework exists in India requiring births within its jurisdiction to be registered with designated public authorities, in many areas these laws are neither widely observed nor enforced. As a result, many citizens do not possess a birth certificate. One consequence of this is that public bodies do not always have accurate records of the identity of those who access public services such as health and education. Therefore, whilst much of the national legislation states that a birth certificate may be produced as evidence of identity or date of birth, it is not required to be produced in order to access the majority of public services.

Our research suggests that the lack of observance and enforcement of existing laws may have a number of adverse consequences. First, there are regional disparities in relation to which documents the local administrative authorities stipulate are necessary for accessing public services in their area, or which documents they tend to accept in practice. These disparities mean that citizens are often confused as to what documents they are required to produce in order to access education, health or other services. In some cases, citizens may not attempt to access services in the mistaken belief that they are required to possess a birth certificate. In addition, given that birth certificates are not always required, some parents do not regard the acquisition of a birth certificate as essential to their child's future life chances. This means that rates of birth registration remain low, despite the legal obligation to register births.

### Access to education

Yes ( ) No (X) Law *The Constitution of India and the Right of Children to Free and Compulsory Education Act 2009.*

Article 21A of the Constitution requires the State to provide free and compulsory education to all children between the ages of six and 14 inclusive. Birth certificates are not formally required at any stage of the education system as a matter of national policy.

However, section 14(1) of the Right of Children to Free and Compulsory Education Act 2009 ("**Right to Free Education Act**")<sup>77</sup> requires the age of a child to be determined for the purposes of admission to elementary education. Section 14(1) states that this determination shall be made on the basis of a birth certificate issued in accordance with the Births, Deaths and Marriages Registration Act 1886 or on the basis of such other document, as may be prescribed.<sup>78</sup> Therefore, while a determination of a child's age should be made prior to that child's access to elementary education, it is not required that this is done on the basis of a birth certificate. Furthermore, section 14(2) of the Right to Free

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<sup>77</sup> Right of Children to Free and Compulsory Education Act 2009.

<sup>78</sup> Whilst the Registration of Births and Deaths Act 1969 Act is the current principal legislation, it does refer to the Births, Deaths and Marriages Registration Act 1886 and contains a specific non-derogation provision to ensure that the 1969 Act will never be construed against the provisions of the 1886 Act.



Education Act states that no child shall be denied admission to a school for lack of proof of age. Therefore, it cannot be said that a birth certificate is a 'requirement' for access to education.

However, according to research, many individuals are under the impression that a birth certificate is required for accessing education.<sup>79</sup> In addition, Plan USA's research on this issue uncovered examples of children being unable to enrol in school due to a lack of a birth certificate.<sup>80</sup>

#### Obtaining a primary school diploma

Yes ( ) No (X) Law \_\_\_\_\_

No legislative provisions were found specifically requiring a birth certificate to obtain a primary school diploma.

#### Obtaining a secondary school diploma

Yes ( ) No (X) Law \_\_\_\_\_

No legislative provisions were found specifically requiring a birth certificate to obtain a secondary school diploma. In addition, it is not clear whether the student sitting exams is required to provide personal information, such as date of birth, to acquire a diploma, or whether the school does this on behalf of students.

The Council for the Indian School Certificate Examinations ("**Examinations Council**")<sup>81</sup> conducts examinations for the Indian Certificate of Secondary Education ("**ICSE**") and Indian School Certificate ("**ISC**"). These examinations may be taken after ten and 12 years of studies respectively. Their website sets out information relating to this exam and states that where an exam candidate requires a correction to be made in their name, their parent's name or their date of birth on an ICSE or ISC certificate then one of the documents they must send to the Examinations Council is a duly attested copy of their birth certificate.

#### Access to health (emergency services only)

Yes ( ) No (X) Law \_\_\_\_\_

No legislative provisions requiring a birth certificate to access emergency services were identified.

#### Access to health (primary health services only)

Yes ( ) No (X) Law \_\_\_\_\_

No legislative provisions requiring a birth certificate to access primary health services were identified.

#### Access to health (all services)

Yes ( ) No (X) Law \_\_\_\_\_

<sup>79</sup> Kara Apland, Brad Blitz, Carolyn Hamilton, Mary Lagaay, Rajith Lakshman and Elizabeth Yarrow, "Birth Registration and Children's Rights A Complex Story", May 2014, p.49, available at <http://www.planusa.org/docs/reports/2014-birth-registration-research-full-report.pdf>.

<sup>80</sup> Kara Apland et al (2014), op. cit. p.49.

<sup>81</sup> Council for the Indian School Certificate Examinations, available at <http://cisce.org/Default.aspx>.

While no legislative provisions were identified requiring a birth certificate to access health services, the Indian Government has adopted various policies aiming to increase the number of children covered by health programmes.

Paragraph 3 of the National Policy for Children 1974 ("**1974 Children Policy**")<sup>82</sup> states that the Indian Government will adopt measures to ensure that all children are covered by a comprehensive health programme. In addition, paragraph 4.2 of the National Policy for Children 2013 ("**2013 Children Policy**")<sup>83</sup> states that the State is committed to ensuring equitable access to comprehensive and essential, preventative, promotive [sic], curative and rehabilitative health care, of the highest standard, for all children before, during and after birth, and throughout the period of their growth and development. Paragraph 4.4(vi) of the 2013 Children Policy states that the State shall take all necessary measures to provide universal and affordable access to services for prevention, treatment, care and management of neo-natal and childhood illnesses and protect children from all water borne, vector borne, blood borne, communicable and other childhood diseases.

The National Health Policy 2002<sup>84</sup> outlined one of its goals as being to increase utilisation of public health facilities from the then level of less than 20% to more than 75% by 2010.

#### Access to social security programmes / cash benefits

Yes ( ) No ( ) Unclear (X) Programme name \_\_\_\_\_ Law \_\_\_\_\_

The Unorganised Workers Social Security Act 2008 ("**Unorganised Workers Act**")<sup>85</sup> concerns the entitlement of unorganised workers to suitable welfare schemes on matters relating to life and disability cover, health and maternity benefits, old age protection and any other benefit as may be determined by the Central Government. It also contains provisions relating to eligibility in respect of the State Governments' concerns - provident funds, employment injury benefit, housing, educational schemes for children, skills upgrades for workers, funeral assistance and old age homes.

Chapter V of the Unorganised Workers Act concerns registration for these benefits and section 10 sets out eligibility criteria for registration. Unorganised workers who are above 14 years old and make a self-declaration that they are an unorganised worker will be eligible for registration. Section 10(2) states that those who fulfil this criteria should make an application "*in the prescribed form to the District Administration for registration*". However, while the prescribed form is not set out in the Unorganised Workers Act, section 13(2)(e) gives Central Government the power to make rules which provide for the form for making the application under section 10(2). It has not been possible to locate a

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<sup>82</sup> Department of Social Welfare, "National Policy for Children", 22 August 1974, available at [http://www.childlineindia.org.in/CP-CR-Downloads/national\\_policy\\_for\\_children.pdf](http://www.childlineindia.org.in/CP-CR-Downloads/national_policy_for_children.pdf).

<sup>83</sup> Ministry of Women and Child Development, "National Policy for Children 2013", 26 April 2013, available at <http://www.childlineindia.org.in/pdf/The-National-Policy-for-Children-2013.pdf>.

<sup>84</sup> Ministry of Health and Family Welfare, "National Health Policy 2002", p. 23, available at [http://www.childlineindia.org.in/CP-CR-Downloads/National\\_Health\\_policy\\_2002.pdf](http://www.childlineindia.org.in/CP-CR-Downloads/National_Health_policy_2002.pdf).

<sup>85</sup> The Unorganised Workers' Social Security Act 2008, No. 33 of 2008, available at [http://www.prsindia.org/uploads/media/vikas\\_doc/docs/1251881279~~The%20Unorganised%20Workers%20Social%20Security%20Act,%202008.pdf](http://www.prsindia.org/uploads/media/vikas_doc/docs/1251881279~~The%20Unorganised%20Workers%20Social%20Security%20Act,%202008.pdf).

copy of these rules. Therefore, it is not known whether a birth certificate is required as part of the prescribed form and ultimately for accessing the social security benefits.

The Indian Government has established a National Social Assistance Programme which is composed of five sub-schemes: the Indira Gandhi National Old Age Pension Scheme; the Indira Gandhi National Widow Pension Scheme; the Indira Gandhi National Disability Pension Scheme; the National Family Benefit Scheme; and the Annapurna Scheme.<sup>86</sup> These schemes entitle those in the “Below Poverty Line” category to receive monetary compensation or food.

Individuals are required to complete an application form to apply for the National Social Assistance Programme. A model form is contained in Annexe III of the Indian Government's Programme Guidelines.<sup>87</sup> This form requires the applicant to give their date of birth together with proof. It states in paragraph 3.1.3 of the Programme Guidelines that a birth certificate or school certificate may be relied on as proof of age. In their absence “a ration card or EPIC [Electoral Photo Identity Card] may be considered instead. If there is no valid document, any Medical Officer of any government hospital may be authorized to issue the age certificate”.

### Nationality

Yes (X) - in some circumstances No ( ) Law *Citizenship Act*.

The Citizenship Act states the different methods by which Indian citizenship can be acquired. The Citizenship Rules provide for the forms and supporting documents required to be submitted as part of the application for acquiring citizenship.

1. Citizenship by birth according to section 3 of the Citizenship Act. There are no requirements specified in the Citizenship Act or Citizenship Rules regarding birth registration.
2. Citizenship by descent, whereby children born to Indian parents outside of India can acquire Indian citizenship on having their birth registered at the Indian Consulate responsible for Indians in the country where such a child was born under section 4(1) of the Citizenship Act. The Citizenship Rules prescribe Form I for making an application for registration of birth of a minor child at an Indian Consulate under section 4(1) of the Citizenship Act. A copy of the birth certificate of the child (issued by the Government of the country where such a child is born) is one of the supporting documents required for making the above application.<sup>88</sup>
3. Citizenship by registration - Citizenship of India can be acquired by registration by:
  - (i) A person of Indian origin who has ordinarily been resident in India for seven years before making an application for registration. The Citizenship Rules prescribe Form II for making

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<sup>86</sup> Indian Government, "National Social Assistance Programme: Programme Guidelines", October 2014, p.6, available at [http://nsap.nic.in/Guidelines/nsap\\_guidelines\\_oct2014.pdf](http://nsap.nic.in/Guidelines/nsap_guidelines_oct2014.pdf).

<sup>87</sup> Annexe III, National Social Assistance Programme Guidelines.

<sup>88</sup> Rule 3, Citizenship Rules.

such an application and one of the supporting documents required to be submitted is "Evidence of the date of birth of the parents viz. a copy of the passport or birth certificate".<sup>89</sup>

(ii) A person of Indian origin who is ordinarily resident in any country or place outside India. There are no requirements specified in the Citizenship Rules.

(iii) A person who is married to a citizen of India and is ordinarily resident in India for seven years before making an application for registration. The Citizenship Rules prescribe Form III for making the above application and one of the supporting documents required to be submitted as part of the application is "*Evidence of his/her husband's/wife's Indian nationality viz. a copy of Indian passport or birth certificate*".<sup>90</sup>

(iv) A minor child of persons who are citizens of India. The Citizenship Rules prescribe Form IV for making the above application and one of the supporting documents required to be submitted as part of the application is "*Proof of Indian citizenship of both the parents viz. copy of Indian passport / birth certificate*".<sup>91</sup>

(v) A person of full age and capacity whose parents are registered as citizens of India. The Citizenship Rules prescribe Form V for making the above application. There are no requirements to submit a birth certificate in support of the application.<sup>92</sup>

(vi) A person of full age and capacity who was, or either of whose parents was, earlier a citizen of independent India and has been residing in India for one year immediately before making an application for registration. The Citizenship Rules prescribe Form VI for making the above application and states that one of the supporting documents required to be submitted as part of the application is "*Evidence that the applicant or either of his parents was a citizen of independent India, viz. copy of passport or birth certificate*".<sup>93</sup>

(vii) A person of full age and capacity who has been registered as an overseas citizen of India for five years, and who has been residing in India for one year before making an application for registration. The Citizenship Rules prescribe Form VII for making the above application. There are no requirements to submit a birth certificate in support of the application.<sup>94</sup>

4. Citizenship by naturalisation - The Citizenship Rules prescribe Form VIII for making an application for citizenship by naturalisation, but there are no requirements to submit a birth certificate in support of the application.<sup>95</sup>

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<sup>89</sup> Rule 4, Citizenship Rules.

<sup>90</sup> Rule 5, Citizenship Rules.

<sup>91</sup> Rule 6, Citizenship Rules.

<sup>92</sup> Rule 7, Citizenship Rules.

<sup>93</sup> Rule 8, Citizenship Rules.

<sup>94</sup> Rule 9 Citizenship Rules.

<sup>95</sup> Rule 10, Citizenship Rules.

## Identification card

Yes (X) - in some circumstances No ( ) Law *No specific law. See explanation below.*

The Indian Department of Food and Civil Supplies issues ration cards to all citizens, although it is not compulsory to possess one. The ration card functions as a proof of identity document and may be held individually or collectively as a family. The card provides official proof of address<sup>96</sup> and is required to access certain social benefits under the Public Distribution System, such as food and fuel.

While a birth certificate is not required in an application for a new ration card, where a family wish to add a child to their ration card following its birth, they must produce the birth certificate of the child to do so.<sup>97</sup>

## Passport

(X) - in some circumstances No ( ) Law *Passport Rules 1980.*<sup>98</sup>

Whether a birth certificate is necessary for the issuance of a passport depends on the age of the applicant. For those who were born on or after 26 January 1989, it is obligatory to provide a birth certificate as proof of date of birth.

The Passport Act 1967<sup>99</sup> provides for the issue of passports and travel documents. No specific provisions were found in the 1967 Act requiring a birth certificate to be provided for the issuance of a passport, however, section 24 of the 1967 Act gives Central Government the power to make rules for the purposes of the 1967 Act.

Schedule III of The Passport Rules 1980 contains a blank Passport Application Form ("**Passport Form**") which sets out the information and documentary proof which must be provided by an individual applying for a passport. Part 4 of the Passport Form requires the applicant to detail their date of birth, together with documentary proof. Part 5 of the Passport Form requires the applicant to detail the place of their birth, together with documentary proof. Section III of the Passport Form sets out guidelines for filling out the application form. According to these guidelines, the date of birth should be written "*as shown in the birth certificate issued by Municipal / Government Authorities*". Section IV (A)(1)(b) of the guidelines provides a list of documents, one of which must be attached as documentary proof of the applicant's date of birth. These are:

- A birth certificate issued by a Municipal Authority or district office of the Registrar of Births and Deaths;

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<sup>96</sup> Ration Card, "Online Information on Ration Card", available at <http://www.rationcard.org/types-of-ration-cards.htm>.

<sup>97</sup> Indian Government, "Apply for Ration Card: Tripura", available at [http://www.archive.india.gov.in/howdo/service\\_detail.php?formid=389&service=7](http://www.archive.india.gov.in/howdo/service_detail.php?formid=389&service=7).

<sup>98</sup> The Passports Rules 1980, available at [http://www.passportindia.gov.in/AppOnlineProject/pdf/Passport\\_Rules\\_1980.pdf](http://www.passportindia.gov.in/AppOnlineProject/pdf/Passport_Rules_1980.pdf).

<sup>99</sup> The Passports Act 1967, No. 15 of 1967 (24 June 1967), available at [http://www.passportindia.gov.in/AppOnlineProject/pdf/passports\\_act.pdf](http://www.passportindia.gov.in/AppOnlineProject/pdf/passports_act.pdf).

- Certificate stating the date of birth issued by the school last attended by the applicant or any other recognised educational institution; or
- An affidavit sworn before a Magistrate or Notary stating the date and place of birth.
- However, in the case of applicants born on or after 26 January 1989, only a birth certificate issued by the Municipal Authority or the Office of the Registrar of Births & Deaths is acceptable.

**Other (Please specify e.g. enrolment for social protection programme/ food bank)**

See response in "Identification card" section, otherwise no other specific services have been identified for which citizenship is a prerequisite.

## References

### Legislation Reviewed:

- Citizenship Act 1955;
- Citizenship Rules 2009;
- Constitution of India;
- Delhi Registration of Births and Deaths Rules 1999;
- Model Registration of Births and Deaths Rules 1999;
- Passports Act 1967;
- Passports Rules 1980;
- Registration of Births and Deaths Act 1969;
- Right of Children to Free and Compulsory Education Act 2009;
- Tamil Nadu Registration of Births and Deaths Rules 2000;
- Unorganised Workers' Social Security Act 2008.

### Policies Reviewed:

- National Health Policy 2002;
- National Policy for Children 1974;
- National Policy for Children 2013;
- National Social Assistance Programme Guidelines 2014.

### International Treaties Reviewed:

- Convention on the Rights of the Child, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>  
(see also the ratification table available at [https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg\\_no=iv-11&chapter=4&lang=en](https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&lang=en))

### Case Law Reviewed:

- *National Human Rights Commission v. State of Arunachal Pradesh* (1996) 1 SCC 742;
- *Kirandeep Kaur v Regional Passport Office and Ors* (W.P.(C) 8422/2005 & CM No. 6214/2005).

### Further Sources:

- Arun Serrao and Sujatha B.R., "Birth Registration: A Background Note", available at <http://unstats.un.org/unsd/vitalstatkb/Attachment106.aspx>
- Civil Registration and Vital Statistics Knowledge Base, "Birth Registration in India: Status and Strategies for Improvement", available at <http://unstats.un.org/unsd/vitalstatkb/Attachment480.aspx>
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# INDONESIA

## QUESTIONNAIRE ON BIRTH REGISTRATION - INDONESIA

### Key Points

- Births in Indonesia should be registered with 60 days.
- Birth certificates are issued free of charge.
- Birth registration is required to obtain the compulsory national identity card, but may or may not be required to access other public services.

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### Name of official authority in charge of registering a child's birth:

The official authority in charge of registering a child's birth is the Department of Population and Registration. This department operates at a provincial government level. At the district level this is managed by the Office of Civil Registration/Civil Registration Office.<sup>100</sup>

### Where is the civil registry located in the government?

- Ministry of Justice
- Ministry of Interior - Ministry of Home Affairs<sup>101</sup>
- Electoral Agency
- Independent Entity
- Other

Law: Law No. 23 of 2002 on Child Protection.

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### Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Citizenship is governed by Law No. 12 of 2006 on Citizenship of the Republic of Indonesia ("**Citizenship Law**").<sup>102</sup>

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<sup>100</sup> Article 19, Law No. 37 of 2007, which amends Law No. 23 of 2006 on Population Administration.

<sup>101</sup> Article 28(1) Law No. 23 of 2002 on Child Protection. English translation available at [http://www.internationalresourcecentre.org/en\\_X2/Indonesia\\_Law\\_on\\_Child\\_Protection.pdf](http://www.internationalresourcecentre.org/en_X2/Indonesia_Law_on_Child_Protection.pdf).

<sup>102</sup> Law No. 12 of 2006 on Citizenship of the Republic of Indonesia. English translation available at <http://www.refworld.org/docid/4538aae64.html>.

The explanatory notes to the Citizenship Law<sup>103</sup> state that it combines both principles of *jus sanguinis* and *jus soli* and does not recognise dual citizenship or statelessness. However, dual citizenship is allowed to children by way of an exception.

The key provisions of the Citizenship Law are Articles 4, 5 and 6. Article 4 lists the persons who are considered a citizen of the Republic of Indonesia.

#### Article 4

*"A Citizen of the Republic of Indonesia is:*

- (1) All persons whom by law and/or based on agreements between the Government of the Republic of Indonesia and other countries prior to the application of this Decree have already become Citizens of the Republic of Indonesia;*
- (2) Children born through legal wedlock from an Indonesian father and mother;*
- (3) Children born through legal wedlock from an Indonesian father and an alien mother;*
- (4) Children born through legal wedlock from an alien father and an Indonesian mother;*
- (5) Children born through legal wedlock from an Indonesian mother and a stateless father or whose country does not provide automatic citizenship to their offspring;*
- (6) Children born within 300 days after the father has passed away, under legal wedlock, and whose father is an Indonesian citizen;*
- (7) Children born out of legal wedlock from an Indonesian mother;*
- (8) Children born out of legal wedlock from an alien mother who is claimed by the Indonesian father as his natural child and such claim is declared before the child reaches the age of 18 (eighteen) or before the child has married;*
- (9) Children born in Indonesian territory whose parents are of undetermined citizenship at the time of the child's birth;*
- (10) Children newly born and found in Indonesian territory and whose parents are undetermined;*
- (11) Children born in Indonesian territory whom at the time of birth both parents were stateless or whose whereabouts are undetermined;*
- (12) Children born outside the Rep. of Indonesia from an Indonesian father and mother whom due to law prevailing in the country of birth automatically provides citizenship to the child;*
- (13) Children born from a father and mother who was granted citizenship and died before the parents had sworn their allegiance."*

Article 5 of the Citizenship Law adds that:

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<sup>103</sup> Explanation to Law No. 12 of 2006 on Citizenship of the Republic of Indonesia. English translation available at <http://www.refworld.org/docid/4538aae64.html>.

- children of Indonesian citizens born out of wedlock, under the age of 18 and unmarried, who are not legally adopted by their alien (i.e. non-Indonesian) father; and
  - Indonesian children under the age of five who are legally adopted by foreign citizens through legal proceedings,
- will continue to be considered as citizens of the Republic of Indonesia.

Article 6 states that where certain provisions of Article 4 and Article 5 result in dual citizenship, upon reaching the age of 18, or upon marriage, the child must choose one citizenship. Such decisions must be made in writing and forwarded to the relevant officials attaching "*such documents as determined by regulations*". This decision must be made within three years of the child reaching the age of 18 or marrying.

### Is there any legal obligation to register children?

Yes (X) No ( )

### If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

Article 27(1) of Law No. 23 of 2006 on Population Administration<sup>104</sup> (as amended by Law No. 24 of 2013)<sup>105</sup> provides that every birth must be reported to the local 'Implementing Agency' no later than 60 days following the birth. Article 1(7) explains that an 'Implementing Agency' is the "*apparatus of regency/municipal governments responsible for and authorized to provide services in population administration affairs*". The Elucidation of Law No. 24 of 2013 states that the local Implementing Agency is that at which residents are domiciled.<sup>106</sup>

Article 7(1)(b) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) provides that it is the obligation and responsibility of regency / municipal governments to organise population administration affairs, to be conducted by regents / mayors with a number of authorities, including specifically the establishment of the Implementing Agency.

Article 8(1)(a) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) provides that the Implementing Authority is obliged to register 'Vital Events'. Article 1(17) defines 'Vital Events' as "*an occurrence experienced by a person, including birth, death, foetal death, marriage, divorce, acknowledgement of a child, legitimisation of a child, adoption of a child, change of name and a change of citizenship status*".

Article 11 of Law No. 23 of 2006 grants power to civil registration officials to provide evidence of registrations and record data in the Register of Civil Registration Certificates and to issue copies of them. Article 67 of Law No. 23 of 2006 states that this Register is to contain all data relating to Vital Events and is to be stored and maintained by the Implementing Authority.

<sup>104</sup> Law No. 23 of 2006 concerning Population Registration. English translation available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=54eeefde4>.

<sup>105</sup> Law No. 24 of 2013, amendment to Law No. 23 of 2006 on Population Administration, available at <http://www.refworld.org/docid/54eeefce4.html>.

<sup>106</sup> Elucidation of Law No. 24 of 2013. English translation available at <http://www.refworld.org/docid/54eeefce4.html>.

Article 27(2) Law No. 23 of 2006 (as amended by Law no 24 or 2013) states that the civil registration officials are to make records of births as reported in accordance with Article 27(1) in the registry of birth certificates and are to issue an excerpt of the birth certificate.

Article 25 of Law No. 23 of 2006 states that the Implementing Agency must collect data from residents for whom population administration services are difficult to access, being residents who are victims of natural disaster or social disaster, disadvantaged persons (e.g. poor or of no fixed residence) and isolated communities (being local socio-cultural groups which are dispersed and insufficiently or not involved in networks and services) and that such data may be collected in a temporary location. It is not clear what data is to be collected under this Article but it is stated to be used as a "*basis for the issuance of Notifications of Residence for Residents for whom Population Administration [Services] are difficult to access*".<sup>107</sup>

### Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ( )

#### If yes, by when?

As set out above, Article 27(1) of Law No. 23 of 2006 on Population Administration (as amended by Law No. 24 of 2013) provides that every birth must be reported to the local Implementing Agency by no later than 60 days following the birth.

Article 32(1) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) states that, for births not registered within the 60 day period specified by Article 27(1), a birth certificate can be issued after obtaining the approval of the head of the local Implementing Agency.

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### Is a paper certificate issued as a result of the registration?

Yes (X) No ( )

Articles 27(2) and 28(2) of Law No. 23 of 2006 on Population Administration (as amended by Law No. 24 of 2013) state that the Civil Registration Official shall, upon due registration of a birth, issue copies of the birth certificate.

In the case of birth certificates issued for a person whose descent and parents' location is unknown, Article 28(2) states that the copy certificate is to be held by the Implementing Agency. The explanatory notes to Law No. 23 of 2006 on Population Administration state that this copy of the birth certificate is to be given to the child in question when he or she reaches adulthood.

### Different by region/area

Yes ( ) No (X)

#### If it's different by region/or area, please provide us more detail.

Not applicable.

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<sup>107</sup> Article 35(3) of Law No. 23 of 2006 on Population Administration.

### Is there a separate fee for the issuance of a paper certificate?

Yes ( ) No (X)

Article 79A of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) states that the administration and issuance of Population Documents shall be free of charge. Population Documents are defined at Article 1(8) as official documents issued by the Implementing Authority having legal force serving as an authentic means of evidence resulting from the service of population and civil registration. This definition does not specifically include birth certificates (or excerpts of them), but the Elucidation of Law No. 24 of 2013 states that the issue of an excerpt from the birth certificate shall be free of charge.

Article 95B states that any official of the Implementing Agency ordering, facilitating or imposing a charge in the administration and issuance of Population Documents shall be subject to criminal sanctions - imprisonment for maximum of six years and / or payment of a maximum fine of 75 million rupiah (approximately USD 5,540).<sup>108</sup>

### Different by region/area

Yes ( ) No (X)

### If it's different by region/or area, please provide us more detail.

Not applicable.

### Is there a Birth Registration Fee?

Yes ( ) No (X) Conditional ( )

Article 79A of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) states that the administration and issuance of Population Documents shall be free of charge. Population Documents are defined at Article 1(8) as official documents issued by the Implementing Authority having legal force serving as an authentic means of evidence resulting from the service of population and civil registration. This definition does not specifically include birth certificates (or excerpts of them) but the Elucidation of Law No. 24 of 2013 states that the issue of an excerpt from the birth certificate shall be free of charge. Article 95B states that any official of the Implementing Agency ordering, facilitating or imposing a charge in the administration and issuance of Population Documents shall be subject to criminal sanctions - imprisonment for maximum of six years and / or payment of a maximum fine of 75 million rupiah (approximately USD 5,540).

### If yes, amount in USD:

Not applicable.

### If it's conditional, please provide reasons/cases for exemption.

Not applicable.

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<sup>108</sup> All conversions are approximate and were made at the time of writing the report using a commercial exchange rate, available at [www.xe.com](http://www.xe.com).

### Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ( )

Article 90 of Law No. 23 of 2006 states that administrative fines (maximum 1 million rupiah, approximately USD 75.10) are payable for exceeding the 60 day time limit for reporting a birth specified by Article 27(1).

#### If yes, amount in USD:

Approximately USD 75.10.

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### Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X)<sup>109</sup> His Nationality ( )

Identification of Child's Mother (X)<sup>110</sup> His Nationality ( )

Marriage Certificate (X)<sup>111</sup>

The Australia Indonesia Partnership for Justice Baseline Study on Legal Identity ("**Baseline Study**")<sup>112</sup> identifies Presidential Regulation No. 25 of 2008 on Requirements and Procedures of Population and Civil Registration<sup>113</sup> as the legal basis for the requirements for birth registration. The Baseline Study identifies that, in order to obtain a birth certificate, the following documents must be produced:

1. A birth information letter from the doctor/hospital/midwife/birth attendant;
2. The name and identity of the birth witness;
3. A family card for the parents;
4. An ID card for the parents;
5. A photocopy of the parents' marriage certificate (subject to the comments below);
6. For children whose parents and origins are unknown, a statement from the police is required;
7. A completed form requesting a birth certificate.

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<sup>109</sup> In order to have both parents named on the birth certificate.

<sup>110</sup> In order to have the mother's name on the birth certificate.

<sup>111</sup> In order to have both parents named on the birth certificate.

<sup>112</sup> Australia Indonesia Partnership for Justice, "Baseline Study on Legal Identity, Indonesia's Missing Millions", February 2014, pp.60-61, available at [http://www.aij.or.id/uploads/reports\\_publication/8\\_f\\_20140227-011003\\_FA\\_baseline\\_report\\_english.pdf.pdf](http://www.aij.or.id/uploads/reports_publication/8_f_20140227-011003_FA_baseline_report_english.pdf.pdf).

<sup>113</sup> Please note that we have been unable to locate an English translation of Presidential Regulation No. 25 of 2008.

A recent policy paper by the Center for Global Development ("**CGD Policy Paper**") identifies the marriage certificate as being required in order to obtain a "high quality" birth certificate.<sup>114</sup> The CGD Policy Paper states that the marital status of one's parents determines the type of birth certificate issued:

- Children whose parents are married under State Law will have their father's and mother's name on their birth certificate;
- Where parents have a religious marriage (but have not obtained a recognisable state marriage certificate) a child may only have a birth certificate naming its mother. To list the father on the certificate, the parents must lodge a letter of recognition / statutory declaration with the Civil Registry Office confirming that they are the father and mother of the child and that they have had a religious marriage. Upon issuing the parents with a recognition certificate, the civil registry is able to amend the birth certificate by making a side notation with the father's name;<sup>115</sup> and
- Children whose parents are unmarried, or where the parents have a religious marriage and have not provided a letter of recognition to the civil registry office, will only have the mother's name on their birth certificate.

Accordingly, it appears that a child's birth can be registered without a marriage certificate, but, as set out above, this will result in differing entries being made on the certificate. Please see our comments below in the section titled 'Are children of single parents registered?' for commentary on the implications facing single parents and registering a birth.

### Are Stateless / Refugee Births Registered?

Yes (X) No ( )

Article 27(1) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) provides that every birth must be reported to the local Implementing Agency by no later than 60 days following the birth. The obligation applies to 'Residents', which Article 1(2) defines as Indonesian citizens and non-Indonesian citizens residing in Indonesia. Accordingly, stateless and refugee births are not excluded.

Article 81 of Law No. 23 of 2006 provides that, if a natural disaster results in an extraordinary situation, the Implementing Agency must collect resident data for refugees and victims of the natural disaster. The data is to be used to issue notifications of replacement identity cards and civil registration, which can then be used as evidence of identity and considered when issuing population administration documents (which, in accordance with Article 59(1), specifically includes civil registration certificates).

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<sup>114</sup> Center for Global Development, "Indonesia's Missing Millions: Erasing Discrimination in Birth Certification in Indonesia", June 2015, p.2, available at <http://www.cgdev.org/sites/default/files/CGD-Policy-Paper-64-Sumner-Missing-Millions.pdf>.

<sup>115</sup> Center for Global Development (2015), op.cit., pp. 4-5. This paper references Article 91 of Presidential Regulation No. 25 of 2008 concerning Registration Requirements and Procedures for Population and Civil Registration, as amended by Law No. 24 of 2013 Revising Law on Population Administration. It should be noted that we have been unable to locate English translations of this legislation.

### Are children of single parents registered?

Yes (X) No ( )

Article 27(1) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) provides that every birth must be reported to the local Implementing Agency by no later than 60 days following the birth. The obligation applies to 'Residents', which Article 1(2) defines as Indonesian citizens and non-Indonesian citizens residing in Indonesia. Accordingly, children of single parents are not excluded.

However, there is significant commentary regarding the potential adverse implications of not being able to present a marriage certificate for the registration of a birth. The Baseline Study found that most people do not favour having a birth certificate that only records the mother's name, with over 64% of those in the study confirming a negative stigma associated with a birth certificate that only names the child's mother. This is because in Indonesia there is still a cultural stigma surrounding single parenthood. Because birth certificates with only the mother's name on are said to imply that the child is illegitimate, even unmarried yet co-habiting parents are said to be discouraged from registering for such birth certificates.<sup>116</sup>

The CGD Policy Paper also states that:

*"If a birth certificate includes both the father and mother's name the child benefits as the father is required to provide financially for their welfare, and the child will benefit from inheritance rights in relation to both the father and mother".<sup>117</sup>*

### Are all children born in the territory registered?

Yes (X) No ( )

Article 27(1) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) provides that every birth must be reported to the local Implementing Agency by no later than 60 days following the birth. The obligation applies to 'Residents', which Article 1(2) defines as Indonesian citizens and non-Indonesian citizens residing in Indonesia.

### If no, please provide list of those not registered

Not applicable.

### Other Requirements (if none, put n/a)

Not applicable.

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### Registration System Set-up

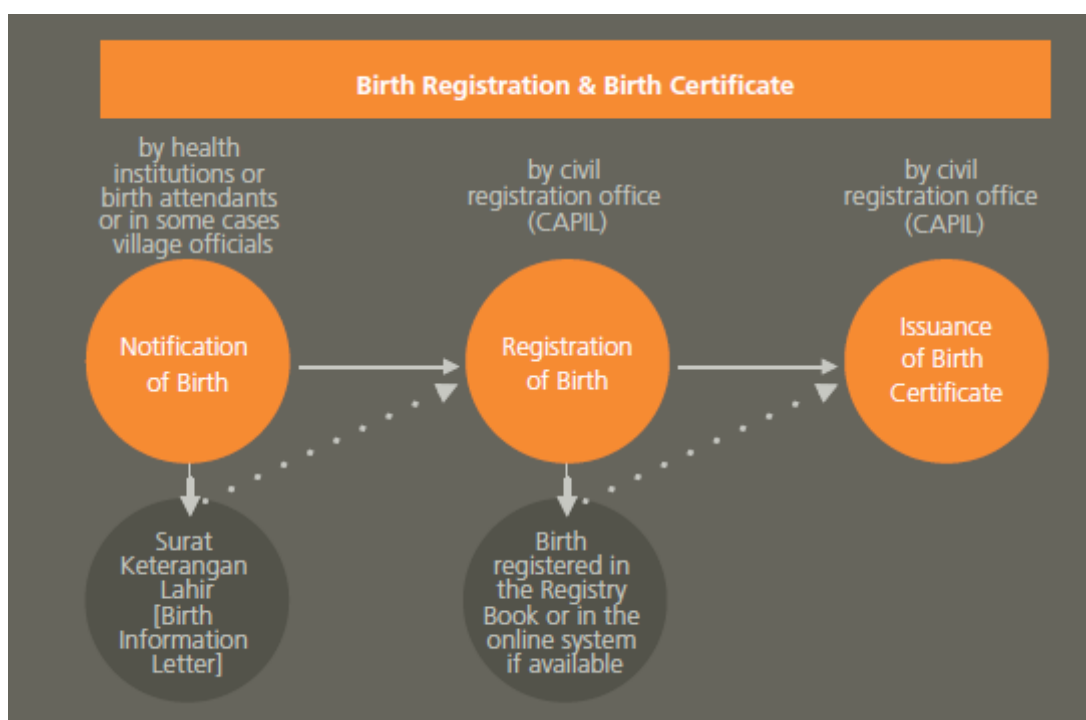
Electronic Submission ( ) Paper Submission (X) Both ( )

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<sup>116</sup> Australia Indonesia Partnership for Justice (2014), op.cit., p.55.

<sup>117</sup> Center for Global Development (2015), op.cit., p.11.





The diagram above, which was taken from the Baseline Study, sets out the process for birth registration and obtaining a birth certificate. The parent must first ensure that the health institution or a similar figure provides a 'Birth Information Letter' evidencing the birth. The parent must then register the birth by completing a birth registration form, alongside the Birth Information Letter, either (i) in the online system (if available), or (ii) by registering it at the local civil registration office. The local civil registration office will then issue a birth certificate.<sup>118</sup>

#### Location of registration facilities

Capital city      Yes (X) No ( )

Other cities      Yes (X) No ( )

Villages          Yes (X) No ( )

Indonesian territory is composed of 34 provinces grouped into seven geographical units. The seven geographical units are Sumatra, Java, Lesser Sunda Islands, Kalimantan, Sulawesi and Maluku and Papua.

A province is the highest tier of the local government divisions of Indonesia. Provinces are further divided into regencies and cities, which are in turn subdivided into districts. Below a district is a village which is the lowest level of government administration.

<sup>118</sup> Australia Indonesia Partnership for Justice (2014), op.cit., p.60.

The Government has established civil registration offices in all 34 provinces with civil registry implementing agencies in 399 regencies, 98 municipalities, 6,994 subdistricts, 8,309 administrative villages and 72,944 villages across Indonesia.<sup>119</sup>

Teams from the civil registration offices do make trips from the mainland to register births in smaller isolated communities.<sup>120</sup>

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### Birth Registration is required for:

#### Access to education

Yes ( ) No (X) Law \_\_\_\_\_

We have not identified any primary legislation that states that a birth certificate is legally required to access the public education system, but our research indicates that, in practice, a birth certificate may be required by individual schools or relevant local authorities.

There is various legislation stating that all Indonesian citizens should have free access to education:

- Article 31(1) of the Constitution of the Republic of Indonesia 1945 (as amended) states that "Every citizen has the right to education."<sup>121</sup>
- Article 6(1) of Law No. 20 of 2003 on National Education System states that "Every seven to fifteen years old citizen shall have the right to receive basic education".<sup>122</sup>
- Article 11 of Law No. 20 of 2003 on National Education System states that:

"(1) *The Government and local governments have to provide services and facilities and to ensure the implementation of quality education for every citizen without discrimination;*

(2) *The Government and local governments have to ensure the availability of funds for the implementation of education for every Indonesian citizen from aged seven to fifteen.*"
- Article 34(1) of Law No. 20 of 2003 on National Education System provides that "Every citizen can enrol in a compulsory basic education programme at the age of six." Article 34(2) provides that "the Government and local governments guarantee the implementation of compulsory education at least for basic education free of cost".

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<sup>119</sup> United Nations Committee on the Rights of the Child Sixty-Sixth session 26 May–13 June 2014, "Replies of Indonesia to the list of issues in relation to the combined third and fourth periodic reports of Indonesia", available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fIDN%2fQ%2f3-4%2fAdd.1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fIDN%2fQ%2f3-4%2fAdd.1&Lang=en).

<sup>120</sup> UNICEF, "A legal identity for all", 28 October 2014, available at <http://unicefindonesia.blogspot.co.uk/2014/10/a-legal-identity-for-all.html>.

<sup>121</sup> Constitution of the Republic of Indonesia 1945 (as amended). English translation available at [http://www.ilo.org/wcmsp5/groups/public/---ed\\_protect/---protrav/---ilo\\_aids/documents/legaldocument/wcms\\_174556.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_174556.pdf).

<sup>122</sup> Law No. 20 of 2003 on National Education System. English translation available at [http://planipolis.iiep.unesco.org/upload/Indonesia/Indonesia\\_Education\\_Act.pdf](http://planipolis.iiep.unesco.org/upload/Indonesia/Indonesia_Education_Act.pdf).

In practice, it appears that access to public education without a birth certificate varies from area to area and school to school.

The Baseline Study states that provincial and local government legislation, as well as school directives, state that a birth certificate is required to enrol a child at school. It also states that not having a birth certificate could lead to exclusion for disabled children from mainstream and special needs schools.<sup>123</sup>

The Baseline Study found that, in the 20 Indonesian districts which it had identified as priority areas, almost all primary and junior secondary schools that the research team visited required a birth certificate as a mandatory requirement for enrolment, including special needs schools. Five out of those 20 districts had a district level regulation in place, while in most other districts the requirement was a school directive. However, most schools in all 20 districts would accept other forms of identification as an alternative to a birth certificate, such as a birth information letter ("**Surat Keterangan Lahir**" / "**SKL**") or a family card ("**Kartu Keluarga**" / "**KK**").<sup>124</sup>

The Baseline Study found that only 10% of women and 9% of men aged 19-29 who do not have a birth certificate had completed 12 years of education. However, the Baseline Study states that the underlying reasons behind the failure to enrol in school remains statistically unclear and that only 0.8% of respondents reported that not having a birth certificate was the reason for their child not having attended school.<sup>125</sup>

The response provided by Indonesia to the Committee on the Rights of the Child dated 6 May 2014 states that the Ministry of Education had issued Circular Note No. 279/MPK/KL/2012, regarding possession of birth certificates as one of the requirements for enrolment of schools.<sup>126</sup> This was aimed to encourage parents, particularly of those children under five entering education, to register the birth of their children. The report then states that: "*This provision should not in any way be intended as an impediment to the access of education for children*". We have been unable to obtain a copy of this circular and cannot comment as to its contents.<sup>127</sup>

### Obtaining a primary school diploma

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

Primary school is known as elementary school ("**Sekolah Dasar**" / "**SD**"). Children must attend from the age of six to 11 and must complete elementary school within six years. The admission of a child to elementary school is generally at the discretion of the school principal.<sup>128</sup>

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<sup>123</sup> Australia Indonesia Partnership for Justice (2014), op.cit., p.72.

<sup>124</sup> Australia Indonesia Partnership for Justice (2014), op.cit., p.48.

<sup>125</sup> Australia Indonesia Partnership for Justice (2014), op.cit., p.48.

<sup>126</sup> Circular Note No. 279/MPK/KL/2012.

<sup>127</sup> Committee on the Rights of the Child (2014), op.cit., p.9.

<sup>128</sup> Just Landed, "Early education in Indonesia", available at <https://www.justlanded.com/english/Indonesia/Indonesia-Guide/Education/Early-education-in-Indonesia>; see also Australia Indonesia Partnership for Justice (2014), op.cit., p.48.

### Obtaining a secondary school diploma

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

Secondary education is divided into two parts:

- junior secondary school, known as Junior High School ("**Sekolah Menengah Pertama**" / "**SMP**"), is compulsory and is for children aged between 12 and 14 or 15;
- after completing junior high school students are no longer legally required to stay in education. However, for those that wish to, there are two options: Senior High School ("**Sekolah Menengah Atas**" / "**SMA**"), or a vocational high school ("**Sekolah Menengah Kejuruan**" / "**SMK**").<sup>129</sup>

Enrolment requirements vary between schools and may include a birth certificate.<sup>130</sup> The Baseline Study states that a birth certificate may be required for the national examination at the end of grade 6 at senior high school. However, the implementation of this policy is stated to be discretionary. The Baseline Study reports that many school officials would accept other forms of identification such as a family card (KK) or letter of birth (SKL).<sup>131</sup>

### Access to health (emergency services only)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

No specific provisions have been identified, which require a birth certificate in order to access emergency services for health.

Please see below under the section "Access to health (all services)" for further information on the anecdotal relationship between birth certificates and healthcare.

### Access to health (primary health services only)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

No specific provisions have been identified, which require a birth certificate in order to access primary health services.

Please see below under the section "Access to health (all services)" for further information on the anecdotal relationship between birth certificates and healthcare.

### Access to health (all services)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

The Government of Indonesia implemented a universal health care programme on 1 January 2014 and extended free health insurance to 48% of its population under Law No. 40 of 2004 concerning the National Social Security System. Under the new system, the government is committed to providing

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<sup>129</sup> Just Landed website, op.cit.

<sup>130</sup> AngloINFO, "Primary and Secondary Education in Indonesia", available at <http://bali.angloinfo.com/information/family/schooling-education/primary-secondary/>.

<sup>131</sup> Australia Indonesia Partnership for Justice (2014), op.cit., p.49.

universal health care to its 247 million citizens, though employers and wealthier citizens are obliged to pay their own premiums.

The system was implemented by the Badan Penyelenggara Jaminan Sosial ("**BPJS**") and there is an obligation for the whole of the Indonesian population to register with BPJS (by 1 January 2015 for employees and 1 January 2019 for non-employees).<sup>132</sup>

The following is required for enrolment in the BPJS programme:

- A bank account; and
- Registration at the closest BPJS Office using the following documents:
  - a. Completed registration form;
  - b. Copy of their Indonesian National ID card;
  - c. Copy of their family card (KK);
  - d. Two photos (3 x 4 cm) for each member of the family;
  - e. An applicant may also be asked for their tax identification number ("**NPWP**").<sup>133</sup>

Children may be recorded on family cards and in the system's database, but not registered for birth. Particularly for poor and rural Indonesians, this dual system poses challenges. Birth certificates – as reaffirmed by the Constitutional Court in Indonesia— remain the only valid affirmation of legal identity and citizenship. They are also required for many important activities. While in practice these requirements are not always enforced, this leaves people vulnerable to the discretion of local officials. Registration is sometimes used as a way to ration scarce services. As a result, the system tends to exclude poorer Indonesians and restrict their opportunities.<sup>134</sup>

Accessing healthcare often relies on children having a birth certificate.<sup>135</sup> In Nusa Tenggara Barat children with a birth certificate were 75% more likely to access health services, as compared to children without a birth certificate.<sup>136</sup>

### Access to social security programmes / cash benefits

Yes ( ) No ( ) Unclear (X) Programme name *The National Social Security System Law* \_\_\_\_\_

Article 28H(3) of the Constitution of Indonesia states that everyone has "*the right to social security, in order to develop oneself fully as a dignified human being*".

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<sup>132</sup> Expat Web Association Jakarta, "Registration in the National Health System", available at <http://www.expats.or.id/medical/registrationinthenationalhealthsystem.html>.

<sup>133</sup> Expat Web Association Jakarta website, op.cit.

<sup>134</sup> Center for Global Development, "Labor Pains: Birth and civil registration in Indonesia", available at <http://www.cgdev.org/blog/labor-pains-birth-and-civil-registration-indonesia>.

<sup>135</sup> Plan UK, "Indonesia: Birth Registration for Street Children", available at <http://www.plan-uk.org/what-you-can-do/project-donation/forgotten-children/Indonesia-birth-registration>.

<sup>136</sup> Australia Indonesia Partnership for Justice (2014), op.cit., p.50.

Article 34(2) states that the State shall develop a social security system for all citizens and empower the poor and less fortunate in accordance with human dignity. The Constitution also compels the State, through Article 34(1), to care for poor and abandoned children.

Law No. 40 of 2004 concerning the National Social Security System<sup>137</sup> and Law No. 11 of 2009 on Social Welfare (which replaces Law No. 6 of 1974 on Basic Provisions of Social Welfare) was implemented to ensure these rights and sets up the National Social Security System as a social protection to ensure the fulfilment of basic needs for a decent life for every participant and/or family member. The system is expected to fulfil the basic public services, including: health insurance, work accident insurance, pension, and life insurance.

Law No. 24 of 2011 on Social Security Implementing Agency (i.e. BPJS) created two social security implementing agencies: BPJS Health (universal social health insurance), which began operation in January 2014; and BPJS Employment (pension, old age, death and work accident benefits), which began operation in July 2015.<sup>138</sup>

The new insurance programme requires the head of the household to produce their family card (KK) stating that they are the head of household and listing dependent children.<sup>139</sup>

## Nationality

Yes ( ) No (X) Law \_\_\_\_\_

Article 53(2) of Law No. 39 of 1999 concerning Human Rights states that every child has the right to a name and a nationality.<sup>140</sup>

Law No. 12 of 2006 on Citizenship of the Republic of Indonesia stipulates who may be considered an Indonesian Citizen. Birth registration is not required by this law. Please see further details at the beginning of this report.

Evidencing Indonesian nationality may however be difficult without a birth certificate. The CGD Policy Paper suggests that only two documents can establish Indonesian citizenship - a birth certificate or a passport.<sup>141</sup> As detailed below, it may be difficult to obtain a passport without a birth certificate.

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<sup>137</sup> An unofficial translation of Law No. 40 of 2004 concerning the National Social Security System is available at <http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/69781/93934/F1705566322/IDN69781.pdf>.

<sup>138</sup> Law No. 24 of 2011 on Social Security Implementing Agency.

<sup>139</sup> Australia Indonesia Partnership for Justice (2014), op.cit., p.54.

<sup>140</sup> Law No. 39 of 1999 concerning Human Rights. English translation available at <http://www.refworld.org/docid/4da2ce862.html>.

<sup>141</sup> Center for Global Development, "Indonesia's Missing Millions: Erasing Discrimination in Birth Certification in Indonesia", June 2015, p. 7, available at <http://www.cgdev.org/sites/default/files/CGD-Policy-Paper-64-Sumner-Missing-Millions.pdf>.

## Identification card

Yes (X) No ( ) Law *Presidential Regulation No. 25 of 2008 on Requirements and Procedures of Population and Civil Registration.*

Article 63(1) of Law No. 23 of 2006 (as amended by Law No. 24 of 2013) provides that Indonesian citizens aged 17 or over (or, of any age where married) are obliged to hold an electronic identity card (known as an "e-KTP"). The e-KTP is required to hold certain elements of population data for the holder such as their single identity number (known as a "NIK"), place and date of birth, sex, religion, marital status, blood type, address, occupation, nationality, photograph, place and date of issue of the card and their signature.

Article 69(1)(a) of Law No. 23 of 2006 provides that an e-KTP is to be issued by the Implementing Agency or authorised official within 14 days from the date of fulfilment of the application requirements.

We have been unable to locate a primary source which details the requirements for obtaining an e-KTP. We have located a news article (dated 29 February 2012)<sup>142</sup> and also the CGD Policy Paper<sup>143</sup> which both state that a birth certificate is a pre-requisite for an ID card. The CGD Policy Paper cross references Articles 12 and 15 of Presidential Regulation No. 25 of 2008 on Requirements and Procedures of Population and Civil Registration<sup>144</sup> as authority that a birth certificate is a legal pre-requisite for the issuance of an e-KTP, but we have been unable to find an English translation of this Regulation. However the CGD further states that:

*"...this provision of the law is not implemented and the practice has been to reverse what is stated in the law. This has led to the primacy of the family card and ID cards for individuals over 17 years over birth registration."*

Accordingly, although we cannot confirm the position, it would seem that whilst there is a legal prerequisite for a birth certificate before an identity card can be obtained, this is not implemented in practice.

## Passport

Yes (X) No ( ) Law *Government Regulation No. 31 of 2013.*

Article 49(c) of Government Regulation No 31 of 2013 (Implementing Regulation of Act No. 6 of 2011 concerning Immigration)<sup>145</sup> provides the following data requirements to support an application for a passport:

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<sup>142</sup> Antaranews, "Illegitimate child rights and its problems in Indonesia", 29 February 2012, available at <http://www.antaranews.com/en/news/80263/illegitimate-child-rights-and-its-problems-in-indonesia>.

<sup>143</sup> Center for Global Development (2015), op.cit., p.7.

<sup>144</sup> Presidential Regulation No. 25 of 2008 on Requirements and Procedures of Population and Civil Registration. The Indonesian language original is available at: <http://www.hukumonline.com/pusatdata/download/fl55533/node/27909>.

<sup>145</sup> Government Regulation of the Republic of Indonesia No. 31 of 2013. An English translation is available at



*"a. Resident identification card that is still valid;*

*b. Family card;*

*c. Birth certificate, a marriage certificate or marriage book, diplomas, or baptismal certificate."*

This applies in the case of Indonesian citizens who are domiciled or resident in the Indonesian territory. Slightly different requirements apply to applications for diplomatic or service passports.

As stated at the section above relating to identity cards, the CGD Policy Paper and news article referenced above both state that a birth certificate is a prerequisite for an identity card (which would in turn mean that it would also be a prerequisite for a passport), but we have been unable to verify the accuracy of these statements by reference to a reliable primary source in English. As set out above, the CGD Policy Paper states that any legal requirement for a birth certificate before an identity card can be issued is not implemented in practice. Accordingly, it may in fact be possible to obtain a passport without a birth certificate, but we are not able to verify this.

#### **Other (Please specify e.g. enrolment for social protection programme/ food bank)**

The Baseline Study identifies the importance of a birth certificate for access to employment opportunities, stating that a birth certificate is required in order to become a civil servant and government employee, at both national and subnational level, as well as it being a mandatory prerequisite for most formal and private sector employment.<sup>146</sup>

The CGD Policy Paper states that a birth certificate is required in order for a child to be treated as a child rather than an adult in the criminal justice system.<sup>147</sup>

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## References

### **Legislation Reviewed:**

- Constitution of the Republic of Indonesia 1945 (as amended);
- Law No. 2 of 1989 on the National Education System;
- Law No. 39 of 1999 concerning Human Rights;
- Law No. 23 of 2002 on Child Protection;
- Law No. 20 of 2003 on the National Education System;
- Law No. 40 of 2004 on the National Social Security System (Sistem Jaminan Sosial Nasional or SJSN);
- Law No. 12 of 2006 on Citizenship of the Republic of Indonesia;
- Law No. 23 of 2006 concerning Population Administration;

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<http://www.imigrasi.go.id/phocadownloadpap/PeraturanPemerintah/pp%2031%20th%2013%20english%20version.pdf>.

<sup>146</sup> Center for Global Development (2015), op.cit., p. 9.

<sup>147</sup> Center for Global Development (2015), op.cit., p. 11.

- Law No. 37 of 2007 which amends Law No. 23 of 2006 on Population Administration;
- Law No. 11 of 2009 on Social Welfare;
- Law No. 24 of 2011 on Social Security Implementing Agency (Badan Penyelenggara Jaminan Sosial or BPJS);
- Law No. 24 of 2013, which amends Law No. 23 of 2006 on Population Administration;
- Government Regulation of the Republic of Indonesia No. 31 of 2013 (Implementing Regulation of Act No. 6 of 2011 concerning Immigration).

#### Further Sources:

- AngloINFO, "Primary and Secondary Education in Indonesia", available at <http://bali.angloinfo.com/information/family/schooling-education/primary-secondary/>
- Antara News, "Illegitimate child rights and its problems in Indonesia", available at <http://www.antaraneews.com/en/news/80263/illegitimate-child-rights-and-its-problems-in-indonesia>
- Australia Indonesia Partnership for Justice, "Indonesia's Missing Millions", available at <http://www.cpcnetwork.org/wp-content/uploads/2015/02/AIPJ-PUSKAPA-BASELINE-STUDY-ON-LEGAL-IDENTITY-Indonesia-2013.pdf>
- Center for Global Development, "Labor pains: birth and civil registration in Indonesia", available at <http://www.cgdev.org/blog/labor-pains-birth-and-civil-registration-indonesia>
- Center for Global Development, "Indonesia's Missing Millions: Erasing Discrimination in Birth Certification in Indonesia", available at <http://www.cgdev.org/sites/default/files/CGD-Policy-Paper-64-Sumner-Missing-Millions.pdf>
- International Labour Organisation, "Social Security in Indonesia: Advancing the Development Agenda", (2008), available at [http://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-jakarta/documents/publication/wcms\\_116153.pdf](http://www.ilo.org/wcmsp5/groups/public/@asia/@ro-bangkok/@ilo-jakarta/documents/publication/wcms_116153.pdf)
- Just Landed, "Early Education in Indonesia", available at <https://www.justlanded.com/english/Indonesia/Indonesia-Guide/Education/Early-education-in-Indonesia>
- Living in Indonesia, "Registration in the National Health System", available at <http://www.expats.or.id/medical/registrationinthernationalhealthsystem.html>
- Plan International USA, "Breaking the chains of poverty through birth registration", available at <https://www.planusa.org/breaking-the-chains-of-poverty-through-birth-registration>
- Plan UK, "Indonesia: Birth registration for street children", available at <http://www.plan-uk.org/what-you-can-do/project-donation/forgotten-children/Indonesia-birth-registration>
- UNICEF, "Birth Registration Right From The Start", available at [http://www.childinfo.org/files/birthregistration\\_Digestenglish.pdf](http://www.childinfo.org/files/birthregistration_Digestenglish.pdf)
- UNICEF, "A legal identity for all", 28 October 2014, available at <http://unicefindonesia.blogspot.co.uk/2014/10/a-legal-identity-for-all.html>

- UNICO Studies Series 8, "The Nuts & Bolts of Jamkesmas: Indonesia's Government-Financed Health Coverage Program for the Poor and Near-Poor", January 2013, available at [http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/03/25/000333037\\_20130325130647/Rendered/PDF/749960REVISED0000PUBLIC00Indonesia1.pdf](http://www.wds.worldbank.org/external/default/WDSContentServer/WDSP/IB/2013/03/25/000333037_20130325130647/Rendered/PDF/749960REVISED0000PUBLIC00Indonesia1.pdf)
- United Nations Committee on Economic, Social and Cultural Rights, "Initial reports submitted by States parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights: Indonesia", 29 October 2012, available at <http://www.refworld.org/docid/52d3bca54.html>
- United Nations Committee on the Rights of the Child, "Replies of Indonesia in relation to the combined third and fourth periodic reports of Indonesia, Sixty-sixth session 26 May–13 June 2014", available at <http://www.refworld.org/pdfid/5385b2474.pdf>
- United Nations Research Institute for Social Development, "Working Paper 2014-14: Expanding Social Security in Indonesia - The Processes and Challenges", available at [http://www.unrisd.org/80256B3C005BCCF9/\(httpAuxPages\)/B31ACAA3F1FF4206C1257D9C0052B44F/\\$file/Suryahadi%20et%20al.pdf](http://www.unrisd.org/80256B3C005BCCF9/(httpAuxPages)/B31ACAA3F1FF4206C1257D9C0052B44F/$file/Suryahadi%20et%20al.pdf)

**Legislation, Government Publications, Court Decisions and Other Resources which are unavailable in English translation, but may be relevant:**

- Ministry of Education Circular Note No. 279/MPK/KL/2012, which we understand relates to requirements for birth certificates for enrolling in schools;
- Decision of the Constitutional Court No. 18/PUU-XI/2013, relating to the requirement for an order of the General Courts to obtain birth certificates for children over one year old;
- Presidential Regulation No.25 of 2008 on Requirements and Procedures of Population and Civil Registration;
- The prescribed forms of application forms for birth certificates, ID cards and passports.

# KENYA

## QUESTIONNAIRE ON BIRTH REGISTRATION - KENYA

### Key points

- Birth registration within six months of life is compulsory for all children born in Kenya, irrespective of race, gender or ethnicity.
- Kenya imposes a small fee for a birth certificate and a late registration fee is imposed after six months.
- Without registration, children in Kenya are prohibited from sitting national exams which are considered mandatory for attendance at Primary School and Secondary School. It may also be difficult to obtain a passport without birth registration (or an adoption certificate).

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### Name of official authority in charge of registering a child's birth:

The Department of Civil Registration is the Government Agency that is responsible for implementing the compulsory registration of births occurring in Kenya. The Department of Civil Registration is part of the Directorate for Immigration and Registration of Persons.<sup>148</sup>

Birth certificates are issued by district civil registrars in the district in which the birth occurs. In 2008/09, the birth registration rate in Kenya for children below the age of two was reported at 59.5%.<sup>149</sup>

### Where is the civil registry located in the government?

- Ministry of Justice
- Ministry of Interior<sup>150</sup> - Ministry of Interior and National Co-ordination of Government
- Electoral Agency
- Independent Entity
- Other

Law and other relevant instruments: Presidential Circular No. 1 / 2008 on the Organisation of Government.<sup>151</sup>

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<sup>148</sup> Directorate of Immigration and Registration of Persons, "Contact Us", available at <http://www.immigration.go.ke/ContactUs.html>.

<sup>149</sup> DHS Program, "Kenya 2008-09 DHS Final Report (English)", p. 52, available at <http://dhsprogram.com/what-we-do/survey/survey-display-300.cfm>.

<sup>150</sup> Website of Directorate of Immigration and Registration of Persons, op.cit.

<sup>151</sup> Republic of Kenya, "Organisation of the Government of the Republic of Kenya", Presidential Circular No. 1/2008, Kenya Gazette (May 2008).

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**Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?**

*Jus sanguinis*. Section 14(1) of the Constitution of Kenya ("**Constitution**") requires only one parent to be a Kenyan citizen for the child to be considered a Kenyan citizen by birth.<sup>152</sup> Section 14(4) of the Constitution provides that a child found in Kenya who is, or appears to be, under 8 years old, and whose nationality and parents are not known, is presumed to be a Kenyan citizen by birth.

**Is there any legal obligation to register children?**

Yes (X) No ( )

**If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.**

Section 9 of Births and Deaths Registration Act (Cap. 149) ("**Registration Act**")<sup>153</sup> gives power to the Minister to declare, by notice in the Gazette, the compulsory registration of births of all persons in Kenya of any particular race, class, tribe or group, or of all or some of the inhabitants of any particular town, district or area.

Throughout the 1960s the Minister made declarations in favour of compulsory registration of births for specific Kenyan provinces.<sup>154</sup> In 1971, Gazette Notice L.N. 184/1971<sup>155</sup> made registration of births compulsory for all inhabitants of the remaining non-compulsory areas within Kenya. This took effect from 1 September 1971. As such, registration of births of all inhabitants in Kenya is compulsory.

Section 11 of the Registration Act creates a duty on specific persons to give notice of the birth to the registrar of the registration area in which the birth occurs.

*"11. Upon the birth of any child the registration of whose birth is compulsory, it shall be the duty of the father and mother of the child, and, in default of the father and mother, of the occupier of the house in which to his knowledge the child is born, and of every person present at the birth, and of the person having charge of the child, to give notice of the birth, within such time as may be from time to time prescribed, to the registrar of the registration area in which the birth occurs. Provided that, in the case of births in prisons, hospitals, orphanages, barracks or quarantine stations, the duty to give such notice shall lie on the officer in charge of the establishment in which the birth took place".*

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<sup>152</sup> The Constitution of Kenya 2010, available at <http://www.kenyalaw.org:8181/exist/kenyalex/actview.xql?actid=Const2010>.

<sup>153</sup> Section 9, Births and Deaths Registration Act.

<sup>154</sup> Gazette Notices L.N. 172/1963, L.N. 174/1965, L.N. 262/1966, L.N. 18/1967, L.N. 56/1967, L.N. 7/1968, L.N. 173/1968, L.N. 29/1969, L.N. 30/1969, L.N. 207/1969.

<sup>155</sup> Gazette Notice L.N. 184/1971.

Section 22 of the Registration Act imposes a penalty of a fine up to 500 Kenyan shillings (USD 4.92)<sup>156</sup> and/or imprisonment for up to six months for the failure to register a birth when there is a duty to do so, or for wilfully giving false information for the purpose of registration.

### Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ( )

#### If yes, by when?

There are two separate deadlines imposed by the Registration Act and the Births and Deaths Registration Rules 1966 (“**Registration Rules**”).<sup>157</sup>

First, section 11 of the Registration Act and section 6 of the Registration Rules together require that the notice of the birth of any child must be given within three months from the date of birth. The applicant must present this notification to the Principal Civil Registrar, who will issue an official birth certificate.<sup>158</sup>

Second, a child should be registered within six months. There is a fee if the birth of a child is registered after a six month period. Section 8 of the Registration Act states that a registrar shall not register a birth after the expiration of six months from the date of the birth, except upon:

- receiving the written authority of the Principal Registrar issued in accordance with the Registration Rules; and
- payment of the prescribed fee.

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### Is a paper certificate issued as a result of the registration?

Yes (X) No ( )

Section 26(3) of the Registration Act requires the Principal Registrar to issue a birth certificate on payment of the prescribed fee.

Section 11 of the Registration Rules provides that the Registrar General may issue a certificate of birth in either of two forms:

- a full certificate in Form No. 4 in the Schedule to the Registration Rules; or
- a short certificate in Form No. 5 in the Schedule to the Registration Rules.<sup>159</sup>

Section 11 of the Registration Rules also provides that a person, on payment of the prescribed fee, is entitled to a birth certificate in either of these forms.

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<sup>156</sup> All conversions are approximate and made at the time of writing the report using a commercial exchange rate, available at [www.xe.com](http://www.xe.com).

<sup>157</sup> Please note that sections 8 and 11 of the Births and Deaths Registration Act operate separately. As such, the act of registering a child's birth is separate and different to giving notice of a child's birth.

<sup>158</sup> Plan International (1), "Birth Registration and Children's Rights: A Complex Story", May 2014, p. 27, available at <http://www.planusa.org/docs/reports/2014-birth-registration-research-full-report.pdf>.

<sup>159</sup> Please see the copies of Form No. 4 and Form No. 5 included at Appendix 1.

### Different by region/area?

Yes ( ) No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

### Is there a separate fee for the issuance of a paper certificate?

Yes (X) No ( )

The fee is 50 Kenyan shillings (0.49 USD) for a full certificate or 5 Kenyan shillings (0.05 USD) for a short certificate.<sup>160</sup>

### Different by region/area

Yes ( ) No (X)

If it's different by region/or area, please provide us more detail.

Not applicable.

### Birth Registration Fee

Yes ( ) No (X) Conditional ( )

Registration of births is free, if done within the first six months.

If yes, amount in USD:

Not applicable.

If it's conditional, please provide reasons/cases for exemption.

Not applicable.

### Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ( )

Section 8 of the Birth and Deaths Act states that a registrar shall not register a birth more than six months after the birth, except upon receiving the written authority of the Principal Registrar issued in accordance with the Registration Rules and upon payment of the prescribed fee. The Registration Rules prescribe a fee of 100 Kenyan shillings (approximately USD 0.98).<sup>161</sup>

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<sup>160</sup> Section 23(e)(f), Births and Deaths Registration Rules.

<sup>161</sup> Section 8, Births and Deaths Registration Act; and section 23(a), Births and Deaths Registration Rules.



Even though the fee is relatively small, the cost of travelling to the district registrar can be expensive for people in rural communities.<sup>162</sup>

**If yes, amount in USD:**

Approximately 0.98 USD.

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**Requirements for Birth Registration (tick what applies):**

Identification of Child's Father ( ) His Nationality ( )

Identification of Child's Mother (X) Her Nationality ( )

Marital Status (X) - Depends on timescale

Section 7(1) of the Registration Rules provides that a person registering a birth in a compulsory registration area must complete in duplicate a birth registration form in Form No. 1 to the Schedule of the Registration Rules and deliver it to the registrar or a deputy registrar. Form No. 1 includes spaces for the name of the child's father and mother, as well as whether the mother is married to the father (by custom or by ceremony).<sup>163</sup>

The Registration Act and the Registration Rules operate such that the applicant must provide the identity of the mother for birth registration. This is because section 7(1) of the Registration Rules requires the applicant to provide the following information relating to the mother in Form No. 1:

- full name of the mother;
- normal residence of the mother; and
- age of mother at birth.
- However, the identification of a father is not compulsory for birth registration. Section 12 of the Registration Act states that no person is to be entered in the register as the father of any child except:
  - at the joint request of the father and mother; or
  - upon the production to the registrar of evidence that the father and mother were married according to law or in accordance with some recognised custom.

In addition, the applicant's obligation to provide a marriage certificate depends on whether the birth registration falls inside or outside the first six months of the child's birth.

*Inside the first six months:* the applicant (e.g. the father or mother) does not need to provide any documentary proof to the registrar or a deputy registrar of his or her marital status. As such, a single mother can apply for the registration of her child.

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<sup>162</sup> Jill Craig, "Kenya Works to Make Birth Registration Easier", Voice of America News, available at <http://www.voanews.com/content/kenya-working-to-make-birth-registration-process-easier/1486469.html>.

<sup>163</sup> A copy of Form No. 1 is included at Appendix 1.

*Outside the first six months (i.e. late birth registration):* if the applicant (e.g. the father or the mother) belongs to an ethnic group or tribe indigenous to Kenya, the applicant does not need to provide any documentary proof to the Registrar General of his or her marital status.<sup>164</sup> However, if the applicant does not belong to an ethnic group or tribe indigenous to Kenya, the applicant must provide documentary evidence of his or her marital status.<sup>165</sup> If the applicant is married, he or she must provide documentary proof of the date of his or her marriage. As such, if the applicant is a single mother, she must provide documentary evidence to the Registrar General that she is not married to the father of the child. Such documentary evidence may be:

- a letter from a local chief known to the mother; or
- a sworn affidavit by the mother indicating that she is not married to the father of the child.<sup>166</sup>

### Are Stateless / Refugee Births Registered?

Yes (X) No ( )

Sections 9 and 11 of the Registration Act, which are the legal basis for compulsory birth registration, refer to "*the births of all persons in Kenya or any particular race, class, tribe or group, or all or some of the inhabitants of any particular town, district or area*". There is no legislative restriction preventing the registration of stateless or refugee births.

In addition, in order to ensure protection of the rights of unaccompanied refugees and asylum-seeking children, Kenya has special registration mechanisms for "unaccompanied children" whereby any child who enters the country unaccompanied is registered and issued with individual documentation within the shortest time, but not longer than three months.<sup>167</sup>

Section 2 of the Refugees (Reception, Registration and Adjudication) Regulations 2009 ("**Refugees Regulations**") defines "unaccompanied child" to mean a child who is not accompanied by a parent or a care taker. Section 15 of the Refugees Regulations sets out the registration mechanisms for unaccompanied children. For example, section 15(3)(a) provides that a registration officer shall register an unaccompanied child in Form No. 3 set out in the Schedule to the Refugees Regulations.

In 2010 it was reported that a total of:

- 6,552 male and 6,237 female refugee children were registered at birth; and

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<sup>164</sup> Section 3(1), Births and Deaths (Late Registration) Rules 1971; see also Form No. 1 in the Schedule to the Births and Deaths (Late Registration) Rules.

<sup>165</sup> Section 3(2), Births and Deaths (Late Registration) Rules 1971; see also Form No. 2 in the Schedule to the Births and Deaths (Late Registration) Rules.

<sup>166</sup> J. Ayieye, "Birth Registration in Practice", available at <http://kenyalaw.org/kl/index.php?id=1897>.

<sup>167</sup> United Nations Committee on the Rights of the Child, "Consideration of reports submitted by States Parties under Article 44 of the Convention, Combined third, fourth and fifth periodic reports of States Parties due in 2012", p. 15, available at [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fKEN%2f3-5&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fKEN%2f3-5&Lang=en).

- 3,155 male and 3,003 female refugee and asylum seeking children were registered after six months.<sup>168</sup>

In early 2015 the Supreme Court of Kenya ruled that section 48 of the Security Laws (Amendment) Act No. 19 of 2014, which limited the number of refugees and asylum seekers permitted to stay in Kenya to 150,000, violated “the principle of non-refoulement as recognised under the 1951 UN Convention on the Status of Refugees” and was therefore unconstitutional.<sup>169</sup>

#### Are children of single parents registered?

Yes (X) No ( )

Please see the previous answer on 'Requirements for Birth Registration'.

In addition, the Legitimacy Act (Cap. 145) ("**Legitimacy Act**") and the Legitimacy Regulations 1961 ("**Legitimacy Regulations**") provide for the re-registration of the birth of illegitimate children where they have subsequently been made legitimate through the marriage of their mother and father.<sup>170</sup> Paragraph 5 of the Schedule to the Legitimacy Act states that there should be no charge for re-registration provided that it takes place within three months of the date of the marriage. If the application to re-register the birth is submitted later than three months from the date of the marriage, Rule 11 of the Legitimacy Regulations imposes a fee of 10 Kenyan shillings (approximately USD 0.10).

Rule 9 of the Legitimacy Regulations states that:

*"Whenever a birth is re-registered under the Act, the registrar shall endorse the original entry relating to the birth with the words "Re-registered under the Legitimacy Act" and add the date of re-registration".*

#### Are all children born in the territory registered?

Yes (X) No ( )

Following the publication of Gazette L.N 184/1971, registration of births and deaths of all inhabitants within Kenya is compulsory. Please see the previous answer on 'Is there any legal obligation to register children?'.

#### If no, please provide list of those not registered.

Not applicable.

#### Other Requirements (if none, put n/a)

Not applicable.

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<sup>168</sup> United Nations Committee on the Rights of the Child, op.cit., p. 26.

<sup>169</sup> *Coalition for Reform and Democracy (CORD) & another v Republic of Kenya & another* [2015] eKLR, available at <http://kenyalaw.org/caselaw/cases/view/106083/>.

<sup>170</sup> Legitimacy Act (Cap. 145) and the Legitimacy Regulations 1961 [L.N. 364/1969, L.N. 585/1961].

## Registration System Set-up

If a child is born in a hospital, all medical facilities in Kenya provide a birth notification card. However, if a child is born at home, a designated individual such as a chief, sub-chief or a community elder is authorised to register the notification of births in his location. In Nairobi, all births are registered at the City Hall. Birth registration services can also be found at the District Birth and Death registries.<sup>171</sup>

Electronic Submission ( ) Paper Submission ( ) Both (X)

Over the years there have been a number of public and private projects aimed at improving access to birth registration services. For example, the Ministry of Foreign Affairs in Finland and Nokia, together with independent development organisation Plan International, established a universal birth registration project in the Kwale district of Kenya. This project aims to increase the efficiency and effectiveness of birth registration and incentivise parents and guardians to register their children. In addition to computer-based software and mobile devices, the Nokia Date Gathering application enables birth registration services to be offered to people in the more remote parts of the community. Through this system, people are able to send forms directly to Kwale rather than having to travel which can be expensive.<sup>172</sup>

In early 2014 SAP Africa, a software related services business, also announced the launch of a mobile application prototype to simplify the birth registration process in Kenya, saving costs and time and therefore making access to education, healthcare and employment easier.<sup>173</sup>

The Government of Kenya has also now launched the e-Citizen gateway, which allows applicants to apply for government services online. There is a section on the e-Citizen gateway dedicated to applications for birth registration and late birth registration, but at the time of writing it is unclear whether this section of the website is fully operational.<sup>174</sup>

## Location of registration facilities

Under section 5 of the Registration Act the Minister may, by notice in the Gazette, appoint any area to be a “registration area” for the purposes of birth registration.

Capital city Yes (X) No ( )

The City Hall in Nairobi.<sup>175</sup>

Other cities Yes (X) No ( )

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<sup>171</sup> The Beehive, “Birth Certificates”, available at <http://kenya.thebeehive.org/en/content/640/1755>.

<sup>172</sup> Plan International (2), “Boosting Birth Registration in Kenya”, available at <http://plan-international.org/what-we-do/protection/boosting-birth-registration-in-kenya>.

<sup>173</sup> SAP, “Helping the Helpless: Invisible Children”, available at <http://news.sap.com/helping-helpless-invisible-children/>.

<sup>174</sup> E-Citizen, “Services and Information”, available at <https://www.ecitizen.go.ke/ecitizen-services.html>.

<sup>175</sup> Hapa Kenya, “How to apply for a birth certificate in Kenya”, available at <http://www.hapakenya.com/2014/08/21/how-to-apply-for-a-birth-certificate-in-kenya/>.

Villages      Yes (X) No ( )

Other \_\_\_\_\_

The registration area for births occurring on board ships on Lake Victoria within Kenya is Kisumu. The registration area for births occurring on board ships within coastal territorial waters is at the office of the registrar at Mombasa or at the office of the registrar nearest to the port of first arrival in Kenya of the ship upon which the birth occurred.<sup>176</sup>

If a birth does not take place in a hospital or is not presided over by a community health worker, the parents are expected to report the birth of their child to the nearest government office (e.g. District Birth and Death Registries)<sup>177</sup> or government health centre to register the child as soon as possible after birth.<sup>178</sup>

We have not been able to determine the specific location of other registration facilities. It appears that historically birth registration applicants had to travel to Nairobi in order to collect their birth certificates.<sup>179</sup> However, since the start of the compulsory registration of births throughout Kenya on 1 September 1971, Kenya has been working to decentralise the registration process. For example in 1983 applicants could collect their birth certificates in districts such as Mombasa, Kisumu, Nakuru, Kakamega and Nyeri.<sup>180</sup>

Despite improvements in birth registration services, many Kenyans (especially those that live in remote areas) are still travelling long distances to collect their birth certificates. According to World Vision, even in November 2013 there were “*very few [birth registration] service delivery points*” and some Civil Registration Offices were “*inaccessible due to the long distances*” parents had to travel.<sup>181</sup>

In March 2015 the Kenyan government launched an e-Government integrated data system, called the Integrated Population Registration System.<sup>182</sup> This central database system will consolidate Kenya's population registration data into a single system. The Kenyan government's implementation of the system will be split into the following two phases.

- The first phase will establish a National Population Register with data on all Kenyan citizens and foreign residents.

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<sup>176</sup> Sections 3(1) and 3(2), Births and Deaths Registration Rules.

<sup>177</sup> Hapa Kenya, op.cit.

<sup>178</sup> J. Ayieye, op.cit.

<sup>179</sup> Republic of Kenya (1), "The National Assembly Official Report No. 150 Issue of Birth Certificates in Districts", Fourth Session Tuesday 15 March 1983 to Tuesday 12 July 1983, available at <https://books.google.com/books?id=stPvblb7zO0C>.

<sup>180</sup> Republic of Kenya, op. cit.

<sup>181</sup> World Vision International, "Submission to OHCHR Report on Birth Registration", November 2013, available at <http://www.ohchr.org/Documents/Issues/Children/BirthRegistration/WorldVision.pdf>.

<sup>182</sup> Presidency of Kenya, "Integrated data system to make e-government a reality", available at <http://www.president.go.ke/2015/03/11/integrated-data-system-to-make-e-government-a-reality/>.

- The second phase will establish and assign a unique identifier ("PIN") to every person's record at birth, which will act as a reference number in all future transactions regarding that person.

In a speech dated 11 March 2015 Kenyan President Uhuru Kenyatta stated:

*"For this system to work and sustain its integrity, we must be mindful of our civic duty. We must ensure that all births and deaths are officially reported, and transmitted to the National Population Register. We must also ensure that all aliens are documented. All Government officers responsible for registration of births and deaths must always ensure that this information is always up-to-date."*<sup>183</sup>

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### Birth Registration is required for:

The website of the Directorate of Immigration and Registration of Persons contains guidance on what Kenyan citizens need to know about birth registration:<sup>184</sup>

#### *"Secure Your Future*

*- Your record of birth is a source of information for good governance and is used by the government for planning and allocation of resources for education, health, water and sanitation and other sectors.*

#### *Your Proof to Family Ties*

*- Avoid disinheritance of your children in the event of your death.*

*- A birth certificate is the only official documentary evidence identifying you as the parent of your children.*

#### *Your Ticket to FAST Acquisition of Essential Services*

*- Your child's birth certificate will be required for school admission, for acquisition of a national identity card, for acquisition of a passport, for proof of kinship when making inheritance claims".*

### Access to education

Yes (X) No ( ) Law No specific law. See explanation below.

Section 43(1)(f) of the Constitution states that every person has the right to education. Section 53(1)(b) of the Constitution states that every child has the right to free and compulsory basic education.

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<sup>183</sup> All Africa, "Kenya: President's Speech At the Launch of the Integrated Population Registration System", available at <http://allafrica.com/stories/201503111566.html>.

<sup>184</sup> Directorate of Immigration and Registration of Persons, "Information", available at <http://www.immigration.go.ke/Information.html>.

Section 7(1) of the Children Act (Cap. 141) ("**Children Act**")<sup>185</sup> states that every child shall be entitled to education, the provision of which shall be the responsibility of the Government and the parents. Section 7(2) entitles every child to free basic education.

Section 33(1) of the Basic Education Act (No. 14 of 2013) ("**Basic Education Act**")<sup>186</sup> states that, for the purpose of admission to a "basic education institution",<sup>187</sup> the age of a child shall be determined on the basis of the birth certificate or on the basis of such other document. Section 33(2) states that no child shall be denied admission to a school or basic education institution for lack of proof of age.

Section 47(2) of the Basic Education Regulations 2015 ("**Basic Education Regulations**")<sup>188</sup> defines the minimum age for admission into a primary school to be six years, and states that no person shall deny a child of school-going age admission in a primary school for lack of proof of age.

Despite the above legislative sources all providing for free and compulsory basic education, in 2010 the Kenyan Government introduced a measure that made the presentation of a birth certificate a mandatory requirement in order to register for national examinations. As such, children are unable to obtain school qualification certificates.<sup>189</sup> Refer to the following two sections for more detail.

#### Obtaining a primary school diploma

Yes (X) No ( ) Law *No specific law. Please see explanation below.*

Without a birth certificate, children cannot register for the Kenya Certificate of Primary Education ("**KCPE**") examinations.<sup>190</sup>

#### Obtaining a secondary school diploma

Yes (X) No ( ) Law *No specific law. Please see explanation below.*

Without a birth certificate, children cannot register for the Kenya Certificate of Secondary Education ("**KCSE**") examinations.

The requirement of a birth certificate for a child's registration for the KCPE and KCSE began in 2010.<sup>191</sup> The Assistant Minister for Education Professor Olweny has explained that the decision to implement the requirement for birth certificate was to enhance the integrity of examinations, which the Kenya National Examinations Council conducts. For example, it would help in the identification of

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<sup>185</sup> Section 7(1), Children Act.

<sup>186</sup> Section 33(1), Basic Education Act.

<sup>187</sup> "Basic education institution" presumably is the same as "institution of basic education and training", the definition of which can be found in Part I, section 2 of the Basic Education Act.

<sup>188</sup> Section 47(2), Basic Education Regulations 2015.

<sup>189</sup> Republic of Kenya, "The National Assembly Official Report", Wednesday 10 March 2010, pp. 8-11, available at <https://books.google.com/books?id=a1uvS1xxFMYC>.

<sup>190</sup> Jill Craig, op.cit.

<sup>191</sup> Section 10 of the Kenya National Examinations Council Act (Cap. 225A) gives the National Examinations Council power to make rules regulating the conduct of examinations.



candidates, the tracking of students and eliminate cheating.<sup>192</sup> Interviews carried out by researchers for Plan International also suggest that an objective of the requirement was to increase the demand for birth registration.<sup>193</sup>

Despite the above, there appears to be confusion and a lack of uniformity in practice amongst Kenyan officials regarding the implementation of the requirement of a birth certificate for a child to register for the KCPE and KCSE. In 2014, Plan International undertook a survey in four Kenyan communities that demonstrates such confusion. The table below has been extracted from Plan International's report.<sup>194</sup>

Location	Students	Parents	Teachers/Officials
Riruta	The policy is fully implemented: students have been excluded from exams for lack of a birth certificate.	The policy is fully implemented: incidents of exclusion have occurred.	The policy is implemented flexibly: students are not turned away.
Kwangware	The policy is fully implemented: incidents of exclusion have occurred.	The policy is fully implemented: incidents of exclusion have occurred.	The policy is fully implemented: incidents of exclusion have not occurred because all children are ultimately registered.
Msambwani	The policy is fully implemented: some people do not take the exam.	The policy is fully implemented: Exclusion does not occur because students are sent away to get birth certificate before exams.	The policy is implemented flexibly: students are not turned away.
Kinango	The policy is implemented flexibly: 'Once you pay the exam fee they will let you take the exam.'	The policy is implemented flexibly: children might be turned away in secondary school, but never in primary school.	The policy is implemented flexibly: students are not turned away.

### Access to health (emergency services only)

Yes ( ) No (X) Law Section 43(2), Constitution of Kenya.

Section 43(2) of the Constitution states that a person shall not be denied emergency medical treatment.

### Access to health (primary health services only)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

Our research failed to find any Kenyan legislation that specifically permits children to access health services without birth certificates. However, it appears that children do not need birth certificates to access primary (or other) health services. Legislative provisions supporting this conclusion include:

- Section 9 of the Children Act states that every child shall have a right to health and medical care, the provision of which shall be the responsibility of the parents and the Government.

<sup>192</sup> Republic of Kenya (2), op.cit.

<sup>193</sup> Plan International (1), op.cit., pp.45-47.

<sup>194</sup> Plan International (1), op.cit., p.43.

- Section 104 of the Public Health Act (Cap. 242) (“**Public Health Act**”)<sup>195</sup> requires the parent or guardian of every child in Kenya to ensure their child is successfully vaccinated by a public vaccinator.
- Section 110 of the Public Health Act requires public vaccinators to perform vaccinations free of charge.
- Section 112 of the Public Health Act states that an unvaccinated child cannot be admitted to or attend any school.
- In 2014, Plan International conducted various interviews and surveys in Kenya regarding the requirement of birth certificates to access health care. Its findings revealed that:<sup>196</sup>
  - healthcare practitioners do not require patients to show identity documents to access care in Kenya; and
  - hospitals issue children with a “clinic card”, which helps health care workers and parents keep track of vaccinations; however access to health care appears to operate differently in Nairobi than in rural communities in and around Kwale.

The following is the relevant extract from Plan International's report:<sup>197</sup>

*“Participants in Nairobi reported that Kenya is moving towards a system of universal health care delivered through a national insurance scheme. Under the scheme it will be necessary to produce a birth certificate to claim a child as a dependent under the National Hospital Insurance Fund. This is an insurance programme, which is compulsory for all salaried employees, and is also available to self-employed individuals for a fee. As this system is fully implemented, it will become more important for parents to have documentation that proves their relationship with the child. The same issues will inevitably arise (as with Vietnam), regarding whether and how health services will be available to children who are not registered and do not have a birth certificate.”*

#### Access to health (all services)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

See the answer to the previous question 'Access to health (primary health services only)'.

#### Access to social security programmes / cash benefits

Yes ( ) No ( ) Unclear (X) Programme name *National Safety Net Programme*. Law \_\_\_\_\_

Social protection has been implemented in Kenya in many different forms for many decades, including various programmes created in response to emergencies. For example, the National Social Security Fund and the National Hospital Insurance Fund, established in 1965 and 1966 respectively, were part of the Kenyan Government’s efforts to protect workers against future vulnerabilities.

In 2006 there was an African Union meeting in Livingstone, Zambia, following which the Government of Kenya initiated a wide consultative process to formulate a national social protection framework.

<sup>195</sup> Section 104, Public Health Act.

<sup>196</sup> Plan International (1), op.cit., pp. 55-56.

<sup>197</sup> Plan International (1), op.cit., p. 56.

Through this process, the Government has identified several key social protection actions in the areas of social assistance, social security, and health insurance.<sup>198</sup>

In June 2011, the Kenyan Government developed a National Social Protection Policy.<sup>199</sup> This policy builds on the Constitution which, under section 43(f), provides for the “*right for every person... to social security and binds the State to provide appropriate social security to persons who are unable to support themselves and their dependents.*”

The Kenyan Government is currently in the process of implementing the Kenya National Safety Net Programme (“**NSNP**”). Earlier in 2015, the Kenyan Ministry of Labour, Social Security and Services invited eligible consulting firms to indicate their interest in providing services regarding the NSNP.<sup>200</sup>

The main aim of the NSNP is to improve the efficiency and effectiveness of safety net support to poor and vulnerable populations in Kenya by transitioning to a harmonised and coordinated national safety net framework.<sup>201202</sup> The NSNP consists of the following four cash transfer programs:

- The Cash Transfers to Orphans and Vulnerable Children Programme.
- The Hunger Safety Net Programme.
- The Older Persons Cash Transfer.
- The People with Severe Disability Cash Transfer Programme.

The NSNP intends to implement complementary birth registration and use of national ID within the Cash Transfers to Orphans and Vulnerable Children programme, in order to increase the number of orphans and vulnerable children who have birth certificates.<sup>203</sup>

We were otherwise unable to find any other information as to whether children need birth certificates in order to access social security programs.

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<sup>198</sup> Ministry of Gender, Children, and Social Development, “Kenya National Social Protection Policy”, June 2011, p. 10, available at <http://www.hsnp.or.ke/index.php/our-work/nsnp>.

<sup>199</sup> Ministry of Gender, Children, and Social Development, op.cit., p. 10.

<sup>200</sup> Ministry of Labour, Social Security and Services, “Request for Expressions of Interest (EOI)”, (2015), available at <http://www.labour.go.ke/downloads/ADVERT%20ON%20MEDIA.pdf>.

<sup>201</sup> The World Bank, “e-Consult: Technical Assistance for Harmonized Targeting/Recertification and Consolidation Strategy for the National Safety Net Program: Technical Assistance for Harmonized Targeting/Recertification and Consolidation Strategy for the National Safety Net Program”, 23 April 2015, available at <https://www.devex.com/projects/tenders/e-consult-technical-assistance-for-harmonized-targeting-recertification-and-consolidation-strategy-for-the-national-safety-net-program-technical-assistance-for-harmonized-targeting-recertification-and-consolidation-strategy-for-the-national/172692>.

<sup>202</sup> UNICEF, “UNICEF Annual Report 2014 Kenya”, p. 67, available at [http://www.unicef.org/about/annualreport/files/Kenya\\_Annual\\_Report\\_2014.pdf](http://www.unicef.org/about/annualreport/files/Kenya_Annual_Report_2014.pdf).

<sup>203</sup> The World Bank, “The Technical Assessment of the Kenya National Safety Net Program for Results”, (2013), p. 34, available at <http://siteresources.worldbank.org/PROJECTS/Resources/40940-1393966271292/KenyaNationalSafetyNetProgramforResultsTechnicalAssessment.pdf>.

## Nationality

Yes ( ) No (X) Law \_\_\_\_\_

Section 11 of the Children Act provides that every child has a right to a name and nationality, and that, where a child has been deprived of his identity, the Government should provide appropriate assistance and protection with a view to establishing his identity.

Section 14(1) of the Kenyan Constitution provides that a person is a citizen by birth if, on the day of the person's birth, whether or not the person is born in Kenya, either the mother or father of the person is a citizen. As such, a child born in Kenya, whose mother or father is a Kenyan citizen, automatically becomes a Kenyan citizen.

Moreover, section 14(4) of the Kenyan Constitution provides that a child found in Kenya who is, or appears to be, less than eight years of age, and whose nationality and parents are not known, is presumed to be a citizen by birth.

## Identification card

Yes ( ) No (X) Law \_\_\_\_\_

In Kenya, national identity cards are issued in line with the Registration of Persons Act (Cap. 107) ("**Registration of Persons Act**").<sup>204</sup> The law makes it mandatory for all Kenyans who are 18 years and above to register and be issued with national identity cards. Failure to do so constitutes a criminal offence.

Section 5(1) of the Registration of Persons Act sets out the particulars which an applicant must provide for the purposes of registration. One of the particulars is the applicant's date of birth or apparent age. Under section 6(2) of the Registration of Persons Act and section 4(2)(a) of the Registration of Persons Rules 1949 ("**Registration of Persons Rules**"),<sup>205</sup> where a person attends before a registration officer for the purpose of registration, the registration officer has the choice of demanding proof of the person's date of birth or apparent age by:

- production of their birth certificate;
- age assessment certificate issued by a Government medical officer of health;
- a baptismal certificate issued by a minister of a recognised religious organisation immediately following his birth; or
- some other evidence acceptable to the Principal Registrar.

Neither the Registration of Persons Act nor the Registration of Persons Rules makes any other mention of a "birth certificate". Plan International states in its report on "Birth Registration and Children's Rights" that in Kenya a person does not need to possess a birth certificate to acquire a national ID, although it is one of a range of acceptable identification documents.<sup>206</sup>

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<sup>204</sup> Registration of Persons Act (Cap. 107).

<sup>205</sup> Registration of Persons Rules 1949.

<sup>206</sup> Plan International (1), op.cit., p. 34.

## Passport

Yes (X) No ( ) Law Section 27(3)(a), Kenya Citizenship and Immigration Act.

Section 24 of the Kenya Citizenship and Immigration Act (Cap. 172) ("**Citizenship and Immigration Act**")<sup>207</sup> states that every citizen is, subject to the provisions of the Citizenship and Immigration Act, entitled upon application, to be issued with a passport or other travel documents to facilitate international travel.

Section 27 of the Citizenship and Immigration Act sets out the requirements for an application for the issuance or replacement of a passport. Section 27(3)(a) provides that an applicant must accompany his or her application with either a birth certificate or an adoption certificate. Therefore, one would expect that in the majority of cases an applicant will produce his or her birth certificate in his or her application for the issuance of a passport. Form No. 19 "Application for a Kenya Passport" states that "*all applications must be accompanied by a previous passport, if any, or current national Kenya Identity Card, Birth Certificates plus certified photocopies of each*".<sup>208</sup>

## Other (Please specify e.g. enrolment for social protection programme/ food bank)

- If a child is orphaned and has no birth certificate, the child may be denied rightful property inheritance.<sup>209</sup>
- An Adoption Certificate is a document issued to every adopted child, and by law, is equivalent to a birth certificate, which every Kenyan needs as proof of identity.<sup>210</sup> It replaces a Birth Certificate in accordance with a legal procedure defined by section 169 of the Children Act.

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- Basic Education Act (No. 14 of 2013);
- Basic Education Regulations 2015;
- Births and Deaths Registration Act (Cap. 149);
- Births and Deaths Registration Rules 1966;
- Births and Deaths (Late Registration) Rules 1971;
- Children's Act (Cap. 141);
- Constitution of Kenya 2010;

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<sup>207</sup> Kenya Citizenship and Immigration Act (Cap. 172).

<sup>208</sup> Directorate of Immigration and Registration of Persons, "Form 19 - Application for Kenya Passport", available at <http://www.immigration.go.ke/downloads/Form-19-Application%20for%20Kenya%20Passport.pdf>.

<sup>209</sup> Jill Craig, op.cit.

<sup>210</sup> Global Movement for Children, "Kenya: Every Child Deserves a Birth Certificate", 18 July 2011, available at <http://www.gmfc.org/en/action-within-the-movement/africa/regional-news-in-africa/1132-kenya-every-child-deserves-a-birth-certificate>.

- Education Act (Cap. 211);
- Kenya Citizenship and Immigration Act (Cap. 172);
- Kenya National Examinations Council Act (Cap. 225A);
- Legitimacy Act (Cap. 145);
- Legitimacy Regulations 1961;
- Marriage Act (Cap. 150);
- Public Health Act (Cap. 242);
- Refugees Act (Cap. 173);
- Refugees (Reception, Registration and Adjudication) Regulations 2009;
- Registration of Persons Act (Cap. 107);
- Registration of Persons Rules 1949;
- Security Laws (Amendment) Act No. 19 of 2014;

#### Caselaw Reviewed:

- *Coalition for Reform and Democracy (CORD) & another v Republic of Kenya & another* [2015] eKLR, available at <http://kenyalaw.org/caselaw/cases/view/106083/>

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# Appendix 1 - Birth Registration Forms

Form Nos 1, 2, 3, 4 & 5 included in the Schedule to the Births and Deaths Registration Rules 1966.

FORM No. 1

## REGISTER OF BIRTH

DISTRICT: \_\_\_\_\_ REGISTRAR'S SERIAL NUMBER:

1. FULL NAME OF CHILD	Baptismal or given name(s)	Middle or tribal name	<input type="text"/>	Surname or tribal name of Father
	Son or daughter of			

### SCHEDULE, FORM No. 1—continued

2. DATE OF BIRTH	Date of Month: _____ Month: _____ Year _____	3. SEX OF CHILD	Male 1 <input type="checkbox"/>	
			Female 2 <input type="checkbox"/>	
4. FULL NAME OF FATHER	Baptismal or given name(s)	Middle or tribal name	<input type="text"/>	Surname or tribal name of Father
	Son of			
5. FULL NAME OF MOTHER	Baptismal or given name(s)	Middle or tribal name	<input type="text"/>	Maiden surname or tribal name of her Father
	Daughter of			
6. EXACT PLACE OF BIRTH	No. of house and street or road, if any	Name of town, if any, or Village, Sub-location and Location	If in Institution—name of hospital or medical centre	

### 8. CERTIFICATE TO BE COMPLETED BY INFORMANT

I hereby certify that I attended the above birth or have knowledge of the fact that the above child was born (alive) 1  (dead) 2  in the date and at the place specified and that I am the

1  Mother of the child    2  Father of the child    3  Midwife who attended birth    4  Medical Attendant    5  or (specify)

Signature..... Date Record Signed .....

(If informant is illiterate he should add his mark and a witness to such mark should sign here)

9. SIGNATURE OF REGISTRAR: \_\_\_\_\_ Date Record Received: \_\_\_\_\_

CONFIDENTIAL MEDICAL DATA  
(This section must be completed as fully as possible)

10. AGE OF MOTHER AT BIRTH OF CHILD:	Years _____
11. IS MOTHER MARRIED TO FATHER? (By Ceremony, Custom, etc.):	Yes 1 <input type="checkbox"/> No 2 <input type="checkbox"/>
12. PREVIOUS BIRTHS TO MOTHER:	Number Born Alive..... Number Born Dead ....
13. IF A PLURAL BIRTH, STATE WHETHER TWIN OR TRIPLET _____	AND ORDER OF BIRTH (i.e. 1st or 2nd) _____

NOTE—A separate record is required for each child.

SCHEDULE, FORM No. 1—*continued*

BINDING MARGIN

**IMPORTANT—Use typewriter or ballpoint or the other pen with black or dark blue ink  
This is a permanent legal record. Be sure the carbon copy legible**

SCHEDULE—continued

FORM No. 2

REGISTER FOR THE REGISTRATION OF BIRTHS

20 ..... Births in the District of ..... in the Province of .....

No.	Where born	Name	Sex	Name and surname of father	Father's occupation	Father's nationality	Name and maiden name of mother	Mother's occupation	Mother's nationality	Signature, description and residence of informant	Date of birth	Signature of Registering Officer	Date of registration	Baptismal name if added or altered after registration of birth

SCHEDULE—continued

FORM No. 3

Return of Births in the District of ..... in the Province of .....

No.	Where born	Name	Sex	Name and surname of father	Father's occupation	Father's nationality	Name and maiden name of mother	Mother's occupation	Mother's nationality	Signature, description and residence of informant	Date of birth	Signature of Registering Officer	Date of registration	Baptismal name if added or altered after registration of birth

I, ..... the Registrar of Births for the ..... District ..... Province of Kenya, do hereby certify that this is a true copy of an entry made in the Birth Register of this District.

Witness my hand this ..... day of ..... 20..... Registrar of Births, ..... District.

SCHEDULE—continued

FORM No. 4

CERTIFICATE OF BIRTH

Birth in the .....		District in the .....		Province	
No.	/20	Where Born	Sex	Name	Name and Surname of Father
Date of Birth					
Name and Maiden Name of Mother		Signature, Description and Residence of Informant			
Signature of Registering Officer			Date of Registration		

Baptismal Name if added or altered after Registration of Birth

Certified to be a true copy of a return/an entry in the Register of Births in the District above mentioned.

Given under the seal of the Registrar-General on the ..... day of ..... 20.....

This certificate is issued in pursuance of the Births and Deaths Registration Act which provides that a certified copy of any entry in any register return purporting to be sealed or stamped with the seal of the Registrar-General shall be received as evidence of the dates and facts therein contained without any other proof of such entry.

SCHEDULE—continued

FORM No. 5

CERTIFICATE OF BIRTH (SHORT FORM)

Reference No. ....	
Registration District .....	
Name and Surname .....	
Sex .....	
Date of Birth .....	

Certified to have been compiled from records in the custody of the Registrar-General of Births and Deaths.

GIVEN under the Seal of the Registrar-General at Nairobi the ..... day of ..... 20.....

# MOZAMBIQUE

## QUESTIONNAIRE ON BIRTH REGISTRATION - MOZAMBIQUE

### Key Points

- Births in Mozambique should be recorded at the Civil Registry within four months.
- The fee structure for birth registration is unclear, but there are exemptions and reductions for those on low incomes.
- Birth registration is required to obtain identity documents, such as a national identity card and a passport, but individuals' right to access essential services is protected by the Constitution.

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### Name of official authority in charge of registering a child's birth:

Registo Civil

Direcção Nacional dos Registos e Notariado (Av. Vladmir Lenine, nº 565 - 1º e 2º andares, Tel: 21324716, Fax: 314940 Cell: 823209340).

### Where is the civil registry located in the government?

- (X) Ministry of Justice
- ( ) Ministry of Interior
- ( ) Electoral Agency
- ( ) Independent Entity
- ( ) Other

Law: Estatuto Organico do Ministerio do Justicia.<sup>211</sup>

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### Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

Both *jus sanguinis* and *jus soli* are used to determine nationality in Mozambique in accordance with Articles 23 and 24 of the Constitution of the Republic of Mozambique ("**Constitution**").<sup>212</sup>

Concerning *jus sanguinis*, a child of a Mozambican father or mother, even if born outside Mozambique, shall be Mozambican, if a declaration is made. In the event that a child of a Mozambican

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<sup>211</sup> Estatuto Organico do Ministerio do Justicia.

<sup>212</sup> Constitution of the Republic of Mozambique.

father or mother working for the Mozambican State is born abroad, that child shall be Mozambican automatically.

Concerning *jus soli*, any child born in Mozambique shall be Mozambican from birth, with the exception of children born of a foreign parent who is employed by his/her own government. In this case, and within the term of a year, the parents will need to declare whether they wish the child to be nationalised as a Mozambican.

*"Article 23*

1. *The following persons shall, provided that they were born in Mozambique, be Mozambicans:*
  - a) *The children of a father or a mother who was born in Mozambique;*
  - b) *Children whose parents are stateless or of unknown nationality;*
  - c) *Those who were domiciled in Mozambique at the time of independence and did not choose any other nationality, expressly or tacitly.*
2. *The children of a Mozambican father or mother working for the Mozambican State outside the country shall be Mozambicans, even if born abroad.*
3. *The children of a Mozambican father or mother shall be Mozambican, even if born abroad, provided that they have expressly declared, either on their own behalf, if over eighteen years of age, or through their legal representatives, if younger, that they wish to be Mozambican.*

*Article 24*

1. *Persons born in Mozambique after the proclamation of independence are Mozambican nationals.*
2. *This rule shall not apply to children born of a foreign father and a foreign mother, when either of them is in Mozambique in the employ of the government of his or her country.*
3. *The persons referred to in the preceding paragraph shall only have Mozambican nationality if they declare, for themselves if they are over eighteen years of age, or through their legal representatives if younger than this, that they wish to be Mozambican.*
4. *The time limit for the declaration referred to in the preceding paragraph is one year, counting from the date of birth of the interested party, where the declaration is made by his or her legal representative, or from his or her eighteenth birthday, where the declaration is made personally."*

**Is there any legal obligation to register children?**

Yes (X) No ( )



**If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.**

Lei n.º 12/2004 Código do Registo Civil (Civil Registration Code) ("**Código do Registo**").<sup>213</sup>

In accordance with section 1 of the Código do Registo, the birth of a child must be recorded in the Civil Registry.

The fact of a birth will have force the moment the registration process is done and will have retroactive effect to the day the birth occurred.

**Does the child need to be registered within a certain amount of time from birth?**

Yes (X) No ( )

**If yes, by when?**

In accordance with section 118 of the Código do Registo, every birth must be declared verbally within 120 days at the Civil Registry Office correspondent to the residence of the new-born.

The declaration of birth must be made by (in this order) (i) the parents, (ii) the member of the family closest to the birth, (iii) the head of the family, (iv) the director of the place where the birth took place, (v) the doctor or nurse who attended the birth, (vi) any person chosen by the father or mother to provide the declaration, or who has custody of the child, or (vii) a community or religious figure of authority located at the birth.

In the case of a declaration of birth made more than a year after the birth took place, only the parents may make the voluntary declaration. However, if the person to be registered is 14 years old or over, he or she can make the declaration on his or her own behalf.

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**Is a paper certificate issued as a result of the registration?**

Yes (X) No ( )

There are two different types of documents related to the registration of a birth: the Bulletin and the Personal Cell.

- Bulletin (sections 287 and 288 of the Código do Registo): after the birth is recorded in the Registry book, the Bulletin is delivered free of charge to the interested persons. It contains the full name, sex, date of birth, nationality and affiliation of the person registered. The Bulletin received from the Registry is the certification that the birth has been registered.

- Personal Cell (section 289 of the Código do Registo): this is a document properly filled in, initialled, and signed by the official and certified with the official seal. This is given to the person who declares the birth. It contains the full name, date of birth, nationality and affiliation of the person registered, the nationality of their parents, the date of registration and a registration number. The Personal Cell can be used to find the official certification of the birth in the Registry.

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<sup>213</sup> Lei n.º 12/2004 Código do Registo Civil.

- Both the Bulletin and the Personal Cell may be completed by a white seal apostille (section 284 of the Código do Registo): this is an embossed seal stamped into certifications, bulletins and any other documents in order to make such documents up to the category of a Notary.

#### **Different by region/area?**

Yes ( ) No (X)

#### **If it's different by region/or area, please provide us more detail.**

Not applicable.

#### **Is there a separate fee for the issuance of a paper certificate?**

Yes ( ) No (X)

The Bulletin is issued free of charge. It is unclear whether the issuance of the Personal Cell carries a separate fee from the registration.

#### **Different by region/area**

Yes ( ) No (X)

#### **If it's different by region/or area, please provide us more detail.**

Not applicable.

#### **Birth Registration Fee**

Yes ( ) No ( ) Conditional (X)

Section 380 of the Código do Registo establishes that there will be a fee for any act that is recorded in the Registry. However, there are exemptions from paying the fee for the categories listed in section 381 of the Código do Registo, while the registry fees will be reduced for the categories listed in section 383 (see below).

For registrations where inscription in the Registry has not been completed within four months of the birth, it is not possible to apply the exemptions or reductions in sections 381 and 382 of the Código do Registo. Therefore, the fee for registering the birth is 50 meticals (approximately USD 1.18).<sup>214</sup>

#### **If yes, amount in USD:**

Approximately USD 1.18.

#### **If it's conditional, please provide reasons/cases for exemption.**

Section 381 of the Código do Registo provides that poor people are exempted from paying a registration fee. A person is considered poor, if their income is evidently insufficient to cover the cost of registration.

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<sup>214</sup> All conversions are approximate and were made at the time of writing the report using a commercial exchange rate, available at [www.xe.com](http://www.xe.com).

Section 383 of the Código do Registo provides that the following categories of persons may benefit from a reduction in registry fees: (a) people employed for a salary under the minimum wage, (b) self-employed people with very reduced income, and (c) children under 14 years of age who are dependent on adults qualifying under sub-sections (a) or (b) and people included in an economic family unit who are dependent on adults qualifying under sub-sections (a) or (b).

Where a person is making a declaration of birth, a verbal statement declaring lack of sufficient means to cover the cost of registration will be considered adequate evidence to justify exemption, unless the civil servant carrying out the registration has a justified doubt that the person does lack sufficient means.

#### **Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')**

Yes (X) No ( )

Section 120 of the Código do Registo provides that, if the term to register the birth has expired, the Public Minister, Civil Registry Official or any other authority or person can register the birth at the expense of the liable person.

Additionally, section 374 of the Código do Registo provides for a fine in case of late registration. In accordance with section 379 of the Código do Registo, the amount of the fine will be decided by the deciding authority.

If yes, amount in USD: For registrations where inscription in the Registry has not been completed within four months of the birth, it is not possible to apply the exemptions or reductions in sections 381 and 382 of the Código do Registo. Therefore, the fee for registering the birth is 50 meticals (approximately USD 1.18).

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#### **Requirements for Birth Registration (tick what applies):**

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status (X)

In addition the following information is needed:

- Day, month and year of birth;
- District, administrative post and locality of birth;
- Sex of child;
- Name and surname of child;
- Full name of the grandparents.

#### **Are Stateless / Refugee Births Registered?**

Yes (X) No ( )

Section 118 of the Código do Registo requires that all children born on Mozambican soil must be registered within 120 days from birth.

#### Are children of single parents registered?

Yes (X) No ( )

Section 118 of the Código do Registo requires that all children born on Mozambican soil must be registered within 120 days from birth.

#### Are all children born in the territory registered?

Yes (X) No ( )

Section 118 of the Código do Registo provides that all children born on Mozambican soil must be registered within 120 days from birth.

#### If no, please provide list of those not registered

Not applicable.

#### Other Requirements (if none, put n/a)

Section 48 of the Código do Registo states that the person who has made the declaration of birth should be identified in the registration itself. This is done by including their full name, state and habitual residence.

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#### Registration System Set-up

Electronic Submission ( ) Paper Submission (X)<sup>215</sup> Both ( )

#### Location of registration facilities

In accordance with section 15 of the Código do Registo, there is a Civil Registry Office in each of the district administrative posts. The Civil Registry Office is responsible for registering the births, which have occurred in its district.

Capital city Yes (X) No ( ) - Conservatoria / Registo Centrais

Other cities Yes (X) No ( ) - Head of district, Registo (intermedio)

Districts where there are Administrative posts:

#### CABO-DELGADO PROVINCE

Mecúfi, Chiúre, Quissanga, Mocimboa da Praia, Namuno, Nangade, Ibo, Montepuez, Ancuabe, Mueda, Pemba-Metuge, Balama, Muidumbe, Meluco, Macomia, Palma, Ngaúma, Maúa, Mecanhelas, Lichinga, Mecula, Marrupa, Sanga, Metarica, Muembe, Mavago, Cuamba, Lago, Mandimba, Majune, Nipepe.

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<sup>215</sup> This information was verified with the Mozambican Embassy in Spain.

## NAMPULA PROVINCE

Memba, Murrupula, Eráti, Ilha de Moçambique, Mossuril, Moma, Mogovolas, Malema, Ribáue, Nampula, Monapo, Nacala-Porto, Angoche, Muecate, Mogincual, Mecubúri, Nacala-a-Velha, Meconta, Lalaua, Nacorôa.

## ZAMBÉZIA PROVINCE

Mopeia, Pebane, Morrumbala, Ile, Milange, Gurué, Alto-Molócue, Gilé, Lugela, Maganja da Costa, Namarrói, Nicoadala, Mocuba, Chinde, Inhassunge, Namacurra.

## TETE PROVINCE

Mutarara, Marávia, Angónia, Macanga, Moatize, Changara, Tsangano, Mágoè, Zumbo, Chiúta, Chifunde, Cahora-Bassa.

## MANICA PROVINCE

Machanze, Tambara, Manica, Báruè, Macossa, Mossurize, Gondola, Guro, Sussundenga.

## SOFALA PROVINCE

Maringué, Machanga, Chibabava, Cheringoma, Marromeu, Chemba, Caia, Dondo, hamatanda, Muanza, Búzi, Gorongosa.

## INHAMBANE PROVINCE

Panda, Massinga, Govuro, Inhassoro, Inharrime, Jangamo, Homoíne, Mabote, Zavala, Morrumbene, Vilankulo, Funhalouro.

## GAZA PROVINCE

Chókwe, Bilene, Massingir, Massangena, Xai-Xai, Chicualacuala, Mandlakazi, Guijá, Chigubo, Chibuto, Mabalane.

## MAPUTO PROVINCE

Namaacha, Boane, Marracuene, Moamba, Matutuíne, Manhiça, Magude.

Villages Yes (X) No ( ) - Posto Itinerant Registry

Other: Diplomatic missions, boats, airplanes, military registers and other cases stipulated by law.

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### Birth Registration is required for:

#### Access to education

Yes ( ) No (X) Law *Lei nº 7 / 2008 de Bases de Protecção da Criança*.<sup>216</sup>

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<sup>216</sup> Lei nº 7 / 2008 de Bases de Protecção da Criança.

In accordance with section 4 of Lei nº 7 / 2008 de Bases de Protecção da Criança ("**Protection for Education Act**"), every child enjoys fundamental human rights regardless of race, colour, sex, religion, birth origin, economic situation, health or disability. Section 7 provides that the State must ensure the child's access to education.

It should be noted that on 16 June 2003 Mozambique ratified the Minimum Age Convention declaring that 15 years old would be the minimum legal age for admission to work or employment, whereas Lei nº 7 / 2008 de Bases de Protecção da Criança considers a child to be any person under 18 years old.

#### Obtaining a primary school diploma

Yes ( ) No (X) Law Section 40, Lei nº 7 / 2008 de Bases de Protecção da Criança.

Mozambique ratified the Convention on the Rights of the Child<sup>217</sup> on 26 April 1994. Sections 28, 29 and 33 of the Convention on the Rights of the Child require that States make primary education compulsory and available free to all.

Section 40 of Lei nº 7 / 2008 de Bases de Protecção da Criança also guarantees access to primary education free of charge (although this law does not mention the requirements for actual delivery of a diploma).

#### Obtaining a secondary school diploma

Yes ( ) No (X) Law Section 40, Lei nº 7 / 2008 de Bases de Protecção da Criança.

Section 40 of Lei nº 7 / 2008 de Bases de Protecção da Criança guarantees access to secondary education free of charge (although this law does not mention the requirements for actual delivery of a diploma).

#### Access to health (emergency services only)

Yes ( ) No (X) Law Sections 7, 13 and 17, Lei nº 7 / 2008 de Bases de Protecção da Criança.

The State must ensure that every child has access to healthcare, regardless of race, colour, sex, religion, birth origin, economic situation, health or disability.

#### Access to health (primary health services only)

Yes ( ) No (X) Law Sections 7, 13 and 17, Lei nº 7 / 2008 de Bases de Protecção da Criança.

The State must ensure that every child has access to healthcare, regardless of race, colour, sex, religion, birth origin, economic situation, health or disability.

#### Access to health (all services)

Yes ( ) No (X) Law Sections 7, 13 and 17, Lei nº 7 / 2008 de Bases de Protecção da Criança.

The State must ensure that every child has access to healthcare, regardless of race, colour, sex, religion, birth origin, economic situation, health or disability.

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<sup>217</sup> Convention on the Rights of the Child.

### Access to social security programmes/cash benefits

Yes (X) No ( ) Programme name \_\_\_\_\_ Law *No specific law identified. See explanation below.*

Birth registration seems to be required in order to access social security programmes. However, in accordance with section 382 of the Código do Registo issuance of registry certificates for the purposes of admittance into State-run assistance or charity programmes or pensions is free of charge.

### Nationality

Yes ( ) No (X) Law *Section 26(4), Lei nº 7 / 2008 de Bases de Protecção da Criança.*

The State guarantees a child's right to preserve his or her identity, including his or her nationality, name and family ties.

### Identification card

Yes (X) No ( ) Law *Decreto nº 11 / 2008 de 29 de Abril do Conselho de Ministros.*<sup>218</sup>

Those born before Decreto nº 11 / 2008 de 29 de Abril do Conselho de Ministros was issued must present a birth certificate, Personal Cell or their expired identification card in order to apply for a new identification card. Those born after the Decree was issued need to present a certificate verifying birth registration or an equivalent document.

Citizens born abroad can acquire an identification card at Mozambican diplomatic or consular missions by presenting proof of birth, i.e. a birth certificate or equivalent document issued by the authorities of the country of their birth.

For the concession, renewal or substitution of an identification card, there will be a charge of 90 meticals for minors under 18 (approximately USD 2.12) and 180 meticals for adults (approximately USD 4.32).

### Passport

Yes (X) No ( ) Law *Lei nº 5 / 1993 de 28 de Dezembro.*<sup>219</sup>

To obtain a passport it is necessary to present an identification card or Personal Cell.

### Other (Please specify e.g. enrolment for social protection programme/ food bank)

Not applicable.

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## References

### Legislation Reviewed:

- Constitution of the Republic of Mozambique;

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<sup>218</sup> Decreto nº 11 / 2008 de 29 de Abril do Conselho de Ministros.

<sup>219</sup> Lei nº 5 / 1993 de 28 de Dezembro.



- Decreto nº 11 / 2008 de 29 de Abril do Conselho de Ministros;
- Estatuto Organico do Ministerio do Justicia;
- Lei nº 5 / 1993 de 28 de Dezembro;
- Lei nº 12 / 2004 Código do Registo;
- Lei nº 7 / 2008 de 9 de Julho de Bases de Protecção da Criança.

#### International Treaties:

- Convention on the Rights of the Child, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>  
(see also the ratification table available at [https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg\\_no=iv-11&chapter=4&lang=en](https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&lang=en))
- Minimum Age Convention, available at [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C138](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138)  
(see also the ratification table available at [http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300\\_INSTRUMENT\\_ID:312283](http://www.ilo.org/dyn/normlex/en/f?p=1000:11300:0::NO:11300:P11300_INSTRUMENT_ID:312283))

#### Further Sources:

- Embajada de la República de Mozambique en España, 'Registro Consular', available at [http://www.mozambique-emb.es/registro\\_consular](http://www.mozambique-emb.es/registro_consular)
- Ministério da Educação e Desenvolvimento Humano, 'Legislação', available at <http://www.mec.gov.mz/Legislacao/Pages/default.aspx>
- PGC Advogados, 'Nacionalidade Moçambicana', available at <http://www.pgcadvogados.com/index.php?jp=aquisicao-da-nacionalidade-para-cidaoes-mocambique&lq>
- Portal do Governo de Moçambique, available at <http://www.portaldogoverno.gov.mz/>
- Terras de Moçambique, 'Dedinho brasileiro na Unicef Moçambique', available at <https://terrasdemozambique.wordpress.com/tag/lei-de-bases-de-protecao-da-crianca/>

# PAKISTAN

## QUESTIONNAIRE ON BIRTH REGISTRATION - PAKISTAN

### Key Points:

- In Pakistan births must be registered within one month.
- Birth registration is free of charge, though late registration may incur a fee of between USD 0.5 and USD 2. The issuance of a computerised birth certificate will also incur a small charge.
- The core document which acts as a gateway to access many other public services is the Computerised National Identity Card ("**CNIC**"). It is currently possible to obtain a CNIC without prior birth registration.

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### Name of official authority in charge of registering a child's birth:

#### *Children born in Pakistan*

In Pakistan the registration of births is the responsibility of the provincial and local governments.<sup>220</sup> In accordance with section 6 of the Births Deaths and Marriages Registration Act 1886 ("**Birth Registration Act**") each provincial government is required to establish a general registry office in order to maintain the register of births. This function is usually carried out by the Union Council.<sup>221</sup> Births are then recorded to the Civil Registration Management System computerised database ("**CRMS**") managed by the National Database and Registration Authority ("**NADRA**").<sup>222</sup>

#### *Children born outside Pakistan*

Outside Pakistan, the births of Pakistani citizens are registered at the Pakistani Mission or Consulate in the country where the child is born. If there is no Pakistani Mission or Consulate in the country, then the application should be filed at the nearest Pakistani Mission or Consulate to that country.<sup>223</sup>

### Where is the civil registry located in the government?

( ) Ministry of Justice

(X) Ministry of Interior<sup>224</sup>

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<sup>220</sup> Article 142(c), Constitution of the Islamic Republic of Pakistan, available at: <http://pakistancode.gov.pk/UY2FqaJw2-apaUY2Fqa-apaUY2Fvbpw=-sg-jjjjjjjjjjjj-con-13197>. See also Abdur Rehman Cheema, "Registering Children and Securing the Future", available at <http://www.dailytimes.com.pk/opinion/29-May-2015/registering-children-and-securing-the-future>.

<sup>221</sup> Section 6, Births, Deaths and Marriages Registration Act 1886.

<sup>222</sup> Section 21, National Database Registration Authority Ordinance, 2000. The website of NADRA is available at <https://www.nadra.gov.pk/>.

<sup>223</sup> Section 5, Pakistan Citizenship Act 1951; section 21, Pakistan Citizenship Rules 1952.

( ) Electoral Agency

( ) Independent Entity

( ) Other

Law: Schedule 2, paragraphs 18(4) and 18(8) of the Rules of Business 1973<sup>225</sup> state that the Ministry of Interior is responsible for issues relating to nationality, citizenship, naturalisation, and the National Database and National Data Warehouse for issuing national identity cards. However, although the Ministry of the Interior partners with NADRA at a national level,<sup>226</sup> provincial governments and the Union Councils remain responsible for birth registration (see answer above).

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**Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?**

The general rule used in Pakistan for determining nationality is *jus soli*.<sup>227</sup> However, the courts' interpretation of section 4 of the Pakistan Citizenship Act 1951 ("**Citizenship Act**") was that the principle of birth in the country could not be read in isolation and independently of the other sections of the Citizenship Act concerning citizenship by descent in the case of the children of Afghan refugees. The courts decided that due to the "temporary" nature of the Afghans' presence in the country, the law should not apply to the Afghan population, and therefore children born to Afghan refugees in Pakistan were not granted Pakistani citizenship.<sup>228</sup>

If a child is born outside Pakistan and either the father or the mother of the child is a citizen of Pakistan and the child is registered with the proper authorities, then citizenship can be derived by descent (*jus sanguinis*).<sup>229</sup>

**Is there any legal obligation to register children?**

Yes (X) No ( )

**If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.**

The National Registration Act 1973 (Act VI of 30 July 1973) ("**National Registration Act**") stipulates the obligation to register the births of newly born citizens.<sup>230</sup> The National Registration Act contains the rules providing for the registration of citizens and issuance of identity cards to them.

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<sup>224</sup> Schedule 2 of the Rules of Business 1973.

<sup>225</sup> Schedule 2 of the Rules of Business 1973.

<sup>226</sup> NADRA website, "Local clients", available at <https://www.nadra.gov.pk/index.php/clients-a-partners/clients>.

<sup>227</sup> Section 4, Pakistan Citizenship Act 1951.

<sup>228</sup> US State Department, "Pakistan 2012 Human Rights Report", p. 33, available at <http://www.state.gov/documents/organization/204621.pdf>.

<sup>229</sup> Section 5, Pakistan Citizenship Act 1951.

### Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ( )

#### If yes, by when?

A child needs to be registered within one month of his/her birth.<sup>231</sup>

If the child is born outside Pakistan, he/she should be registered no later than six months after the birth.<sup>232</sup>

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### Is a paper certificate issued as a result of the registration?

Yes (X) No ( )

Section 23 of the Birth Registration Act provides that

*"the Registrar of Births may at the time of registering any birth or death by the person giving notice of the birth or death, and on payment by him of the prescribed fee, give to the applicant a certificate in the prescribed form, signed by the Registrar, of having registered the birth or death".*

In addition, a computerised birth certificate in English and Urdu can be obtained from NADRA called the "Child Registration Certificate" ("CRC").<sup>233</sup> In accordance with the constitutional and legislative framework governing birth registration in Pakistan, the certificate is actually issued by the Union Council or other relevant local authority using the NADRA system.<sup>234</sup>

#### Different by region/area?

Yes ( ) No (X)

#### If it's different by region/or area, please provide us more detail.

Not applicable.

### Is there a separate fee for the issuance of a paper certificate?

Yes (X) No ( )

Additional fees are payable for child registration certificates obtained from NADRA.<sup>235</sup> The current fee is 50 rupees (approximately USD 0.48).<sup>236</sup>

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<sup>230</sup> Section 4, National Registration Act 1973.

<sup>231</sup> Section 9, National Database Registration Authority Ordinance 2000.

<sup>232</sup> Section 21, Pakistan Citizenship Rules 1952.

<sup>233</sup> NADRA, 'Child Registration Certificates', available at <https://www.nadra.gov.pk/index.php/products/certificates/crc>.

<sup>234</sup> Birth Certificates Pakistan, "Obtaining a NADRA Birth Certificate", available at <http://birthcertificatespakistan.com/obtain-nadra-birth-certificate/>.

<sup>235</sup> NADRA, op.cit.

### Different by region/area

Yes (X) No ( )

### If it's different by region/or area, please provide us more detail.

The fees for birth certificates may differ in different districts of Pakistan. For example, the Lahore City District Government has agreed with NADRA to charge 100 rupees (approximately USD 0.95) for a computerised birth certificate.<sup>237</sup>

### Birth Registration Fee

Yes ( ) No ( ) Conditional (X)

### If yes, amount in USD:

See answer below.

### If it's conditional, please provide reasons/cases for exemption.

If the child is born in Pakistan and his birth is registered within the time limits, the payment of a fee is usually not required. In case of late registration, certain fees shall apply (see question below).

However, the fees charged may vary in different regions of Pakistan. For example, the Lahore City District Government has agreed with NADRA that no fee would be incurred if the birth is registered within 60 days of the birth.<sup>238</sup>

If the child is born outside Pakistan, the birth registration fee depends on the country. For instance, in Australia the fee amounts to AUD 27 (approximately USD 19.61),<sup>239</sup> while in the United States it is USD 5.<sup>240</sup>

### Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ( )

The fines for late registration of birth may differ in different districts of Pakistan. For example, in Lahore District, the Lahore City District Government has agreed with NADRA that the late registration fees should amount to the following:

- (1) if the registration took place within 60 to 100 days after the birth - 50 rupees (USD 0.48);

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<sup>236</sup> All conversions are approximate and made at the time of writing using a commercial exchange rate, available at [www.xe.com](http://www.xe.com).

<sup>237</sup> Pakistan Today, "Rules changed for birth and death certificates", available at <http://www.pakistantoday.com.pk/2012/08/16/city/lahore/rules-changed-for-birth-death-certificates/>.

<sup>238</sup> Pakistan Today, op.cit.

<sup>239</sup> Pakistan's Missions in Australia, "Birth Registration", available at [http://www.pakistan.org.au/birth\\_registration.php](http://www.pakistan.org.au/birth_registration.php).

<sup>240</sup> Embassy of the Islamic Republic of Pakistan in Washington DC, "Consular Services", available at <http://www.embassyofpakistanusa.org/consa1.php>.

- (2) if the registration took place within 101 to 200 days after the birth - 100 rupees (USD 0.95);
- (3) if the registration took place within 201 to 300 days after the birth - 150 rupees (USD 1.44);
- (4) if the registration took place after a period of more than 300 days after the birth - 200 rupees (USD 1.91).<sup>241</sup>

Furthermore, a person, who does not without reasonable cause apply for registration under the National Database Registration Authority Ordinance 2000, shall, in addition to any other penalty to which he may be liable under any other law, be punishable by imprisonment for a term which may extend to six months, or by a fine not exceeding 50,000 rupees (approximately USD 478), or both.<sup>242</sup>

**If yes, amount in USD:**

See answer above.

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**Requirements for Birth Registration (tick what applies):**

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status (X)

The requirements for registering births may differ in different districts within Pakistan. This is because the Union Councils and other relevant local authorities maintain responsibility for registering births and have created their own application forms.<sup>243</sup>

Applications for a CRC require the CNIC numbers of the child's parents.<sup>244</sup>

**Are Stateless / Refugee Births Registered?**

Yes (X) No ( )

The main pieces of legislation governing birth registration apply to citizens of Pakistan. Given that section 4 of the Citizenship Act states that every person born in Pakistan after the commencement of the Citizenship Act shall be a citizen of Pakistan by birth, all births should be registered. However, as stated above, the Pakistani courts have ruled that the children of Afghan refugees in Pakistan do not automatically get citizenship by means of *ius soli*. It is, therefore, unclear whether there is an obligation to register the birth of refugee children.

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<sup>241</sup> Pakistan Today, op.cit.

<sup>242</sup> Section 30, National Database Registration Authority Ordinance, 2000.

<sup>243</sup> See, for example, Punjab Local Government and Community Development Department, "FAQs: Birth Registration", available at <http://lgcd.punjab.gov.pk/FAQ>.

<sup>244</sup> CRC Application Form, available at <http://gotest.pk/wp-content/uploads/2014/03/NADRA-B-Form.pdf>.

### Are children of single parents registered?

Yes (X) No ( )

There is no specific provision preventing the birth registration of children of single parents. The Birth Registration Act<sup>245</sup> states that a birth will be registered if it is notified in the prescribed mode within the prescribed time by an authorised person. The National Registration Act provides that "every" citizen must be registered.<sup>246</sup>

### Are all children born in the territory registered?

Yes (X) No ( )

See previous answers.

### If no, please provide list of those not registered

Not applicable.

### Other Requirements (if none, put n/a)

Not applicable.

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### Registration System Set-up

Electronic Submission ( ) Paper Submission ( ) Both (X)

### Location of registration facilities

Capital city Yes (X) No ( )

Other cities Yes (X) No ( )

Villages Yes (X) No ( )

Other \_\_\_\_\_

The relevant legislative framework can be found in section 3 of the National Registration Act; section 6 and Chapter III of the Birth Registration Act; and section 3 of the Pakistan Citizenship Rules.

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### Birth Registration is required for:

#### Access to education

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

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<sup>245</sup> Sections 19 and 20, Births, Deaths and Marriages Registration Act 1886.

<sup>246</sup> Section 4, National Registration Act 1973.



The Eighteenth Constitutional Amendment (Act 10 of 2010)<sup>247</sup> supplements into the Constitution of Pakistan (under Article 25A)<sup>248</sup> the requirement that:

*“the state shall provide free and compulsory education to all children of the age of five to sixteen years in such manner as may be determined by law”.*

Article 37 of the Constitution further provides that:

*"The State shall:*

- (a) promote, with special care, the educational and economic interests of backward classes or areas;*
- (b) remove illiteracy and provide free and compulsory secondary education within minimum possible period;*
- (c) make technical and professional education generally available and higher education equally accessible to all on the basis of merit”.*

While there is no specific provision that requires proof of birth registration, section 12 of the Right to Free and Compulsory Education Act 2012<sup>249</sup> states that:

*“for the purposes of admission to a school, the age of the child shall be determined on the basis of the Form-B Nadra and birth certificate issued as prescribed”<sup>250</sup>.*

However it goes on to state that: *"no child shall be denied admission in a school for lack of proof of age”.*

Telephone discussions with the Ministry of Education, NADRA and the Ministry of Information<sup>251</sup> have indicated that while there is no “written rule” that requires the evidence of birth registration at the time of enrolment to school, it is an assumed rule (although they also conceded that in a small percentage of cases this unwritten rule is not enforced).

#### **Obtaining a primary school diploma**

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

We found no law that stipulates that evidence of birth registration is required before the issuance of a primary school diploma. However, please see the previous answer on "Access to education".

#### **Obtaining a secondary school diploma**

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

<sup>247</sup> Section 9, Eighteenth Constitutional Amendment Act (Act No. 10 of 2010).

<sup>248</sup> Article 25A, Constitution of the Islamic Republic of Pakistan.

<sup>249</sup> Section 12, Right to Free and Compulsory Education Act 2012 (Act No. 24 of 2012).

<sup>250</sup> Please note that "Form B" is the term often used to describe a child registration certificate (CRC).

<sup>251</sup> Conversations were held primarily with Azizullah Khan at the Ministry of Information. We endeavoured to get written confirmation of these conversations, but they were not forthcoming.

We found no law that stipulates that evidence of birth registration is required before the issuance of a secondary school diploma. However, please see the previous answer on "Access to education".

#### Access to health (emergency services only)

Yes ( ) No (X) Law *Injured Persons (Medical Aid) Act 2004*<sup>252</sup>; *Sindh Injured Persons (Medical Aid) Act 2014*<sup>253</sup>; and *Khyber Pakhtunkhwa Injured Persons and Emergency (Medical Aid) Act 2014*.<sup>254</sup>

Section 3 of the *Injured Persons (Medical Aid) Act 2004* states that "[w]here an injured person is brought to a hospital, he shall be provided with medical aid on a priority basis over all other medico-legal formalities".

This wording is reproduced in section 3 of the *Khyber Pakhtunkhwa Injured Persons and Emergency (Medical Aid) Act 2014* and section 3 of the *Sindh Injured Persons (Medical Aid) Act 2014*.

The rule-making power in section 14 of these three Acts provides for both the federal or provincial governments to make rules to carry out the purposes of the Acts, but we have not found that any such rules have been published.

#### Access to health (primary health services only)

Yes ( ) No (X) Law \_\_\_\_\_

No legislation appears to exist at either federal or provincial level requiring birth registration for access to health services. In reality, proof of identity requirements are likely to vary over time and from one medical facility to another.

The public health system has notably low utilisation rates. Only 20-30% of primary health care is delivered by the public sector. Institutional frameworks at the district and provincial levels are insufficiently developed and suffer from a lack of adequate regulation and supervision from health authorities at the federal and provincial/district levels.<sup>255</sup> Coordination of health functions has been affected by the political devolution process undertaken in 2011, when responsibilities were transferred from the Federal Ministry of National Health Services Regulation and Coordination to its provincial counterparts.<sup>256</sup> This process was subsequently reversed in 2013.

The majority of primary health services are delivered by the private sector. In general, affordability is a more significant factor than proof of identity in determining access to primary health services across Pakistan.

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<sup>252</sup> *Injured Persons (Medical Aid) Act 2004* (Act No. 12 of 2004).

<sup>253</sup> *Sindh Injured Persons (Medical Aid) Act 2014* (Act No. 20 of 2014).

<sup>254</sup> *Khyber Pakhtunkhwa Injured Persons and Emergency (Medical Aid) Act 2014* (Act No. 36 of 2014).

<sup>255</sup> World Health Organisation, "Country Cooperation Strategy for WHO and Pakistan 2011-2017", (2013), available at [http://www.who.int/countryfocus/cooperation\\_strategy/ccs\\_pak\\_en.pdf?ua=1](http://www.who.int/countryfocus/cooperation_strategy/ccs_pak_en.pdf?ua=1).

<sup>256</sup> Sania Nishtar, "Health Systems in Pakistan - a Way Forward", p. 75, available at <http://www.heartfile.org/pdf/phpf-GWP.pdf>.

### Access to health (all services)

Yes (X) No ( ) Law \_\_\_\_\_

While there is no specific legislation requiring birth registration, in practice there are situations where non-registration may hinder an individual's access to medical facilities. Policies vary according to the type of service being accessed and the location.

Provision of government services depends on an accurate assessment of population needs within a given area. In order to qualify for establishing a health facility, the government requires a catchment population of 20,000 individuals. Many communities are without a health facility in the absence of accurate population figures.<sup>257</sup>

### Access to social security programmes/cash benefits

Yes ( ) No (X) Programme name \_\_\_\_\_ Law \_\_\_\_\_

The Benazir Income Support Program ("**BISP**") is the largest social security programme in Pakistan.<sup>258</sup> BISP was established under the Benazir Income Support Programme Act 2010. Whilst BISP provides a number of benefits including education grants (Waseela e Taleem), life insurance (Waseela-e-Sehet), micro financing (Waseela-e-Haq) and training (Waseela-e-Rozgar), its flagship programme provides the main cash benefit through bimonthly non-conditional payments to low income families who have qualified for financial assistance.

When introduced in 2008, beneficiaries of the BISP were identified through parliamentary recommendation, however a 'Poverty Scorecard' system was implemented in 2009 to ensure funds were distributed to families most in need.<sup>259</sup> We were unable to locate any implementing regulations that described how applications for any of the described payments were made, or what evidence applicants needed to establish.<sup>260</sup> However, in practice it appears that women receiving payments under the programme must first be registered and issued with a BISP card, which itself requires the production of a Computerised National Identity Card or CNIC in order to register.<sup>261</sup> As detailed below, a birth certificate is not a necessity for obtaining a CNIC.

The Zakat and Ushr Ordinance 1980 draws on the Islamic injunction of charity to establish a fund to provide cash benefits to applicants. Despite being the second largest programme in Pakistan, this fund ("**Zakat Programme**") has seen a marked decrease in both funding and grants since the

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<sup>257</sup> World Vision International, "Every Child Counts: Empowerment through Registration", available at <http://www.wvi.org/pakistan/article/every-child-counts-empowerment-through-registration>.

<sup>258</sup> Benazir Income Support Programme, "At a Glance", available at <http://www.bisp.gov.pk/>.

<sup>259</sup> Benazir Income Support Programme, "Poverty Survey", available at [http://www.bisp.gov.pk/poverty\\_survey.aspx](http://www.bisp.gov.pk/poverty_survey.aspx).

<sup>260</sup> To the contrary, it appears that an audit in 2013 found that Rs74.412 billion had been disbursed to eligible persons without the proper regulations being passed by the BISP Board. See Asad Kharal, Tribune, 20 May 2013. Available at: <http://tribune.com.pk/story/551740/audit-report-irregular-payment-of-rs74-billion-bisp-money/>.

<sup>261</sup> Associated Press, Dawn, 17 April 2012. <http://www.dawn.com/news/711177/in-pakistan-welfare-scheme-shows-signs-of-success>.

programme was made voluntary in 1999.<sup>262</sup> Unlike the BISP, the Zakat Programme has no specific class of beneficiaries that it targets. The programme operates under the principle that deserving needy (mustahqeen) Muslims are to be given assistance, particularly widows, orphans, the disabled and the unemployed. Again, the programme includes many different grants, including a sustenance allowance (guzara), educational stipends (specially for students of madrassas), health care, social welfare rehabilitation, marriage assistance, Eid grants and leprosy patient payments. Eligibility is determined by local councils and does not appear to be conditional on the production of evidence of birth registration.

The Provincial Employee's Social Security Ordinance 1965 ("**Social Security Ordinance**") provides for multiple social security payments, including a sickness benefit (section 35), maternity benefit (section 36), death grant (sections 37 and 43), medical care during sickness (section 38), injury benefit (section 39), disability pension (section 40 and 41), survivors' pension (section 42) and workers' compensation (section 44). No provisions of the Social Security Ordinance explicitly require a beneficiary to produce a birth certificate in order to receive such benefits.

However, regulation 33 of the Provincial Employees' Social Security (Contributions) Regulations 1967 ("**Social Security Regulations**") provides that:

*"[i]f a claimant is unable to produce a birth certificate or other satisfactory evidence of the exact date of birth of any child, the age on the first day of January next following shall be determined by the Institution on the basis of an examination of the child by a medical practitioner".*

Furthermore, regulation 3 requires employers to return a Form R-2 for each 'secured person' on their premises. As part of this Form R-2, the employer must list the CNIC number of their employee. We were unable to obtain the back page to the Form R-2. However, we have been informed that it contains instructions on what documents have to be submitted along with the completed form in order to provide proof of identity.

### Nationality

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

Section 4 of the Citizenship Act provides that every person born in Pakistan after the commencement of the Citizenship Act shall be a citizen of Pakistan by birth.

However, whilst there are no explicit legislative provisions requiring birth registration for Pakistani citizenship, in practice where no birth certificate can be produced, then it could be difficult for the child to prove an entitlement to citizenship.

### Identification card

Yes ( ) No (X) Law \_\_\_\_\_

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<sup>262</sup> Shanza N. Khan and Sara Qutub, "The Benazir Income Support Programme and the Zakat Programme - A Political Economy Analysis of Gender", Overseas Development Institute, p.18, available at <http://www.odi.org/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7247.pdf>.

In Pakistan the official identification card is the Computerised National Identity Card or CNIC, which is issued by NADRA.

CNIC applicants are required to produce the following documents at the time of application:<sup>263</sup>

- birth certificate;
- old National Identity Card;
- matriculation certificate;
- CNICs of immediate/blood relatives; or
- citizenship certificate issued by the Ministry of the Interior.

Accordingly, provided that an applicant can provide one of the alternative documents, a birth certificate is not a necessity for obtaining a CNIC.

### Passport

Yes ( ) No (X) Law \_\_\_\_\_

Applicants for passports are required to produce a number of supporting documents. The key document appears to be the CNIC (see previous section above regarding the CNIC requirements).<sup>264</sup>

For applicants aged 18 and over, the following documents are required:

- Original bank challan (receipt) with appropriate fee deposits;
- Original CNIC issued by NADRA with two photocopies;
- Old passport with its photocopy, if issued;
- NOC in case of a Government Servant;<sup>265</sup>
- Foreign passport along with its photocopy, for dual-nationality holders only.

For applicants aged under 18, the following documents are required:

- Original bank challan (receipt) with appropriate fee deposits;
- Original Computerised Registration Certificate (CRC) issued by NADRA with two photocopies;
- Parents' CNIC with a photocopy of each;
- Foreign passport along with its photocopy, for dual-nationality holders only.

### Other (Please specify e.g. enrolment for social protection programme/ food bank)

The Employees' Old Age Benefits Act 1976 ("**Employees' Old Age Benefits Act**")<sup>266</sup> provides an old age pension to qualifying employees of establishments who have contributed to a fund. No provisions

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<sup>263</sup> CNIC documentation requirements are set out on the NADRA website at [https://www.nadra.gov.pk/index.php?option=com\\_content&view=article&id=6&Itemid=9](https://www.nadra.gov.pk/index.php?option=com_content&view=article&id=6&Itemid=9); and [https://www.nadra.gov.pk/docs/cnic\\_checklist.pdf](https://www.nadra.gov.pk/docs/cnic_checklist.pdf).

<sup>264</sup> Directorate General of Immigration and Passports, "Requirement for MRP", available at <http://www.dgip.gov.pk/Files/Ordinary%20Passport.aspx>.

<sup>265</sup> The term "NOC" appears in the relevant source. We have been unable to establish its exact meaning.

of the Employees' Old Age Benefits Act explicitly require a beneficiary to produce a birth certificate in order to receive such benefits. However, in practice a birth certificate could be useful given that benefits are tied to the age of the claimant: in accordance with sections 21 and 21A, generally, men may claim after the age of 60 and women from the age of 55.

Regulation 7 of the Employees' Old Age Benefits Regulations 1980 (General) ("**Employees' Old Age Benefits Regulations**")<sup>267</sup> provides a list of seven documents that would be accepted as proof of age, including (in order of preference) a 'certified extract from Municipal Birth Register', matriculation certificate, extract from Government record (e.g. service book, civil list), baptismal certificate, horoscope (for Hindus only), CNIC or an affidavit from the parents or other elder relatives.

The Workers Welfare Fund Ordinance 1971 ("**Workers Welfare Fund Ordinance**")<sup>268</sup> provides low cost housing, education grants, marriage grants and death grants for eligible workers. No provisions of the Workers Welfare Fund Ordinance explicitly require the production of a birth certificate for the worker to qualify for assistance under the scheme. However, the forms provided on the Workers Welfare Fund's website all require applicants (and beneficiaries in the case of the death grant) to provide their CNIC and social security cards in order to claim payments.<sup>269</sup>

The Workmen's Compensation Act 1923 ("**Workmen's Compensation Act**")<sup>270</sup> requires employers to provide compensation to certain employees who are injured in the course of their employment. No provision of the Workmen's Compensation Act explicitly requires the production of a birth certificate for a worker to qualify for assistance under the scheme. "Dependents" may claim under the scheme where their provider is fatally killed in a workplace injury (see section 8). The definition of "Dependents" in the Workmen's Compensation Act draws on multiple relations who are "Minors", or below the age of 15 (see section 2). Section 18 of the Workmen's Compensation Act specifically provides that where a question as to age of a person injured arises, a valid certificate issued under the Factories Act 1934 ("**Factories Act**")<sup>271</sup> shall be conclusive proof of the age of that person. Sections 12 and 52 of the Factories Act provide that a 'qualifying surgeon' may issue a certificate in the prescribed form. Hence, evidence of an injured worker or a dependent's age can be established without a birth certificate.

The Companies Profits (Workers' Participation) Act 1968 ("**Companies Profits Act**")<sup>272</sup> requires certain companies to make mandatory distributions into a workers fund, for the benefit of its workers who may draw on such profits. No provision of the Companies Profits Act explicitly requires qualifying

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<sup>266</sup> Employees' Old Age Benefits Act 1976.

<sup>267</sup> Employees' Old Age Benefits Regulations 1980 (General).

<sup>268</sup> Workers Welfare Fund Ordinance 1971.

<sup>269</sup> Worker Welfare Fund, "Downloads", available at <http://www.wwf.gov.pk/gop/index.php?q=aHR0cDovLzE5Mi4xNjguNzAuMTM2L3d3ZndiYi9mcm1EZXRhaWxzLmFzcHg%2Fb3B0PW1pc2NsaW5rcyZpZD0yNg%3D%3D>.

<sup>270</sup> Workmen's Compensation Act 1923.

<sup>271</sup> Factories Act 1934.

<sup>272</sup> Companies Profits (Workers' Participation) Act 1968.

workers to produce a birth certificate in order to qualify for such distribution. We are not aware of any implementing regulations relevant to the Companies Profits Act.

Under the Workers' Children (Education) Ordinance 1972 ("**Education Ordinance**")<sup>273</sup> workers of certain employers are entitled to send their children to free matriculation (see section 4). Such matriculation is funded by a levy on employers of more than 10 employees (see section 3). No provision of the Education Ordinance explicitly requires qualifying workers to produce a birth certificate in order to qualify for such distribution.

Under the West Pakistan Maternity Benefit Ordinance 1958 ("**West Pakistan Maternity Benefit Ordinance**")<sup>274</sup>, women working in factories (which under section 1(j) of the Factories Act is defined broadly to include premises with 10 or more workers where manufacturing is carried out) are required to show either a "*certified extract from a birth registry or a certificate signed by a medical practitioner, or such other proof as may be accepted by the employer*" in order to obtain part of their maternity leave payments (see section 5(3) and (4)). Similar provisions are contained in section 5(4) of the Khyber Pakhtunkhwa Maternity Benefits Act 2013,<sup>275</sup> which replaces the West Pakistan Maternity Benefit Ordinance in the territory of Khyber Pakhtunkhwa.

Under the Mines Maternity Benefit Act 1941 ("**Mines Maternity Benefit Act**")<sup>276</sup>, women working in mines are required to furnish proof of their birth in order to receive part of their maternity payment, the amount of such payment depends on which stage in their pregnancy the woman is at when the payment is first claimed (see sections 7, 8(2) and 9(2)). Please note that we were unable to obtain copies of the regulations for the Mines Maternity Benefit Act to determine what constituted "*furnish[ing] proof of the prescribed nature*", and specifically whether a birth certificate was sufficient proof.

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<sup>274</sup> West Pakistan Maternity Benefit Ordinance 1958.

<sup>275</sup> Khyber Pakhtunkhwa Maternity Benefits Act 2013 (Khyber Pakhtunkhwa Act No. 18 of 2013).

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# SWAZILAND

## QUESTIONNAIRE ON BIRTH REGISTRATION - SWAZILAND

### Key Points

- It is compulsory to register births in Swaziland within 60 days, although registration rates remain low, particularly in rural areas.
- A fee waiver initiative has been established to boost the number of registrations.
- In practice, birth registration may be required to access public services, even where this is not expressly required by legislation.

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### Name of official authority in charge of registering a child's birth:

Office of the Registrar General - administered by:

- Registrar General (Registrar of Births, Marriages and Deaths);
- Senior Assistant Registrar;
- Assistant Registrar;
- District Registrars;
- Assistant District Registrars;
- Other "registration information officers" as prescribed under section 3(3) of the Births, Marriages and Deaths Registration Act 1983 ("**Registration Act**").<sup>277</sup>

In accordance with section 2 of the Registration Act, the term '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*".

### Where is the civil registry located in the government?

- Ministry of Justice
- Ministry of Interior - Ministry of Home Affairs
- Electoral Agency
- Independent Entity
- Other

Law: The Registration Act gives the 'Minister responsible for legal affairs' the power to hear appeals against the Registrar's decisions on late registration and to make regulations in accordance with the

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<sup>277</sup> Births, Marriages and Deaths Registration Act 1983.

Registration Act.<sup>278</sup> The website of the Ministry of Home Affairs suggests that the Civil Registration Department is part of the Ministry of Home Affairs and that the responsible Minister is the Minister for Home Affairs.<sup>279</sup>

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**Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in its constitutional framework?**

*Jus sanguinis*. See sections 41-43 of the Constitution of the Kingdom of Swaziland ("**Constitution**").<sup>280</sup>

"Citizenship by descent

41. A person born, whether before or after the commencement of this Constitution and whether in or outside of Swaziland, is a citizen by descent if by birth that person is a descendant.

Citizenship by operation of law

42. (1) A person born in or outside Swaziland before the commencement of this Constitution shall be a citizen of Swaziland by operation of law if at the birth of that person one of the parents was a citizen of Swaziland.

(2) In this section "citizen by operation of law" refers to a person who was born before the existence of the status of a citizen of Swaziland and was a member of a class of persons -

(a) generally regarded as Swazi by descent; and

(b) subsequently declared by law to be citizens of Swaziland.

(3) This section shall cease to apply to a person being a citizen of another country who, on being so required by the Board in terms of section 49 (1) (d), has failed to renounce that other citizenship -

(a) within one year after that person attains the age of majority (or within such extended period as the Board may allow); or

(b) where that person attained the age of majority before the commencement of this Constitution, within one year after that commencement (or within such extended period as the Board may allow).

Citizenship by birth

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<sup>278</sup> Sections 2, 7 and 35, Births Deaths and Marriages Registration Act 1983.

<sup>279</sup> Swaziland Ministry of Home Affairs, "Civil Registration Services", available at [http://www.gov.sz/index.php?option=com\\_content&id=311&Itemid=441](http://www.gov.sz/index.php?option=com_content&id=311&Itemid=441).

<sup>280</sup> Constitution of the Kingdom of Swaziland Act 2005, available at [http://www.icla.up.ac.za/images/constitutions/swaziland\\_constitution.pdf](http://www.icla.up.ac.za/images/constitutions/swaziland_constitution.pdf). A copy of the Constitution was also provided by UNICEF.

43. (1) A person born in Swaziland after the commencement of this Constitution is a citizen of Swaziland by birth if at the time of birth the father of that person was a citizen of Swaziland in terms of this Constitution.

(2) A person born outside Swaziland after the commencement of this Constitution is a citizen of Swaziland if at the time of birth the father of that person was a citizen of Swaziland in terms of this Constitution.

(3) A person born outside Swaziland who becomes a citizen by virtue of subsection (2) shall cease to be a citizen if the father of that person was also born outside Swaziland unless, within one year after attaining the age of majority (or within such extended time as the Board may allow) that person notifies the Board in writing of the desire to retain the citizenship of Swaziland.

(4) Where a child born outside of marriage is not adopted by its father or claimed by that father in accordance with Swazi law and custom and the mother of that child is a citizen of Swaziland, the child shall be a citizen of Swaziland by birth.

(5) A child adopted, whether before or after the commencement of this Constitution, under the legislation relating to the adoption of children or under customary law, shall, if not already a citizen, be deemed to be a citizen of Swaziland by birth if, at the time of adoption the adoptive parent was a citizen of Swaziland or would have been a citizen if this Constitution were in force."

#### Is there any legal obligation to register children?

Yes (X) No ( )

#### If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The Registration Act<sup>281</sup> governs the civil registration of births, marriages and deaths for citizens of Swaziland. The Registration Act provides for (amongst other things) the compulsory registration of all births, whether live or stillborn.

Guidance from the Ministry of Home Affairs denotes that if the parents are married and both of them are Swazi citizens, then it is the father who signs the application.<sup>282</sup>

#### *Children born outside of Swaziland*

Section 22 of the Registration Act empowers the Registrar to keep a separate register detailing any births of Swazi citizens which have occurred outside of Swaziland.

In accordance with section 23(1) of the Registration Act, the application to register the birth should be made to the Registrar, or to the ambassador or other representative of Swaziland in the country where the birth occurred.

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<sup>281</sup> No Gazette number specified.

<sup>282</sup> Swaziland Ministry of Home Affairs, "Civil Registration", available at [http://www.gov.sz/index.php?option=com\\_content&catid=81%3Ahome-affairs&id=1368%3Acivil-registration&Itemid=304](http://www.gov.sz/index.php?option=com_content&catid=81%3Ahome-affairs&id=1368%3Acivil-registration&Itemid=304).

### Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ( )

#### If yes, by when?

Section 15 of the Registration Act states that the prescribed notice of birth must be submitted within 60 days. The Registrar has the power to approve a discretionary extension of this deadline on written application (through submission of Forms BMD1 and BMD 6)<sup>283</sup> and the payment of a fee.<sup>284</sup>

#### *Children born outside of Swaziland*

Where any child is born outside of Swaziland to Swazi citizens, section 23(1) of the Registration Act provides that the birth must be registered within 90 days of the birth, or such longer period as the Registrar may permit following a written application. Section 23(2) of the Registration Act states that the application shall be accompanied by an appropriate fee (see comments below).

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### Is a paper certificate issued as a result of the registration?

Yes (X) No ( )

Section 28 of the Registration Act states that the birth certificate is to be in the "prescribed form". However, there are no further details in the Registration Act as to the format or content of the certificate.<sup>285</sup>

#### Differs by region/area?

Yes ( ) No (X)

#### If it's different by region/or area, please provide us with more detail.

Not applicable.

### Is there a separate fee for the issuance of a paper certificate?

Yes ( ) No (X)

#### Differs by region/area?

Yes ( ) No (X)

#### If it's different by region/or area, please provide us with more detail.

Not applicable.

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<sup>283</sup> These forms cannot be accessed online.

<sup>284</sup> Section 7, Births, Marriages and Deaths Registration Act 1983.

<sup>285</sup> Please note, however, that the report "The Current Status of Vital Statistics and Civil Registration Systems in Swaziland" by B. Shongwe and A. Zwane (27 October 1994), available at [http://unstats.un.org/unsd/demographic/meetings/wshops/1994\\_Ethiopia\\_CRVS/docs/Doc.19\\_Swaziland.pdf](http://unstats.un.org/unsd/demographic/meetings/wshops/1994_Ethiopia_CRVS/docs/Doc.19_Swaziland.pdf) states that the form should contain details of (1) the child's name; (2) the date and place of birth; (3) parentage and (4) citizenship.

### Is there a Birth Registration Fee?

Yes (X) No ( ) Conditional ( )

#### If yes, amount in USD:

USD 0.70<sup>286</sup> to USD 1.60<sup>287</sup> (see additional note on registration fees and the fee waiver initiative).

#### If it's conditional, please provide reasons/cases for exemption.

Not applicable.

### Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ( )

#### If yes, amount in USD:

Approximately USD 1.30<sup>288</sup> (see additional note on registration fees and the fee waiver initiative).

#### Additional note on registration fees:

It is widely accepted that registration fees are one of the major discouraging factors in registering the birth of a child in Swaziland.<sup>289</sup> As such, campaigns have been instigated in order to remove this barrier from birth registration. For example, a joint campaign between UNICEF and Swaziland's Ministry of Justice and Constitutional Affairs was launched in 2005, which exempted birth certificate fees for all children below 18 years of age.<sup>290</sup> In practice, the service is now offered free of charge for registrations within 60 days, and this will be incorporated in proposed changes to legislation post the Civil Registration and Vital Statistics ("**CRVS**") assessment.<sup>291</sup>

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### Requirements for Birth Registration (indicate which apply):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother ( ) Her Nationality (X)

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<sup>286</sup> All conversions are approximate and were made at the time of writing the report using a commercial rate of exchange, available at [www.xe.com](http://www.xe.com).

<sup>287</sup> UNICEF, "Swaziland: Scaling Up Birth Registration Campaigns", available at [http://www.unicef.org/innovations/index\\_49229.html](http://www.unicef.org/innovations/index_49229.html).

<sup>288</sup> IRIN News, "Swaziland: Giving parentless children an identity", available at <http://www.irinnews.org/report/61621/swaziland-giving-parentless-children-an-identity>.

<sup>289</sup> Further information contained in UNICEF report "Every Child's Birth Right: Inequities and trends in birth registration" (2013), available at [http://www.unicef.org/lac/Birth\\_Registration\\_report\\_low\\_res.pdf](http://www.unicef.org/lac/Birth_Registration_report_low_res.pdf).

<sup>290</sup> Further information contained in the UNICEF report "Social Protection in Eastern and Southern Africa : A Framework and Strategy for UNICEF" (2008), available at [http://www.unicef.org/socialpolicy/files/Social\\_Protection\\_Strategy\(1\).pdf](http://www.unicef.org/socialpolicy/files/Social_Protection_Strategy(1).pdf).

<sup>291</sup> Correspondence from UNICEF staff member dated 25 November 2014.



Marriage Certificate (X)<sup>292</sup>

If both parents are Swazi citizens, then policy states that only the father of the child fills in the notification form.

Section 15(1) of the Registration Act states that the father or other prescribed person must within 60 days of the birth give the prescribed notice to a registration officer, local chief, induna or registration information officer. Section 15(2) of the Registration Act states that the chief, induna or registration information officer must, within ten days of receipt of the prescribed notice, submit written information about the birth on a prescribed form to the registration officer of the district or sub-district in which the child was born in order for a birth certificate to be issued. Once the registration officer has received the required information and registered the birth in the register, they must issue a birth certificate in the prescribed form and furnish to the Registrar a copy of the birth certificate along with the original birth information notice.

#### **Are Stateless / Refugee Births Registered?**

Yes (X) No ( )

Section 6(3)(a) of the Registration Act states that the Registrar should keep a register recording the birth of every child occurring in the area falling under their jurisdiction.

Section 47 of the Constitution states that any deserted children aged seven or under found in Swaziland are deemed, in the absence of evidence to the contrary, to have been born in Swaziland and to be Swazi citizens by birth. In accordance with section 48 of the Constitution, any children born on board a ship or aircraft registered in Swaziland, or an unregistered ship or aircraft of the Swazi Government, will be deemed to have been born in Swaziland.

#### **Are children of single parents registered?**

Yes (X) No ( )

Section 10 of the Registration Act contains specific provisions relating to the registration of births of children born out of wedlock. Section 10(1) of the Registration Act states there is no requirement for the father of a child born out of wedlock to provide information about the birth of a child. Section 10(2) provides that a registration officer should not enter the name of the father of a child born out of wedlock in a birth information form or any register, unless it has been jointly requested by the mother and the father, and the father has acknowledged in writing and in the presence of the registration officer that he is the father of the child.

Although Swazi citizenship usually derives from the father (see sections 43(1)-(2) of the Constitution which denote that a person will acquire Swazi citizenship if, at the time of their birth, their father was Swazi), section 43(3) of the Constitution provides that where a child is born out of wedlock and is not adopted by its father or claimed by its father in accordance with Swazi law and custom, the child will still acquire Swazi citizenship, if the mother is Swazi.

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<sup>292</sup> Please see the list of documentation referred to on the website for the Ministry of Home Affairs, available at [http://www.gov.sz/index.php?option=com\\_content&catid=81%3Ahome-affairs&id=1368%3Acivil-registration&Itemid=304](http://www.gov.sz/index.php?option=com_content&catid=81%3Ahome-affairs&id=1368%3Acivil-registration&Itemid=304).

### Are all children born in the territory registered?

Yes (X) No ( )

Section 6(3)(a) of the Registration Act states that the Register of Births is to record the birth of every child. Section 20 of the Registration Act further provides that hospitals, clinics, maternity homes, nursing homes, orphanages and similar institutions must furnish a monthly return of live and still births occurring in their institution, so that the local district registrar or assistant district registrar can cross check that all births have been registered by themselves.

### If no, please provide list of those not registered

Not applicable.

### Other Requirements (if none, put n/a)

Applicants for birth registration must complete Form BMD-1 (Notice of Birth). Applicants must also complete either Form BMD-1A (Register of Live Births) or Form BMD-1C (Register of Still Births), depending on whether the birth was a live birth or a still birth.

If the child was born outside Swaziland, the applicant must complete Form BMD-1B (Register of External Births) instead.

To submit an application for late registration, Form BMD-16 must also be submitted together with Form BMD-1.<sup>293</sup>

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### Registration System Set-up

Electronic Submission ( ) Paper Submission (X) Both ( )

Section 15(1) of the Registration Act simply states that the informant must give the prescribed notice to a registration officer, local chief, induna or a registration information officer. There are no provisions relating to electronic submission. Section 15(2) of the Registration Act provides that, upon the receipt of a notification of birth, the chief, induna or registration information officer are obliged to use a prescribed form to provide written information about the birth to the registration officer of the district or sub-district in order to allow a birth certificate to be issued (no further details of the prescribed form are disclosed in the Registration Act).

We note from the website of the Ministry of Home Affairs that the documentation required in order for a birth certificate to be produced must be the original and not a copy.<sup>294</sup> Therefore we can infer that paper submission is the only method available.

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<sup>293</sup> B. Shongwe and A. Zwane, "The Current Status of Vital Statistics and Civil Registration Systems in Swaziland", 27 October 1994, available at [http://unstats.un.org/unsd/demographic/meetings/wshops/1994\\_Ethiopia\\_CRVS/docs/Doc.19\\_Swaziland.pdf](http://unstats.un.org/unsd/demographic/meetings/wshops/1994_Ethiopia_CRVS/docs/Doc.19_Swaziland.pdf).

<sup>294</sup> Swaziland Ministry of Home Affairs, "Civil Registration", available at [http://www.gov.sz/index.php?option=com\\_content&catid=81%3Ahome-affairs&id=1368%3Acivil-registration&Itemid=304](http://www.gov.sz/index.php?option=com_content&catid=81%3Ahome-affairs&id=1368%3Acivil-registration&Itemid=304).

### Location of registration facilities<sup>295</sup>

Capital city      Yes (X) No ( )

Other cities      Yes (X) No ( )

Villages          Yes (X) No ( )

Other \_\_\_\_\_

#### *Note on registration facilities:*

For those individuals living in rural parts of Swaziland, the location, terrain and distance to the nearest registration centre can influence the decision whether to register the birth of a child. The greater the distance that needs to be covered in order to register, together with the cost of doing so, significantly influences the decision to register the birth of a child. In 2010, it was estimated that only 47% of those individuals living in rural parts of Swaziland held a birth certificate.<sup>296</sup>

According to the website for the Ministry for Home Affairs, there are registry offices located in the following regions:<sup>297</sup>

- Hhohho
  - Piggs Peak
  - Mbabane
- Lubombo
  - Siphofaneni
  - Siteki
  - Matata
- Manzini
  - Manzini
  - Mankayane
- Shiselweni
  - Sihlutse
  - Nhlangano
  - Hlatikulu<sup>298</sup>

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<sup>295</sup> From the legislation which we reviewed (see endnote), there were no express provisions requiring there to be registration facilities in rural communities. However, according to UNICEF's report on "Good Practices in Integrating Birth Registration into Health Systems, 2000-2009" (January 2010), available at [http://www.unicef.org/protection/Birth\\_Registration\\_Working\\_Paper\(2\).pdf](http://www.unicef.org/protection/Birth_Registration_Working_Paper(2).pdf), UNICEF has introduced registration programmes into the country's eight largest hospitals.

<sup>296</sup> UNICEF, "Every Child's Birth Right: Inequities and trends in birth registration" (2013), available at [http://www.unicef.org/lac/Birth\\_Registration\\_report\\_low\\_res.pdf](http://www.unicef.org/lac/Birth_Registration_report_low_res.pdf).

<sup>297</sup> Swaziland Ministry of Home Affairs, "Civil Registration Services", available at [http://www.gov.sz/index.php?option=com\\_content&id=311&Itemid=441](http://www.gov.sz/index.php?option=com_content&id=311&Itemid=441).

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### Is birth registration required for:

Access to education Yes (X) No ( ) Unclear ( ) Law *No specific law. See explanation below.*

Section 29(6) of the Constitution states that all Swazi children are to be given access to free primary education.<sup>299</sup> The Education Act 1981<sup>300</sup> does not contain any provision specifically requiring a birth certificate for access to education.

Please note, however, that we were unable to obtain copies of the Education Rules 1977, the University of Swaziland Act 1983 and the Free Primary Education Act 2010, which may be relevant.

No specific provisions requiring a birth certificate were found in the following policies which we reviewed:

1. EFA Plan No.2;<sup>301</sup>
2. Swaziland Ministry of Education Report on the Proposed Rehabilitation and Expansion of Open and Distant Learning at EMLalatini Development Centre;<sup>302</sup>
3. Ministry of Education National Policy Statement on Education (1999);<sup>303</sup>
4. Ministry of Education Special Education Policy Statement (October 1999);<sup>304</sup>
5. Ministry of Education Teaching Service Commission;<sup>305</sup> and
6. The Swaziland Education Sector Training Policy (April 2011).<sup>306</sup>

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<sup>298</sup> Swaziland Ministry of Home Affairs, "Civil Registration Services", accessed 9 April 2015, available at [http://www.gov.sz/index.php?option=com\\_content&id=311&Itemid=441](http://www.gov.sz/index.php?option=com_content&id=311&Itemid=441) and correspondence from a UNICEF staff member dated 25 November 2014.

<sup>299</sup> A copy of the Constitution was provided by UNICEF.

<sup>300</sup> Education Act 1981.

<sup>301</sup> Government of Swaziland, "EFA Plan No. 2", available at <http://www.gov.sz/images/stories/edupolicies/5%20Main%20Sectoral%20Development%20Activities.pdf>.

<sup>302</sup> Swaziland Ministry of Education and Training, "Report on the Proposed Rehabilitation and Expansion of Open and Distance Learning at EMLalatini Development Centre", available at <http://www.gov.sz/images/stories/edupolicies/EMLalatini%20Comprehensive%20Plan.pdf>.

<sup>303</sup> Swaziland Ministry of Education, "National Policy Statement on Education 1999", available at <http://www.gov.sz/images/stories/edupolicies/National%20Policy%20Statement%20On%20Education.pdf>.

<sup>304</sup> Swaziland Ministry of Education, "Special Education Policy Statement October 1999", available at <http://www.gov.sz/images/stories/edupolicies/Special%20Education%20Policy%20Statement.pdf>.

<sup>305</sup> Swaziland Ministry of Education, "Teaching Service Commission (TSC)", available at <http://www.gov.sz/images/stories/edupolicies/The%20TSC%20Act.pdf>.

<sup>306</sup> Swaziland Ministry of Education and Training, "The Swaziland Education and Training Sector Policy", available at <http://www.gov.sz/images/stories/edupolicies/education%20sector%20policy.pdf>.

However, the Swaziland Education Sector Training Policy states that there is a minimum and a maximum age for admission, which is to be set by each school. Thus, in practice, it seems that providing a birth certificate may be a requirement. Indeed, an example enrolment form for Usutu Forests Primary School in Mhlambanyatsi provides that a birth certificate is required to be submitted as part of the child's application to the school.<sup>307</sup>

Similarly, according to the policy of the Ministry of Labour and Social Security, any application for a government bursary or scholarship loan must include, amongst other things, a certified true copy of the student's birth certificate.<sup>308</sup>

In practice, no child can sit for an external examination without a birth certificate. This includes the examinations to enter Grade 7, Form 3 (secondary) and Form 5 (GCE - High School).<sup>309</sup>

### Obtaining a primary school diploma

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

The Education Act 1981 does not contain provisions specifically requiring a birth certificate to obtain a primary school diploma. Please note that we were unable to obtain copies of the Education Rules 1977 and the Examination Regulations 1984, which may be relevant.

In terms of policy, no specific provisions requiring a birth certificate to obtain a primary school diploma were found in the Education Sector Policy, National Policy Statement on Education 1999,<sup>310</sup> or Special Education Policy Statement 1999. However, if a birth certificate is necessary for primary school enrolment, it would seem difficult or impossible to obtain a diploma without one.

### Obtaining a secondary school diploma

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

The Education Act 1981 does not contain provisions specifically requiring a birth certificate to obtain a secondary school diploma. However, please note that we were unable to obtain copies of the Education Rules 1977 and the Examination Regulations 1984, which may be relevant.

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<sup>307</sup> Usutu Forests Primary School, "Applications and Fees at Usutu Forests Primary School", available at <http://www.usutuprimary.ac.sz/applicationandfees/index.php>.

<sup>308</sup> Swaziland Ministry of Labour & Social Security, "Scholarship service", available at [http://www.gov.sz/index.php?option=com\\_content&id=410&Itemid=373](http://www.gov.sz/index.php?option=com_content&id=410&Itemid=373).

<sup>309</sup> Correspondence from a UNICEF staff member dated 25 November 2014.

<sup>310</sup> Swaziland Ministry of Education and Training, "The Swaziland Education and Training Sector Policy", available at <http://www.gov.sz/images/stories/edupolicies/education%20sector%20policy.pdf>. See also the Swaziland Ministry of Education and Training, "National Policy Statement on Education 1999", available at <http://www.gov.sz/images/stories/edupolicies/National%20Policy%20Statement%20On%20Education.pdf> and the Swaziland Ministry of Education, "Special Education Policy Statement October 1999", available at <http://www.gov.sz/images/stories/edupolicies/Special%20Education%20Policy%20Statement.pdf>.

No specific provisions requiring a birth certificate to obtain a secondary school diploma were found in the Education Sector Policy, National Policy Statement on Education 1999, or the Special Education Policy Statement 1999.

#### Access to health (emergency services only)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

The Public Health Bill 2013<sup>311</sup> does not contain provisions specifically requiring a birth certificate to access emergency health services.

We have reviewed the terms of the Public Health Act 1969<sup>312</sup> and note that it does not contain specific provisions relating to the requirement of a birth certificate specifically in order to obtain access to emergency healthcare. Please note that the Public Health Regulations 1969 have not been reviewed and may be relevant.

No specific provisions requiring a birth certificate were found in the National Health Policy.<sup>313</sup> However, despite the absence of specific language regarding the necessity of providing a birth certificate to access emergency healthcare, it may be that in practice, individual hospitals require birth certificates as a form of identity.

#### Access to health (primary health services only)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

Please see the comments above in connection with "Access to health (emergency services only)" which apply equally to this section.

#### Access to health (all health services)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

Please see the comments above in connection with "Access to health (emergency services only)" which apply equally to this section.

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<sup>311</sup> Please note that at the time of writing this Bill has not yet been given Royal Assent, but serves as an indication of the legislative provisions that are being made. It does not contain any provisions explicitly requiring a birth certificate to access healthcare services, but sections 20(2), 171(4) and 172(3) appear to confer a universal right of access to primary healthcare. There is reference on the Government of Swaziland website to the Public Health Bill 2012 having been given Cabinet approval. We have not seen a copy of this Bill and we are unclear as to whether the 2012 and 2013 Public Health Bills are actually one and the same, see the Government of Swaziland, "Cabinet Approves Broadcasting Bill", available at [http://www.gov.sz/index.php?option=com\\_content&view=article&id=1354:cabinet-approves-broadcasting-bill&catid=1:latest-news](http://www.gov.sz/index.php?option=com_content&view=article&id=1354:cabinet-approves-broadcasting-bill&catid=1:latest-news).

<sup>312</sup> Public Health Act 1969.

<sup>313</sup> Swaziland Ministry of Health and Social Welfare, "National Policy", available at <http://www.gov.sz/images/stories/Health/Ministry%20of%20Health%20-%20National%20Policy.pdf>.

### Access to social security programmes / cash benefits

Yes ( ) No ( ) Unclear (X) Programme name \_\_\_\_\_ Law \_\_\_\_\_

No relevant specific legislative provisions were found. Moreover, no specific provisions were found in government policies that might require a birth certificate in order to access social security programmes, social programmes, or cash benefits. However, in practice, it does seem to be the case that a birth certificate is required. For instance, membership of the national injury and retirement fund, the Swaziland National Provident Fund ("**SNPF**"), requires a birth certificate as evidence of age.<sup>314</sup>

We also found that enrolment at Swaziland Skills Centres ("**SSC**"), which are national centres providing vocational training to unemployed young people aged 18-25, requires a birth certificate to be exhibited as part of the SSC application form.<sup>315</sup>

### Nationality

Yes (X) No ( ) Unclear ( ) Law *No specific law. See explanation below.*

Section 7(1) of the Swaziland Citizenship Act 1992 ("**Citizenship Act**") states that any individual born in Swaziland after the commencement of the Citizenship Act will be a citizen by birth provided that at the time of their birth, their father was a citizen of Swaziland.

We have reviewed the terms of the Citizenship Bill 2011 ("**Citizenship Bill**") and note that section 6(1) of the Citizenship Bill mirrors the provisions of section 7(1) of the Citizenship Act.<sup>316</sup> We have not been able to verify whether the Citizenship Bill has yet been enacted.

We have also reviewed The Citizenship Regulations 1975,<sup>317</sup> which do not contain a specific requirement for a birth certificate for citizenship.

However, whilst there are no explicit legislative provisions requiring birth registration, as a matter of policy, an application for Swazi citizenship must be accompanied by a birth certificate.<sup>318</sup> In practice where a birth certificate does not identify the father of the child, or if no birth certificate can be produced, then it can be difficult for the child to obtain citizenship.

### Identification card

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

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<sup>314</sup> Swaziland National Provident Fund, "How to Claim", available at <http://www.snpf.co.sz/index.php/2014-04-15-09-49-59>.

<sup>315</sup> Swaziland Skills Centres, "Swaziland Skills Centres", accessed 9 April 2015, available at <http://www.ssc.org.sz/index.html>.

<sup>316</sup> A copy of the Bill has been provided by UNICEF.

<sup>317</sup> Citizenship Regulations 1975.

<sup>318</sup> Swaziland Ministry of Home Affairs, "Citizen Application Requirements", available at [http://www.gov.sz/index.php?option=com\\_content&view=article&id=312&Itemid=436](http://www.gov.sz/index.php?option=com_content&view=article&id=312&Itemid=436).

Section 7 of the Passports Act 1971 ("**Passport Act**")<sup>319</sup> empowers the Deputy Prime Minister to issue certificates of identity. However, it is not clear whether a birth certificate is required in order to apply for a certificate of identity: the website of the Ministry of Home Affairs, which is responsible for issuing identification cards, does not contain any guidance on how an individual may apply for one.

Please note that we were unable to obtain copies of the Identification Order 1998 and the Identity and Travel Documents Act 1959, which may also be relevant.

### Passport

Yes (X) No ( ) Unclear ( ) Law *No specific law. See explanation below.*

The provisions of the Passport Act do not make specific reference to the requirement for a birth certificate. However, as a matter of policy, the Ministry of Home Affairs states that a birth certificate is required in order to apply for a passport.<sup>320</sup>

### Other (Please specify e.g. enrolment for social protection programme/ food bank/banks etc.)

Although no legislative provisions relating to this point were found, a birth certificate appears to be a requirement of any application to open a bank account or to invest in government bonds. For example, the application to open a savings account with First National Bank requires the applicant to exhibit valid Swazi I.D. or a Swazi passport<sup>321</sup> (please see our comments above in relation to requirements for passports).

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## References

### Legislation Reviewed:

- Administration of Estates Act 1902;
- Adoption of Children Act 1952;
- Births, Marriages and Deaths Registration Act 1983;
- The Change of Name Act 1962;
- The Children's Protection and Welfare Act 2012;
- Citizenship Act 1992;
- Citizenship Bill 2011 [NB. So far as we are aware, this has not yet been brought into force at the time of writing];

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<sup>319</sup> Passports Act 1971.

<sup>320</sup> Swaziland Ministry of Home Affairs, "Immigration", available at [http://www.gov.sz/index.php?option=com\\_content&view=article&catid=81%253Ahome-affairs&id=307%253Aimmigration&Itemid=246](http://www.gov.sz/index.php?option=com_content&view=article&catid=81%253Ahome-affairs&id=307%253Aimmigration&Itemid=246). See also Swaziland Ministry of Home Affairs, "Issuing travel documents and passports", available at [http://www.gov.sz/index.php?option=com\\_content&view=article&id=313&Itemid=372](http://www.gov.sz/index.php?option=com_content&view=article&id=313&Itemid=372).

<sup>321</sup> First National Bank Swaziland, "Supersave Account", available at <https://www.fnbswaziland.co.sz/personal/savings-accounts/supersave-account.html>.



- Citizenship and Immigration Act 1982;
- Citizenship Regulations 1975;
- Constitution of the Kingdom of Swaziland Act 2005;
- Deeds Registry Act 1968;
- Deeds Registry Regulations 1973;
- Education Act 1981;
- Employment Act 1980;
- Immigration Act 1982;
- Immigration Regulations 1987;
- Marriage Act 1964;
- Passport Act 1971;
- Prescription of Passport Fees and Forms Regulations 1971;
- Public Health Act 1969;
- Public Health Bill 2013 [NB. So far as we are aware, this had not yet been brought into force at the time of writing];
- Retirement Funds Act 2005;
- Retirement Funds Directives 2008;
- Retirement Funds Regulations 2008;
- Swaziland Citizenship Act 1992;
- The Wills Act 1955.

#### Further Sources:

- Dr I.T. Zwane, "Assessing quality of care and responsiveness of health services for women in crises settings: Swaziland case study", (2005), available at [http://www.who.int/hac/techguidance/pht/womenshealth/Swaziland\\_report\\_women\\_in\\_crisis\\_june2005.pdf](http://www.who.int/hac/techguidance/pht/womenshealth/Swaziland_report_women_in_crisis_june2005.pdf)
- Examinations Council of Swaziland, "ECOS Handbook 2013/2014: Regulations for conducting ECOS examinations - SGCSE", available at <http://www.examsCouncil.org.sz/Shared%20Documents/Download/Handbook/ECOS%20HANDBOOK%20FOR%20CENTRES%202013%20&%202014.pdf>
- IRIN News, "Swaziland: Giving parentless children an identity", available at <http://www.irinnews.org/report/61621/swaziland-giving-parentless-children-an-identity>
- Save the Children, "Birth Certificates and National Identity Documents for Persons with Disabilities", available at [http://www.savethechildren.org.sz/index.php?option=com\\_content&task=view&id=43&Itemid=61](http://www.savethechildren.org.sz/index.php?option=com_content&task=view&id=43&Itemid=61)
- Swaziland Central Statistical Office, "Demographic and Health Survey 2006-2007", (2008), available at <http://www.gov.sz/images/stories/Health/SDHS%20Preliminary%20Final%20report.pdf>

- Swaziland Central Statistical Office and UNICEF, "Multiple Indicator Cluster Survey 2010 - Swaziland: Monitoring the situation of children, women and men", (2011), available at [http://www.childinfo.org/files/Swaziland\\_Summary\\_Report.pdf](http://www.childinfo.org/files/Swaziland_Summary_Report.pdf)
- Swaziland Ministry of Education and Training, "The Swaziland Education and Training Sector Policy", (2011), available at <http://planipolis.iiep.unesco.org/upload/Swaziland/SwazilandEducationSectorPolicy2011.pdf>
- Swaziland Ministry of Health, "Essential Health Care Package for Swaziland", (2010), available at [http://www.gov.sz/index.php?option=com\\_content&view=article&id=751&Itemid=599](http://www.gov.sz/index.php?option=com_content&view=article&id=751&Itemid=599)
- Swaziland Ministry of Home Affairs website, available at [http://www.gov.sz/index.php?option=com\\_content&view=article&id=220&Itemid=95](http://www.gov.sz/index.php?option=com_content&view=article&id=220&Itemid=95)
- Swaziland Skill Centres website, available at <http://www.ssc.org.sz/>
- UNICEF, "Swaziland: Scaling up Birth Registration Campaigns", (2009), available at [http://www.unicef.org/innovations/index\\_49229.html](http://www.unicef.org/innovations/index_49229.html)
- UNICEF, "Strategic analysis on civil registration and children in the context of HIV and AIDS" (2008), available at [http://www.unicef.org/Birth\\_registration\\_in\\_the\\_context\\_of\\_HIV\\_and\\_AIDS.pdf](http://www.unicef.org/Birth_registration_in_the_context_of_HIV_and_AIDS.pdf)

**Inaccessible Legislation (that may be relevant):**

- Acquisition of Property Act, No. 10 of 1961;
- Ancillary Rights Act, No. 59 of 1950;
- Approved Scheme for Widows' and Orphans' Pensions, No. 35 of 1966;
- Education Rules, 1977;
- Elections Order, No. 2 of 1992;
- Electoral Act, No. 4 of 1971;
- Employment Regulations, 1981, No. 5 of 1980;
- Examination Regulations 1984, No. 9 of 1981;
- Free Primary Education Act of 2010;
- Identification Order, No. 4 of 1998;
- Identity and Travel Documents Act, No. 54 of 1959;
- Maintenance Act, No. 35 of 1970;
- People Trafficking and People Smuggling Prohibition Act of 2009;
- Public Health Regulations, No. 5 of 1969;
- University of Swaziland Act, No. 2 of 1983;
- Widows' and Orphans' Pensions Act, No. 35 of 1966;
- Widows' and Orphans' Pensions Regulations, No. 35 of 1966.

# UGANDA

## QUESTIONNAIRE ON BIRTH REGISTRATION - UGANDA

### Key Points

- It is compulsory to register all live births in Uganda within three months.
- There is a small fee for birth registration, which rises significantly for late registration.
- Birth registration is required in order to secure nationality, a passport and a national identity card. However, birth registration is not required to access education, health or social services.

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### Name of official authority in charge of registering a child's birth:

Uganda Registration Services Bureau.

### Where is the civil registry located in the government?

- ( ) Ministry of Justice
- ( ) Ministry of Interior
- ( ) Electoral Agency
- (X) Independent Entity<sup>322</sup>
- ( ) Other

Law: Uganda Registration Services Bureau Act (Chapter 210, Laws of Uganda).<sup>323</sup> This Act came into force on 16 August 2004.

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### Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

*Jus sanguinis* generally (Article 10, Constitution of the Republic of Uganda 1995).<sup>324</sup>

However, if a child younger than five years of age is found in Uganda, whose parents are not known, the child is presumed to be a citizen of Uganda by birth (Article 11(1), Constitution of the Republic of Uganda 1995).

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<sup>322</sup> Uganda Registration Services Bureau (a), "About Us, Overview", available at <http://www.ursb.go.ug/about-us/overview/>.

<sup>323</sup> Uganda Registration Services Bureau Act (Chapter 210, Laws of Uganda), available at <http://www.ulii.org/ug/legislation/consolidated-act/210>.

<sup>324</sup> Constitution of the Republic of Uganda, available at <http://www.statehouse.go.ug/government/constitution>.

### Is there any legal obligation to register children?

Yes (X) No ( )

#### If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

Section 7 of the Births and Deaths Registration Act (Chapter 309, Laws of Uganda)<sup>325</sup> requires the parent (father or mother) of a live child to register the birth within three months of the date of birth. The birth of a child who is deceased at birth will not be registered.

If the parents are dead or unable to register the birth:

(a) the occupier of the house in which the child was, to the knowledge of the occupier, born;

(b) any person who was present at the birth; or

(c) any person having charge of the child,

is required to register the birth.

### Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ( )

#### If yes, by when?

Within three months of the date of birth of a live child (section 7 of the Births and Deaths Registration Act (Chapter 309, Laws of Uganda)).

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### Is a paper certificate issued as a result of the registration?

Yes (X) No ( )

#### *Birth notification card*

A birth notification card is issued by a hospital to confirm the delivery of a child and includes the name of the mother (but not the father), the sex and weight of the baby and the date and time of birth.<sup>326</sup>

The card may or may not include the child's name, since a name may not have been chosen at the time of birth. It is customary in some cultures in Uganda to request that clan elders name the child after birth.

#### *Short Birth Certificate*

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<sup>325</sup> Births and Deaths Registration Act (Chapter 309, Laws of Uganda), available at [http://www.africanchildforum.org/clar/Legislation%20Per%20Country/Uganda/uganda\\_birthreg\\_1973\\_en.pdf](http://www.africanchildforum.org/clar/Legislation%20Per%20Country/Uganda/uganda_birthreg_1973_en.pdf).

<sup>326</sup> Immigration and Refugee Board of Canada, "Uganda: Response to Information Request", 4 July 2011, available at <http://www.justice.gov/sites/default/files/eoir/legacy/2013/11/07/UGA103781.E.pdf>.

The initial registration of a birth is carried out at the local level and in health facilities such as hospitals. Births should then be reported to local government, which may issue a "short" birth certificate, and then reported on to the Registrar General. In practice, "short" birth certificates are issued by the Ministry of Health at district level.<sup>327</sup> A "short" birth certificate contains the name and sex of the child, the name and nationality of the mother, the date and place of birth and a registration number.<sup>328</sup> The "short" birth certificate will also include the name and nationality of the father if (i) the child is a child of a lawful marriage or (ii) the child is not a child of a lawful marriage and the father consents to his name being registered as the father of the child.<sup>329</sup>

#### *Long-form Birth Certificate*

A "long" birth certificate contains the same information as the "short" birth certificate and, in addition:

- the residence of the father if (i) the child is a child of a lawful marriage or (ii) the child is not a child of a lawful marriage and the father consents to his name being registered as the father of the child;<sup>330</sup>
- the residence of the mother;
- the full name, occupation and residence of the person who has provided the information leading to registration and in what capacity he/she provides the information; and
- provision for adding another name at a later stage (such as after baptism).

A "long" birth certificate may be obtained from the Office of the Registrar General in Kampala.

#### **Different by region/area**

Yes ( ) No (X)

**If it's different by region/or area, please provide us more detail.**

Not applicable.

#### **Is there a separate fee for the issuance of a paper certificate?**

Yes ( ) No ( ) Unclear (X)

In practice, it is not clear whether there is a single fee for the registration of a birth or a separate fee for the short / long form birth certificates. For example, it is possible to notify and register a birth using the Mobile VRS system for which there is no fee.

#### **Different by region/area**

Yes ( ) No (X)

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<sup>327</sup> Immigration and Refugee Board of Canada (2011), op. cit.

<sup>328</sup> Immigration and Refugee Board of Canada (2011), op. cit.

<sup>329</sup> Section 9, Births and Deaths Registration Act, available at [http://www.africanchildforum.org/cfr/Legislation%20Per%20Country/Uganda/uganda\\_birthreg\\_1973\\_en.pdf](http://www.africanchildforum.org/cfr/Legislation%20Per%20Country/Uganda/uganda_birthreg_1973_en.pdf).

<sup>330</sup> Section 9, Births and Deaths Registration Act.

If it's different by region/or area, please provide us more detail.

Not applicable.

### Birth Registration Fee

Yes ( ) No ( ) Conditional (X)

#### If yes, amount in USD:

"Short" birth certificate - USD 0.38.

"Long" birth certificate - Ug shs 5000 (USD 1.50)<sup>331</sup> for national applications, USD 40 for foreign applications.<sup>332</sup>

#### If it's conditional, please provide reasons/cases for exemption

Refugees: Free.<sup>333</sup> Please note that at the time of writing, the fee for refugees had been waived. This is no longer believed to be the case and the relevant webpage of the Uganda Registration Services Bureau has been amended to remove this information.<sup>334</sup>

#### Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes (X) No ( )

#### If yes, amount in USD:

Approximately USD 5.<sup>335</sup>

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#### Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)<sup>336</sup>

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<sup>331</sup> All conversions are approximate and were made at the time of writing the report using a commercial exchange rate, available at [www.xe.com](http://www.xe.com).

<sup>332</sup> Uganda Registration Services Bureau (b), "Obtaining a Birth Certificate", available at <http://www.ursb.go.ug/services/civil-registration/obtaining-a-birth-certificate>; and Form B ('Declaration of Birth Form') available at <http://ursb.go.ug/services/civil-registration/forms-for-civil-registration/>.

<sup>333</sup> UNHCR, "The Implementation of UNHCR's Policy on Refugee Protection and Solutions in Urban Areas - Global Survey 2012", available at <http://www.unhcr.org/516d658c9.pdf>.

<sup>334</sup> Uganda Registration Services Bureau(1), op. cit.

<sup>335</sup> Victims Participation and Reparations Section, "Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda", 12 October 2007, available at <http://www.icc-cpi.int/iccdocs/doc/doc454998.pdf>.

<sup>336</sup> If the child is not a child of a lawful marriage, no person will be registered as the father of the child unless the father consents to his name being registered as the father of the child (section 9, Births and Deaths Registration Act).

Identification of Child's Mother (X) Her Nationality (X)

Marital Status ( )

#### Are Stateless / Refugee Births Registered?

Yes (X) No ( )

The birth of a live child in Uganda must be registered.<sup>337</sup>

#### Are children of single parents registered?

Yes (X) No ( )

The birth of a live child in Uganda must be registered.<sup>338</sup>

#### Are all children born in the territory registered?

Yes ( ) No (X)

#### If no, please provide list of those not registered

The birth of a child who is deceased at birth will not be registered.

#### Other Requirements

If the baby is not born in an authorised hospital, the parent may notify and register the birth by using the Mobile VRS described below<sup>339</sup> or by submitting a written confirmation of the fact of the birth from the local leaders (including district leaders) with the application for registration.<sup>340</sup>

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#### Registration System Set-up (this may not be in the legal framework)

Electronic Submission ( ) Paper Submission ( ) Both (X)

Section 8 of the Births and Deaths Registration Act (Chapter 309, Laws of Uganda), states that the registration of a child's birth shall be certified by the person registering it and the registrar will then sign and date the register after the entry of the particulars. There are no provisions relating to electronic submission.

However, the development of the Mobile Vital Records System ("**Mobile VRS**") has enabled the use of internet connected computers in hospitals and local governments to register births as well as the use of mobile phones in communities to send birth notifications in real time from any part of Uganda into the Central Government Civil Registration database.

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<sup>337</sup> Section 7, Births and Deaths Registration Act.

<sup>338</sup> Section 7, Births and Deaths Registration Act.

<sup>339</sup> Mobile Vital Records System, "About Mobile Vital Records System", available at <http://www.mobilevrs.co.ug/home.php>.

<sup>340</sup> Immigration and Refugee Board of Canada (2011), op. cit.

Mobile VRS generates real time reports of births registered by sex, by geographical location and within a given time frame selected by the user.

Since September 2011, when the first baby was registered using Mobile VRS in the Mulago national referral hospital, a total of 1,486,344 persons have been registered under the system in 135 hospitals and in 33 out of 112 local governments, of which 602,925 are children under five years of age (49% girls). This has contributed to an estimated national increase of birth registration of under-fives from 30%<sup>341</sup> to approximately 47.18% as of October 2013. About 72% of birth certificates have been printed from the Mobile VRS database and are progressively being distributed to the registered children.<sup>342</sup>

#### Location of registration facilities (this may not be in the legal framework)

Capital city    Yes (X) No ( )

Other cities    Yes (X) No ( )

Villages        Yes (X) No ( )

Other            \_\_\_\_\_

In 2011, it was estimated that the births of only three out of every ten children under the age of five were registered in Uganda and less than 12.2% of all children under the age of five in Uganda held a birth certificate.<sup>343</sup>

A birth may be registered in the local community by the Mobile VRS,<sup>344</sup> or with a hospital administrator, sub-county chief or town hall clerk depending on the place where the birth occurred. The Mobile VRS allows a birth to be notified and registered using mobile telephony. Even in a remote community, this system allows a birth to be reported to a local government volunteer notifier, who then enters the information directly into a central government database using a mobile phone.<sup>345</sup>

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#### Birth Registration is required for:

##### Access to education

Yes ( ) No (X) Law \_\_\_\_\_

We found no law that stipulates that evidence of birth registration is required for access to education.

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<sup>341</sup> Uganda Bureau of Statistics, "Uganda Demographic and Health Survey 2011", August 2012, available at <http://www.ubos.org/onlinefiles/uploads/ubos/UDHS/UDHS2011.pdf>.

<sup>342</sup> UNICEF, "A Passport to Protection: A Guide to Birth Registration Programming", December 2013, available at [http://www.unicef.org/protection/files/UNICEF\\_Birth\\_Registration\\_Handbook.pdf](http://www.unicef.org/protection/files/UNICEF_Birth_Registration_Handbook.pdf).

<sup>343</sup> Uganda Bureau of Statistics (2012), op. cit.

<sup>344</sup> Mobile Vital Records System, op. cit.

<sup>345</sup> UNICEF, "Case Study on Narrowing the Gaps for Equity - Uganda", January 2012, available at [http://www.unicef.org/equity/files/ICON\\_EquityCaseStudy\\_Uganda.pdf](http://www.unicef.org/equity/files/ICON_EquityCaseStudy_Uganda.pdf).



### Obtaining a primary school diploma

Yes ( ) No (X) Law \_\_\_\_\_

We found no law that stipulates that evidence of birth registration is required for issuance of a primary school diploma.

### Obtaining a secondary school diploma

Yes ( ) No (X) Law \_\_\_\_\_

We found no law that stipulates that evidence of birth registration is required for issuance of a secondary school diploma.

### Access to health (emergency services only)

Yes ( ) No (X) Law \_\_\_\_\_

We found no law that stipulates that evidence of birth registration is required for access to emergency healthcare.

### Access to health (primary health services only)

Yes ( ) No (X) Law \_\_\_\_\_

We found no law that stipulates that evidence of birth registration is required for access to primary healthcare.

### Access to health (all services)

Yes ( ) No (X) Law \_\_\_\_\_

We found no law that stipulates that evidence of birth registration is required for access to health services.

### Access to social security programmes/cash benefits

Yes ( ) No (X) Programme name \_\_\_\_\_ Law \_\_\_\_\_

We found no law that stipulates that evidence of birth registration is required for access to social security programmes.

### Nationality

Yes (X) No ( ) Law *Sections 27 to 33, Uganda Citizenship and Immigration Control Act 1999 (Chapter 66, Laws of Uganda).*<sup>346</sup>

Every citizen of Uganda has a duty to register as a citizen of Uganda. Upon registration as a citizen, the applicant will be issued with a national identification number. An applicant must provide proof of his or her citizenship.<sup>347</sup> In the case of citizenship by birth, such proof would include a birth certificate.

<sup>346</sup> Uganda Citizenship and Immigration Control Act (Chapter 66, Laws of Uganda), available at <http://www.refworld.org/cgi-bin/tehis/vtx/rwmain/opendocpdf.pdf?reldoc=y&docid=544e4e554>.

<sup>347</sup> Section 33, Uganda Citizenship and Immigration Control Act.

The authority responsible for registering births has a duty to provide information to the authority responsible for registering citizens.<sup>348</sup>

### Identification card

Yes (X) No ( ) Law Sections 27 to 33, *Uganda Citizenship and Immigration Control Act*.

Every citizen of Uganda of or above the age of 18 years of age has a duty to apply for a national identification card.<sup>349</sup> The national identification number allocated to a person when he or she was registered as a citizen shall appear on that person's national identification card.<sup>350</sup>

### Passport

Yes (X) No ( ) Law Section 45, *The Uganda Citizenship and Immigration Control Act*.

Any person applying for a passport must produce evidence to the effect that he or she is a citizen of Uganda and may be required to provide his or her national identification number. An application for a passport must be accompanied by evidence of the applicant's identification e.g. a voter's card, a birth certificate, a school certificate, a national identification card, a baptism card or an employer's card.<sup>351</sup> An applicant must also complete "Form B", entitled "Citizenship Verification", which requires that the birth certificate number of the applicant and the birth certificates of the parents of the applicant be provided.<sup>352</sup>

### Other

Not applicable.

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## References

### Legislation Reviewed:

- Constitution of the Republic of Uganda 1995;
- The Births and Deaths Registration Act, Chapter 309, Laws of Uganda;
- The Uganda Citizenship and Immigration Control Act, Chapter 66, Laws of Uganda;
- The Uganda Registration Services Bureau Act, Chapter 210, Laws of Uganda.

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<sup>348</sup> Section 27(5), *Uganda Citizenship and Immigration Control Act*.

<sup>349</sup> Section 28(1), *Uganda Citizenship and Immigration Control Act*.

<sup>350</sup> Section 28(5), *Uganda Citizenship and Immigration Control Act*.

<sup>351</sup> Directorate of Citizenship and Immigration Controls, Ministry of Internal Affairs, Republic of Uganda, "Passports & Other Travel Documents", available at <http://www.immigration.go.ug/content/passports-other-travel-documents>.

<sup>352</sup> Uganda High Commission in the UK, "Form B", available at <http://www.ugandahighcommission.co.uk/passport/pp.%20Form%20B.pdf>.

### Further Sources:

- Directorate of Citizenship and Immigration Controls, Ministry of Internal Affairs, Republic of Uganda, "Passports & Other Travel Documents", available at <http://www.immigration.go.ug/content/passports-other-travel-documents>
- Immigration and Refugee Board of Canada, "Uganda: Response to Information Request", 4 July 2011, available at <http://www.justice.gov/sites/default/files/eoir/legacy/2013/11/07/UGA103781.E.pdf>
- Mobile Vital Records System, "About Mobile Vital Records System", available at <http://www.mobilevrs.co.ug/home.php>
- Uganda Bureau of Statistics, "Uganda Demographic and Health Survey 2011", August 2012, accessed 1 May 2015, available at <http://www.ubos.org/onlinefiles/uploads/ubos/UDHS/UDHS2011.pdf>
- Uganda High Commission in the UK, "Form B", accessed 14 May 2015, available at <http://www.ugandahighcommission.co.uk/passport/pp.%20Form%20B.pdf>
- Uganda Registration Services Bureau (1), "About Us, Overview", available at <http://www.ursb.go.ug/about-us/overview/>
- Uganda Registration Services Bureau (2), "Obtaining a Birth Certificate", available at [http://www.ursb.go.ug/index.php?option=com\\_content&view=article&id=75:procedure-for-obtaining-a-birth-certificate&catid=40:birth-certificate&Itemid=75](http://www.ursb.go.ug/index.php?option=com_content&view=article&id=75:procedure-for-obtaining-a-birth-certificate&catid=40:birth-certificate&Itemid=75)
- UNHCR, "The Implementation of UNHCR's Policy on Refugee Protection and Solutions in Urban Areas - Global Survey 2012", available at <http://www.unhcr.org/516d658c9.pdf>
- UNICEF, "A Passport to Protection: A Guide to Birth Registration Programming", December 2013, available at [http://www.unicef.org/protection/files/UNICEF\\_Birth\\_Registration\\_Handbook.pdf](http://www.unicef.org/protection/files/UNICEF_Birth_Registration_Handbook.pdf)
- UNICEF, "Case Study on Narrowing the Gaps for Equity - Uganda", January 2012, available at [http://www.unicef.org/equity/files/ICON\\_EquityCaseStudy\\_Uganda.pdf](http://www.unicef.org/equity/files/ICON_EquityCaseStudy_Uganda.pdf)
- Victims Participation and Reparations Section, "Report on the identity documents available in the Ugandan legal and administrative system and other supporting documentation for applications for participation in proceedings in Uganda", 12 October 2007, available at <http://www.icc-cpi.int/iccdocs/doc/doc454998.pdf>

# ZAMBIA

## QUESTIONNAIRE ON BIRTH REGISTRATION - ZAMBIA

### Key Points:

- There is a uniform law making it compulsory to register the births of all children in Zambia without distinction as to origin or descent, and there are stiff penalties for failing to give notice of the birth of a child. However, there are also a number of defences for failing to give notice where it was not reasonably practicable to submit the notification or the person under the duty could not be reasonably expected to have sufficient knowledge of their notification obligations.
- Registrations within one month of birth are free of charge, though fees may apply for late registrations after that period.
- Birth registration is required to obtain identity documents, and, although not specifically required for access to education, it may also be required indirectly for enrolment in schools and universities because of the need to submit identity documents.

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### Name of official authority in charge of registering a child's birth:

Registration of birth is compulsory. Birth Certificates are available to any applicant born on or after 1 January 1973 and can be obtained by the applicant applying to:<sup>353</sup>

Registrar General of Births, Deaths & Marriages

P.O. Box 32311

LUSAKA, ZAMBIA

Tel: (260-1) 228197

Currently, even while births can be registered in districts/ provinces, certificates can only be signed in Lusaka by the Registrar General.<sup>354</sup> The current Births and Deaths Registration Act 1973 (Cap. 51) ("**Registration Act**") only allows for the Registrar General or his Deputy to sign the certificates.

### Where is the civil registry located in the government?

( ) Ministry of Justice

(X) Ministry of Interior - Ministry of Home Affairs

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<sup>353</sup> High Commission of Zambia in South Africa, 'Birth Certificates', available at <http://www.zambiapretoria.net/birth-certificates/>.

<sup>354</sup> Section 7 of the Births and Deaths Registration Act states that, "a Registrar shall sign and forward forthwith by registered post to the Registrar General all notices of birth or death and all medical certificates of the cause of death received by him."

Electoral Agency

Independent Entity

Other

Law: Government Gazette Notice No. 183 of 2012 transferred the function of registering births from the local authority to the Department of National Registration, Passport and Citizenship,<sup>355</sup> which is within the Ministry of Home Affairs. We have not been able to find a copy of this Gazette Notice.<sup>356</sup>

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**Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?**

*By birth:* A child born within the territory of Zambia shall be considered a citizen of Zambia. However, upon reaching the age of 21, the person must apply to the Citizenship Board for the confirmation of citizenship.<sup>357</sup>

*By descent:* If one of its parents is a Zambian citizen, a child shall be considered a citizen of Zambia regardless of the child's country of birth.<sup>358</sup>

**Is there any legal obligation to register children?**

Yes (X) No ( )

**If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.**

The preamble to the Registration Act states that it is:

*"an act to provide for a uniform law for the registration of all births and deaths in Zambia, without distinction of origin or descent; and to provide for matters incidental thereto."*

Section 5 of the Registration Act states that:

*"the birth of every child born and the death of every person dying in Zambia after the commencement of this Act shall be registered in accordance with the provisions of this Act."*

Section 14(1) of the Registration Act sets out who is under a duty to notify the Registrar of the birth:

*"In the case of every child, whether born alive or still-born, it shall be the duty of the father and the mother, and in default of the father or the mother the duty of (a) the occupier of the house in which*

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<sup>355</sup> Website of the Department for National Registration, Passports and Citizenship, available at [http://www.homeaffairs.gov.zm/?q=national\\_registration\\_passport\\_and\\_citizenship\\_department](http://www.homeaffairs.gov.zm/?q=national_registration_passport_and_citizenship_department).

<sup>356</sup> Moses, "Transfer of the Function of Registration of Birth and Deaths", 28 May 2015, <http://www.lcc.gov.zm/transfer-of-the-function-of-registration-of-births-and-deaths/>.

<sup>357</sup> Multiplecitizenship.com, 'Zambia', available at [http://www.multiplecitizenship.com/wscl/ws\\_ZAMBIA.html](http://www.multiplecitizenship.com/wscl/ws_ZAMBIA.html).

<sup>358</sup> Article 5, Constitution of Zambia.

*to his knowledge such child is born or the person in charge of any hospital or other institution in which such child is born; and (b) each person present at the birth; and (c) in the case of a child born alive, the person having charge of the child; to give notice in the prescribed form containing the prescribed particulars of the birth within one month thereof to the Registrar of the district in which such child is born."*

Section 9 of the Registration Act provides for penalties for failing to give notice of the birth:

*"Any person who, being under an obligation to give notice of the birth of any child or the death of any person, fails to do so within the period herein provided or refuses or neglects to state any of the particulars in the form prescribed by rules made under the provisions of this Act, or who willfully gives any false information or particulars for the purpose of registration, shall be guilty of an offence and shall be liable to a fine not exceeding two hundred penalty units or to imprisonment not exceeding one month with or without hard labour, or to both. Provided that no person shall be charged with an offence under this section - (i) for having failed to give notice of the birth of any child or the death of any person, if, having regard to all the circumstances of the case, it was not reasonably practicable for him to have given such notice or where such notice could not be given without causing unnecessary hardship or expense to such person; (ii) where, having regard to the education, knowledge and understanding of the person and to the social environment of the locality in which he resides, he could not reasonably be expected to have sufficient knowledge of his obligations under this Act."*

#### **Does the child need to be registered within a certain amount of time from birth?**

Yes (X) No ( )

#### **If yes, by when?**

The child must be registered within one month of him/her being born.<sup>359</sup>

If a birth occurred more than 12 months previously, the Registrar must make a report to the Registrar General in order to obtain his written authority to register the birth.

*"(1) Where a Registrar is informed that a birth which occurred more than twelve months previously has not been registered, he shall make a report to the Registrar General stating to the best of his knowledge and belief the particulars required to be registered concerning the birth, the source of his information and the name and address of any informant available to give information for the registration.*

*(2) Where an informant attends to give information for the registration of a birth which occurred more than twelve months previously, the written authority of the Registrar General for registering*

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<sup>359</sup> Section 14 (1)(c), Births and Deaths Registration Act. *"In the case of every child, whether born alive or still-born, it shall be the duty of the father and the mother, and in default of the father or the mother the duty of (a) the occupier of the house in which to his knowledge such child is born or the person in charge of any hospital or other institution in which such child is born; and (b) each person present at the birth; and (c) in the case of a child born alive, the person having charge of the child; to give notice in the prescribed form containing the prescribed particulars of the birth within one month thereof to the Registrar of the district in which such child is born."*

*the birth shall be obtained and the fact that such authority has been given shall be entered in the register and endorsed on the notice of birth.*

*(3) Before the Registrar General gives written authority for the registration of a birth which has occurred more than twelve months previously, the informant shall furnish for the Registrar General's consideration an affidavit in duplicate in the form set out in Reg-Gen Form No. 12, supported by a baptismal certificate or a certificate from the hospital where the child was born naming the mother and the date of the birth, or, where the child was not born in a hospital, by two affidavits from two reliable witnesses to the birth.*

*(4) Upon giving written authority for the late registration of a birth under sub-rule (3), the Registrar General shall forward the affidavit in duplicate to the Registrar of the district in which the birth occurred and on receipt of the affidavit the Registrar shall retain the top copy and return the duplicate copy together with the notice of birth completed by the parents of the child to the Registrar General."<sup>360</sup>*

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**Is a paper certificate issued as a result of the registration?**

Yes (X) No ( )

**Different by region/area:**

Yes ( ) No (X)

**If it's different by region/or area, please provide us more detail:**

Not applicable.

**Is there a separate fee for the issuance of a paper certificate?**

Yes (X) No ( )

The Second Schedule to the Births and Deaths Registration (General) Rules ("**Registration Rules**") states that the prescribed fee for issuing a birth certificate is "10 fee units".

**Different by region/area:**

Yes ( ) No (X)

**If it's different by region/or area, please provide us more detail:**

Not applicable.

**Birth Registration Fee:**

Yes ( ) No (X) Conditional ( )

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<sup>360</sup> Rule 24, Births and Deaths Registration (General) Rules.

In accordance with the Registration Rules, there is no requirement to pay a birth registration fee as long as notice is given in the prescribed form containing the prescribed particulars of the birth within one month.<sup>361</sup>

**If yes, amount in USD:**

Not applicable.

**If it's conditional, please provide reasons/cases for exemption.**

Not applicable.

**Are there fees for registering a birth after a certain period of time (“late registration” or “delayed registration”)**

Yes (X) No ( )

In addition to the potential penalties for failing to notify the birth of a child, there are fees for registering a birth after a certain period of time. Rule 23 of the Registration Rules states that a:

*“Subject to the provisions of section 9 of the Act, a Registrar may in appropriate cases register the birth of a child which has occurred more than one month previously upon payment by the informant of a late registration fee of one kwacha, provided that twelve months have not expired since the birth of the child occurred. Registration after one month but within twelve months.”<sup>362</sup>*

The Second Schedule to the Registration Rules states that an affidavit in support of an application to register a birth more than 12 months after the birth occurred will incur a fee of "14 fee units".

**If yes, amount in USD**

Approximately USD 0.08 for registration within 12 months of the birth.<sup>363</sup> Please note that this figure is the late registration fee and does not include the cost of an affidavit in support of the application.

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**Requirements for Birth Registration (tick what applies):**

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marital Status (X)

Rule 3 of the Registration Rules states that the forms prescribed by the Registration Rules are included in the First Schedule to the Registration Rules. "Reg-Gen Form No.14" is included in the First

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<sup>361</sup> Part XIII Section 43(1) of the Births and Deaths Registration (General) Rules states “no fee is chargeable for the registration of a birth or a death if notice is given in the prescribed form containing the prescribed particulars of the birth within one month thereof.”

<sup>362</sup> Section 23, Births and Deaths Registration Act.

<sup>363</sup> Conversions are approximate and made at the time of writing the report using a commercial exchange rate, available at [www.xe.com](http://www.xe.com).



Scheduled to the Registration Rules as the prescribed form to notify a birth. The form requires informants to state the name and nationality of the father and the mother, as well as to include their date of marriage. There is no specific requirement that the marriage certificate must be supplied.

In addition, section 15 of the Registration Act states:

*"No person shall be bound as father to give notice of the birth of an illegitimate child, and no person shall be registered as the father of such child except on the joint request of the mother and himself and upon his acknowledging himself in writing to be the father of the child in the presence of the Registrar".*

### Are Stateless / Refugee Births Registered?

Yes (X) No ( )

The Births and Deaths Registration Act 1973 (Cap. 51) provides for compulsory registration of all children born in Zambia.

Zambia's nationality legislation lacks safeguards to protect statelessness. There is no safeguard against statelessness for children born in Zambia who would otherwise be stateless.<sup>364</sup>

### Are children of single parents registered?

Yes (X) No ( )

Children of single parents can register their child's birth, but children born outside of marriage shall not be registered as legitimate.

If the child is born out of wedlock, a Form 11 will need to be completed.<sup>365</sup>

If the parents are not married, then the Registrar shall not complete the section requiring the name and surname of the person acknowledging himself to be the father of the child unless it is entered in space 5 of Form 11 pursuant to section 15 of the Registration Act (which makes provision as to the father of an illegitimate child).<sup>366</sup>

In the case of an illegitimate child, the father is not obliged to give notice of the birth, and no person shall be registered as the father of that child except if there is a joint request by the mother and the father of the child. The father must acknowledge himself in writing to be the father of the child in the presence of the Registrar.<sup>367</sup>

### Are all children born in the territory registered?

Yes (X) No ( )

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<sup>364</sup> United Nations High Commissioner for Refugees, 'Submission for the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: Zambia', April 2012, p.7, available at <http://www.refworld.org/pdfid/4f9660982.pdf>.

<sup>365</sup> Lusaka City Council, 'Birth Registration', available at <http://www.lcc.gov.zm/birth-registration/>.

<sup>366</sup> Section 18 (4) (b), Births and Deaths Registration (General) Rules.

<sup>367</sup> Section 15, Births and Deaths Registration Act.

The Registration Act provides for the compulsory registration of all children born in Zambia.<sup>368</sup>

**If no, please provide list of those not registered**

Not applicable.

**Other Requirements (if none, put n/a)**

Not applicable.

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**Registration System Set-up**

Electronic Submission ( ) Paper Submission (X) Both ( )

Although there is no recorded provision for the electronic submission of birth registration applications, the website of Lusaka City Council states that applications may be made in person or by email:

*"The applicant can come to the office for Births, Marriages and Societies at Civic Centre, room 216, Old wing or you can download a Form and complete and submit either personally or email to info@lcc.gov.zm".<sup>369</sup>*

**Location of registration facilities (this may not be in legal framework)**

Capital city Yes (X) No ( )

Other cities Yes ( ) No (X)

Villages Yes (X - see 'Other') No ( )

Other: Selected health facilities in Luapula, Southern and Eastern provinces.<sup>370</sup>

The Zambian birth registration system is centralised in Lusaka. The Births and Deaths Registration Act requires Registrars to forward birth notices to the Registrar General.<sup>371</sup> Applicants may then apply to the Registrar General for the birth certificate to be issued.<sup>372</sup>

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**Birth Registration is required for:**

**Access to education**

Yes ( ) No (X) Law \_\_\_\_\_

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<sup>368</sup> Section 5, Births and Deaths Registration Act.

<sup>369</sup> Lusaka City Council, "Birth Registration", available at <http://www.lcc.gov.zm/birth-registration/>.

<sup>370</sup> United Nations, Zambia, "Birth Registration: A Child's Passport to Protection", available at <http://www.zm.one.un.org/node/93>.

<sup>371</sup> Section 7, Births and Deaths Registration Act.

<sup>372</sup> Section 5, Births and Deaths Registration Act.

We have not found any explicit requirement for birth registration to access education or obtain diplomas. However, the website of Lusaka City Council states that birth registration is required "for primary school enrolment" and "tertiary education enrolment at university or college".<sup>373</sup>

Birth certificates may be required indirectly: for example, section 16 of the Education Act 2011 (Cap. 419)<sup>374</sup> provides that the Minister may, by statutory instrument, determine the school-going age of a child. However, no such regulation exists.<sup>375</sup> In practice, parents and schools often rely on affidavits, 'under 5 clinic cards',<sup>376</sup> or overlook the requirement to verify a child's age altogether.<sup>377</sup>

We have not found any legislative provision setting out requirements for access to university. However, applications to the University of Zambia,<sup>378</sup> for example, require a passport or national registration card number, both of which require birth certificates, or affidavits regarding place and date of birth, in order to be obtained.

### Obtaining a primary school diploma

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

See previous answer on 'Access to education'.

### Obtaining a secondary school diploma

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

See previous answer on 'Access to education'.

### Access to health (emergency services only)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

According to the Zambian Ministry of Health: "Following the repeal of the National Health Services Act of 1995, the health sector has been operating without an overarching legal framework."<sup>379</sup>

### Access to health (primary health services only)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

<sup>373</sup> Lusaka City Council website, op.cit.

<sup>374</sup> Section 16, Education Act.

<sup>375</sup> United States Bureau of International Labor Affairs, "Zambia: Moderate Advancement", available at <http://www.refworld.org/pdfid/5448a89f1.pdf>.

<sup>376</sup> Gethsemame Mwizabi, "Birth Certificate Mystery: Zambia Should Decentralise Registration", Times of Zambia, 20 June 2014, <http://www.times.co.zm/?p=25049>.

<sup>377</sup> Judith Konayuma, "Do your children exist unofficially?", Zambia Daily Mail, 25 May 2015, available at <https://www.daily-mail.co.zm/?p=30587>.

<sup>378</sup> University of Zambia, "Application for Admission to Postgraduate Study", available at <https://www.unza.zm/downloads/finish/10-pg/10-application-form-2014>.

<sup>379</sup> Republic of Zambia Ministry of Health, "Towards attainment of health related Millennium Development Goals and Other National Health Priorities in a clean, caring and Competent environment", available at <http://www.moh.gov.zm/docs/nhsp.pdf>.

See previous answer on 'Access to health (emergency services only)'.

### Access to health (all services)

Yes ( ) No ( ) Unclear (X) Law \_\_\_\_\_

See previous answer on 'Access to health (emergency services only)'.

### Access to social security programmes/cash benefits

Yes ( ) No ( ) Unclear (X) Programme name *National Pension Scheme ("NAPSA")*. Law *National Pension Scheme Act 1996 (Cap. 256) ("National Pension Scheme Act")*.<sup>380</sup>

Section 13(13) of the National Pension Scheme Act requires registered employers to register each of their employees as a member of NAPSA “by notifying the Director-General of such particulars of the employee as may be prescribed” (except those exempted in the Second Schedule of the National Pension Scheme Act).<sup>381</sup> We did not find any regulations prescribing such particulars. We have obtained a copy of the NAPSA “Member Registration/Amendment Form no. NPS 421” (“**NAPSA Form**”)<sup>382</sup> in order to determine the documents required and particulars to be verified, in practice, for registration.

Part One of the NAPSA Form requires a national registration card number and/or passport number, which can only be obtained where proof of birth is procured (see the answers on “Identification card” and “Passport” below).

There is no indication on the NAPSA Form as to what documents need to be produced in support of the application. Part Three of the Form requires details of the applicant's parents, which might require a birth certificate proving parentage.

### Nationality

Yes (X) No ( ) Law *Citizenship of Zambia Act (Cap. 124) ("Citizenship Act")*<sup>383</sup> and *Constitution of Zambia 1996 ("Constitution")*.<sup>384</sup>

A child born within the territory of Zambia shall be considered a citizen of Zambia. However, upon reaching the age of 21, the person must apply to the Citizenship Board for the confirmation of citizenship.<sup>385</sup>

Article 5 of the Constitution provides that a person shall become a citizen of Zambia if one of their parents is a citizen of Zambia, regardless of where that person was born. In accordance with this

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<sup>380</sup> National Pension Scheme Act (Cap. 256).

<sup>381</sup> Section 13, National Pension Scheme Act.

<sup>382</sup> National Pension Scheme Authority, “Who Should Register With NAPSA?”, available at [http://www.napsa.co.zm/?page\\_id=101](http://www.napsa.co.zm/?page_id=101). A copy of the NAPSA Form is reproduced at Appendix 1.

<sup>383</sup> Citizenship of Zambia Act (Cap. 124).

<sup>384</sup> Constitution of Zambia 1996.

<sup>385</sup> Multiplecitizenship.com, 'Zambia', available at [http://www.multiplecitizenship.com/wscl/ws\\_ZAMBIA.html](http://www.multiplecitizenship.com/wscl/ws_ZAMBIA.html).

provision, section 12(1) of the Citizenship Act provides that any person not of full age who is the child of a citizen may be registered as a citizen upon application made in the prescribed manner by a parent or guardian. Rule 10 of the Citizenship of Zambia Regulations ("**Citizenship Regulations**")<sup>386</sup> prescribes the form in which the application is to be made as Form 6. Form 6<sup>387</sup> requires the applicant to produce the child's birth certificate or a sworn affidavit of date and place of birth, and also the same for one of the parents.

Rule 18(2)(a) of the Citizenship Regulations states that:

*"In any application made under the [Citizenship] Act - ,*

*(a) any statement concerning particulars of birth shall be supported by a birth certificate issued in respect of such birth or an affidavit of the date and place of such birth*

*(b) any statement concerning particulars of marriage shall be supported by a marriage certificate issued in respect of such marriage;*

*(c) any statement concerning particulars of citizenship shall be supported by a passport, a certificate of registration, a national registration card, a birth certificate, or an affidavit of the date and place of birth, issued or, as the case may be, made on the grounds of such citizenship."*

### Identification card

Yes (X) No ( ) Law *National Registration Act (Cap. 126) ("**National Registration Act**")*.<sup>388</sup>

Anyone living in Zambia who has reached 16 years of age must register with the Government.<sup>389</sup> Section 5(1)(a)(e) of the National Registration Act requires details regarding date and place of birth. Section 7 requires that proof of information be supplied where the person has power to furnish it. Failing to register is an offence.<sup>390</sup>

### Passport

Yes (X) No ( ) Law *Passports Act, No. 22 of 2003*.

We have not been able to find an official version of legislation regulating Zambian passports. However, we have found a scanned version of legislation entitled the Passports Act, No. 22 of 2003 ("**Passports Act Scan**"),<sup>391</sup> and an application form for an adult passport ("**Application Form**").<sup>392</sup> We have not been able to verify whether the Passports Act Scan is in force.

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<sup>386</sup> Rule 10, Citizenship of Zambia Regulations.

<sup>387</sup> Form 6, First Schedule to the Citizenship of Zambia Regulations.

<sup>388</sup> National Registration Act (Cap. 126).

<sup>389</sup> Section 3, National Registration Act.

<sup>390</sup> Section 13(1)(a), National Registration Act.

<sup>391</sup> The Passports Act Scan is reproduced at Appendix 2.

<sup>392</sup> The Application Form is reproduced at Appendix 3.

The Passports Act Scan provides that applications shall be in the prescribed form,<sup>393</sup> but we have not been able to find any regulations prescribing such form.

The Passports Act Scan also provides for people to be able to include particulars of their children in their passport.<sup>394</sup> Again, the Passports Act Scan requires such an application to be in the prescribed form,<sup>395</sup> but we were unable to find regulations prescribing the required form.

Section 4 of the Application Form requires applicants to produce their birth certificates. However, just as for applications for citizenship, it appears that an affidavit of the date and place of birth may be used instead of a birth certificate: the checklist for documents provided set out in the “official use only” section of the Application Form<sup>396</sup> states “Applicant’s birth certificate or affidavit”.

### Other (Please specify e.g. enrolment for social protection programme/ food bank)

#### *Inheritance*

Where a parent dies intestate, the Intestate Succession Act (Cap. 59) provides for children to inherit a proportion of the estate.<sup>397</sup> Where there is a dispute, a child will need to prove its parentage, and where DNA testing is not feasible, a birth certificate would be required as evidence.

#### *Banking*

Opening a bank account for a Zambian child requires the production of their birth certificate or record.<sup>398</sup>

#### *Voting*

Voting in Zambia requires a national registration card (see previous answer on “Identification card”), which can only be obtained when proof of birth is presented.<sup>399</sup>

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## References

### Legislation Reviewed:

- Births and Deaths Registration Act 1973 (Cap. 51), available at

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<sup>393</sup> Section 5(2), Passports Act Scan (Appendix 2).

<sup>394</sup> Section 6(1), Passports Act Scan (Appendix 2).

<sup>395</sup> Section 6(1), Passports Act Scan (Appendix 2).

<sup>396</sup> Page 3 of the Passport Application Form (Appendix 3).

<sup>397</sup> Section 5(1)(b), Intestate Succession Act (Cap. 59).

<sup>398</sup> FNB, “Future Account”, available at <https://www.fnbzambia.co.zm/personal/transactional-accounts/future-account.html>.

<sup>399</sup> Electoral Commission of Zambia, “Voter Registration Info”, available at [http://www.elections.org.zm/voter\\_registration\\_info.php](http://www.elections.org.zm/voter_registration_info.php).

<http://www.parliament.gov.zm/sites/default/files/documents/acts/Births%20and%20Deaths%20Registration%20Act.pdf>

- Citizenship of Zambia Act (Cap. 124), available at <http://www.parliament.gov.zm/sites/default/files/documents/acts/Citizenship%20of%20Zambia%20Act.pdf>
- Citizenship of Zambia Regulations, available at <http://www.parliament.gov.zm/sites/default/files/documents/acts/Citizenship%20of%20Zambia%20Act.pdf>
- Constitution of Zambia 1996, available at <http://aceproject.org/ero-en/regions/africa/ZM/Constitution%20of%20Zambia%201996.pdf>
- Education Act (Cap. 419), available at <http://www.parliament.gov.zm/sites/default/files/documents/acts/Education%20Act%202011.pdf>
- Intestate Succession Act (Cap. 59), available at <http://www.parliament.gov.zm/sites/default/files/documents/acts/Intestate%20Succession%20Act.pdf>
- National Pension Scheme Act (Cap. 256), available at [http://mlss.gov.zm/upload/Social\\_Security/NAPSA%20Act.pdf](http://mlss.gov.zm/upload/Social_Security/NAPSA%20Act.pdf)
- National Registration Act (Cap. 126), available at <http://www.parliament.gov.zm/sites/default/files/documents/acts/National%20Registration%20Act.pdf>
- Passport Act, No. 22 of 2003. The text of this legislation is reproduced at Appendix 2.

#### Further Sources:

- Application for a Zambian Passport for Persons over Sixteen Years of Age. A copy of this application form is reproduced at Appendix 3.
- Electoral Commission of Zambia, "Voter Registration Info", available at [http://www.elections.org.zm/voter\\_registration\\_info.php](http://www.elections.org.zm/voter_registration_info.php)
- FNB, "Future Account", available at <https://www.fnbzambia.co.zm/personal/transactional-accounts/future-account.html>
- Gethsemane Mwizabi, "Birth Certificate Mystery: Zambia Should Decentralise Registration", Times of Zambia, 20 June 2014, available at <http://www.times.co.zm/?p=25049>
- High Commission of Zambia in South Africa, "Birth Certificates", available at <http://www.zambiapretoria.net/birth-certificates/>
- Judith Konayuma, "Do your children exist unofficially?", Zambia Daily Mail, 25 May 2015, available at <https://www.daily-mail.co.zm/?p=30587>
- Lusaka City Council, "Birth Registration", available at <http://www.lcc.gov.zm/birth-registration/>

- Ministry of Health, “National Health Strategic Plan 2011-2015”, available at <http://www.moh.gov.zm/docs/nhsp.pdf>
- Moses, "Transfer of the Function of Registration of Birth and Deaths", Lusaka City Council, 28 May 2015, available at <http://www.lcc.gov.zm/transfer-of-the-function-of-registration-of-births-and-deaths/>
- Multiplecitizenship.com, 'Zambia', available at [http://www.multiplecitizenship.com/wscl/ws\\_ZAMBIA.html](http://www.multiplecitizenship.com/wscl/ws_ZAMBIA.html)
- National Pension Scheme Authority, “Who Should Register With NAPSA?”, available at [http://www.napsa.co.zm/?page\\_id=101](http://www.napsa.co.zm/?page_id=101)
- NAPSA Member Registration /Amendment Form. A copy of this form is reproduced at Appendix 1.
- United Nations High Commissioner for Refugees, 'Submission for the Office of the High Commissioner for Human Rights' Compilation Report Universal Periodic Review: Zambia', April 2012, available at <http://www.refworld.org/pdfid/4f9660982.pdf>
- United Nations, Zambia, “Birth Registration: A Child's Passport to Protection”, available at <http://www.zm.one.un.org/node/93>
- United States Bureau of International Labor Affairs, “Zambia: Moderate Advancement”, available at <http://www.refworld.org/pdfid/5448a89f1.pdf>
- University of Zambia, “Application for Admission to Postgraduate Study”, available at <https://www.unza.zm/downloads/finish/10-pg/10-application-form-2014>
- Website of the Department for National Registration, Passports and Citizenship, available at [http://www.homeaffairs.gov.zm/?q=national\\_registration\\_passport\\_and\\_citizenship\\_department](http://www.homeaffairs.gov.zm/?q=national_registration_passport_and_citizenship_department)



# Appendix 1 - NAPSA Member Registration/Amendment Form



## NATIONAL PENSION SCHEME AUTHORITY

FORM NO. NPS421

### MEMBER REGISTRATION/AMENDMENT FORM

#### INSTRUCTIONS

- . Please ensure that you complete all the details. As much as possible avoid abbreviating names.
- . List down the names of beneficiaries. These should be restricted to spouse and children.
- . Complete the form in **Ink** only and should be in **CAPITAL LETTERS**.
- . For any change of personal or beneficiaries details, indicate your **Social Security Number**

PART 1	PERSONAL DETAILS	SOCIAL SECURITY NUMBER
N.R.C NO.	<input style="width: 100%;" type="text"/>	<input style="width: 100%;" type="text"/>
	(ZAMBIAN)	
PASSPORT/PERMIT NUMBER:	<input style="width: 100%;" type="text"/>	
	(FOREIGNER)	
TITLE	<input type="checkbox"/> Sir <input type="checkbox"/> Mr <input type="checkbox"/> Lady <input type="checkbox"/> Dr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Dr. Mrs	
SURNAME	.....	
OTHER NAMES	.....	
MAIDEN NAME	.....	
SEX	<input type="checkbox"/> ( Write 'M' for Male or 'F' for Female)	<b>MARITAL STATUS</b>
DATE OF BIRTH	<input style="width: 100%;" type="text"/> D D M M C C Y Y	<input type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> DIVORCED <input type="checkbox"/> WIDOW <input type="checkbox"/> WIDOWER <input type="checkbox"/> SEPARATED
POSTAL ADDRESS	.....	
POSTAL NAME	<input style="width: 100%;" type="text"/>	
TOWN NAME	<input style="width: 100%;" type="text"/>	
POSTAL CODE	<input style="width: 100%;" type="text"/>	PHONE NUMBER <input style="width: 100%;" type="text"/>
FAX	<input style="width: 100%;" type="text"/>	
E-mail	<input style="width: 100%;" type="text"/>	

PART 2	EMPLOYER DETAILS
EMPLOYER ACCOUNT No.	<input style="width: 100%;" type="text"/>
DATE JOINED EMPLOYER	<input style="width: 100%;" type="text"/> D D M M C C Y Y
EMPLOYER NAME	.....
OCCUPATION	.....
PROVINCE	.....

PART 3

PARENTS DETAILS

FATHER'S SURNAME .....  
FATHER'S OTHER NAMES .....  
MOTHER'S SURNAME .....  
MOTHER'S OTHER NAMES .....

PART 4

BENEFICIARIES DETAILS

Write details of spouse and children. If there is any change, supply fresh details of current beneficiaries.

N.R.C No.	SURNAME	OTHER NAMES	DATE OF BIRTH	SEX	RELATIONSHIP

**DECLARATION**

I DECLARE THAT THE INFORMATION SUBMITTED ABOVE IS CORRECT TO THE BEST OF MY KNOWLEDGE.

EMPLOYEE/MEMBER'S SIGNATURE.....

DATE 

		/			/				
D	D		M	M		C	C	Y	Y

**OFFICIAL USE ONLY**

REGISTERED/AMENDED BY..... DATE 

		/			/				
D	D		M	M		C	C	Y	Y

SOCIAL SECURITY NUMBER FOR NEW REGISTRATION 

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# Appendix 2 - Act No.22 of 2003 ("Passports Act Scan")

Passports

[No. 22 of 2003 193

GOVERNMENT OF ZAMBIA

## ACT

No. 22 of 2003

Date of Assent: 11th December, 2003

**An Act to provide for the vesting of powers and duties with respect to the issuance of, and control over, passports and travel documents, and to provide for matters connected with, or incidental to the foregoing.**

[12th December, 2003

ENACTED by the Parliament of Zambia.

Enactment

1. This Act may be cited as the Passports Bill, 2003 and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and commencement

2. In this Act, unless the context requires—

Interpretation

“Chief Passport Officer” means the person appointed as Chief Passport Officer under section *three*;

“citizen” means a citizen of Zambia;

“passport” means a passport issued in terms of this Act and includes a passport issued by a Government of a foreign country to a citizen of that country;

“travel document” means any travel document other than a passport issued in terms of this Act and includes a travel document issued by a Government of a foreign country to a citizen of that country; and

“Zambian Mission” means a High Commission, Embassy or Consular Office of the Zambian Government and includes any other office that the Minister may, by statutory instrument, prescribe.

3. There shall be appointed by the Public Service Commission, as public officers, a Chief Passport Officer and such passport officers as shall be necessary for the proper administration of this Act.

Appointment of Chief Passport Officer and passport officers

Functions of Chief Passport Officer	<p>4. (1) The functions of the Chief Passport Officer under this Act may be exercised and performed by the Chief Passport Officer in person or by a passport officer acting in accordance with the Chief Passport Officer's general or special directions.</p> <p>(2) In the performance of functions under this Act the Chief Passport Officer shall act in accordance with the direction of the Minister.</p>
Issue of passport	<p>5. (1) On application being made, the Chief Passport Officer shall, within twenty-one days of receipt of an application for a passport, issue a passport to any citizen of Zambia who satisfies such conditions as the Minister may, by statutory instrument, prescribe.</p> <p>(2) The application referred to in subsection (1) shall be in the prescribed form and shall be accompanied by the prescribed application fee and such documents as may be prescribed.</p> <p>(3) Every passport issued under subsection (1) shall be in the prescribed form and shall specify the countries for which the passport is valid.</p> <p>(4) Subject to section <i>eight</i> every passport issued under subsection (1) shall be valid for a period of ten years from the date of issue:</p> <p>Provided that a passport issued in respect of a child who is below the age of ten years shall be valid for a period of five years from the date of issue.</p> <p>(6) Any passport issued under subsection (1) may, on application being made, be renewed or endorsed by the Chief Passport Officer as the Chief Passport Officer considers necessary.</p> <p>(7) The Chief Passport Officer may—</p> <p>(a) upon the request of an applicant; or</p> <p>(b) if there is good reason to restrict an applicant to a journey to a specific country or countries;</p> <p>endorse the passport of such applicant as valid for a specific country or countries as requested or restricted.</p> <p>(8) Where the Chief Passport Officer restricts the validity of a person's passport to a specific country or countries under subsection (7), the Chief Passport Officer shall record the reasons for such restriction and furnish a report on the matter to the Minister.</p>
Inclusion of child's particulars in parent's passport	<p>6. (1) Subject to subsections (2) and (3), any person may apply to the Chief Passport Officer, in the prescribed form, for the inclusion of the particulars of that person's child who is under the age of ten years in that person's passport.</p> <p>(2) Subject to subsections (3) and (4), a child's particulars shall not be included in a parent's passport unless the other parent has given their consent in writing, to the child's particulars being included in the applicant parent's passport:</p>

Provided that the parent whose consent is required in terms of this section shall not unreasonably withhold the consent.

(3) The consent of a parent referred to in subsection (2) shall not be necessary—

(a) if the parent in whose passport the child's particulars are to be included, has been appointed as sole guardian of that child by order of a court; or

(b) where a court has, on an action brought by the applicant parent, made an order dispensing with the need to obtain the consent of the other parent.

(4) Notwithstanding subsection (2), where—

(a) the circumstances of a case so determine; or

(b) it is proved to the satisfaction of the Chief Passport Officer that—

(i) the welfare of a child, whether born within or outside wedlock, has been taken care of solely by the parent who has applied for the particulars of the child to be included in that parent's passport; and

(ii) the parent whose consent would under normal circumstances be required has wilfully failed to provide for the needs of the child;

the Chief Passport Officer may dispense with the requirement for the consent of the other parent.

(5) Where the Chief Passport Officer dispenses with the requirement for consent under subsection (4) the Chief Passport Officer shall record the reasons for the decision to dispense with the consent.

(6) The particulars of a child which are endorsed in that child's parent's passport under this section shall, upon the child attaining the age of ten, be deleted from such parent's passport.

7. (1) Where an application is made for the issue, renewal or endorsement of a passport under section five, the Chief Passport Officer may refuse to issue, renew or endorse such passport if the Chief Passport Officer is satisfied that—

Refusal to  
issue  
passport

(a) the application is in respect of a minor suspected of being taken out of Zambia against an order of a court or against the wishes of the responsible parent;

(b) the applicant has been prohibited by a competent court to hold a Zambian passport;

(c) the applicant has been convicted of a criminal offence and the sentence of the court has not been satisfied or set aside;

(d) a warrant for the arrest of the applicant has been issued by a court under any written law;

- (e) has previously been repatriated or deported to Zambia, and the reasons for the applicant's repatriation or deportation still stand;
- (f) the departure of the applicant from Zambia would be in breach of any international obligation of the Government, particulars of which have been notified to the Government; or;
- (g) the applicant is of unsound mind:

Provided that where the person of unsound mind requires the passport for travel to secure medical attention or for such other special circumstances as the Chief Passport Officer may, on the advice of the medical practitioner determine the Chief Passport Officer shall issue a passport.

(2) Where the Chief Passport Officer refuses to issue a passport under subsection (1) the Chief Passport Officer shall, within fourteen days of making the decision, notify the applicant of the decision stating the reasons for the refusal to issue the passport.

Cancellation  
of  
passport

8. (1) The Chief Passport Officer may cancel the passport of any person on any ground on which the Chief Passport Officer may refuse to issue a passport to that person if the person were an applicant under section *five* and may further cancel the passport of a person who—

- (a) ceases to be a citizen of Zambia;
- (b) permits another person to use that person's passport;
- (c) has obtained the passport or secured the inclusion of the name of a child in the passport through fraud or misrepresentation;
- (d) has been repatriated or deported to Zambia or has returned to Zambia at Government expense due to that person's misconduct;
- (e) in another country uses the passport to commit a criminal offence which would constitute a criminal offence if the offence were committed in Zambia and is convicted of that offence in that country; or
- (f) is deceased.

(2) Where the Chief Passport Officer cancels a passport under subsection (1) the Chief Passport Officer shall, within fourteen days of making the decision to cancel the passport, notify the applicant of the decision stating the reasons for the cancellation of the passport.

9. (1) Any person aggrieved by any refusal of the Chief Passport Officer to issue a passport or travel document or by the cancellation of a passport or travel document may appeal to the Minister not later than thirty days after the notification of such refusal or cancellation.

Appeal against refusal to issue or decision to cancel passport

(2) Where an appeal is made under subsection (1), the Minister may give such directions to the Chief Passport Officer as the Minister may consider necessary to enable the Minister to determine the appeal.

(3) The Minister, in determining the appeal, may confirm, vary or set aside the decision of the Chief Passport Officer.

(4) Any person who is aggrieved by the decision of the Minister may appeal to the High Court within thirty days of receiving notification of the Minister's decision.

10. (1) The Chief Passport Officer or a passport officer may take and retain possession of any passport in any case where the Chief Passport Officer or the passport officer has reason to believe that the passport is in the wrongful possession of any person or that the passport or a renewal or endorsement of the passport has been obtained by means of fraud or misrepresentation or by means of any statement that is false in a material particular.

Taking possession of passport

(2) Any person who has in that person's possession, or control, a passport referred to in subsection (1) shall, on demand, forthwith deliver it to the Chief Passport Officer or a passport officer.

(3) Any person who fails without reasonable excuse to deliver a passport, on demand, to a Chief Passport Officer or passport officer commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

11. (1) A diplomatic passport may be issued to—

Diplomatic passport

(a) diplomats of the Zambian Foreign Service, and their spouses; and

(b) such other persons as the Minister may, by statutory instrument, determine.

(2) The provisions of this Act relating to the issue of passports shall apply with necessary modification to the issue of diplomatic passports under this section.

12. Where for any reason it is desirable to issue a passport of full validity for a journey to a foreign country in circumstances in which a travel document would normally be issued if a journey was made to a Commonwealth country, a passport shall be issued.

Passport may be issued in place of travel document

13. (1) Where it is not reasonably practicable to issue a passport, the Chief Passport Officer may, on application being made, issue a

Issue of travel document

travel document which shall be in such form as may be prescribed.

(2) The provisions of this Act relating to passports shall apply with necessary modification to travel documents issued under subsection (1).

Issue of  
travel  
documents  
to stateless  
persons

14. (1) The Chief Passport Officer may on the direction of the Minister issue a travel document to a stateless person for travel to a specified country.

(2) In this section "stateless person" means a person who is not considered as a national by any State under the operation of its law.

Passport  
officers to  
issue  
passports at  
Zambian  
Missions

15. (1) The Minister may, by statutory order, authorise any passport officer based at a Zambian mission abroad to exercise in the country in which the mission is situated all or any of the powers and functions of the Chief Passport Officer under this Act, and in every such case the provisions of this Act shall apply with necessary modification.

(2) In the exercise of the powers and functions of the Chief Passport Officer under this section, every passport officer shall act in accordance with the general or special directions of the Minister or the Chief Passport Officer.

Person not to  
enter or leave  
Zambia  
without  
passport, etc.

16. (1) Subject to subsection (3) a person shall not enter or leave Zambia unless—

(a) the person is in possession of a valid passport or travel document issued under this Act; or

(b) in the case of a foreign national, the person is in possession of a valid passport or some other travel document issued by or on behalf of the government of the country of which the person is a citizen or national.

(2) Every person entering or leaving Zambia shall, on demand by a passport officer or an immigration officer, produce that person's passport or other travel document referred to in subsection (1).

(3) Notwithstanding subsection (1), the Minister may, by statutory instrument, exempt, subject to such conditions as the Minister may determine, any person or such class of persons as the Minister may specify from the provisions of subsection (1).

Delivery of  
passport

17. (1) Any person who is required to produce a passport or travel document under subsection (2) of section *sixteen* shall if required to do so deliver the passport to a passport officer or an immigration officer before leaving the aircraft, vessel or motor vehicle in which the person enters Zambia or at any time while the person is in Zambia.



(2) Subject to subsection (3), a passport or travel document delivered to a passport officer or an immigration officer under subsection (1) shall be returned to the holder of the passport on the departure of the holder from Zambia.

(3) The Chief Passport Officer or a passport officer may withhold, for such time as may be determined by the Minister, a passport or travel document delivered under subsection (1) on any ground specified in section seven if that passport or travel document belongs to a citizen of Zambia.

(4) Any person who fails without reasonable excuse to deliver to the Chief Passport Officer or a passport officer the person's passport or travel document when required to do so commits an offence.

18. (1) Where a passport is lost or stolen the holder of the passport shall—

Replacement  
of lost or  
stolen  
passport

(a) as soon as practicable after becoming aware of the loss or theft of the passport report the loss or theft of the passport to the nearest police station in the district or country in which the passport was lost or stolen; and

(b) file a report on the loss or theft of the passport with the Chief Passport Officer.

Provided that where a passport is lost outside Zambia the holder of the passport shall file a report with the passport officer at a Zambian mission.

(2) The report referred to in subsection (1) shall be accompanied by—

(a) an application, in the prescribed form, for the replacement of the passport;

(b) a police report issued in response to the report made under paragraph (a) of subsection (1);

(c) an affidavit stating the circumstances under which the passport was lost or stolen; and

(d) the prescribed fee.

(3) The Chief Passport Officer shall if satisfied with the documentation presented in terms of subsection (2) issue the applicant with a new passport:

Provided that the Chief Passport Officer may refuse to issue a new passport where not so satisfied.

(4) Where the Chief Passport Officer refuses to issue the applicant with a new passport under subsection (3) the Chief Passport Officer shall within seven days of making the decision not to issue a new passport notify the applicant of the refusal stating the reasons for such refusal.

(5) Any person aggrieved by any refusal of the Chief Passport Officer to issue a new passport under this section may appeal to the Minister not later than thirty days after the notification of such refusal or cancellation.

(6) Where an appeal is made under subsection (5), the Minister may give such directions to the Chief Passport Officer as the Minister may consider necessary to enable the Minister to determine the appeal.

(7) The Minister in determining the appeal may confirm, vary or set aside the decision of the Chief Passport Officer.

(8) Any person who is aggrieved by the decision of the Minister may appeal to the High Court within thirty days of receiving notification of the Minister's decision.

Offences and penalties

19. (1) A person who—

(a) makes any representation or statement which the person knows to be false in a material particular; or

(b) recklessly makes any statement which is false in a material particular;

for the purpose of obtaining a passport under this Act commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(2) A person who having come into possession of a passport or travel document belonging to another person—

(a) represents the passport or travel document as belonging to any person other than the person to whom it belongs;

(b) fails to hand over the passport as soon as practicable to the person to whom it belongs or to the Chief Passport Officer; commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(3) A person who forges, alters, defaces, destroys, or mutilates any passport or travel document or causes another person to forge, alter, deface, destroy, or mutilate any passport or travel document commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(4) A person, who permits another person to use, for an unlawful purpose, a passport or travel document which belongs to that person or which is under that person's control commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(5) Any person who has in that person's possession a passport or travel document or any part thereof which is forged, altered, defaced, or mutilated or whose particulars are incorrect commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(6) Any person who refuses or fails to return a passport or travel document to the Chief Passport Officer when so requested by the Chief Passport Officer commits an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

(7) Any person found in possession of two or more valid passports or travel documents in that person's name commits an offence and shall be liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(8) Any person who sells passport application forms when not entitled to do so commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand penalty units or to imprisonment for a term of not less than six months but not exceeding one year, or to both.

(9) Any person who sells blank passports or travel documents commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

(10) Any person who procures a passport for, or assists a foreigner to acquire a passport under this Act commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding five years, or to both.

20. (1) Any person who commits an offence under this Act for which no penalty is provided shall, on conviction, be liable in the case of a first offence, to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a term not exceeding one year and, in the case of a second or subsequent offence, to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding three years, or to both.

General  
penalty

21. (1) The Minister may make such regulations as the Minister may consider necessary for the proper carrying out of the provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection(1), regulations made under this section shall provide for—

- (a) the form of passports, travel documents, or other documents to be used for the purposes of this Act;
- (b) the manner in which applications are to be made for the issue of a Zambian Passport or travel document, or for the renewal thereof, including—
  - (i) any particulars or information which is to be furnished in the application;
  - (ii) any documents which are to accompany any such application or are to be produced when making any such application; and
  - (iii) any forms which are to be used in any application;
- (c) the issue, renewal or endorsement of passports or travel documents issued under this Act and the conditions to be satisfied for the issue, renewal or endorsement of such passports, or travel documents;
- (d) the forms to be used in the application for passports or travel documents under this Act;
- (e) the fees to be paid for any passport or travel document under this Act;
- (f) the exemption of any person or class of persons from payment of the fees referred to in paragraph (e); and
- (g) anything which is to be or which may be prescribed under this Act.


Savings

22. (1) The person who was serving as Chief Passport Officer shall upon the commencement of this Act continue to hold office as if appointed under section *three* of this Act.


(2) Any person who was serving as passport officer shall upon the commencement of this Act continue to hold office as if appointed under section *three* of this Act.

(3) Every passport, diplomatic passport or travel document which was valid and was issued by the Chief Passport Officer before the commencement of this Act shall on the commencement of this Act have effect as if issued under this Act.

# Appendix 3 - Passport Application Form



REPUBLIC OF ZAMBIA

Stamped by CPO  


(Surname)
(Other Names)

Please write your name here

### FORM 'A'

## APPLICATION FOR A ZAMBIAN PASSPORT FOR PERSONS OVER SIXTEEN YEARS OF AGE

**FEE K70,000 FOR A 32 PAGE PASSPORT IN CASH. IT IS REGRETTED THAT CHEQUES ARE NOT ACCEPTABLE.**

**IMPORTANT. Read instruction carefully before completing the form**

#### NOTES

**HOW TO COMPLETE THE FORM**

1. Section 1, 3, 5, 6 and 8 of this form must be completed in English by all applications for new passports, Section 2 and 4 must also be completed by those to whom these sections apply.

Section 3 must be completed if the applicant's children under 16 are to be included in the passport. The same documentation is required for separate passport (See Note 4). The marriage certificate must also be produced.

The form should be clearly written in the applicant's own handwriting using block capitals for all names.

Children over 16 years of age may not be included in an adult's passport.

Application for a separate passport for a child under 16 should be made on form 'B'.

2. **Authentication of application.** The application must be authenticated and sponsored in Section 9 by a Minister of Religion, Medical or Legal Practitioner, Established Senior Civil Servant, Senior Bank official, or any Zambian subject of similar standing who has been personally acquainted with the applicant for at least two years. A member of the applicant's family is not acceptable as a recommender. (See also Note 3).

3. **Photographs** Two copies of a recent photograph of the applicant must be included with the application. These must be taken full face without hat and must not be mounted. The size must not be more than 64 mm by 51mm or less than 51mm by 38mm. They must be printed on normal photographic paper and not be glazed on the reverse side. The recommender is also required to endorse the reverse side of one copy with the words: "I certify that this is a true likeness of the applicant Mr. ( Mrs or Miss)..... and add his signature.

All photographs included with an application become the property of the Government of the Republic of Zambia when it is lodged.

4. **Documents to be produced**

(a) If applicant was born in Zambia-  
Applicants birth Certificate (or previous passport).

(b) If the applicant was born outside Zambia of a Zambia parent-

- (i) applicant's birth certificate and his/her parents' marriage Certificate;
- (ii) his/her parents birth certificate, naturalization or registration document, or other evidence of Zambian nationality;
- (iii) If applicant's birth was registered at a Zambian Mission abroad details of that registration must be given in Section 4.

(c) If applicant is a citizen of Zambia by naturalisation or by registration-  
Applicant's naturalisation or registration document.

(d) A foreign woman who has married a citizen of Zambia must produce evidence of her own registration as a citizen of Zambia.

(e) If children under 16 are to be included in a passport their birth certificate/s must be produced.

(f) Married persons must produce their marriage certificate/s.

(g) Children under 21 years of age may not be granted passports or be included in the passports of other persons without the written consent of the legal guardian, or parent, except where the person under 21 is married.  
Letters of consent should state the relationship to the child.  
(NB-Any other person, claiming legal custody during lifetime of the parent must produce the Court Order committing the child to her or that person's custody.)

(h) A change of name other than by marriage or adoption must be substantiated by the production of evidence showing that a bona fide change has been made for all purposes.

(i) In the absence of birth certificates the applicant must produce properly sworn affidavits, using Form N.

**APPLICATION FORM 'A'** To be completed in ink in the applicant's own handwriting.  
**NOTE** - Do not sign this form until you have read the notes on Page 1

PERSONAL DETAILS		PERSONAL DESCRIPTION
1. Surname <small>(OR MAIDEN SURNAME) (State whether Mr, Mrs, Miss)</small>		Profession or Occupation
Other Names <small>OF FULL BIRTH OR NICKNAME</small>		
Age last birthday	Date of Birth <small>(country)</small>	Residence
Place and Country of birth		Height      m      cm
Marital Status: Single, Married, Widowed, Divorced <small>(If you were previously married, state when)</small>		Colour of eyes
Maiden Surname: <small>(if applicant is a woman who is or has been married)</small>		Colour of Hair
Has name been changed? <small>(otherwise than by marriage)</small>		Special peculiarities
Yes      If so, state original name No <small>(see NOTE 4 (b))</small>		
Present address		
Usual place of residence <small>(OR PLACE OF USUAL RESIDENCE)</small>		
Place and Country of birth of parent		
National status of parent: Citizen of the Republic of Zambia by birth/registration. <small>(Delete whichever is not applicable)</small>		
<b>*If applicant is under 21 years of age, written consent of legal guardian must be produced (see note 4 (g))</b>		
2. <b>MARRIED WOMEN (including widows and divorced women) applying must complete this section.</b>		
Place of Marriage	Date of Marriage	Husband's (or late or former husband's) nationality
<small>Date when married was last once..... If answer at 'a' outside of former marriage (c) must be given on section 10</small>		
<b>Particulars of husband (or late or former husband)</b>		
Surname and full other names	Place and country of birth	If husband was born outside Zambia give place and date of his father's birth
If husband is not a Zambian citizen by birth details of his descent must be given on section 10		
3. <b>NATIONAL STATUS:</b>		
(i) Citizen of Zambia by *birth		
(ii) Citizen of Zambia by *descent		
(iii) Citizen of Zambia by *registration or naturalisation		
NR C Certificate No. ....		
<small>FORM OF ISSUE</small>		
Date of issue: .....		
*Delete whichever is not applicable		
4. <b>TO BE COMPLETED BY ALL PERSONS BORN OUTSIDE ZAMBIA:</b>		
(a) If parent is a citizen of Zambia by registration, state		
(i) No. Of his registration certificate: .....		
(ii) Place and date of issue: .....		
(b) If applicant's birth was registered at a Zambia Consulate abroad, or other Consulate and by Consulate abroad state on behalf of Zambia state:		
(i) Name and Place of such Consulate: .....		
(ii) Date of such registration: .....		



5. CHILDREN UNDER 16 (if to be included in passport)					
Surname	Other names in full	Place and Country of birth	Date of birth	Sex and relationship to applicant	
NOTE - if applicant is not the legal guardian, written consent of the legal guardian must be produced. See NOTE 4 (g)					
6. PASSPORT REQUIRED FOR TRAVEL TO THE FOLLOWING COUNTRIES					
Purpose of travel.....					
Proposed date of travel.....					
If sponsored by a Government state name of Department.....					
<p><b>DECLARATION.</b> I, the undersigned, hereby apply for the issue of a passport. I declare that the information given in this application is correct to the best of my knowledge and belief, and that I have not lost the status of Zambian subject.</p> <p>I further declare:</p> <p>A that I have not previously held or applied for a passport of any description</p> <p>B that my name is not endorsed on any valid passport or travel document.</p> <p>C that all previous passports granted to me have been surrendered, other than passport or travel document No..... which is now attached and that I have made no other application for a passport since the attached passport or travel document was issued to me.</p> <p>Signature..... Date.....</p> <p><b>NOTE - If you had a passport which has been lost, cross out A and C and complete Section 9</b></p>					
8. RECOMMENDER (see NOTES 2 and 3 on page 1.)					
I certify that the application has been known personally to me for ..... Years, and that to the best of my knowledge and belief the facts stated on this form are correct. I am a Zambian subject.					
Signature..... Date.....					
Name..... ID No.....					
Place of issue..... Date of issue.....					
Profession (see NOTE 2 on page 1).....					
Address.....					
IMPORTANT - Applicants and recommenders (see Section 7 and 8) are warned that, should any statements made in connection with this application prove to be untrue, the consequences to them may be serious.					
FOR OFFICIAL USE ONLY					
DOCUMENTS PRODUCED TO BE NOTED HERE					
Applicant's birth certificate or affidavit	Wife's birth certificate or affidavit	Husband's birth certificate or affidavit	Children's birth certificate or affidavit	Marringe Certificate	Other documents

(PLEASE SEE OVERLEAF)

9.	<p><b>PARTICULARS OF PREVIOUS PASSPORT WHICH HAS BEEN LOST OR IS NOT AVAILABLE FOR PRESENT USE (See Section 7, overleaf).</b></p> <p>No. .... issued at ..... of .....</p> <p>Bearer's name at time of issue .....</p> <p>Circumstances in which passport was lost or destroyed, or other reason for its non-availability .....</p> <p>Place and date of loss .....</p> <p>What measures were taken at the time of reporting the loss? .....</p> <p>Has it been reported to the Police? .....</p> <p>If so, state where and when .....</p> <p>I certify that the above particulars are correct and undertake in the event of the passport coming again into my possession to return it to the Passport Office, Lusaka, to a Zambia Embassy or to a Zambian High Commissioner's Office for cancellation.</p> <p>Signed ..... Date .....</p>
10.	<p align="center"><b>SUPPLEMENTARY INFORMATION</b></p> <p>.....</p> <p>.....</p> <p>.....</p>
11.	<p align="center"><b>LEGAL GUARDIAN'S CONSENT</b></p> <p>I, (FULL NAME) ....., residing at ....., the legal guardian of (Full Name) ....., hereby give my consent for him/her/them (a) to hold a passport OR (b) to be included in the programme.</p> <p>Signature: ..... Date: .....</p> <p>Relationship to child: ..... (see NOTE 4 (g))</p>
<p align="center"><b>FOR OFFICIAL USE ONLY</b></p> <div style="border: 1px solid black; width: 100px; height: 100px; margin-left: auto; margin-right: auto; text-align: center; vertical-align: middle;"> <p>AMOUNT of fee paid</p> </div>	



# ZIMBABWE

## QUESTIONNAIRE ON BIRTH REGISTRATION ZIMBABWE

### Key Points

- It is compulsory to register all births in Zimbabwe within 42 days.
- Birth registration for children under the age of six is free of charge.
- Birth registration is essential for accessing the majority of services within Zimbabwe.

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### Name of official authority in charge of registering a child's birth:

Zimbabwe Registrar General of Births and Deaths.

### Where is the civil registry located in the government?

- Ministry of Justice
- Ministry of Interior - Ministry of Home Affairs
- Electoral Agency
- Independent Entity
- Other

The Department of the Registrar General sits within the Ministry of Home Affairs.<sup>400</sup>

Law: Births and Deaths Registration Act [Chapter 5:02] ("**BDRA**").<sup>401</sup>

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### Does the country apply *jus sanguinis* (nationality determined by natural parents) or *jus soli* (nationality determined by birth location) in their legal (constitutional) framework?

The Zimbabwean Constitution ("**Constitution**"),<sup>402</sup> which was approved in a referendum of 16 March 2013,<sup>403</sup> provides for *both jus sanguinis* and *jus soli* determination. *Jus soli* determination is, in most

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<sup>400</sup> Ministry of Home Affairs, "About Us", available at <http://www.moha.gov.zw/index.php/sample-sites-2/2014-05-14-09-42-53>.

<sup>401</sup> Part II, Births and Deaths Registration Act [Chapter 5:02], available at [http://www.parlzim.gov.zw/attachments/article/89/BIRTHS\\_AND\\_DEATHS\\_REGISTRATION\\_ACT\\_5\\_02.pdf](http://www.parlzim.gov.zw/attachments/article/89/BIRTHS_AND_DEATHS_REGISTRATION_ACT_5_02.pdf); also available at [http://www.africanchildforum.org/cfr/Legislation%20Per%20Country/Zimbabwe/zimbabwe\\_birthreg\\_2005\\_en.pdf](http://www.africanchildforum.org/cfr/Legislation%20Per%20Country/Zimbabwe/zimbabwe_birthreg_2005_en.pdf).

<sup>402</sup> Constitution of Zimbabwe Amendment (No. 20) Act 2013, available at <http://www.zhrc.org.zw/index.php/zhrc-documents/legal-framework/1-constitution-of-zimbabwe->

cases, dependent upon an existing connection in terms of lineage (either parents or grandparents) in accordance with section 36 of the Constitution entitled "Citizenship by birth".

Section 36(1) of the Constitution provides that:

*"persons are Zimbabwean citizens by birth if they were born in Zimbabwe and when they were born:*

*(a) either their mother or their father was a Zimbabwean citizen; or*

*(b) any of their grandparents was a Zimbabwean citizen by birth or descent".*

Section 36(2) provides that:

*"persons born outside of Zimbabwe are Zimbabwean citizens by birth if, when they were born, either of their parents was a Zimbabwean citizen and:*

*(a) ordinarily resident in Zimbabwe; or*

*(b) working outside Zimbabwe for the State or an international organisation".*

Section 36(3) further provides that:

*"a child found in Zimbabwe who is, or appears to be, less than fifteen years of age, and whose nationality and parents are not known, is presumed to be a Zimbabwean citizen by birth".*

### Is there any legal obligation to register children?

Yes (X) No ( )

### If yes, please provide name and Gazette number of the law (if applicable) and brief description of its content.

The BDRA provides that:

*"Subject to this Act, notification and registration of birth, still-birth or death of any person which occurs in Zimbabwe after 20th June, 1986, shall be compulsory."<sup>404</sup>*

On the international plane, Zimbabwe ratified the United Nations Convention for the Rights of the Child in 1990<sup>405</sup> and the African Charter on the Rights and Welfare of Children in 1995,<sup>406</sup> both of which provide for the right of children to be registered at birth.<sup>407</sup>

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[amendment-no-20-act-2013/file](#). The revised Constitution is incorporated at the Schedule (Section 2).

<sup>403</sup> BBC News, "Zimbabwe approves new Constitution", 19 March 2013, available at <http://www.bbc.co.uk/news/world-africa-21845444>.

<sup>404</sup> Section 10, Births and Deaths Registration Act.

<sup>405</sup> United Nations Treaty Collection, "Convention on the Rights of the Child", available at [https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg\\_no=iv-11&chapter=4&lang=en](https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtdsg_no=iv-11&chapter=4&lang=en).

<sup>406</sup> African Commission on Human and People's Rights, "African Charter on the Rights and Welfare of Children: Ratification Table", available at <http://www.achpr.org/instruments/child/ratification/>.

### Does the child need to be registered within a certain amount of time from birth?

Yes (X) No ( )

#### If yes, by when?

Registration is to occur within 42 days of a child's birth, and, at the latest, before the expiry of 12 months.<sup>408</sup> Registration sought after 12 months requires the written authority of the Registrar-General.<sup>409</sup> In the case of still-births, notice is to be provided within 30 days of the still-birth occurring.<sup>410</sup>

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### Is a paper certificate issued as a result of the registration?

Yes (X) No ( )

Although registration is administered at the district level, the issue of certificates appears to be centralised and provided through the Registrar General, Central Registry for Passports, Citizenship, Births, Deaths and Marriages, P. Bag 7734, Causeway, Harare.<sup>411</sup>

#### Different by region/area

Yes ( ) No (X)

#### If it's different by region/or area, please provide us more detail.

Not applicable.

### Is there a separate fee for the issuance of a paper certificate?

Yes ( ) No (X)

The website of the Registrar General does not state that a separate fee for the paper certificate is payable.

However, for duplicate full birth certificates the cost is USD 5 on a normal processing time, or USD 10 on an urgent processing basis.<sup>412</sup>

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<sup>407</sup> Article 27, Convention on the Rights of the Child, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>; Article 6(2), African Charter on the Rights and Welfare of Children, available at [http://www.achpr.org/files/instruments/child/achpr\\_instr\\_charterchild\\_eng.pdf](http://www.achpr.org/files/instruments/child/achpr_instr_charterchild_eng.pdf).

<sup>408</sup> Section 11(2)(a), Births and Deaths Registration Act.

<sup>409</sup> Section 25(1), Births and Deaths Registration Act.

<sup>410</sup> Section 11(2)(b), Births and Deaths Registration Act.

<sup>411</sup> US Department of State, Bureau of Consular Affairs, "Zimbabwe Reciprocity Schedule", available at <http://travel.state.gov/content/visas/english/fees/reciprocity-by-country/ZI.html#birthcertificates-0>.

<sup>412</sup> Department of the Registrar General, "Birth", available at <http://www.rg.gov.zw/services/birth>. Please note that the website of the Department of the Registrar General suffers from regular

### Different by region/area

Yes ( ) No (X)

### If it's different by region/or area, please provide us more detail.

Not applicable.

### Birth Registration Fee

Yes ( ) No ( ) Conditional (X)

### If yes, amount in USD

See below.

### If it's conditional, please provide reasons/cases for exemption.

For children under six years of age, it is free to register a birth on initial registration. For children of six years and over, the fee for initial birth registration is USD 2.

### Are there fees for registering a birth after a certain period of time ('late registration' or 'delayed registration')

Yes ( ) No (X)

Please see above. For children under six years of age, it is free to register a birth on initial registration. For children of six years and over, the fee for initial birth registration is USD 2.

### If yes, amount in USD:

Please see above.

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### Requirements for Birth Registration (tick what applies):

Identification of Child's Father (X) His Nationality (X)

Identification of Child's Mother (X) Her Nationality (X)

Marriage Certificate (X)

The requirements for birth registration differ according to where a child is born (in or outside a hospital or clinic), when the child is registered and whether the parents are legally married.<sup>413</sup> Please see Appendix 1 for the detailed requirements in each of these circumstances.<sup>414</sup>

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downtime and outages. The relevant pages cited in this questionnaire were available at the time of writing and on at least one subsequent occasion. Please also note that the fees specified on the website of the Department of the Registrar General are quoted in US Dollars.

<sup>413</sup> Please note that unregistered customary law marriages are not included in the definition of legally married, if lobola or bride price was paid for the mother and there is no documentation to prove it. See IRIN News, "Zimbabwe: Reform of birth registration law urged", available at <http://www.irinnews.org/report/50803/zimbabwe-reform-of-birth-registration-law-urged>; and the Marriage Act [Chapter 5:11], available at <http://unstats.un.org/unsd/vitalstatkb/Attachment187.aspx>.

### Are Stateless / Refugee Births Registered?

Yes (X) No ( )

The BDRA fails to provide for the registration of non-Zimbabwean children whose parents have not been granted citizenship.<sup>415</sup> However, the Department of the Registrar General does allow registration of children of foreign nationals, including refugees, provided that the requirements of registration as detailed in Appendix 1 are complied with (see requirements at Paragraph 4 of Appendix 1).<sup>416</sup>

### Are children of single parents registered?

Yes (X) No ( )

Where one or both parents are deceased, relevant death certificates are required. The surviving spouse should also sign a declaration of paternity. Note also that single mothers have to register their children under their maiden name, if the biological father refuses to acknowledge paternity or his whereabouts are unknown.<sup>417</sup>

### Are all children born in the territory registered?

Yes ( ) No (X)

The BDRA fails to specifically provide for registration of non-Zimbabwean children whose parents have not been granted citizenship.<sup>418</sup> However, the Department of the Registrar General allows registration of children of foreign nationals (see requirements at Paragraph 4 of Appendix 1).<sup>419</sup>

### If no, please provide list of those not registered

The child of non-Zimbabwean parents can have its birth registered, but that will not automatically grant a right to citizenship.

### Other Requirements (if none, put n/a)

Please see Appendix 1 for other requirements.

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### Registration System Set-up

Electronic Submission (Unclear) Paper Submission (X) Both ( )

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<sup>414</sup> All requirements can be found at the website of the Department of the Registrar General, available at <http://www.rg.gov.zw/services/birth>.

<sup>415</sup> See the Births and Deaths Registration Act. Also see Justice for Children Trust, "Birth Registration of Children in Zimbabwe", October 2007, available at [http://archive.kubatana.net/docs/chiyou/jct\\_birth\\_registration\\_0710.pdf](http://archive.kubatana.net/docs/chiyou/jct_birth_registration_0710.pdf).

<sup>416</sup> See the website of the Department of the Registrar General, op. cit.

<sup>417</sup> See the website of the Department of the Registrar General, op. cit.

<sup>418</sup> See the Births and Deaths Registration Act. Also see Justice for Children Trust (2007), op. cit.

<sup>419</sup> See the website of the Department of the Registrar General, op. cit.

Under section 4(1) of the BDRA, a registrar shall keep and maintain registers in the prescribed form in which he shall register the birth. There is however no expansion or defined term of what the “prescribed form” is.

During the course of this research, very little reference to computerised electronic registration has been found. The Zimbabwean Registrar General has stated that computerised birth registration in Zimbabwe started in 1997,<sup>420</sup> and that the Department of the Registrar General produces computer generated identity numbers on birth certificates for children when they are registered. Nevertheless, the Registrar General did not refer to electronic submission of a birth registration application as such. Given that the Registrar General's speech was in 2005, it is possible that a computerised system has been developed further over the past ten years. However, no findings to this effect have been found thus far in the course of the research.

Part IV of the BDRA provides that the Minister may make regulations to give effect to the BDRA, including prescribing the form and manner of birth registration or the form of registers and other documents required by the BDRA.<sup>421</sup> This suggests that changes could be made in the future to allow for electronic submission, if such provisions do not already exist.

*"26. (1) The Minister may by regulation prescribe all matters which by this Act are required or permitted to be prescribed or which, in the opinion of the Minister, are necessary or convenient to be prescribed for carrying out or giving effect to this Act.*

*(2) Regulations made in terms of subsection (1) may provide for—*

*(a) the place or places at which shall be situated the offices of the Registrar-General and of any registrar and the hours during which notice of births, still-births and deaths may be given;*

*(b) the guidance of the registrar and any other person in the discharge of any duties or obligations imposed upon him by this Act;*

*(c) the form and manner of giving any notice or return required by this Act and the particulars to be furnished therein;*

*(d) the form and manner in which the registration of births, still-births and deaths shall be effected;*

*(e) the form of all registers and other documents required for the purposes of this Act;*

*(f) notices, certificates or other documents to form part of any register kept in terms of this Act;*

*(g) the places at which notice of births, still-births and deaths occurring on board ship while within the inland waters of Zimbabwe or on board an aircraft or train within Zimbabwe shall be given;*

*(h) the fees payable for any certificate issued or act performed in terms of this Act;*

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<sup>420</sup> Registrar General of Zimbabwe, "Republic of Zimbabwe: Country Report presented to the Eastern and Southern Africa Conference on Universal Birth Registration", 26-30 September 2005, p.9, available at <http://unstats.un.org/unsd/vitalstatkb/Attachment190.aspx>.

<sup>421</sup> Section 26, Births and Deaths Registration Act.

*(i) the time within which any thing [sic] required or authorized to be done in terms of this Act is to be done."*

### Location of registration facilities

There are significant numbers of registration offices in Zimbabwe, which include District Registries, Provincial Registries and sub-offices.

It is worth noting that in 2005 it was reported by the Zimbabwean Registrar General<sup>422</sup> that, although the Registrar General's Department had the desire to have all sub-offices operational, there were constraints in terms of the funding available to ensure that office and residential accommodation and the necessary furniture and equipment was in place to ensure that the sub-offices could run effectively. Ten years have passed since these comments were made, however, it could be that funding is still low at the sub-offices and, accordingly, it should be borne in mind that not all the registration facilities listed below may be fully operational.

Capital city      Yes (X) No ( )

There is a district registry office, six district registry sub-offices and two hospitals which have registration facilities in Harare. Full address and contact details can be found on the website of the Department of the Registrar General.<sup>423</sup> In summary, registration facilities exist in the following locations in Harare:

- Market Square District Registry;
- Hatfield sub-office;
- Highfield sub-office;
- Kuwadzana sub-office;
- Mabvuku sub-office;
- Magaba sub-office;
- Mt Pleasant sub-office;
- Harare Central Hospital;
- Parirenyatwa Hospital.

Other cities      Yes (X) No ( )

- Bulawayo has seven district offices;<sup>424</sup>
- Mutare has four registry offices;<sup>425</sup>
- Gweru has one provincial registry, one district registry and two sub-offices.<sup>426</sup>

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<sup>422</sup> Registrar General (2005), op. cit. paragraphs 3.3 and 3.5.

<sup>423</sup> Department of the Registrar General, "Offices: Harare", available at <http://www.rg.gov.zw/offices/harare>.

<sup>424</sup> Department of the Registrar General, "Offices: Bulawayo", available at <http://www.rg.gov.zw/offices/bulawayo>.

<sup>425</sup> Department of the Registrar General, "Offices: Manicaland: Mutare", available at <http://www.rg.gov.zw/offices/manicaland/mutare>.

Villages            Yes (X) No ( )

Zimbabwe is divided into ten administrative provinces (including the two cities of Harare and Bulawayo) and 59 districts. The Registrar General has offices in all the administrative provinces and districts and, according to the Department of the Registrar General, a number of sub-offices and offices at local hospitals are located in smaller towns.

Other \_\_\_\_\_

Please see Appendix 2 of this report for a table containing the towns and districts in which the Department of the Registrar General reports there to be registration facilities. The table has been organised by province and full address details of the registration facility can be found by following the links included within the table.

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### Birth Registration is required for:

Please note that the answer to many of the following questions is that a birth certificate is not required expressly by Zimbabwean law. This is because the key factor in Zimbabwe with regard to these matters is proof of "citizenship", which can be acquired by birth, descent or registration. However, in practice, without a birth certificate, proof of citizenship (and at the age of 16 applying for and being issued a national identity card) is almost impossible to achieve.<sup>427</sup>

### Access to education

Yes (X) No ( ) Law *No specific law. See explanation below.*

Section 75(1) of the Constitution<sup>428</sup> enshrines the fundamental right of all children in Zimbabwe to a state funded, basic education and section 4 of the Zimbabwe Education Act [Chapter 25:04]<sup>429</sup> states that all children in Zimbabwe have a right to a school education. None of the legislation in either the Education Act or the Zimbabwe School Examinations Acts 1994 and 2001<sup>430</sup> lays down any requirement for a birth certificate in order to receive an education. However, it has been reported that some schools require children to produce birth certificates for sitting examinations<sup>431</sup> and, in practice,

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<sup>426</sup> Department of the Registrar General, "Offices: Midlands: Gweru", available at <http://www.rg.gov.zw/offices/midlands/gweru>.

<sup>427</sup> Registrar General (2005), op. cit. paragraph 1.1.

<sup>428</sup> Section 75(1), Constitution of Zimbabwe.

<sup>429</sup> Section 4, Zimbabwe Education Act 2004 [Chapter 25:04], available at [http://www.parlzim.gov.zw/attachment/article/112/education\\_act\\_25\\_04.pdf](http://www.parlzim.gov.zw/attachment/article/112/education_act_25_04.pdf).

<sup>430</sup> Zimbabwe School Examinations Council Act [Chapter 25:18], available at: [http://www.parlzim.gov.zw/attachments/article/112/ZIMBABWE\\_SCHOOL\\_EXAMINATIONS\\_COUNCIL\\_ACT\\_25\\_18.pdf](http://www.parlzim.gov.zw/attachments/article/112/ZIMBABWE_SCHOOL_EXAMINATIONS_COUNCIL_ACT_25_18.pdf). Please note that the [www.parlzim.gov.zw](http://www.parlzim.gov.zw) website suffers from regular downtime and outages. Therefore, it has not been possible to verify the exact content and references for these acts.

<sup>431</sup> The Zimbabwean, "Children struggle to get birth certificates", available at <http://www.thezimbabwean.co/news/zimbabwe-news/60390/children-struggle-to-get-birth.html>.



certain funding, such as benefits under the Basic Education Assistance Module ("BEAM"), is also not available without a birth certificate.<sup>432</sup>

In contradiction of section 75(1) of the Constitution, section 6 of the Education Act<sup>433</sup> enables the Education Minister to charge fees for the provision of education. This is despite the Constitution stating that it is supreme and that any law, practice, custom or conduct which is inconsistent with it shall be invalid to the extent of the inconsistency.<sup>434</sup> These charges and other school levies are beyond the means of most Zimbabweans leading to a very high school dropout rate and severely restricting access to tertiary education in particular.

### Obtaining a primary school diploma

Yes (X) No ( ) Law *No specific law. See explanation below.*

The Zimbabwe Junior Certificate ("ZJC") was discontinued in 1999. In 2015 the Zimbabwe School Examinations Council ("Zimsec") announced that there was no proposal to re-introduce the ZJC.<sup>435</sup> Despite there being no legal requirement for a birth certificate, Zimsec requires a birth certificate to enrol for Grade One of school and so a birth certificate is therefore required for all practical purposes.<sup>436</sup>

### Obtaining a secondary school diploma

Yes (X) No ( ) Law *No specific law. See explanation below.*

As indicated above, there is no specific law that requires a birth certificate to sit school examinations. However, section 35(d) of the Zimbabwe School Examinations Council Act [Chapter 25:18]<sup>437</sup> makes it an offence to "*sit or offer of attempt to present himself at an examination with the intention of impersonating another person*". On this basis, Zimsec requires candidates to produce a birth certificate to sit national examinations in order to prevent identity fraud.<sup>438</sup> This results in many children

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<sup>432</sup> Voice of America Zimbabwe, "Senior Citizens Failing to Obtain Birth Certificates for Orphans", available at <http://www.voazimbabwe.com/content/zimbabwe-elderly-failing-to-obtain-birth-certificates-for-orphans/2745642.html>.

<sup>433</sup> Section 6, Education Act.

<sup>434</sup> Section 2, Constitution of Zimbabwe.

<sup>435</sup> Bulawayo 24, "ZJC not re-introduced - minister Mavima", available at: <http://www.bulawayo24.com/index-id-news-sc-education-byo-66703.html>.

<sup>436</sup> Research and Advocacy Unit, "Access to Identity and Citizenship in Zimbabwe", December 2008, available at [http://www.archive.kubatana.net/html/archive/demgg/081220rau.asp?sector=CIT&year=2008&range\\_start=1](http://www.archive.kubatana.net/html/archive/demgg/081220rau.asp?sector=CIT&year=2008&range_start=1)

<sup>437</sup> Section 35(d), Zimbabwe School Examinations Council Act [Chapter 25:18], available at [http://www.parlzim.gov.zw/attachments/article/112/ZIMBABWE\\_SCHOOL\\_EXAMINATIONS\\_COUNCIL\\_ACT\\_25\\_18.pdf](http://www.parlzim.gov.zw/attachments/article/112/ZIMBABWE_SCHOOL_EXAMINATIONS_COUNCIL_ACT_25_18.pdf).

<sup>438</sup> The Zimbabwean (2008), op. cit.; also see UNICEF, "UNHCR's help for displaced Zimbabweans produces tangible results", 17 February 2010, available at <http://www.unhcr.org/4b7c17dc6.html>.

being unable to sit these exams. Individual schools and colleges also require students registering at the school for the first time to come with a parent or guardian and to produce their birth certificate.<sup>439</sup>

#### Access to health (emergency services only)

Yes ( ) No (X) Law \_\_\_\_\_

Section 76(3) of the Constitution states that no person can be refused emergency treatment at any healthcare institution.<sup>440</sup>

In reality, access to publicly funded emergency medical services is dependent on the ability to pay. See the reference to tariffs in relation to access to health services below.

#### Access to health (primary health services only)

Yes ( ) No (X) Law \_\_\_\_\_

Laws in Zimbabwe do not make any clear distinction between primary and other healthcare services.

#### Access to health (all services)

Yes ( ) No (X) Law \_\_\_\_\_

Section 76(1) of the Constitution states that every citizen and permanent resident of Zimbabwe has a right to access basic healthcare services, including reproductive healthcare services. Section 76(2) of the Constitution enshrines a right to basic healthcare services for chronic illness.<sup>441</sup> No section of either the Medical Services Act 1998<sup>442</sup> or the Public Health Acts 1924-1978<sup>443</sup> refers to any requirement for a birth certificate to access healthcare.

The Medical Services Act 1998 came into force in 2001 and enabled the Minister for Health and Child Welfare to impose set charges for the state provision of healthcare services. This has put healthcare services beyond the reach of many Zimbabweans whether they have a birth certificate or not. Despite the introduction of the 2009-2013 Healthcare Strategy,<sup>444</sup> which was intended to provide the guidelines and structure to deliver free healthcare services to pregnant and lactating mothers, the under-fives and the over 60s as a minimum, these services are still not free of charge. On 23 May 2014 new tariffs

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<sup>439</sup> Amizdam Consultancy and Management Training Institute, "Amizdam High School", available at [http://amizdamtraining.ac.zw/index.php?option=com\\_content&view=article&id=59&Itemid=64](http://amizdamtraining.ac.zw/index.php?option=com_content&view=article&id=59&Itemid=64).

<sup>440</sup> Section 76(3), Constitution of Zimbabwe.

<sup>441</sup> Sections 76(1) and 76(2), Constitution of Zimbabwe.

<sup>442</sup> Medical Services Act 1998 [Chapter 15:13], available at [http://www.parlzim.gov.zw/attachments/article/101/MEDICAL\\_SERVICES\\_ACT\\_15\\_13.pdf](http://www.parlzim.gov.zw/attachments/article/101/MEDICAL_SERVICES_ACT_15_13.pdf).

<sup>443</sup> Public Health Acts 1924 - 1978 [Chapter 15:09], available at [http://www.parlzim.gov.zw/attachments/article/101/PUBLIC\\_HEALTH\\_ACT\\_15\\_09.pdf](http://www.parlzim.gov.zw/attachments/article/101/PUBLIC_HEALTH_ACT_15_09.pdf).

<sup>444</sup> The National Health Strategy for Zimbabwe 2009 - 2013, available at <http://apps.who.int/medicinedocs/documents/s17996en/s17996en.pdf>.

were set by the Minister for Health and Child Welfare by general notice 159/2014.<sup>445</sup> This notice raised basic consultation fees from \$20 to \$35.

### Access to social security programmes / cash benefits

Yes (X) No ( ) Programme name *See below.* Law *No specific law. See explanation below.*

Section 30 of the Constitution provides that the State should take all practical measures, within the resources available to it, to provide social security and social care to those in need.<sup>446</sup> The National Pension Fund (“**NPF**”) and the Workers Compensation Insurance Fund (“**WCIF**”) are both administered by the National Social Security Authority of Zimbabwe (“**NSSA**”). NSSA is a statutory body and was established by the National Social Security Authority Act 1989.<sup>447</sup> In addition the Social Welfare Assistance Act 1998 states that the Director of Social Welfare may, on application in the prescribed form, provide social welfare assistance to any destitute or indigent person over the age of 60, or who is physically or mentally handicapped, or who is suffering long term illness, or who is a dependent of any of the above.<sup>448</sup> Social welfare generally is delivered through the Department of Social Welfare.

None of the above legislation indicates that a birth certificate is necessary to apply for or receive assistance pursuant to any of these programmes. However, we have been unable to access a copy of SI 393 of 1993 which is the statutory instrument pursuant to which the NPF is administered.

The NPF is a compulsory scheme based on a 50:50 contribution from employers and employees. All workers between the ages of 16 and 65 in permanent, seasonal, contract or temporary employment are required by law to join and contribute to the scheme (excluding domestic workers and workers in the “informal” sector). The contribution rate for both employees and employers is currently set at 3.5% on the first \$700 of monthly earnings.

The requirements for both employers and employees relating to registration for, and ongoing obligations for, the NPF and WCIF are set out in the NSSA Employers Guide (“**Employers Guide**”).<sup>449</sup> The Employers Guide includes the forms required to be completed to register for and claim under both the NPF and the WCIF.

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<sup>445</sup> The Chronicle, "Medical tariffs gazetted", 24 May 2014, available at <http://www.chronicle.co.zw/new-medical-tariffs-gazetted/>.

<sup>446</sup> Section 30, Constitution of Zimbabwe

<sup>447</sup> National Social Security Authority Act 1991 [Chapter 17:04], available at [http://www.parlzim.gov.zw/attachments/article/103/NATIONAL\\_SOCIAL\\_SECURITY\\_AUTHORITY\\_ACT\\_17\\_04.pdf](http://www.parlzim.gov.zw/attachments/article/103/NATIONAL_SOCIAL_SECURITY_AUTHORITY_ACT_17_04.pdf).

<sup>448</sup> Section 6, Social Welfare Assistance Act 1988 [Chapter 17:06], available at [http://www.parlzim.gov.zw/attachments/article/103/SOCIAL\\_WELFARE\\_ASSISTANCE\\_ACT\\_17\\_06.pdf](http://www.parlzim.gov.zw/attachments/article/103/SOCIAL_WELFARE_ASSISTANCE_ACT_17_06.pdf).

<sup>449</sup> The NSSA Employers Guide can be downloaded from the NSSA website, available at <http://www.nssa.org.zw/index.php/template-features/national-pension-scheme-nps>.

The registration forms for both schemes and the claim form for the NPF, which are all set out in the Employers Guide,<sup>450</sup> all require proof of identity via either a national identification number, passport, driving licence (all of which require that an applicant presents their birth certificate) or the birth certificate itself.

## Nationality

Yes (X) No ( ) Law *No specific law. See explanation below.*

The Constitution at Chapters 3 and 4 sets out the basis of Zimbabwean nationality as described earlier in this questionnaire. The Citizenship of Zimbabwe Act 1984 (amended 1990, 2001 and 2003)<sup>451</sup> ("**Citizenship Act**") makes further provision for the acquisition of citizenship by registration and for the prohibition of dual citizenship, and the deprivation, renunciation and restoration of citizenship. An individual may only apply to the Minister for citizenship by registration "*in the prescribed form and manner*". We have been unable to find a copy of the form to apply for citizenship, but the website for the Department of the Registrar General makes clear that for citizenship at the age of 16 to be granted a birth certificate is required.<sup>452</sup>

Part IV of the Citizenship Act<sup>453</sup> makes clear that no Zimbabwean national of full age and sound mind may hold the nationality of another country. Guidance on the website of the Department of the Registrar General<sup>454</sup> states:

*"No adult citizen of Zimbabwe shall be entitled to be a citizen of foreign country. However, minors are allowed to enjoy dual citizenship until they turn 18 but before the 19th birthday they have to make a choice as to their preference of citizenship."*

## Identification card

Yes (X) No ( ) Law *Section 6, National Registration Act.*

The National Registration Act 1976 (last updated 2001)<sup>455</sup> makes it a duty to register as a resident in Zimbabwe and states at section 6 that an applicant must produce information on, inter alia, citizenship status and birth. The website of the Department of the Registrar General<sup>456</sup> makes it clear that for registration to occur and a national identity card to be issued, a long form birth certificate is required.

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<sup>450</sup> See Appendix 4 of the NSSA Employers Guide.

<sup>451</sup> Citizenship of Zimbabwe Act [Chapter 4:01], available at <http://www.refworld.org/cgi-bin/texis/vtx/rwmain?docid=4a1ea4462&page=search>.

<sup>452</sup> Department of the Registrar General, "Services: National", available at <http://www.rg.gov.zw/services/national>.

<sup>453</sup> Part IV, Citizenship of Zimbabwe Act.

<sup>454</sup> Department of the Registrar General, "Zimbabwe Citizenship", available at <http://www.rg.gov.zw/services/citizens>.

<sup>455</sup> National Registration Act, [Chapter 10:17], available at [http://www.parlzim.gov.zw/attachments/article/96/NATIONAL\\_REGISTRATION-ACT\\_10\\_17.pdf](http://www.parlzim.gov.zw/attachments/article/96/NATIONAL_REGISTRATION-ACT_10_17.pdf).

<sup>456</sup> See the website of the Department of the Registrar General, op.cit.

## Passport

Yes (X) No ( ) Law Section 7, *National Registration Act*.

Section 7 of the National Registration Act 1976 states that the Minister for Home Affairs can require proof of identity in such form as he sees fit.<sup>457</sup> The current website of the Registrar General (see above) clearly states that a long form birth certificate and national identity card will be required.<sup>458</sup>

## Other (Please specify e.g. enrolment for social protection programme/ food bank)

Opening a personal bank account in Zimbabwe requires proof of identification and, as a minimum, that requires either a national identification card or a passport to be produced. For an example, see the application requirements for opening a savings account at Standard Chartered Bank in Harare.<sup>459</sup>

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<sup>457</sup> Section 7, National Registration Act.

<sup>458</sup> Department of the Registrar General, "Passport", available at <http://www.rg.gov.zw/services/passport>.

<sup>459</sup> Standard Chartered Bank, "Savings Account", available at <https://www.sc.com/zw/personal-banking/deposits/savings-account/en/>.

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## Appendix 1 - Requirements for Birth Registration

### 1. INITIAL BIRTH REGISTRATION

#### Children born in hospital/clinic

#### 1.1. Where parents are legally married:

1.1.1. Mother's and father's national identity cards.

1.1.2. A birth confirmation record from the hospital or clinic.

1.1.3. A marriage certificate.

1.1.4. Only one of the parents can register the child but must bring the national identity card for the other spouse.

1.1.5. Where one or both parents are deceased relevant death certificates are required. Surviving spouse or relatives can register the child as the case may be.

#### 1.2. Where parents are not legally married:

1.2.1. Mother's and father's identity cards.

1.2.2. A birth confirmation record from hospital or clinic.

1.2.3. Both parents must be present to sign a declaration of paternity.

1.2.4. Where one or both parents are deceased relevant death certificates are required. Surviving spouse or relatives can register the child, as the case may be. The surviving spouse should sign the declaration of paternity.

1.2.5. Single mothers are free to register their children under their maiden name, if the biological father refuses to acknowledge paternity or his whereabouts are unknown.

#### Children born out of hospital

#### 1.3. Where parents are legally married:

1.3.1. Mother's and father's national identity cards.

1.3.2. A marriage certificate.

1.3.3. A baptismal certificate or one witness with a national identity card, preferably a midwife. In the case of a child born on a farm, a witness or a letter from the farmer, confirming the birth of that child at the respective farm.

1.3.4. Either parent can register the child but must bring national identity card for the other spouse.

1.3.5. Where one or both parents are deceased relevant death certificates are required. Surviving spouse or relatives can register the child, as the case may be.



1.4. Where the parents are not legally married:

1.4.1. Mother's and father's national identity cards.

1.4.2. A baptismal certificate or one witness with a national identity card, preferably a midwife. In the case of a child born on a farm, a witness or a letter (declaration form supplied by the office) from the farmer.

1.4.3. Both parents must be present to sign a declaration of paternity.

1.4.4. Where one or both parents are deceased relevant death certificates are required. Surviving spouse or relatives can register the child as the case may be. The surviving spouse should sign the declaration of paternity.

1.4.5. Single mothers are free to register their children under their maiden name, if the biological father refuses to acknowledge paternity or his whereabouts are unknown.

2. LATE BIRTH REGISTRATION (children registered after one year from the date of birth)

Children born in hospital/clinic

2.1. Where parents are legally married:

2.1.1. Mother's and father's national identity cards.

2.1.2. A marriage certificate.

2.1.3. A birth confirmation record from the hospital or clinic.

2.1.4. Either parent can register the child but must bring the national identity of the other spouse.

2.1.5. Children who are sixteen years of age and above must be present at the time of registration and must produce their identity cards if he/she was issued with one.

2.2. Where parents are not legally married:

2.2.1. Mother's and father's national identity cards.

2.2.2. A birth confirmation record from the hospital or clinic.

2.2.3. Both parents must be present to sign a declaration of paternity.

2.2.4. Where one or both parents are deceased relevant death certificates are required. Surviving spouse or relatives can register the child, as the case may be.

2.2.5. Single mothers are free to register their children under their maiden name, if the biological father refuses to acknowledge paternity or his whereabouts are unknown.

2.2.6. Children who are sixteen years and above must be present at the time of registration and must produce their identity cards.

Children born out of hospital

2.3. Where parents are legally married:

2.3.1. Mother's and father's national identity cards.

2.3.2. A marriage certificate.

2.3.3. A baptismal certificate or one witness, if the child is under sixteen years of age and two witnesses if the child is sixteen years and above. In the case of a child born on a farm, a witness/witnesses or letter (Declaration form supplied by office) from the farmer.

2.3.4. Where one or both parents are deceased relevant death certificates are required.

2.3.5. Surviving spouse or relatives can register the child as the case may be. The surviving spouse should sign the declaration of paternity.

2.4. Where parents are not legally married:

2.4.1. Mother's and father's national identity cards.

2.4.2. A baptismal certificate.

2.4.3. One witness, if the child is under sixteen years of age and two witnesses if the child is sixteen years and above.

2.4.4. Both parents must be present to sign a declaration of paternity.

2.4.5. Where one or both parents are deceased relevant death certificates are required. Surviving spouse or relatives can register the child as the case may be.

2.4.6. Single mothers are free to register their children under their maiden name, if the biological father refuses to acknowledge paternity or his whereabouts are unknown.

2.4.7. Children who are sixteen years and above must be present at the time of registration and must produce their identity cards if he/she was issued with one.

### 3. SELF-REGISTRATION

Self-registrations are exceptional cases and are determined by the District Registrar and confirmed by the Provincial Registrar.

Applicants are required to produce the following documents:

3.1. A National Identity card of the applicant.

3.2. A baptismal certificate, if the child was baptized (within six months of birth).

3.3. National Identity card of a near relative.

3.4. A letter from the employer, if employed.

3.5. In each case, citizenship status must be established beyond doubt.

### 4. NON-CITIZEN BIRTH REGISTRATIONS

These are birth certificates issued to children of foreign Nationals (visitors and expatriates).

Requirements:

4.1. Foreign passports for both parents.

4.2. Marriage certificate (if not married both parents must acknowledge paternity). If the marriage certificate is in foreign language, recognised authorities must translate it.

## Appendix 2 - Towns and Districts with Registration Facilities

PR = Provincial Registry

Province	District/ Town	No. District Registr ies	No. Sub- office s/PR	Link for further information
<b>Manicaland</b>	Chimanimani	1	3	<a href="http://www.rg.gov.zw/offices/manicaland/chimanimani">http://www.rg.gov.zw/offices/manicaland/chimanimani</a>
	Buhera	1	3	<a href="http://www.rg.gov.zw/offices/manicaland/buhera">http://www.rg.gov.zw/offices/manicaland/buhera</a>
	Makoni	1	2	<a href="http://www.rg.gov.zw/offices/manicaland/makoni">http://www.rg.gov.zw/offices/manicaland/makoni</a>
	Mutasa	1	1	<a href="http://www.rg.gov.zw/offices/manicaland/mutasa">http://www.rg.gov.zw/offices/manicaland/mutasa</a>
<b>Mashonaland Central</b>	Bindura	1	3 1 PR	<a href="http://www.rg.gov.zw/offices/mashonaland-central/bindura">http://www.rg.gov.zw/offices/mashonaland-central/bindura</a>
	Mbire	1	1	<a href="http://www.rg.gov.zw/offices/mashonaland-central/mbire">http://www.rg.gov.zw/offices/mashonaland-central/mbire</a>
	Mt Darwin	1	4	<a href="http://www.rg.gov.zw/offices/mashonaland-central/mt-darwin">http://www.rg.gov.zw/offices/mashonaland-central/mt-darwin</a>
	Rushinga	1	3	<a href="http://www.rg.gov.zw/offices/mashonaland-central/rushinga">http://www.rg.gov.zw/offices/mashonaland-central/rushinga</a>
<b>Mashonaland East</b>	Marondera	1	3 1 PR	<a href="http://www.rg.gov.zw/offices/mashonaland-east/marondera">http://www.rg.gov.zw/offices/mashonaland-east/marondera</a>
	Chikomba	1	3	<a href="http://www.rg.gov.zw/offices/mashonaland-east/chikomba">http://www.rg.gov.zw/offices/mashonaland-east/chikomba</a>
	Goromonzi	1	3	<a href="http://www.rg.gov.zw/offices/mashonaland-east/goromonzi">http://www.rg.gov.zw/offices/mashonaland-east/goromonzi</a>
	Hwendza	1	2	<a href="http://www.rg.gov.zw/offices/mashonaland-">http://www.rg.gov.zw/offices/mashonaland-</a>

				<a href="#">east/hwedza</a>
	Mudzi	1	3	<a href="http://www.rg.gov.zw/offices/mashonaland-east/mudzi">http://www.rg.gov.zw/offices/mashonaland-east/mudzi</a>
	Mukoto	1	3	<a href="http://www.rg.gov.zw/offices/mashonaland-east/mutoko">http://www.rg.gov.zw/offices/mashonaland-east/mutoko</a>
	Seke	1	4	<a href="http://www.rg.gov.zw/offices/mashonaland-east/seke">http://www.rg.gov.zw/offices/mashonaland-east/seke</a>
	UMP	1	2	<a href="http://www.rg.gov.zw/offices/mashonaland-east/ump">http://www.rg.gov.zw/offices/mashonaland-east/ump</a>
<b>Mashonaland West</b>	Chinhoyi	0	1 PR	<a href="http://www.rg.gov.zw/offices/mashonaland-east/chinhoyi">http://www.rg.gov.zw/offices/mashonaland-east/chinhoyi</a>
	Chegutu	1	2	<a href="http://www.rg.gov.zw/offices/mashonaland-west/chegutu">http://www.rg.gov.zw/offices/mashonaland-west/chegutu</a>
	Hurungwe	1	3	<a href="http://www.rg.gov.zw/offices/mashonaland-west/hurungwe">http://www.rg.gov.zw/offices/mashonaland-west/hurungwe</a>
	Kariba	1	3	<a href="http://www.rg.gov.zw/offices/mashonaland-west/kariba">http://www.rg.gov.zw/offices/mashonaland-west/kariba</a>
	Makonde	1	2	<a href="http://www.rg.gov.zw/offices/mashonaland-west/makonde">http://www.rg.gov.zw/offices/mashonaland-west/makonde</a>
	Sanyati	1	2	<a href="http://www.rg.gov.zw/offices/mashonaland-west/sanyati">http://www.rg.gov.zw/offices/mashonaland-west/sanyati</a>
	Mhondoro-Ngezi	1		<a href="http://www.rg.gov.zw/offices/mashonaland-west/mhondoro-ngezi">http://www.rg.gov.zw/offices/mashonaland-west/mhondoro-ngezi</a>
	Zvimba	1	2	<a href="http://www.rg.gov.zw/offices/mashonaland-west/zvimba">http://www.rg.gov.zw/offices/mashonaland-west/zvimba</a>
<b>Masvingo</b>	Masvingo	1	4 1 PR	<a href="http://www.rg.gov.zw/offices/masvingo/masvingo">http://www.rg.gov.zw/offices/masvingo/masvingo</a>
	Bkita	1	2	<a href="http://www.rg.gov.zw/offices/masvingo/bikita">http://www.rg.gov.zw/offices/masvingo/bikita</a>

	Chibi	1	3	<a href="http://www.rg.gov.zw/offices/masvingo/chibi">http://www.rg.gov.zw/offices/masvingo/chibi</a>
	Chiredzi	1	3	<a href="http://www.rg.gov.zw/offices/masvingo/chiredzi">http://www.rg.gov.zw/offices/masvingo/chiredzi</a>
	Mweiezi	1	3	<a href="http://www.rg.gov.zw/offices/masvingo/mwenezi">http://www.rg.gov.zw/offices/masvingo/mwenezi</a>
	Zaka	1	3	<a href="http://www.rg.gov.zw/offices/masvingo/zaka">http://www.rg.gov.zw/offices/masvingo/zaka</a>
<b>Matabeleland North</b>	Nkayi	1	3	<a href="http://www.rg.gov.zw/offices/matabeleland-north/nkayi">http://www.rg.gov.zw/offices/matabeleland-north/nkayi</a>
	Binga	1	5	<a href="http://www.rg.gov.zw/offices/matabeleland-north/binga">http://www.rg.gov.zw/offices/matabeleland-north/binga</a>
	Tsholotsho	1	1	<a href="http://www.rg.gov.zw/offices/matabeleland-north/tsholotsho">http://www.rg.gov.zw/offices/matabeleland-north/tsholotsho</a>
	Hwange	1	4	<a href="http://www.rg.gov.zw/offices/matabeleland-north/hwange">http://www.rg.gov.zw/offices/matabeleland-north/hwange</a>
	Bubi	1	2	<a href="http://www.rg.gov.zw/offices/matabeleland-north/bubi">http://www.rg.gov.zw/offices/matabeleland-north/bubi</a>
	Lupane	1	2	<a href="http://www.rg.gov.zw/offices/matabeleland-north/lupane">http://www.rg.gov.zw/offices/matabeleland-north/lupane</a>
	Umpgunza	1	2	<a href="http://www.rg.gov.zw/offices/matabeleland-north/umguza">http://www.rg.gov.zw/offices/matabeleland-north/umguza</a>
<b>Matabeleland South Province</b>	Gwanda	1	5 1 PR	<a href="http://www.rg.gov.zw/offices/matabeleland-south/gwanda">http://www.rg.gov.zw/offices/matabeleland-south/gwanda</a>
	Matobo	1	4	<a href="http://www.rg.gov.zw/offices/matabeleland-south/matobo">http://www.rg.gov.zw/offices/matabeleland-south/matobo</a>
	Beitbridge	1	4	<a href="http://www.rg.gov.zw/offices/matabeleland-south/beitbridge">http://www.rg.gov.zw/offices/matabeleland-south/beitbridge</a>
	Bulima Mangwe	1	3	<a href="http://www.rg.gov.zw/offices/matabeleland-south/plumtree">http://www.rg.gov.zw/offices/matabeleland-south/plumtree</a>
	Umzingware	1	3	<a href="http://www.rg.gov.zw/offices/matabeleland-">http://www.rg.gov.zw/offices/matabeleland-</a>

				<a href="http://www.rg.gov.zw/offices/matabeleland-south/umzingwane">south/umzingwane</a>
	Insiza	1	3	<a href="http://www.rg.gov.zw/offices/matabeleland-south/insiza">http://www.rg.gov.zw/offices/matabeleland-south/insiza</a>
<b>Midlands</b>	Chirumanzi	1	3	<a href="http://www.rg.gov.zw/offices/midlands/chirumanzi">http://www.rg.gov.zw/offices/midlands/chirumanzi</a>
	Gokwe North	1	4	<a href="http://www.rg.gov.zw/offices/midlands/gokwe-north">http://www.rg.gov.zw/offices/midlands/gokwe-north</a>
	Gokwe South	1	4	<a href="http://www.rg.gov.zw/offices/midlands/gokwe-south">http://www.rg.gov.zw/offices/midlands/gokwe-south</a>
	Mberengwa	1	3	<a href="http://www.rg.gov.zw/offices/midlands/mberengwa">http://www.rg.gov.zw/offices/midlands/mberengwa</a>
	Shurungwi	1	3	<a href="http://www.rg.gov.zw/offices/midlands/shurungwi">http://www.rg.gov.zw/offices/midlands/shurungwi</a>
	Zvishavane	1	3	<a href="http://www.rg.gov.zw/offices/midlands/zvishavane">http://www.rg.gov.zw/offices/midlands/zvishavane</a>

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