

GENERAL EXPLANATORY NOTE:

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

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

ACT

To amend the Births and Deaths Registration Act, 1992, so as to further regulate the rectification of particulars in documents in the custody of the Director-General: Home Affairs; to provide for the surrendering of certificates and documents which reflect incorrect particulars to the Director-General, and to create an offence in this regard; to repeal or to substitute certain obsolete or superfluous provisions and expressions; to further regulate the assumption of another surname; and to provide for matters connected therewith.

*(Afrikaans text signed by the President.)
(Assented to 26 November 1997.)*

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

Amendment of section 7 of Act 51 of 1992

1. Section 7 of the Births and Deaths Registration Act, 1992 (hereinafter referred to as the principal Act), is hereby amended— 5

(a) by the substitution for subsection (2) of the following subsection:

“(2) If **[by virtue of subsection (1)]** in the course of the administration of this Act it comes to the attention of the Director-General that any particulars in respect of any person in any document submitted or preserved in terms of this Act or included in the population register are not correctly reflected, the Director-General may supplement and correct such particulars in consultation with the person in question.”; and 10

(b) by the addition of the following subsection:

“(3) Any person who is in possession of a certificate or other document purported to be issued in terms of this Act, which does not correctly reflect the particulars in any document referred to in subsection (2) or in the population register, shall within the prescribed period hand over or send by registered post such certificate or document to the Director-General.” 15

Substitution of section 25 of Act 51 of 1992

2. The following section is hereby substituted for section 25 of the principal Act: 20

“Alteration of surname of minor

25. (1) When—

- (a) the birth of any **[illegitimate]** minor born out of wedlock has been registered and the mother of that minor marries any person other than the natural father of the minor; 5
- (b) the father of any minor is deceased or his or her parents’ marriage has been dissolved and his or her mother remarries or his or her mother as a widow or divorcee resumes a surname which she bore at any prior time;
- (c) the birth of any **[illegitimate]** minor born out of wedlock has been registered under the surname of his or her natural father: or 10
- (d) a minor is in the care of a guardian. his or her mother or his or her guardian. as the case may be. may apply to the Director-General for the alteration of his or her surname to the surname of his or her mother, or the surname which his or her mother has resumed. or the surname of his or her guardian. as the case may be. and the Director-General may alter the registration of birth of that minor accordingly in the prescribed manner: Provided that the man who married the mother of a minor mentioned in paragraph (a) or (b), shall grant written consent to the alteration. 15 20

(2) Any parent or any guardian of a minor whose birth has been included under a specific surname in the population register. may on the strength of a reason not mentioned in subsection (1). apply to the Director-General for the alteration of the surname of the minor under which his or her birth was registered, and the Director-General may, on submission of a good and sufficient reason given for the contemplated alteration of the surname, alter the said original surname accordingly in the prescribed manner. 25

(3) For the purpose of this section “guardian” includes any person who has in law or in fact the custody or control of a minor.”.

Substitution of section 26 of Act 51 of 1992

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3. The following section is hereby substituted for section 26 of the principal Act:

“Assumption of another surname

26. (1) Subject to the provisions of this Act or any other law, no person shall assume or describe himself or herself by or pass under any surname other than that under which he or she has been included in the population register **[or that under which he obtained permanent residence in the Republic]**, unless the Director-General has authorized him or her to assume that other surname: Provided that this subsection shall not apply when— 35

- (a) a woman after her marriage, **including a marriage according to the rites of the Islamic or any Indian religion or a customary union as defined in section 35 of the Black Administration Act, 1927 (Act No. 38 of 1927),** assumes the surname of the man with whom she concluded such marriage **[or union]** or after having assumed his surname. resumes a surname which she bore at any prior time; 40
- (b) a married or divorced woman or a widow resumes a surname which she bore at any prior time; and 45
- (c) a woman, whether married or divorced, add to the surname which she assumed after the marriage, any surname which she bore at any prior time.

(2) At the request of any person the Director-General may, if he or she is satisfied that there is a good and sufficient reason for that person’s assumption of another surname, authorize the person to assume a surname other than his or her surname as included in the population register, and the Director-General shall include the substitutive surname in the population 50

register in the prescribed manner [, **and may authorize a person to assume a surname other than that under which he obtained permanent residence in the Republic**].”.

Amendment of section 31 of Act 51 of 1992

4. Section 31 of the principal Act is hereby amended by the deletion in subsection (1) 5 of the word “or” at the end of paragraph (e), the addition of the word “or” at the end of paragraph (f), and the addition of the following paragraph:

“(g) without reasonable cause fails to hand over or send any certificate or document as contemplated in section 7(3).”.

Short title

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5. This Act shall be called the Births and Deaths Registration Amendment Act, 1997.