CHAPTER 5:02

BIRTHS AND DEATHS REGISTRATION ACT

Acts 11/1986, 7/1994, 6/2000, 22/2001, 6/2005.

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AN ACT to provide for the registration of births and deaths in Zimbabwe and to provide for matters incidental thereto or connected therewith.

[Date of commencement: 20th June, 1986.]

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PART I

PRELIMINARY

1 Short title

This Act may be cited as the Births and Deaths Registration Act [*Chapter 5:02*].

2 Interpretation

(1) In this Act—

"adopter" means a person who has adopted a child in terms of the Children's Act [*Chapter 5:06*];

[Definition as amended by section 34 of Act 6 of 2005.]

"born" does not include still-born;

"bury" means to deposit in the ground or cremate a dead body;

"entry", in relation to any register kept in terms of this Act, includes any information contained in any form, certificate or other document forming part of that register;

"medical practitioner" means a person registered as a medical practitioner in terms of the Health Professions Act [*Chapter 27:19*];

[Definition as amended by section 151 of Act 6 of 2000.]

"midwife" means a person registered as a midwife in terms of the Health Professions Act [*Chapter 27:19*];

[Definition as amended by section 151 of Act 6 of 2000.]

"Minister" means the Minister of Home Affairs or any other Minister to whom the President may, from time to time, assign the administration of this Act;

"registrar" means the person appointed to be a registrar of births and deaths for a district and includes a deputy registrar and an assistant registrar;

"Registrar-General" means the officer referred to in paragraph (*a*) of section *three*;

"responsible person" means the person whose duty it is to give notice of a birth, still-birth or death in terms of section *eleven*, *twenty* or *twenty-two*, as the case may be;

"still-birth" means any child which has issued forth from its mother after the twenty-eighth week of pregnancy and which did not, after being completely expelled from its mother, breathe or show any signs of life.

(2) For the purposes of this Act, a person shall be regarded as—

(*a*) born out of wedlock if his parents were not married to each other at the time of his conception or birth and have not subsequently married each other;

(*b*) born in wedlock if his parents were married to each other at the time of his conception or birth, or have subsequently married each other;

and, for the purpose of determining whether or not such a person's parents were or have been married to each other, a putative or voidable marriage shall be regarded as a valid marriage.

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PART II

REGISTRARS AND REGISTERS

3 Registrar-General and registrars

Subject to the laws relating to the Public Service, there shall be—

(*a*) a Registrar-General of Births and Deaths whose office shall be the central registering office for all notices of births, still-births and deaths and for all such returns as are required in terms of this Act; and

(*b*) a registrar for each district; and

(*c*) such deputy registrars and assistant registrars as are necessary.

4 Registrars to keep and maintain registers and to forward notices to Registrar-General

(1) A registrar shall keep and maintain registers in the prescribed form in which he shall register the birth, still-birth or death of any person which has occurred in his district and of which he has received notice in the prescribed form.

(2) A registrar shall sign and forward to the Registrar-General, by registered post within the time prescribed, all notices of births, still-births or deaths and all medical certificates of the causes of death, together with all other documents relating thereto, received by him.

5 Registrar-General to keep and maintain registers

The Registrar-General shall keep and maintain registers in which he shall register the birth, still-birth or death of any person of which he has received notice in terms of this Act.

6 Certified copies of entries

(1) The Registrar-General or a registrar may, upon receipt of payment of the prescribed fee, issue to an applicant a certified copy of any entry in any register in his custody.

(2) The Registrar-General or a registrar may—

(*a*) refuse to issue a certified copy of any entry referred to in subsection (1) where he is not satisfied that such copy is required for a lawful purpose; or

(*b*) issue a limited number of certified copies of any entry referred to in subsection (1) to an applicant.

(3) If any person is aggrieved by a decision in terms of subsection (2), he may appeal—

(*a*) in the case of a decision by a registrar, to the Registrar-General; or

(*b*) in the case of a decision by the Registrar-General, to the Minister, whose decision shall be final.

(4) Notwithstanding subsection (1), a certified copy of any entry in any register may be issued to a representative or official of the government of any country other than Zimbabwe in the course of his official duties, without payment of the prescribed fee.

(5) Unless otherwise directed by the Minister to whom the administration of the Children's Act [*Chapter 5:06*] has been assigned, a certified copy of an entry in any register issued in terms of subsection (1) in respect of a child adopted in terms of that Act shall indicate the new name or names of such adopted child and not those which were registered in any register for births pursuant to this Act.

[Subsection as amended by section 34 of Act 6 of 2005.]

7 Evidence of certified copy of entry in register

A document purporting to be a copy of any entry in any register certified under the hand of the Registrar-General or a registrar to be a true copy shall, on its production by any person for the purpose of any law, be *prima facie* evidence in all courts of the dates and facts therein stated.

8 Correction of error in register

(1) The Registrar-General may, subject to any regulations made in terms of section *twenty-six*, direct the correction of any error in any register, whether it is a clerical error or an error of fact or substance.

(2) Any person may, upon payment of the prescribed fee, apply to the Registrar-General for a correction to be made under subsection (1).

(3) Corrections shall be made without erasing the original entry, and shall be authenticated by the signature of the Registrar-General or a registrar.

(4) The fee payable in terms of subsection (2) shall not be refunded unless the application is made in regard to an error which was made by the Registrar-General, a registrar or a member of their staff.

9 Members of Public Service may examine registers

Notwithstanding anything to the contrary contained in this Act, it shall be lawful for any member of the Public Service, where it is necessary or expedient for the discharge of the duties of his office, to examine any register kept and maintained in terms of this Act and to obtain a certified copy of any entry therein, without the payment of a fee.

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PART III

REGISTRATION OF BIRTHS, STILL-BIRTHS AND DEATHS

10 Compulsory registration of births, still-births and deaths

Subject to this Act, notification and registration of the birth, still-birth or death of any person which occurs in Zimbabwe after the 20th June, 1986, shall be compulsory.

11 Responsibility for giving notice of the birth or still-birth of a child

(1) Subject to section *twelve*, it shall be the duty of the father or the mother of a child and, in the case of the death or inability of the father and the mother, the duty of—

(*a*) the occupier of the house in which the birth or still-birth occurred, where he had knowledge of such birth or still-birth; or

(*b*) the person in charge of any hospital or other institution in which the birth or still-birth occurred; or

(*c*) the headman appointed in terms of section 8 of the Chiefs and Headmen Act [*Chapter 29:01*] for the community in which the birth or still-birth occurred, where he had knowledge of such birth or still-birth; or

(*d*) any person who has attained the age of eighteen years present at the birth or still-birth; or

(*e*) in the case of a birth, any person who has attained the age of eighteen years having charge of the child; or

(*f*) such other person as may be prescribed;

to give notice of the birth or still-birth in the prescribed form to the registrar of the district in which the birth or still-birth, as the case may be, occurred.

(2) Notice in terms of subsection (1) shall be given—

(*a*) in the case of a birth, within forty-two days from the date of the birth;

(*b*) in the case of a still-birth, as soon as possible but in any case within thirty days of the still-birth.

(3) The giving of notice by any of the responsible persons referred to in subsection (1) shall be a discharge of the duty under that subsection of any other person referred to therein to give notice of the birth or still-birth.

(4) In the case of a still-birth, the medical practitioner or the midwife, as the case may be, who was in attendance at the still-birth or who examined the body of the child shall sign a certificate stating that the child was still-born.

(5) The certificate referred to in subsection (4) shall be given to a responsible person referred to in subsection (1) by the medical practitioner or midwife whose signature it bears by personal delivery or registered post.

(6) A responsible person shall give notice of a still-birth by—

(*a*) delivering to the registrar the certificate referred to in subsection (4); or

(*b*) making a declaration in the prescribed form to the effect that no medical practitioner or midwife was present at the still-birth or examined the body and that the child was not born alive.

12 Registration of birth of a child born out of wedlock

(1) Notwithstanding section *eleven*, no person shall be required to give information acknowledging himself to be the father of a child born out of wedlock.

(2) A registrar shall not enter in the register the name of any person as the father of a child born out of wedlock, except—

(*a*) upon the joint request of the mother and the person acknowledging himself to be the father of the child; or

(*b*) if the mother of the child is dead or has abandoned or deserted the child, upon the request of the person acknowledging himself to be the father of the child; or

(*c*) if the alleged father of the child is dead, upon the joint request of the child's mother and a parent or near relative of the alleged father.

(3) A request in terms of subsection (2) shall be made in the form and manner prescribed.

13 Registration of birth occurring outside Zimbabwe

(1) In the case of a birth occurring outside Zimbabwe of a child whose father or, in the case of a child born out of wedlock, whose mother, is at the time of his birth a citizen of Zimbabwe otherwise than by descent, notice of the birth may be given to the Registrar-General, in the form and in the manner prescribed, by any responsible person referred to in subsection (1) of section *eleven.*

(2) Sections *eleven* and *twelve* shall apply, *mutatis mutandis*, in respect of the birth of a child born out of wedlock occurring outside Zimbabwe.

(3) The Registrar-General may refuse to register a birth referred to in subsection (1) where the person whose birth it is sought to register has attained the age of eighteen years, unless the Registrar-General is satisfied that that person is a citizen of Zimbabwe.

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14 Registration of birth of adopted child born outside Zimbabwe

Where an order has been made under any law for the adoption of a child born outside Zimbabwe, the Registrar-General shall, on the application of the adopter and on production of—

(*a*) the order of adoption or certified copy thereof; and

(*b*) the birth or baptismal certificate of the child or a certified copy thereof or, if no such certificate is available, such documentary evidence relating to the birth of the child as he considers sufficient; and

(*c*) the form prescribed for use in connection with the registration of a birth, completed as far as may be possible and signed by the adopter; and

(*d*) proof that the adopter or, in the case of a joint adoption, the male adopter, was a citizen of Zimbabwe at the date of the order of adoption;

cause the birth of the child to be recorded in his register and in the register of births of the district in which the order of adoption was made and shall cause the fact of adoption and a statement as to whether the name of the adopter was or was not conferred on the child by virtue of the adoption to be recorded on the form referred to in paragraph (*c*) and filed in his office and to be recorded against the entry of the birth in the register of births of the district in which the birth was recorded.

15 Notice of birth of abandoned child

If any new-born living child is found abandoned it shall be the duty of any person who has attained the age of eighteen years finding such child or, failing such person, of any person over the age of eighteen years in whose charge it may be placed, within forty-two days of finding such child or, as the case may be, taking charge of it, to give to the registrar of the district in which such child was found or taken charge of, notice of the birth in the prescribed form and to furnish to the best of his knowledge the prescribed particulars.

16 Registration of birth where place or date thereof unknown

Where notice of the birth of any person is given under this Act but at the time of the giving of such notice the place or date of such birth, or both, are not known, the Registrar-General, after due inquiry, may direct the

registration of such birth notwithstanding the lack of such information and may assign to such child a putative place or date of birth, or both, as the case may be.

17 Notice of birth given by persons who are not responsible persons

Notwithstanding section *eleven* or *fifteen*, the Registrar-General may permit notice of birth to be given in terms of either of the said sections by a person other than a responsible person if the Registrar-General is satisfied, on production of such evidence as he considers necessary, as to the information contained in such notice.

18 Change of name in register

(1) In this section—

"responsible parent" means—

(*a*) if the father of the child is dead or the mother has been given custody of the child by virtue of a law relating to the guardianship of children or the child is born out of wedlock, the mother of the child;

(*b*) in any other case, the father of the child.

(2) Where the birth of a person has been registered in any register of births and—

(*a*) the forename which was registered is changed otherwise than by adoption; or

(*b*) the registration was effected before the person concerned received a forename;

the person concerned or, if he has not attained the age of eighteen years, his responsible parent or legal guardian, may apply to the Registrar-General for the registration of the forename in the appropriate register of births and, on payment of the prescribed fee and on the production of such evidence as the Registrar-General may consider necessary, the Registrar-General may register the changed forename or the forename received by the person concerned.

(3) Where the birth of a person has been registered in any register for births and the surname of the person is changed, otherwise than by adoption, the person concerned or, if he has not attained the age of eighteen years, his responsible parent or legal guardian, may apply to the Registrar-General for the registration of the surname, and the Registrar-General shall, on payment of the prescribed fee and on being satisfied that—

(*a*) a notarial deed, as defined in the Deeds Registries Act [*Chapter 20:05*], setting forth the change of surname has been registered in the Deeds Registry; and

(*b*) the change of surname has been advertised in the *Gazette*;

register the change of surname in the appropriate register for births but without deleting the original surname.

(4) Notwithstanding subsection (3), the Registrar-General may register a change of surname in the appropriate register for births but without deleting the original surname even where a notarial deed has not been registered, if he is satisfied—

(*a*) that the change of surname is for a lawful purpose; and

(*b*) that the change of surname is not being effected for purposes of fraud or misrepresentation; and

(c) in the case of an application to change the surname of a person under the age of eighteen years, that the responsible parent or legal guardian of the person has the right to represent or assist him in changing his surname;

and if he considers it necessary and desirable to do so, the Registrar-General may give notice of such change in the *Gazette.*

(5) After the registration of a change of name under this Act every certified copy of the entry concerned shall omit the original surname unless otherwise requested by the applicant.

(6) Notwithstanding this section, no change of name of a person who has been adopted and whose name has been registered in the Adopted Children Register shall be made in terms of this section but any such change shall be effected in terms of section 71 of the Children's Act [*Chapter 5:06*].

[Subsection as amended by section 34 of Act 6 of 2005.]

19 Re-registration of births of persons born out of wedlock.

(1) Where any person has been registered as born out of wedlock and evidence is presented to the Registrar-General satisfying him that, by operation of any law, the person must be regarded as born in wedlock, the Registrar-General may on application authorize the re-registration of the person's birth, and such re-registration shall be effective as though the person had been born in wedlock at the time of the initial registration.

(2) An application for re-registration in terms of subsection (1) may be made by either of the parents of the person concerned, whether or not he has attained the age of eighteen years, or, if either or both of his parents are dead, by his nearest relative or legal guardian.

20 Responsibility for giving notice of death occurring in Zimbabwe

(1) Whenever a person dies it shall be the duty—

(*a*) of every relative who has attained the age of eighteen years present at the death or in attendance during the last illness of such person; or

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(*b*) if there are no such relatives as are referred to in paragraph (*a*), of every relative who has attained the age of eighteen years dwelling within the district in which such person died; or

(*c*) if there are no such relatives as are referred to in paragraph (*a*) or (*b*), of—

(i) every person over the age of eighteen years present at the death; or

(ii) the occupier and every inmate over the age of eighteen years of the house in which the death took place, where such occupier or inmate has knowledge of the death; or

(iii) the headman appointed in terms of section 8 of the Chiefs and Headmen Act [*Chapter 29:01*] for the community in which the death took place, where he had knowledge of the death; or

(iv) every person over the age of eighteen years who has buried or caused to be buried the body of the deceased person; or

(v) such other persons as may be prescribed;

to give notice of the death of such person in the prescribed form to the registrar of the district in which such person died.

(2) The notice given in terms of subsection (1) shall be given as soon as possible but in any case within thirty days of the death.

(3) The giving of notice by any of the responsible persons referred to in subsection (1) shall be a discharge of the duty under that subsection of any other person referred to therein to give notice of death.

(4) A medical practitioner who examined the body of the dead person or, if no such examination occurred, a medical practitioner who attended the person during his last illness, shall, unless he believes the death was not the result of natural causes, sign a certificate stating the cause of death to the best of his knowledge and belief.

(5) The certificate referred to in subsection (4) shall be given to a responsible person referred to in subsection (1) by the medical practitioner whose signature it bears by personal delivery or registered post .

(6) A person referred to in subsection (1) who receives the medical certificate of the cause of death given in terms of subsection (4) shall, as soon as is reasonably possible after receiving the certificate, deliver it or cause it to be delivered to the registrar of the district where the death occurred.

(7) Where the cause of death of a person whose death is required to be registered has been—

(*a*) stated in a medical certificate; or

(*b*) determined by an inquest or other like proceedings;

or both, the registrar shall record in the register of deaths the cause of death so stated or determined, as the case may be.

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21 Registration of death occurring outside Zimbabwe of person on duty

(1) In the case of the death occurring outside Zimbabwe of a person who—

(*a*) was—

(i) a member of the Defence Forces or the Police Force; or

(ii) any person assisting the Defence Forces or the Police Force; or

(iii) any other person or class of persons that may be prescribed;

and

(*b*) died while performing his duties outside Zimbabwe;

notice of such death may be given to the Registrar-General, in the form and in the manner prescribed, by any person or authority prescribed in relation to such person.

(2) The Registrar-General shall keep and maintain a register in the prescribed form in which he shall register every death of which he has received notice in terms of subsection (1).

(3) Where the cause of death of a person, of whose death notice is given in terms of subsection (1), has been—

(*a*) stated in a medical certificate; or

(*b*) determined by a board of inquiry or other like proceedings;

or both, the Registrar-General shall record in the register the cause of death so stated or determined, as the case may be.

(4) Sections *twenty-two* and *twenty-three* shall not apply in relation to a death of which notice is given in terms of this section.

22 Notice by person finding exposed body

(l) Any person who has attained the age of eighteen years, who—

(*a*) finds the body of a dead person; or

(*b*) takes charge of the body of a dead person so found; or

(*c*) causes the body of a dead person so found to be buried;

shall give notice of the death of such person in the prescribed form to the registrar of the district where such body was found, taken charge of or buried, as the case may be.

(2) The notice in terms of subsection (1) shall be given within seventy-two hours of the finding, taking charge of or burying of the body, as the case may be.

(3) The giving of notice by any person referred to in subsection (1) shall be a discharge of the duty under that subsection of any other person referred to therein to give notice of the death concerned.

23 Duty of registrar in case of death of person not attended by medical practitioner

(1) In the case of the death of any person who was not attended during his last illness by a medical practitioner, the registrar to whom notice of the death is given shall, if no inquest has been or is being instituted and no criminal proceedings have been or are being instituted in relation to the death, make such inquiry into the cause of the death as he thinks necessary and for such purposes may direct in writing any person to appear before the registrar on a date, being not less than seven days, after receipt of the written direction, and at a place specified in the written direction, and give to the best of his knowledge and ability such information as may be in his possession as to the cause of death of such person.

(2) If, after making any inquiry referred to in subsection (1), the registrar is not satisfied that death was due to natural causes, he shall forthwith report the matter to a magistrate.

24 Powers of Registrar-General and registrars

(1) On receipt of any notice of birth, still-birth or death the registrar in each district shall examine such notice and cause any defect or inaccuracy therein to be remedied or corrected and, for such purpose, may direct in writing that the responsible person appear before the registrar on a date, being not less than seven days after receipt of the written direction, and at a place specified in the written direction, and give to the best of his knowledge and ability such information as may be in his possession as to the birth, still-birth or death.

(2) If, owing to the default of the responsible person, a birth, still-birth or death is not registered before the expiry of the appropriate period provided in this Act, the registrar may direct in writing any person to appear before the registrar on a date, being not less than seven days after receipt of the written direction, and at a place specified in the written direction, and give to the best of his knowledge and ability notice of the birth, still-birth or death in the prescribed form:

Provided that—

(i) no such written direction shall be given in relation to a death with respect to which an inquest has been held;

(ii) such written direction shall cease to have effect if the birth, still-birth or death is registered before the person to whom the written direction relates has complied therewith.

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25 Registration of birth, still-birth or death after twelve months

(1) No birth, still-birth or death which occurs after the 20th June, 1986 shall be registered after the expiry of twelve months from the date of such birth, still-birth or death except with the written authority of the Registrar-General.

(2) If the Registrar-General refuses to give written authority for the registration of a birth, still-birth or death in terms of subsection (1) he shall, if so requested by the person applying for such registration, refer the matter to the Minister whose decision shall be final:

Provided that, where a court in consideration of a case in terms of section *twenty-seven*, orders that the registration of the birth, still-birth or death of a person be effected, the Registrar-General shall register such birth, still-birth or death.

(3) The Registrar-General may delegate the functions conferred on him by this section to a registrar in respect of births, still-births and deaths occurring in the district of that registrar.

PART IV

GENERAL

26 Regulations

(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;
(*i*) the time within which any thing required or authorized to be done in terms of this Act is to be done.

27 Offences and penalties

(1) Any person whose duty it is to give notice of the birth or still-birth of a child or the death of a person and who, without reasonable cause, fails to do so within the appropriate period provided in this Act shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine or such imprisonment.

[Subsection as amended by section 4 of Act 22 of 2001.]

(2) Any person who—
(*a*) wilfully gives any false information for the purposes of the registration of a birth or still-birth of a child or the death of a person; or
(*b*) when giving notice of the birth or still-birth of a child or the death of a person, refuses or neglects to state any of the particulars in the form prescribed; or
(*c*) contravenes any provision of this Act for which no other penalty is provided or contravenes any written direction given in terms of this Act;

shall be guilty of an offence and liable to a fine not exceeding level six or to imprisonment for a period not one year or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act 22 of 2001.]

(3) Any person who, without lawful excuse—
(*a*) destroys or damages or renders illegible or causes to be destroyed or damaged or rendered illegible any register or certified copy of an entry therein or any part thereof; or
(*b*) falsifies or counterfeits or causes to be falsified or counterfeited any register or certified copy of an entry therein or any part thereof; or
(*c*) inserts or causes to be inserted in any register or certified copy of an entry therein or any part thereof any false entry; or
(*d*) issues, gives or utters any false certificate or certifies any writing to be a copy of or extract from a register or any entry therein, knowing such copy or extract to be false in any material particular; or
(*e*) counterfeits the signature, seal, impression or stamp of the Registrar-General or any registrar; or
(*f*) knowingly permits any act referred to in paragraph (*a*) to (*e*) to be committed in relation to any register of which he has the custody or care or in relation to any certified copy of an entry in such register or any part thereof;

shall be guilty of an offence and liable to a fine not exceeding level ten or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act 22 of 2001.]

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(4) Without derogation from its powers in any civil proceedings, a court may, at the conclusion of any criminal proceedings, order the Registrar-General to—
(*a*) register any birth, still-birth or death of a person; or
(*b*) delete, remove or correct any false information or entry; or
(*c*) reproduce or replace any destroyed or damaged register or document.

28 Registration of birth or death which occurred before 20.6.1986

(1) Notwithstanding any other provision of this Act, notification may be given of the birth, still-birth or death of any person which occurred in Zimbabwe prior to the 20th June, 1986, and which was not registered under any enactment then in force relating to the registration of such births, still-births or deaths.

(2) Notification may be given in terms of subsection (1)—
(*a*) in the case of a birth, by a person concerned or, if he has not attained the age of eighteen years, by a person who is a responsible person; and
(*b*) in the case of a still-birth or a death, by a person who is a responsible person;

and the Registrar-General or the registrar of the district concerned shall, if satisfied that the birth, still-birth or death occurred in Zimbabwe, register such birth, still-birth or death in the appropriate register.

29 Savings

Any register kept, registration effected, certificate issued, notice or information given, regulations made or other thing done or deemed to have been done under the Births and Deaths Registration Act [*Chapter 30 of 1974*] which was valid immediately before the 20th June, 1986, shall on and after that date have effect and be given effect as if it had been kept, effected, issued, given, made or done, as the case may be, under the appropriate provision of this Act, and this Act shall apply thereto accordingly.