

Malawi

## Births and Deaths Registration Act

### Chapter 24:01

Legislation as at 31 December 2014

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# Malawi

## Births and Deaths Registration Act

### Chapter 24:01

Commenced on 1 July 1904

*[This is the version of this document at 31 December 2014.]*

*[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]*

#### An Act to provide for the notification and registration of births and deaths

#### 1. Short title

This Act may be cited as the Births and Deaths Registration Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

“**birth report**” means a report of a birth containing the prescribed particulars and made in the prescribed form;

“**death report**” means a report of a death containing the prescribed particulars and made in the prescribed form;

“**prescribed particulars**” means—

- (a) as to any birth, the sex, name, date and place of birth, the names, residence, occupations and nationality of the parents, and such other particulars as the Minister may by rule prescribe;
- (b) as to any death, the name, age, sex, place of residence, length of residence in Malawi, occupation and nationality of the deceased, and the date, place and cause of death, and such other particulars as the Minister may by rule prescribe;

“**Registration Officer**” means a person appointed as such by or under [section 19](#);

“**Registrar**” means the Registrar of Births and Deaths for Malawi appointed under [section 14](#).

### Part I – Registration of births

#### 3. Register to be kept in every district

The Registration Officer of each district shall keep a register, and shall enter therein every birth of a child born alive within his district after the commencement of this Act, whereof the prescribed particulars are reported to him.

#### 4. Mode of registration

Every person registering the birth of a child shall, to the best of his knowledge and ability, give the prescribed particulars, and shall certify to their correctness either by signing or, if he be illiterate, by fixing his mark to the register or, if the registration is effected without personal attendance, by signing or affixing his mark to, the prescribed form in which the prescribed particulars are reported to the Registration Officer.

## 5. Duty to register births

In the case of every child born alive after the commencement of this Act, the registration of whose birth is compulsory, it shall be the duty of the father and the mother, and in default of the father and the mother, of the occupier of the house in which to his knowledge such child is born, and of each person present at the birth, and of the person having charge of such child, to register the birth within three months of the birth. Such registration shall be effected by completing a birth report in respect of such birth and by certifying its correctness by signing or, if unable to sign, by affixing the mark of the person effecting registration to the birth report and delivering it to the Registration Officer of the district where the birth occurred.

Delivery of the birth report to a person for the time being employed in collecting the revenue of the local authority for the area in which the birth occurred shall be deemed to constitute delivery of such report to the Registration Officer of the district in which such area is situated.

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## 6. Illegitimate child

No person shall be bound as father to register the birth of an illegitimate child, and no person shall be entered in the register as the father of such child except at his own request, and upon his acknowledging himself to be the father of the child and signing, or affixing his mark to the birth report as such.

## 7. Registration after three months from birth

The Registration Officer shall not enter in the register the birth of any child after three months from the date of birth except upon receiving the written authority of the Registrar and upon payment of the prescribed fee.

## 8. Exposed child

If any living new-born child, the registration of whose birth is compulsory, is found exposed, it shall be the duty of any person finding such child, and of any person in whose charge such child may be placed, to give such information as the informant possesses for the purpose of registering such birth.

## 9. Change of name

Where the birth of any child has been registered before it has received a name, or the name by which it was registered is altered, the parent or guardian of such child may, within two years of the registration, on payment of the prescribed fee, and on providing such evidence as the Registration Officer may think necessary, register the name that has been given to the child.

# Part II – Registration of deaths

## 10. Register to be kept in every district

The Registration Officer of each district shall keep a register, and shall enter therein every death occurring within his district after the commencement of this Act whereof the prescribed particulars are reported to him.

## 11. Mode of registration

Every person registering a death shall to the best of his knowledge and ability give the prescribed particulars, and shall certify to their correctness, either by signing or, if he be illiterate, by affixing his mark to the register, or, if the registration be effected without personal attendance, by signing or affixing

his mark to the prescribed form on which the prescribed particulars are reported to the Registration Officer.

## 12. Duty to register deaths

In the case of every person dying after the commencement of this Act, the registration of whose death is compulsory, it shall be the duty of the nearest relatives of such person who were present at his death or in attendance during his last illness, and in default of such relatives, of every other relative dwelling within the district, and, in default of such relatives, of each person present at the death, and of the occupier of the house in which to his knowledge such death took place; and in default of the persons herein before mentioned, of any inmate of the house, or of any person finding or taking charge of the body of such person, or causing such person to be buried to register the death within one month after the death or finding of the body, or where the Registration Officer is satisfied that from any cause registration could not be effected within the said period, and that no undue delay has taken place within three months after the death or finding of the body. Such registration shall be effected by completing a death report and by certifying its correctness by signing, or, if unable to sign, by affixing the mark of the person effecting registration to the death report and delivering it to the Registration Officer of the district where the death occurred.

Delivery of the death report to a person for the time being employed in collecting the revenue of the local authority for the area in which the death occurred shall be deemed to constitute delivery of such report to the Registration Officer of the district in which such area is situated.

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## 13. Registration after three months from death

The Registration Officer shall not enter in the register a death more than three months after the date of the death, except that where the registration of such death is compulsory the Registration Officer shall enter it upon receiving the written authority of the Registrar, and upon payment of the prescribed fee.

# Part III – The Registrar

## 14. Appointment and duties of Registrar

- (1) The Registrar General shall be the Registrar of Births and Deaths for Malawi and the Assistant Registrar General may, subject to the directions of the Registrar General, carry out the functions of the Registrar of Births and Deaths for Malawi.
- (2) It shall be the duty of the Registrar to compile after the close of each year a summary of the births and deaths of such year, and a report on the increase or decrease of the population of Malawi, and on any special causes appearing to affect the same.
- (3) The Registrar shall have the custody of all filled register books and of all quarterly returns made by each Registration Officer.
- (4) It shall be the duty of the Registrar to provide each Registration Officer with such book and forms as may be required, and with such instructions as he may consider necessary for the registration of births and deaths in his district.

## 15. Quarterly and other returns

- (1) Every Registration Officer shall forward to the Registrar a quarterly return in the prescribed form showing the births and deaths registered in his district during such quarter, and shall also forward to him all such registers as soon as the space in the same available for registrations has become exhausted.

- (2) Notwithstanding subsection (1) the Registrar may direct that a Registration Officer whose district is outside Malawi need not maintain any register or that he shall furnish to the Registrar such returns or extracts at such intervals of time and verified in such manner as the Registrar may deem suitable, or shall carry out the duties of a Registration Officer with such variations as may be appropriate to the circumstances.

## 16. Indexes, searches, certified copies

- (1) The Registrar shall cause to be prepared from the returns made to him alphabetical indexes of the births and deaths registered.
- (2) Any register, return or index in the custody of the Registrar shall, on payment of the prescribed fee, be open to inspection subject to such conditions as the Registrar may direct:

Provided that a person aggrieved by conditions imposed by the Registrar may appeal to the High Court which may make such order regarding inspection as it deems proper.

- (3) The Registrar shall, on payment of the prescribed fee, furnish a certified copy of any entry or any return in his custody:

Provided that any person shall, on payment of the prescribed fee, be entitled to obtain from the Registrar a short certificate of birth of any person in the prescribed form and containing such particulars as may be prescribed and such certificate shall not include any particulars relating to parentage or adoption.

- (4) The copy of any entry in any register or return certified under the hand of the Registrar to be a correct copy shall be *prima facie* evidence in all courts of the dates and facts therein contained.

## 17. Correction of errors in registration

The following provisions shall apply to errors in any register of births or deaths—

- (a) no alteration in any register shall be made except as authorized by this Act;
- (b) any clerical error which may from time to time be discovered in any register may be corrected by any person authorized in that behalf by the Registrar;
- (c) any error of fact or substance in any such register may be corrected by the Registrar making an additional entry in the register (without any alteration of the original entry), upon payment of the prescribed fee and upon production to him by the person requiring such error to be corrected of a statutory declaration setting forth the nature of the error and the true facts of the case, made by two credible persons having knowledge of the truth of the case.

## Part IV – General

## 18. Compulsory registration of non-African births

- (1) The registration of the birth of a child shall be compulsory if either one or both parents are of European, American or Asiatic race or origin or, in the case of an illegitimate child not recognized by its father, if the mother is of European, American or Asiatic race or origin.

- (2) Of non-African deaths

The registration of the death of any person of European, American or Asiatic race or origin shall be compulsory and the same shall be registered by such person and in such manner as is herein before provided.

- (3) The Minister may, by order published in the *Gazette*, extend from a date to be named in the order, the provisions of this Act relating to compulsory registration of births and deaths to all persons in Malawi of any particular race, class, tribe or other group, or to all or some of the inhabitants of any

particular town, District or other area, and from and after the said date the registration of births and deaths shall, in such cases, be compulsory instead of being optional.

## 19. Registration Officers

- (1) Every District Commissioner shall be a Registration Officer for the District over which he has authority as a District Commissioner and an Assistant District Commissioner and any officer appointed by the Minister to be an Assistant Registration Officer in such District shall, subject to the directions of the District Commissioner, carry out the functions of a Registration Officer:

Provided that the Minister may appoint any other person to be the Registration Officer for a District, or a specified part of a District, in place of, or in addition to, the District Commissioner.

- (2) The Minister may appoint a diplomatic or consular officer or a person attached to any embassy, office of a high commissioner or consul, or any other Malawi Government representative abroad or the representative of another Government or any other suitable person to be a Registration Officer for the purpose of this Act in respect of a district outside Malawi to be specified in the instrument of his appointment.

## 20. Penalties

- (1) Any person who being under an obligation to register the birth or death of any person, fails so to do within the prescribed period or refuses to state any of the prescribed particulars shall be liable upon summary conviction to a fine of K4.
- (2) Any person who shall willfully give any false information or particulars for the purpose of registration shall be liable upon summary conviction to a fine of K20 or on conviction before the High Court on information to a fine of K200 or to imprisonment for seven years.

## 21. Rules

The Minister may make rules with regard to the following matters, and generally for carrying this Act into effect—

- (a) the place in each district and the hours at which births and deaths may be registered, and registers, returns and indexes kept open for inspection;
- (b) the conditions under which, and the mode in which, registration may be effected without personal attendance;
- (c) the number and forms of all registers, returns and other documents required for the purposes of this Act and the duties of the Registrar and Registration Officers;
- (d) the amount of any fee, where payment of a fee is prescribed by this Act and prescribing the fees and fixing the charges to be paid for any other matter or thing under this Act, or rules made thereunder, to be done or observed;
- (e) the inspection of registers, returns, indexes, and the provision of certified copies;
- (f) the places at which and period within which shall be registered births and deaths occurring on board ships and aircraft, registered or unregistered, while within the territorial waters or air space of Malawi;
- (g) penalties for failure to comply with the requirements of any rule, and for the remission of penalties;
- (h) providing for reports of births or deaths to be made by the officer or other person in charge of a hospital, clinic or other place where a medical service is provided;
- (i) special provisions relating to the registration of the birth outside Malawi of a child one of whose parents is a citizen of Malawi and the death outside Malawi of a citizen of Malawi.