

REGISTRATION OF BIRTHS AND DEATHS BILL, 2020

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Registration of Births and Deaths Bill, 2020

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BILL
ENTITLED

REGISTRATION OF BIRTHS AND DEATHS ACT, 2020

AN ACT to provide for the registration of births and deaths in the country; the decentralisation of the Births and Deaths Registry to improve the collation of statistics for national development and for related matters.

PASSED by Parliament and assented to by the President:

Births and Deaths Registry

Establishment of Births and Deaths Registry

1. (1) There is established by this Act a Births and Deaths Registry referred to in this Act as the “Registry”.
- (2) The Registry comprises
 - (a) the National Office located in the national capital, Accra;
 - (b) regional offices located in all the regional capitals; and
 - (c) district offices in all the district capitals.
- (3) The National Office of the Registry is responsible for the collation and registration of each birth and death in the country.

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(4) An office of the Registry is responsible for the performance of the functions assigned to an office of the Registry under this Act.

Appointment of Registrar of Births and Deaths

2. (1) The President shall, in accordance with article 195 of the Constitution, appoint a Registrar of Births and Deaths.

(2) The Registrar is responsible for the day to day administration of the affairs of the Registry.

(3) The Registrar shall keep and maintain the national register of births, foetal deaths and deaths.

(4) The Registrar shall prescribe the qualification, expertise and professional competence of the District Registrars.

Appointment of other staff

3. (1) The President shall, in accordance with article 195 of the Constitution, appoint other public officers that are necessary for the effective performance of the functions of the Registry.

(2) Other public officers may be transferred or seconded to the Registry.

Regional Registrar

4. (1) Each regional office of the Registry shall have a Regional Registrar of Births and Deaths.

(2) A Regional Registrar shall

(a) be responsible for collating registers from the district offices;

(b) transmit the collated registers to the National Registry and maintain copies of each transmitted record; and

(c) perform any other function assigned by the Registrar under this Act.

District Registrar

5. (1) Each district office of the Registry shall have a District Registrar of Births and Deaths.

(2) A District Registrar shall keep and maintain the register of births, the register of foetal deaths and the register of deaths of that District.

(3) A District Registrar shall submit the collated register of births, foetal deaths and deaths to the District Assembly and the Regional Registrar for onward submission to the Registrar.

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Registration Officer

6. (1) A District Assembly shall, in consultation with the Registrar, appoint for the district office of the Registry, a Registration Officer.

(2) A Registration Officer shall register births, foetal deaths and deaths in the areas constituting the Urban, Zonal, Town and Area Councils.

Registration Assistant

7. (1) A District Assembly shall, in consultation with the Registrar, appoint for the district office of the Registry, a Registration Assistant.

(2) A Registration Assistant shall

(a) inspect registration records in every household within the electoral area of each district; and

(b) assist in the completion of forms on notification of births and notification of deaths.

Register of births and deaths

8. (1) There is established by this Act, three national registers one each for births, foetal deaths and deaths which shall be kept at the National Office of the Registry and in which shall be recorded each birth, foetal death and death in this country.

(2) There is established by this Act a district register of births, foetal deaths, and deaths for each district in which shall be recorded each birth, foetal death and death in the district.

Community population register

9. (1) A community registration officer may assist in the registration of births and deaths for the purposes of generating a community population register.

(2) A District Assembly shall retain a community population register and the community population register shall be used as demographic data for the purposes of the development planning of that district.

Power to accept affidavit or statutory declaration

10. (1) For the purposes of the registration of a birth, foetal death or death, the Registrar or the District Registrar may accept the affidavit or the statutory declaration of a person on payment of the specified fee determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983).

(2) The specified fee determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983) shall be paid into the bank account of the District Assembly.

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Disclosure of information

11. A person shall not

- (a) communicate or cause to be communicated to another person, information obtained under this Act; or
- (b) allow any other person to inspect or have access to any record containing information obtained under this Act, except in accordance with law.

Registration of Birth and Related Matters

Notification of birth

12. (1) A person who is in charge of a health facility shall notify the District Registration Officer in the District Assembly, within which the health facility is located, of each birth recorded at that facility.

(2) A traditional birth attendant who assists in the delivery of a birth shall notify the District Registration Officer in the District Assembly within which the birth occurs of the fact of that birth.

(3) A manager of a basic school or pre-school shall notify the District Registration Officer in the District Assembly, within which the school is located, where a child enrolled at that school has not presented a birth certificate to the school.

(4) The obligation under subsection (3) shall not be a pre-condition for the enrolment of a child at a basic school or pre-school.

Registration of birth

13. (1) A parent or a person responsible for a child shall register the birth of that child in the district in which the child is born.

(2) The Registry shall, as far as practicable, ensure that births are registered electronically.

(3) A person responsible for a child is not required to pay a fee for the registration of the birth of that child if the registration is made within twelve months from the date of birth of that child.

(4) Where a living new born child is found deserted and information as to the place of birth of that child is not available, the District Registrar for the district in which the child is found shall register the birth.

(5) Except in the case specified in subsection (4) or subsection (5) of section 18, the prescribed particulars for registration shall be provided to the District Registrar

- (a) by the father and the mother of the child; or

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- (*l*) in the case of the death or incapacity of the father and mother by
 - (i) an occupier of the premises in which the child is born, if the occupier has knowledge of the birth;
 - (ii) a person present at the birth; or
 - (iii) a person who has charge of the child.

(6) Where a birth is not registered within the twelve months period, the District Registrar may by notice in writing summon any of the persons referred to in subsection (5), to attend personally at the Births and Deaths Registry to provide the prescribed particulars for the registration of the birth within the prescribed time and the person summoned shall pay the specified fee for late registration determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983).

(7) Despite subsection (3), a person responsible for a child may register the birth after twelve months upon application to the Registrar for late registration.

(8) A person who applies to the Registrar in respect of a late registration shall include in the application, reasons for the late registration.

(9) A birth shall not be registered after the expiration of twelve months from the date of birth, unless the person responsible for the child

- (*a*) provides a written authority of the Registrar directed at a particular District Registrar; and
- (*b*) has paid the specified fee for late registration determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983).

(10) A District Registrar shall, upon receipt of a note of the written authority of the Registrar, enter the note in the register.

(11) A District Registrar shall not register a birth under subsection (9) unless the District Registrar is satisfied that an earlier registration of the birth has not been made in another district.

(12) The Registrar shall provide detailed procedures for late registration and the procedures shall be applied in a non-discriminatory manner.

Doubtful paternity

14. (1) Where the paternity of a child is in doubt, the putative father of the child shall not give information concerning the birth of the child.

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(2) The District Registrar shall not enter the name of a person as father of the child, unless at the joint request of the mother and the person acknowledging himself to be the father of the child.

(3) The person acknowledging himself to be the father of the child shall sign the register together with the mother or make a declaration in the prescribed form acknowledging to be the father of the child.

(4) Where the mother of the child is dead, the entry in the register may be made at the request of the person claiming to be the father of the child and upon the written consent of the family of the deceased mother which shall be on oath.

Registration of name subsequent to registration of birth

15. (1) The parent or guardian of a child may, within twelve months after the registration of the birth of the child, deliver to the District Registrar a baptismal certificate issued and signed by an officiating Minister of Religion or any other relevant document

(a) where a birth is registered and the baptismal certificate or other document is intended to change the name of the child; or

(b) where a birth is registered in accordance with subsection (4) of section 13 without a name and a name is subsequently given to the child.

(2) The District Registrar shall, on receipt of the baptismal certificate or other document and on payment of the specified fee determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983), enter in the register the name mentioned in the baptismal certificate or other document as given to the child without an erasure of the original entry.

(3) The Registry shall develop a standard form for the registration of names.

(4) A form developed under subsection (3) shall not provide for prefixes and suffixes.

(5) The Registry shall

(a) by notice published in the *Gazette* and in at least two daily newspapers of nationwide circulation, provide an indicative list of prefixes and suffixes which are prohibited; and

(b) update the indicative list periodically.

(6) Despite subsection (5), the Registrar may refuse to register a prefix or suffix which is not provided for in the indicative list.

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Signing of birth certificate

16. The Registrar or a designated representative of the Registrar, is responsible for signing a birth certificate issued under this Act.

Issue of birth certificate

17. The District Registrar shall, on registration of the name, issue a birth certificate free of charge to the father, mother, a person authorised by the High Court or a person authorised in writing by the father or mother of the child.

Registration of Assisted Reproductive Births and Related Matters

Registration of assisted reproductive births

18. (1) A person may engage the services of another person to give that person a child through surrogacy.

(2) An intended parent may, within three months after introducing an embryo or gamete into the surrogate mother, apply to the High Court for a pre-birth parental order to allow

- (a) either the intended parent or surrogate mother, or
- (b) both parents of a child,

to be named as the parent of a child born through surrogacy or any other assisted reproductive birth if the birth occurs within six months of the order of the High Court.

(3) Where the High Court is convinced of the evidence of parentage and the existence of a surrogacy, the High Court shall issue a pre-birth parental order naming the legal parent of the unborn child and a copy of the order shall be issued to

- (a) the District Registrar of the district in which the child will be born;
- (b) the intended parent;
- (c) the surrogate mother; and
- (a) the hospital where the child is born, if the birth occurs at a hospital facility.

(4) A woman who gives birth to a child shall, in the absence of an order of the High Court naming another person as the mother, be registered as the mother of the child.

(5) Subject to subsection (2), a woman who gives birth to a child shall

- (a) have the right to register the child; and

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- (*l*) inform the Registration Officer in the district, in which the child was born, of
 - (i) the name of the child;
 - (ii) the name of the father of the child; and
 - (iii) any other information required for the purposes of the registration.

(6) The Registration Officer shall, on receipt of the information required under paragraph (*l*) of subsection (5), proceed to register the birth of the child in accordance with the information provided.

(7) The District Registrar and where appropriate, the hospital where the child is born, shall

- (*a*) register or cause to be registered in the district office of the Registry, the birth arising from the surrogacy or other assisted reproductive birth in accordance with the pre-birth parental order; and
- (*l*) enter or cause to be entered in the register of birth, the name of the child provided by either the intended parent or surrogate mother, or both in accordance with subsection (2).

(8) Where a child is already born, an intended parent or surrogate mother may apply to the High Court for a post-birth parental order or substitute parentage order.

(9) Where the High Court approves an application made under subsection (8), the High Court shall issue a post-birth parental order or substitute parentage order naming the intended parent or surrogate mother as the legal parent of the child, and a copy of the order shall be immediately served on the District Registrar.

(10) A post-birth parental order or substitute parentage order issued under subsection (9) shall in substance be in the form of an adoption proceeding and shall be lodged at the High Court at least twenty-eight days after the birth of the child but not later than six months after the birth of the child.

(11) The District Registrar shall, on receipt of a sealed substitute parentage order from the High Court, strike out or cause to be struck out the original birth record, and open or cause to be opened a new birth record with the intended parent or surrogate mother named as the parent of the child, in accordance with the order of the High Court.

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(12) The District Registrar shall keep the original birth record struck out under subsection (11) in a confidential place, and that birth record shall be made accessible to the child whose birth entry was made only when that child attains the age of twenty-one years.

(13) A new birth record opened under this section shall supersede any other birth record made earlier.

Registration of Death and Related Matters

Notification of death

19. (1) The medical practitioner in charge of a health facility at which a death occurs shall record the death and notify the District Registrar of the death.

(2) Where death occurs outside a health facility and the deceased is brought to that health facility, the medical practitioner in charge of that facility shall

- (a) record the death and the immediate and underlying cause of the death; and
- (b) transmit the information to the District Registrar.

Registration of foetal death

20. A District Registrar shall register every foetal death that occurs in an Urban, Zonal, Town and Area Council.

Person responsible for the registration of foetal death

21. Where a foetal death occurs, the person who would have been responsible for the registration of the birth under subsection (5) of section 13 shall provide the District Registrar with a statement in respect of the foetal death as follows:

- (a) a written certificate in respect of the foetal death signed by a registered medical practitioner or midwife who was in attendance at the occurrence of the foetal death or who has examined the foetus; or
- (b) a declaration to the effect that
 - (i) a registered medical practitioner or midwife was not present at the occurrence of the foetal death;
 - (ii) a registered medical practitioner or midwife has not examined the foetus; or
 - (iii) the certificate of a registered medical practitioner or midwife cannot be obtained in respect of the foetal death.

Burial permit for foetal death

22. Where the District Registrar is satisfied with the certificate or the declaration referred to in section 21, the District Registrar shall register the foetal death and issue a burial permit to the person requiring the burial permit for the purpose of burial or other disposition of the body.

Registration of death

23. (1) The District Registrar in the district in which death occurs, shall register the death within fourteen days after the death.

(2) Despite subsection (1), the District Registrar shall only register a death that is reported fourteen days after the death occurred if the specified fee for late registration determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983) has been paid.

(3) The District Registrar shall not register a death after the expiration of twelve months from the date of death except with the written authority of the Registrar and upon payment of the specified fee for late registration determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983).

(4) The District Registrar shall enter a note of the written authority of the Registrar in the register.

(5) Where a dead body is found and information as to the place of death is not available, the District Registrar of the district in which the body was found shall register the death within ninety days.

(6) The Registry shall, as far as practicable, ensure that deaths are registered electronically.

Persons to furnish information as to death

24. The following persons shall furnish the District Registrar with the prescribed particulars of death:

- (a) the nearest relative of the deceased present at the time of death or in attendance at the last illness of the deceased;
- (b) a relative of the deceased residing or being within the registration district;
- (c) an occupier of the premises in which the death occurred;
- (a) an adult present at the time of death or who has knowledge of the death; or
- (e) a coroner who has been notified of the death and has made an inquiry or held an inquiry regarding the death.

Certificate of medical practitioner

25. (1) The medical practitioner who was in attendance during the illness of the deceased shall issue to the person who provides the particulars of the death, a medical certificate that states the cause of death.

(2) The recipient of the medical certificate shall deliver the certificate to the District Registrar who shall then register the particulars of the deceased in the register of deaths.

Duty of coroner after holding inquiry

26. (1) Where an inquiry in respect of a dead body is held by a coroner, the coroner shall complete and sign a certificate that states the cause of the death.

(2) The recipient of the certificate shall deliver the certificate to the District Registrar who shall register the particulars of the deceased in the register of deaths.

(3) Where a coroner is informed that a dead body has been found, or that a person has died in the district, and the coroner has reasonable cause to suspect that that person has died

- (a) a violent death or any other unnatural death,
- (b) a death of which the cause is unknown,
- (c) while detained in a prison, psychiatric hospital or public institution other than a hospital, or
- (a) in a place or circumstance which in the opinion of the coroner makes the holding of an inquiry necessary or desirable, the coroner shall, subject to the Coroners Act, 1960 (Act 18), hold an inquiry as soon as practicable in respect of the death.

(4) The District Registrar shall not register a death or issue a death certificate for a death for which an inquiry of the coroner is required, unless the coroner orders the registration of the death or the issue of the death certificate.

Death certificate

27. (1) The District Registrar shall, subject to sections 19 and 21, register a death and issue

- (a) a burial permit in the prescribed form, free of charge; and
- (b) a death certificate in the prescribed form after payment of the specified fee determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983).

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(2) Where

- (a) a dead body is brought into the country from another country for disposal, and
- (b) an order in respect of the dead body has not been given by a coroner,

the District Registrar of the district in which the body is intended to be disposed of shall, upon application by the person who procures the dead body for disposal and the payment of the specified fee determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983), issue a burial permit if it appears to the District Registrar that the death is not required by law to be registered in this country.

Burial or other disposition

28. (1) A person shall not dispose of the body of a dead person who dies in this country unless the disposition is done in accordance with this Act.

(2) A person shall not conduct a burial or cremation unless that person is registered under this Act.

(3) The Registrar shall provide the necessary forms and guidelines for the purposes of registration under subsection (2).

(4) A person who conducts a burial shall inspect the death certificate and burial permit before proceeding with the burial.

(5) A person who conducts a cremation shall inspect the death certificate before proceeding with the cremation.

Registration of morgues, funeral homes, burial grounds and crematoriums

29. (1) A person shall not operate a morgue, funeral home, burial ground or crematorium unless the morgue, funeral home, burial ground or crematorium is registered in accordance with this Act.

(2) The District Assembly shall register

- (a) a morgue,
- (b) a funeral home,
- (c) a burial ground, or
- (a) crematorium,

intended to be operated in the district whether private or public.

(3) The owner or manager of a morgue, funeral home, burial ground or crematorium shall not receive the body of a dead person into the morgue, funeral home, burial ground or crematorium, unless the morgue, funeral home, burial ground or crematorium is registered in accordance with subsection (2).

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Burial without permit

30. (1) The owner or manager of a burial ground shall not permit the burial of a dead body in the burial ground, unless a burial permit in respect of the dead body has been delivered to the manager or owner of the burial ground.

(2) Where a re-burial is necessary due to authorised exhumation, a burial permit is not required.

(3) The owner or manager of a burial ground shall endorse the burial permit with the prescribed particulars and return the burial permit to the District Registrar of the district in which the burial takes place.

(4) The owner or manager of a burial ground shall, at the end of each month, forward to the District Registrar, the details of the burials that took place in the burial ground for that month.

Registration of Births and Deaths Occurring on the High Seas and Air Space

Births and deaths on the high seas and air space

31. The Registrar may, on receipt of information in respect of the birth of a child, foetal death, or death of a person on board a ship or an aircraft whose port of destination or place of registration is Ghana, register the birth, foetal death, or death where the Registrar is satisfied with respect to the veracity and sufficiency of the particulars received.

Fraudulent Registration and Certificates

Cancellation of registration and certificate

32. (1) A District Registrar may, on receipt of a petition in writing that

(a) a registration under this Act has been falsely or fraudulently obtained, or

(b) a certificate obtained under this Act is being used for a fraudulent or improper purpose,

order the persons concerned to attend the hearing of the petition.

(2) Where the holding of a hearing is not possible, a statutory declaration or other relevant evidence may be produced in response to the petition.

(3) A District Registrar who is satisfied that a registration under this Act has been falsely or fraudulently obtained, or a certificate obtained

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under this Act is being used for a fraudulent or improper purpose shall,

- (a) order a note to be made in the register to that effect; or
- (b) order a certificate issued in respect of that registration to be delivered for cancellation.

(4) A person who receives an order under subsection (3), shall deliver the certificate to the District Registrar within seven days.

(5) The Registrar shall keep a file of the certificates delivered under subsection (4) together with the orders and relevant documents.

(6) The District Registrar shall notify the Regional Registrar and the Registrar of the order and the cancellation of the certification.

(7) A person aggrieved by the order and the cancellation may petition the Regional Registrar for a review of the decision of the District Registrar.

(8) Where there is a review under subsection (7), the Regional Registrar shall communicate the decision to both the District Registrar and the Registrar.

(9) The Registrar may revoke the decision made by the Regional Registrar and the District Registrar under this section.

Correction of Errors in the Register of Births and Deaths

Alteration in register

33. (1) A person shall not alter a register of births, register of foetal deaths or register of deaths unless authorised under this Act.

(2) A clerical error in a register of births, register of foetal deaths or register of deaths may be corrected in the manner specified in subsection (6) and section 34.

(3) A person may, by written application and subject to the payment of the specified fee determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983), request the Registrar or District Registrar to effect corrections in the register of births, foetal deaths or deaths.

(4) The request made under subsection (3) is to be supported by a statutory declaration setting out the nature of the error and the true facts of the case of the birth, foetal death or death in respect of which the error has been made as stated by any of the persons referred to in sections 13 and 24.

(5) Where any of the persons referred to in sections 13 and 24 is not available, two credible persons who have knowledge of the case may state the true facts of the case.

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(6) An error of fact or substance in a register of births, register of foetal deaths or register of deaths may be corrected by ruling one clear line through the original entry and an entry in the appropriate column which is to be dated and signed by the Registrar or District Registrar who has custody of the register.

Error in the certificate of a coroner

34. (1) Where an error of fact or substance, other than an error relating to the cause of death, occurs in the information given by the certificate of a coroner, the error may be corrected by the certification of the coroner at the request in writing of the Registrar or District Registrar.

(2) The request made under subsection (1) is to be supported by a statutory declaration or an affidavit setting out the nature of the error.

(3) The coroner shall forward the certification of the error together with the affidavit or the statutory declaration to the Registrar or District Registrar who has custody of the register of births, foetal deaths or deaths to effect the correction in the register of births, foetal deaths or deaths.

(4) An error of fact or substance in a register of births, foetal deaths or deaths may be corrected by ruling one clear line through the original entry, and an entry in the appropriate column, of the facts certified by the coroner, which is to be dated and signed by the Registrar or District Registrar having custody of the register.

Request for Search of Records

Search of records

35. (1) A person may by an application in writing, request the Registrar or District Registrar to conduct a search in respect of

- (a) the registration of a birth, foetal death or death; or
- (b) a burial record in the Registry.

(2) The application made under subsection (1) is subject to the payment of the specified fee determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983).

(3) The District Registrar shall make a report on the search and the report shall state whether or not the birth, foetal death, death or burial is registered or recorded, and if registered, the registration number.

(4) The District Registrar shall not provide any further information in respect of the search.

Miscellaneous Matters

Certified copy of entry in the register of births

36. (1) A person other than the person mentioned in subsection (5) of section 13 or the person whose birth registration information is sought, may by an application to the High Court request the Registrar or a District Registrar to produce a certified copy of an entry in the register of births to that person.

(2) The application made under subsection (1) is subject to the payment of the specified fee determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983).

(3) The High Court shall, pursuant to the application made under subsection (1), make an order directed at the Registrar or a District Registrar to produce a certified copy of the entry in the register of births to the applicant if the High Court is satisfied that

(a) there is a compelling reason for the order to be granted;
and

(b) the applicant will not use the information obtained from the register of births for an improper purpose.

(4) The Registrar or District Registrar shall comply with a court order issued under subsection (3).

Certified copy of entry in the register of foetal deaths

37. (1) A person other than the person referred to in section 24 may, by an application to the High Court, request the Registrar or a District Registrar to produce a certified copy of the entry in the register of foetal deaths to that person.

(2) The application in subsection (1) is subject to the payment of the specified fee determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983).

(3) The High Court shall, pursuant to the application under subsection (1), issue an order directed at the Registrar or a District Registrar to produce a certified copy of the entry in the register of foetal deaths to the applicant if the High Court is satisfied that

(a) there is a compelling reason for the order to be granted;
and

(b) the applicant will not use the information obtained from the register of foetal deaths for an improper purpose.

(4) The Registrar or District Registrar shall comply with a court order issued under subsection (3).

Certified copy of entry in the register of deaths

38. (1) A person other than the person referred to in section 24 may, by an application to the High Court, request the Registrar or a District Registrar to produce to that person, a certified copy of the entry in the register of deaths.

(2) The application in subsection (1) is subject to the payment of the specified fee determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983).

(3) The High Court shall, pursuant to the application under subsection (1), make an order directed at the Registrar or a District Registrar to produce a certified copy of the entry in the register of deaths to the applicant if the High Court is satisfied that

- (a) there is a compelling reason for the order to be granted; and
- (b) the applicant will not use the information obtained from the register of deaths for an improper purpose.

(4) The Registrar or District Registrar shall comply with a court order issued under subsection (3).

Certificate as evidence

39. A certificate issued under this Act is prima facie evidence of the facts contained in the certificate.

Information sharing

40. (1) A birth certificate, death certificate or any other document issued by the Registry shall bear a unique number for data management purposes.

(2) The Registry shall collaborate with other public agencies in information and data sharing.

(3) The Registry shall provide to a public agency, information that is necessary for the effective functioning of that public agency.

(4) The Registry may, subject to the Data Protection Act, 2012 (Act 843), share information with a private entity that requires information in the possession of the Registry.

Security protocols

41. (1) The Registry shall employ security protocols to ensure that all data within its possession is secured at all times.

(2) The security protocols referred to in subsection (1) include biometric access and other state-of-the-art data protection features.

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(3) The Registry shall allow only authorised persons to access the data sources of the Registry.

(4) A person who is not authorised by the Registry shall not use data which belongs to the Registry.

Appeals

42. Subject to subsection (7) of section 32, an applicant whose application under this Act has been refused may apply to a District Court for a review of the decision.

Offences and penalties

43. (1) A person who fails to give notice or refuses to provide information, certificates or documents required under this Act, within the prescribed time, commits an offence and is liable on summary conviction to a fine of not less than five penalty units and not more than fifty penalty units.

(2) A person who contravenes section 11 commits an offence and is liable on summary conviction to a fine not less than twenty penalty units and not more than one hundred penalty units or to a term of imprisonment of not less than one month and not more than six months or to both the fine and imprisonment.

(3) A person who contravenes subsection (1) or (3) of section 29 commits an offence and is liable on summary conviction to a fine of not less than one hundred penalty units and not more than one hundred and fifty penalty units or to a term of imprisonment of not less than six months and not more than twelve months or to both the fine and imprisonment.

(4) A person commits an offence if that person alters a register of birth, register of foetal deaths or register of deaths otherwise than in accordance with section 33, and is liable on summary conviction to a fine of not less than twenty penalty units and not more than one hundred penalty units or to a term of imprisonment of not less than one month and not more than six months or to both the fine and imprisonment.

(5) A person who

- (a) obtains either by lawful or unlawful means,
- (b) uses, or
- (c) transmits,

information obtained from the Registry for an unlawful purpose knowing or having reason to know that that purpose is unlawful, commits an offence and is liable on summary conviction to a fine not less than one

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hundred penalty units and not more than one hundred and fifty penalty units or to a term of imprisonment of not less than six months and not more than twelve months or to both the fine and imprisonment.

(6) A Registration Officer, District Registrar or Registrar shall not be personally liable under subsection (5), if the Registration Officer, District Registrar or Registrar acts in good faith and in accordance with the provisions of this Act.

(7) A person who commits an offence under this Act in respect of which a penalty has not been provided is liable on summary conviction to a fine of not less than one hundred penalty units and not more than one hundred and fifty penalty units or to a term of imprisonment of not less than six months and not more than twelve months or to both the fine and imprisonment.

Regulations

44. The Minister may, by legislative instrument, make Regulations

- (a) to provide for the disposal of dead bodies;
- (b) to prescribe the forms and content of a certificate to be issued under this Act;
- (c) on the particulars for the registration of births and deaths; and
- (a) on any matter necessary for the effective implementation of this Act.

Interpretation

45. In this Act, unless the context otherwise requires,

“assisted reproductive birth” means the use of modern technological advancement including fertility medication, artificial insemination and in vitro fertilisation to cause childbirth other than by the orthodox means;

“birth” means live-birth or complete expulsion or extraction from its mother of a product of conception, irrespective of the duration of pregnancy, which breathes or shows evidence of life like the beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles whether or not the umbilical cord has been cut or the placenta is detached;

“death” means the permanent cessation of evidence of life in a person anytime after the live birth of that person ;

“deserted” means willful abandonment;

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- “disposal” means burial, cremation or any other means of disposing of a dead body;
- “district” means the area of authority of a District Assembly or of a Municipal and Metropolitan Authority;
- “District Assembly” includes a Metropolitan Assembly and a Municipal assembly;
- “District Registrar” means a District Registrar of Births and Deaths appointed under section 5;
- “foetal death” means death before the complete expulsion or extraction from its mother of a baby irrespective of the duration of pregnancy, which does not breathe or show any other evidence of life like the beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles;
- “intended parent” means a person who desires to be a parent through surrogacy or any other assisted reproductive birth arrangement;
- “Minister” means the Minister responsible for Local Government;
- “notification of birth” means the notice of the occurrence of a birth by a person in charge of a health facility, a traditional birth attendant or any other person authorised to do so under this Act;
- “notification of death” means the notice of the occurrence of a death by a person in charge of a health facility or any other person authorised to do so under this Act;
- “occupier” includes
- (a) the governor, keeper, master, matron, superintendent or other chief resident officer of an institution; and
 - (b) a person residing in a house, an apartment or a lodge;
- “person responsible for a child” means the person referred to in subsection (5) of section 12;
- “post-birth parental order” means an order from the High Court naming a person as the legal parent of a child who is already born;
- “pre-birth parental order” means an order from the High Court naming a person as the legal parent of a child who is yet to be born;
- “public agency” means an agency funded from public funds;

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“putative father” means the person alleged by the mother of a child to be the father of the child or a person who alleges to be the father of a child;

“Registrar” means the Registrar of Births and Deaths appointed under section 2;

“relative” includes a relative by marriage;

“substitute parentage order” means an order from the High Court naming a person as the legal parent of a child born to another person who might have been earlier recognised as the legal parent of that child;

“surrogacy” means an arrangement where

(a) an embryo formed from an egg and sperm of persons other than a surrogate mother and the partner or husband of that surrogate mother is implanted into the surrogate mother, or

(b) a gamete is introduced into a surrogate mother to fertilise the egg of the surrogate mother,

to enable the surrogate mother carry the fetus for the period of the pregnancy and give birth at the end of the period;

“surrogate mother” means a woman who has accepted under a surrogacy to carry a fetus for the period of the pregnancy and give birth at the end of the period; and

“traditional birth attendant” means a certified pregnancy care giver who assists in a birth delivery in a setting other than that of a health facility.

Repeal and savings

46. (1) The Registration of Births and Deaths Act, 1965 (Act 301) is repealed.

(2) Despite the repeal of Act 301,

(a) Regulations, by-laws, notices, orders, directions or any other act, or

(b) an appointment

made or done under the repealed enactment and in force immediately before the coming into force of this Act are deemed to be made under this Act and shall have effect until revoked, cancelled or terminated.

(3) A register of births, register of deaths or register of foetal deaths in use immediately before the coming into force of this Act and every certificate issued or document prepared under Act 301 is deemed to have been issued or prepared under the corresponding provisions of this Act.

Registration of Births and Deaths Bill, 2020

Date of *Gazette* notification: 29th June, 2020.

REGISTRATION OF BIRTHS AND DEATHS BILL, 2020

MEMORANDUM

The purpose of the Bill is to revise the Registration of Births and Deaths Act, 1965 (Act 301) to provide for the decentralisation of the Births and Deaths Registry in line with the decentralisation programme of the country.

Ghana's decentralisation programme is aimed at empowering local populations at the district level to take decisions that affect their lives. As a result, the Local Government Act, 1993 (Act 462) envisaged the reconstitution of the twenty-two decentralised departments at the district level into sixteen departments in the Metropolitan Assemblies, thirteen in the Municipal Assemblies and eleven in the District Assemblies through various forms of mergers. The Minister responsible for Local Government was to bring about the creation of these decentralized departments through a Legislative Instrument. This was done by the Local Government (Department of District Assemblies) Commencement Instrument, 2009 (L.I. 1961). Acts of Parliament established some of the departments that were to be part of these decentralized departments as specified in the Second Schedule to L.I. 1961. The Acts establishing them therefore need to be amended or reviewed to bring them in line with the general decentralisation framework.

The Registration of Births and Deaths Act, 1965 (Act 301) is one such legislation. It creates the Births and Deaths Registry as a centralised department of Government with local offices in the places that are designated as registration districts.

Under the current arrangement, registration of births and deaths takes place in the areas that are declared as registration zones or districts. The local offices are answerable to the central Registry through the Regional Registration Officer. Registration Assistants in local offices are also directly responsible to the Registrar in the Central Office in Accra and do not owe any allegiance whatsoever to the districts or localities from which they operate. This arrangement is not consistent with the national vision for decentralisation.

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This review is intended to assign responsibility for the registration of births and deaths to District Assemblies who, in consultation with the Registrar, are required to appoint a District Registrar of Births and Deaths and Registration Officers for the district office of the Registry. Members of the Unit Committee in each district are to constitute the Registration Assistants in each district. The purpose of the review is therefore to allow for the registration of births and deaths in the whole country. It is to make the District Registrar responsible to the District Assemblies; to ensure that all registration officers at post continue in employment and to deploy staff of the headquarters to the districts and sub district structures.

Clauses 1 to 11 provide for the establishment of the Births and Deaths Registry.

Clause 1 establishes the Births and Deaths Registry. The Registry comprises the National Office located in the national capital, Accra; the regional offices located in all the regional capitals; and the district offices in all the district capitals. The *clause* makes the National Office responsible for the collation and registration of each birth and death in the country.

Clause 2 provides for the Registrar of Births and Deaths who is to be appointed by the President in accordance with article 195 of the Constitution. The Registrar is responsible for the day to day administration of the affairs of the Registry and is required to keep and maintain the national register of births, the national register of foetal deaths and the national register of deaths. The Registrar is required to determine the qualification, expertise and professional competence of the District Registrars.

Clause 3 provides for the appointment of other staff of the Registry. The clause further provides for other public officers to be transferred or seconded to the Registry.

Clause 4 provides for each regional office of the Registry to have a Regional Registrar of Births and Deaths. The Regional Registrar is responsible for collating registers from the district offices and transmitting the collated registers to the National Registry while maintaining copies of each transmitted record.

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Clause 5 provides for each district office of the Registry to have a District Registrar of Births and Deaths. The District Registrar is responsible for keeping and maintaining the register of births, the register of foetal deaths and the register of deaths of that District. The District Registrar is further mandated to submit the collated register to the District Assembly and the Regional Registrar for onward submission to the Registrar.

Clause 6 provides for the appointment of a Registration Officer by a District Assembly in consultation with the Registrar. A Registration Officer is responsible for registering births, foetal deaths and deaths in the areas constituting the Urban, Zonal, Town and Area Councils.

Clause 7 provides for the appointment of a Registration Assistant by a District Assembly in consultation with the Registrar. A Registration Assistant is responsible for the inspection of registration records in every household within the electoral area of each district. A Registration Assistant is also required to assist in the completion of forms on notification of births and notification of deaths.

The Register of births and deaths is provided for in *clause 8*. The Bill provides for the establishment of three national registers one each for births, foetal deaths and deaths to be kept at the National Office of the Registry for the purpose of recording each birth, foetal death and death in the country. The Bill also establishes a district register of births, foetal deaths and deaths for each district for recording each birth, foetal death and death in the district.

Clause 9 provides for the generation of a community population register for a District Assembly to be used as demographic data for purposes of the development planning of that District Assembly.

The power to accept an affidavit or a statutory declaration is provided for in *clause 10*. For the purposes of the registration of a birth, foetal death or death, the Registrar or the District Registrar may accept the affidavit or the statutory declaration of a person upon payment of the specified fee determined in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983). The fee is to be paid into the bank account of the District Assembly.

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Provision is made under the Bill to oblige a person not to communicate or cause to be communicated to another person, information obtained under the provisions of the Bill or to allow any other person to inspect or have access to any record containing information obtained under provisions of the Bill, except in accordance with law, *clause 11*.

Clauses 12 to 17 provide for the registration of birth and related matters. *Clause 12* mandates a person who is in charge of a health facility to notify the District Registration Officer in the District Assembly, within which the health facility is located, of each birth recorded at that facility. The *clause* extends the scope of this responsibility to cover traditional birth attendants who assist in the delivery of a birth, making them responsible for notifying the District Registration Officer in the District Assembly within which the birth occurs of the fact of that birth. Further, a manager of a basic school or pre-school is required to notify the District Registration Officer in the District Assembly within which the school is located, of a child enrolled at the school who has not presented a birth certificate to the school. The *clause* provides that the obligation placed on the manager of a basic school is however not to operate as a condition precedent for the enrolment of a child at a basic school or pre-school.

Clause 13 deals with the registration of birth. A parent or a person responsible for a child is required to register the birth of that child in the district in which the child is born. The *clause* provides for electronic registration of births by the Registry and waives the payment of a fee for the registration of the birth of a child if the registration is made within twelve months from the date of birth of that child. Where a living new born child is found deserted and information as to the place of birth of that child is not available, the District Registrar for the district in which the child is found is required to register the birth of the child. Under the *clause*, the father and the mother of a child are required to provide to the District Registrar, prescribed particulars for registration of the child. The particulars may also be provided by other persons including the occupier of the premises in which the child is born, a person present at the birth, or a person who has charge of the child, where the father or mother of the child are dead or incapacitated.

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Clause 14 deals with situations where the paternity of a child is in doubt. The *clause* prohibits the putative father of the child from providing information concerning the birth of the child. The District Registrar is also prohibited from entering the name of a person as the father of the child, unless at the joint request of the mother and the person acknowledging himself to be the father of the child. Also, where the mother of the child is dead, the entry in the register may be made at the request of the person claiming to be the father of the child and upon the written consent of the family of the deceased mother which shall be sworn on oath.

Clause 15 deals with the registration of a name subsequent to the registration of birth. The parent or guardian of a child may, within twelve months after the registration of the birth of the child, deliver to the District Registrar, a baptismal certificate which has been issued and signed by an officiating Minister of Religion. The District Registrar is required to enter in the register, the name mentioned in the baptismal certificate as given to the child without an erasure of the original entry, upon payment of a specified fee for that purpose by the parent or guardian of the child.

Clause 16 provides for the signing of a birth certificate by the Registrar or a designated representative of the Registrar.

The District Registrar is required to, on registration of the name, issue a birth certificate free of charge to the father, mother, a person authorised by a Court or a person authorised in writing by the father or mother of the child, *clause 17*.

Registration of assisted reproductive births is the subject matter of *clause 18*. By virtue of the *clause*, a person may engage the services of another person to give that person a child through surrogacy. The *clause* enables an intended parent to, within three months after the introduction of an embryo or gamete into the surrogate mother, apply to the High Court for a pre-birth parental order naming either the intended parent or surrogate mother or both parents of the child, as the parent of a child born through surrogacy. The High Court shall issue the pre-birth parental order where the Court is convinced of the evidence of parentage and the existence of a surrogacy. The *clause* requires copies of the order to be issued to the District Registrar of the district in which the child is born; the intended parent; the surrogate mother; and the hospital where the child is born, if the birth occurs at a hospital facility.

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Clauses 19 to 30 are on matters related to the registration of deaths and other matters. Notification of death is dealt with in *clause 19*. The medical practitioner in charge of a health facility at which a death occurs is required to record the death and notify the District Registrar of the death. This requirement extends to situations where a deceased person whose death occurs outside a health facility is brought to the health facility.

Clause 20 deals with the registration of foetal death. A District Registrar is required to register every foetal death that occurs in an Urban, Zonal, Town and Area Council.

Clause 21 mandates a person who would have been responsible for the registration of a birth under *subclause (5) of clause 13*, to provide the District Registrar with a statement in the unfortunate event of a foetal death. The content of the statement referred to in the *clause* includes a written certificate in respect of the foetal death signed by a registered medical practitioner or midwife who was in attendance at the occurrence of the foetal death or who examined the foetus; and a declaration to the effect that a registered medical practitioner or midwife was not present at the occurrence of the foetal death, a registered medical practitioner or midwife has not examined the foetus or the certificate of a registered medical practitioner or midwife cannot be obtained in respect of the foetal death.

Clause 22 deals with a burial permit for foetal death. The District Registrar is mandated to register the foetal death and issue a burial permit to the person requiring the burial permit for the purpose of burial or other disposition of the body, if the District Registrar is satisfied with the certificate or declaration provided under *clause 21*.

The District Registrar in the district in which a death occurs is required to register the death within fourteen days after the death occurring, *clause 23*. The registration of a death which is reported fourteen days after the death occurred is subject to the payment of the fee specified for late registration in accordance with the Fees and Charges (Miscellaneous Provisions) Act, 2018 (Act 983). The *clause* provides for the registration by the Registrar, within ninety days, of a death where a dead body is found in the district but information as to the place of death is unknown.

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Clause 24 provides for persons who are required to furnish information as to death, including the nearest relative of the deceased present at the time of death or in attendance at the last illness of the deceased; a relative of the deceased residing or being within the registration district; an occupier of the premises in which the death occurred; and a coroner who has been notified of the death and has made an inquiry or held an inquiry regarding the death.

The medical practitioner who was in attendance during the illness of the deceased is required to issue to the person who provides the particulars of the death, a medical certificate that states the cause of death, *clause 25*. The certificate is required to be delivered to the District Registrar for subsequent registration in the register of deaths.

Clause 26 deals with the duty of a coroner after holding an inquiry. Where a coroner is informed that a dead body has been found, or that a person has died in the district and the coroner has reasonable cause to suspect that that person has died a violent death or any other unnatural death; a death of which the cause is unknown; while detained in a prison, a psychiatric hospital or a public institution other than a hospital; in a place or circumstance which in the opinion of the coroner makes a holding of an inquiry necessary or desirable; the coroner is, subject to the Coroner's Act, 1960 (Act 18), required to hold an inquiry as soon as practicable in respect of the death.

Clause 27 deals with the issuance of a death certificate by the District Registrar. Where a dead body is brought into the country from another country for disposal and an order in respect of the dead body has not been given by a coroner, the District Registrar is required to issue a burial permit if it appears to the District Registrar that the death is not required by law to be registered in this country.

Clause 28 deals with burial or other disposition of dead persons and requires that the body of a dead person who dies in this country be disposed of only in accordance with provisions made in the Bill. The *clause* disallows a person from conducting a burial or cremation unless that person is registered under provisions of the Bill when enacted. A person who conducts a burial is required to inspect the death certificate and burial permit before proceeding with the burial.

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Registration of morgues, funeral homes, burial grounds and crematoriums by the District Assembly is the subject of *clause 29*. A person is prohibited from operating a morgue, funeral home, burial ground or a crematorium unless the morgue, funeral home, burial ground or a crematorium is registered in accordance with this Bill.

By virtue of *clause 30*, the owner or manager of a burial ground is prohibited from permitting the burial of a dead body in the burial ground unless a burial permit in respect of the dead body has been delivered to the manager or owner of the burial ground. A burial permit is however not required where a re-burial is necessary due to authorised exhumation.

The registration of births and deaths occurring on the high seas and air space is dealt with in *clause 31*. The Registrar is required to register deaths on the high seas and in the air space where the port of destination or place of registration of the aircraft or ship is Ghana.

Clause 32 provides for a person to submit a petition in writing to a District Officer indicating that a registration under the provisions of the Bill has been falsely obtained or fraudulently obtained, or a certificate obtained under the provisions of the Bill is being used for a fraudulent or improper purpose. In that circumstance, the *clause* enables the District Officer to order the attendance of the implicated persons at the hearing in respect of the petition. The provision empowers the District Registrar to order a certificate issued in respect of that registration to be delivered for cancellation. The *clause* further provides for review procedures where a person is aggrieved by the cancellation of the certificate.

Clauses 33 and *34* deal with correction of errors in the births and deaths register respectively. A person shall not alter a register of births, foetal deaths or deaths unless authorised under this Act, *clause 33*. Clerical errors in a register of births, register of foetal deaths or register of deaths may be corrected in accordance with *subclause (6)* of the provision and *clause 34*. A person may by application in writing, request the Registrar or District Registrar to effect corrections in the register, subject to the payment of the specified fee. Such written requests are to be supported by a statutory declaration setting out the nature of the error and the true facts of the case of the birth, foetal death or death in respect of which the error has been made.

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Clause 34 provides for the correction of an error contained in the certificate of a coroner. An error of fact or substance other than an error relating to the cause of death may be corrected by the certification of the coroner at the request of the Registrar or District Registrar. Requests made by the Registrar or District Registrar to this effect must be supported by a statutory declaration or an affidavit setting out the nature of the error.

Clause 35 deals with the request for search of records. The *clause* provides for search of records to be made by an application in writing submitted to the Registrar or District Registrar in respect of the registration of a birth, foetal death or death; or a burial record in the Registry. The *clause* subjects an application of this nature to the payment of a specified fee.

Clauses 36 to 46 provide for miscellaneous matters under the Bill. *Clause 36* provides for applications for a certified copy of entry in the register of births to be made by an application to the High Court requesting the Registrar or a District Registrar to produce a certified copy of such entries. The High Court is mandated to make an order directing the Registrar or District Registrar to produce a certified copy of the entry in the register of births where the Court is satisfied that there is a compelling reason for grant of the order and the applicant will not use the information obtained from the register for an improper purpose.

Similar provisions for obtaining a certified copy of entry in the register of foetal deaths and in the register of deaths by applications to the High Court requesting the Registrar or a District Registrar to produce such information are specified in *clauses 37 and 38* respectively.

A certificate issued under this Act is prima facie evidence of the facts contained in the certificate, *clause 39*.

Clause 40 deals with information sharing. For purposes of data management, a birth certificate, death certificate or any other document issued by the Registry shall bear a unique number. The Registry is required to collaborate with other public agencies in information and data sharing. Sharing of information with private entities is subject to the Data Protection Act, 2012 (Act 843).

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Security protocols are dealt with under *clause 41*. The Registry is required to employ security protocols to ensure that all data within the possession of the Registry are secured at all times. Protocols referred to under the provision include biometric access and other state-of-the-art data protection features.

Clause 42 deals with appeals. An applicant whose application under this Act has been refused may apply to a District Court for a review of the refusal.

Offences and penalties are provided for in *clause 43*. The categories of offences enumerated under the provision include failure to give notice or refusal to provide information, certificate or documents required under provisions of the Bill within the prescribed time; and altering a register of birth, a register of foetal deaths or a register of deaths otherwise than in accordance with *clause 33*. The provision indemnifies a Registration Officer, District Registrar or Registrar from personal liability for acts done in good faith under the Act.

Regulations are provided for in *clause 44*. Under this *clause*, the Minister may, by legislative instrument, make Regulations to provide for the disposal of dead bodies; to prescribe the forms and content of a certificate to be issued under the Act; on the particulars required for the registration of births and deaths; and on any other matter necessary for the effective implementation of the Act.

Clause 45 is on the interpretation of certain words and expressions in the Bill, while *clause 46* deals with repeal and savings. The Registration of Births and Deaths Act, 1965 (Act 301) is repealed. Despite the repeal of Act 301, Regulations, by-laws, notices, orders, directions or any other act or an appointment lawfully made or done under the repealed enactment and in force immediately before the coming into force of the Bill are to continue to have effect until revoked, cancelled or terminated.

HON. ALIMAHAMA, MP

*Minister responsible for Local Government
and Rural Development*

Date: 29th June, 2020.