

SPECIAL ISSUE

Kenya Gazette Supplement No. 153 (Senate Bills No. 39)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2014

NAIROBI, 27th October, 2014

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THE REGISTRATION AND IDENTIFICATION OF PERSONS BILL, 2014

A Bill for

AN ACT of Parliament to provide for the notification and registration of births and deaths; to provide for the identification of the citizens of Kenya; to provide for the issuance of documents of registration and identification and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Registration and Identification of Persons Act, 2014.

Short title.

2. In this Act, unless the context otherwise requires—

Interpretation.

“Appeals Tribunal” means the Kenya Citizens and Foreign Nationals Management Service Appeals Tribunal established under section 23 of the Kenya Citizens and Foreign Nationals Management Service Act;

Cap. 174.

“authorized officer” means an officer authorized by the Service to exercise the powers or perform the duties and functions in respect of which the expression is used;

“apparatus” includes a seal, machinery or device and any wire or

cable, together with any software and any equipment used with it for purposes of registration under this Act;

“birth” means the issuing forth from the mother after the expiration of the twenty-eighth week of pregnancy, whether alive or dead;

“Board” means the Board established under section 5 of the Kenya Citizens and Foreign Nationals Management Service Act;

Cap. 174.

“cabinet secretary” means the cabinet secretary responsible for matters relating to the management of registration and identification of citizens and foreign nationals;

“death” means the permanent cessation of all evidence of life after a live birth but does not include still births;

“Director” has the meaning provided under the Kenya Citizens and Foreign Nationals Management Service Act; Cap. 174.

“disposal of human remains” means;

- (a) burial of remains;
- (b) cremation of remains;
- (c) placing of remains in a mausoleum or other permanent resting place; and
- (d) placing the remains in the custody of an educational or scientific institution for purpose of medical education or research;

“fingerprint, thumbprint, palm print or toe print”; in relation to an individual, means a visible or invisible impression of a finger, thumb, palm or toe;

“foreign national registration certificate” means a registration certificate issued under section 56 of the Kenya Citizenship and Immigration Act; Cap. 172.

“medical officer-in-charge” means a health personnel in charge of a health facility;

“medical officer of health” means a medical officer of health appointed under the Public Health Act, or any other Act, to carry out the duties of a medical officer of health in any area; Cap. 242.

“national identity card” means a card issued to citizens under section 32 of this Act;

“police officer” means a police officer in charge of a police station or any other police officer above the rank of Inspector;

“register” means a register, whether manual or electronic established and maintained under this Act;

“registered person” means a person who is registered under this Act;

“registration and identification agent” means an agent appointed by the Service for the purposes of this Act;

“registration document” means a document used for the purposes of registration and identification under this Act;

“registrar” means an officer appointed by the Service for the purposes of this Act;

“Service” means the Kenya Citizens and Foreign Nationals Management Service established under the Kenya Citizens and Foreign Nationals Management Service Act, Act. No. 31 of 2011; and

Cap. 174.

“unique identifier” means an identifier issued by the Service and reflected in the national population register and which is unique for each individual registered under this Act.

PART II—ADMINISTRATION

3. The Service shall be responsible for the Administration of this Act.

Administration of Act.

4. The Service shall, subject to this Act and such directions as may from time to time be issued under the Kenya Citizens and Foreign Nationals Management Service Act, perform the following functions—

Functions of Service.

Cap. 174.

- (a) advise the cabinet secretary on matters relating to registration of births and deaths and identification of citizens;
- (b) register births and deaths in accordance with the provisions of this Act;
- (c) register persons who have acquired Kenyan citizenship through registration and all other foreign nationals admitted into and allowed to establish ordinary residence in Kenya;
- (d) develop strategies to register and identify citizens;
- (e) develop and maintain an integrated registration systems of all persons in Kenya and enter or cause to be entered information of persons registered in the national population register;
- (f) co-ordinate any efforts by the Government for registration and identification of persons for purposes of the national population register;
- (g) liaise with all relevant Government agencies to ensure registration of all persons required to be registered under this Act and the inclusion of all necessary information in the national population register;

- (h) issue birth and death certificates within the prescribed timelines;
- (i) issue national identity cards within the prescribed timelines;
- (j) keep and maintain registers of births, deaths, citizens and foreign nationals registered under this Act;
- (k) maintain registration systems that are capable of segregating different categories of registration, including birth, deaths, citizens and foreign nationals;
- (l) keep custody of the national population register or any other registration database prescribed by law;
- (m) update the national population register on a continuous basis;
- (n) put in place safeguards for protection and confidentiality of the data or information contained in the registration and database systems established, developed and maintained for any civil registration and identification of persons and for the national population register in accordance with the existing freedom of information and privacy laws;
- (o) ensure that registration and identification of persons services, including the availability of information contained in the national population register, are decentralized to the fullest extent possible so as to facilitate reasonable access to the services in all parts of the country;
- (p) facilitate easy access and availability of the registration and identification information in the national population register to the County Government or any organ of the County Government as may be necessary; and
- (q) perform such other functions as may be necessary for the bringing into effect the provisions of this Act.

5. (1) The Service shall appoint such registrars or authorized officers as may be necessary for carrying out the functions of the Service under this Act.

Appointment of staff and agents.

(2) The Service shall appoint such registration and identification agents as may be necessary for the better carrying out the functions of the Service under this Act.

6. (1) The Service shall provide each registrar and each registration and identification agent with registers and registration materials as may be necessary for the purposes of registration.

Provision of register and registration materials.

(2) Every registrar in charge of a registration area and every registration and identification agent shall keep and maintain registers and other registration materials as may be provided in accordance with subsection (1) in the prescribed manner.

PART III—NATIONAL POPULATION REGISTER

7. (1) The national population register established under subsection 4 (1) of the Kenya Citizens and Foreign Nationals Management Service Act shall be the primary repository of all civil registration and identification information for all citizens and persons ordinarily resident in Kenya.

National population register.

Cap. 174.

(2) The Service shall ensure that each citizen and every person ordinarily resident in Kenya is registered and that information is deposited and maintained in the national population register

(3) The information referred to in subsection (2) shall be entered in the national population register within thirty days upon registration.

(4) Every person registered under the authority of this Act shall be assigned a unique identifier which shall be linked to the person's information in the national population register.

(5) Every information received for the purposes of registration of birth or death, grant of citizenship and identification of citizens as foreigners or nationals shall be entered in the national population register.

(6) The Cabinet Secretary may, with the approval of Parliament prescribe any additional information to be recorded for each individual in the national population register.

PART IV—REGISTRATION OF BIRTHS

8. (1) Subject to this Act, registration of every birth within Kenya is free and compulsory.

Compulsory registration of births.

(2) The Service shall, within one year of the coming into effect of this Act, develop strategies to ensure the registration of every birth within Kenya.

9. Every registrar in charge of a registration area shall keep a register of births and a register of deaths and shall enter therein, or cause to be entered, the prescribed particulars of every birth and death notified to the registrar, respectively.

Register of births and deaths.

10. (1) A parent, guardian or the person having charge of a child, shall within three months of birth notify the registrar for the purpose of registration of the birth of that child.

Period for registration of birth.

(2) A birth not registered before the expiration of three months from the date of that birth shall only be registered upon the applicant complying with the requirements provided in the Regulations.

(3) No registration shall be undertaken under sub section 2 upon expiry of five years from the date of coming into effect of this Act.

(4) The Cabinet Secretary may by notice in the *Gazette* extend the period of late registration.

11. (1) Upon the birth of a child, it is the duty of—

Duty to notify of birth

- (a) both the father and mother of the child;
- (b) in the absence of the father or the mother or in the absence of either parent or in circumstances where the available parent lacks capacity to inform on the birth, the occupier of the house in which the child is born; or
- (c) in the absence of any of the stipulated informants under paragraphs (a) and (b), the guardian or the person having charge of the child;

to give notice of the birth to the registrar of the registration area or to the registration and identification agent in the area in which the birth occurs within such time as may be from time to time prescribed.

(2) Where a birth occurs in a prison, hospital, orphanage, barrack or quarantine station, the officer in charge of the establishment in which the birth takes place shall ensure that the parents or guardian or person having charge of the child notify the registrar of the birth.

12. (1) A person giving notice of the birth of a child shall give the prescribed particulars, which shall be entered forthwith by the registrar or a registration and identification agent in the register, and the person notifying of the birth shall certify to the correctness of the entry by either signing or by affixing a mark to the register.

Mode of registration of births.

(2) The registrar or registration and identification agent shall before entering any information in the register, ensure that a person giving notice under section 11 provides the following particulars—

- (a) in respect of any birth, the name, sex, date, type, nature, any disability, weight at birth, place and county of birth;
- (b) in respect of the mother, the name, age, marital status, usual residence, nationality, national identity card number, unique identifier or passport number or alien number, level of education, occupation, and previous births;
- (c) in respect of the father, the name, age, marital status, usual residence, nationality, national identity card number or passport number or foreign national identity card number, level of education and occupation;
- (d) in respect of the informant, the name, capacity and signature of informant, and date of notification; and
- (e) in respect of any death, the name, age, sex, marital status, residence, occupation and nationality of the deceased, and the date, place and cause of death;

13. (1) The registrar shall maintain a register of presumed births in respect of every person who has been presumed a citizen under section 9 of the Kenya Citizenship and Immigration Act.

Register of presumed birth.

Cap. 172.

(2) Where citizenship under section 21 of the Kenya Citizenship and Immigration Act is revoked, the registrar shall enter details of the revocation in a register maintained for that purpose.

Cap. 172

14. (1) A person giving notice of a birth occurring outside Kenya of a child whose parent or guardian is a citizen of Kenya, shall produce to the registrar the following evidence of the birth—

Registration of births occurring outside Kenya.

- (a) a certificate of birth issued by the appropriate authority in the foreign country, with an English translation of the certificate if it is not in English; or
- (b) if certificates of birth are not issued in the foreign country, a certificate of the birth given by the doctor, midwife or other persons who attended to the birth, with an English translation of the certificate if it is not in English; or
- (c) if there is a Kenya Mission in the country abroad, a certificate of an officer of the Mission that the officer is satisfied, from the evidence produced and inquiries which made, that the particulars of the birth given in the certificate are correct; or
- (d) if there is no Kenya Mission in the country abroad, such other evidence as the cabinet secretary may prescribe in the Regulations.

(2) The person notifying of the birth shall certify in writing to the registrar the correctness and authenticity of the evidence which such person submits.

(3) Upon receiving the evidence required under subsection (1), the registrar shall forthwith enter the prescribed particulars of the birth in the register of births occurring outside Kenya.

15. (1) A person shall not be entered in the register as the father of any child except either—

Entry of father in the register.

- (a) upon the production to the registrar of such evidence as the registrar may require that the father and mother were married according to law or in accordance with some recognized custom;
- (b) at the joint request of the father and mother of the child appearing physically before the registrar; or
- (c) where the father, or the mother or both the father and mother of a child are dead, upon production of an order of a court of competent jurisdiction to the effect that the person be registered as a father.

(2) The registrar may, if the circumstances so require, demand the physical presence of a child in respect of whom a person seeks to have the name of the child entered in the register as the father in accordance with sub-section (1).

16.(1) Where the birth of any child has been registered before it has received a name, the parent or guardian of that child, on payment of the prescribed fee, and on providing evidence as the registrar may deem necessary, shall have the name that has been given to the child registered.

Insertion of the child's name.

(2) Registration under subsection (1) shall only be done once.

(3) Where the name by which a child was registered is changed, the parent or guardian of the child may within three years of the birth and on payment of the prescribed fee, and on providing evidence as the registrar may consider necessary, register the new name that has been given to the child.

17.(1) Upon receipt of the application in the prescribed form and upon payment of the prescribed fee, the Director shall issue a certificate in the prescribed form of the birth of any person compiled in the prescribed manner from the records and registers in the Director's custody.

Certificate of Birth.

(2) A certificate of birth issued under subsection (1) shall contain the—

- (a) name of child;
- (b) place of birth;
- (c) date of birth;
- (d) sex of child;
- (e) name, nationality, identity card number or passport number or foreign national registration certificate number of the parent or parents of the child; and
- (f) any other information as may be prescribed by the Cabinet Secretary.

(3) The information contained in a certificate of birth issued under this Act is presumed to be correct and it may be received as evidence in any judicial proceedings.

(4) A child who has been entered in the register of births and has been issued with a certificate of birth shall be issued with another certificate of birth on adoption.

18. (1) Any institution, in the exercise of its lawful function, may require production of a certificate of birth and such requirement shall be lawful.

Production of
Certificate of
Birth.

(2) An institution under subsection (1) may, notwithstanding the provisions of any other law for the time being, defer consideration of the service until the certificate of birth of the said person has been produced or other proof that the birth of the person has been registered is provided.

PART V—REGISTRATION OF DEATHS

19. (1) A person giving notice of a death shall, to the best of the person's knowledge and ability, give the prescribed particulars, which shall be entered forthwith by the registrar or a registration and identification agent in the register of deaths.

Notification and
Registration of
death.

(2) A person notifying the registrar in sub-section (1) shall certify to the correctness of the entry by signing or affixing a mark on the register.

(3) Every death shall be registered immediately it occurs and in any case, not more than one month from the date of that death.

(4) A death shall not be registered after the expiration of one month from the date of that death except upon the applicant complying with such requirements as may be provided for in the regulations.

20. (1) A person giving notice of the death of a citizen of Kenya which occurred outside Kenya, shall produce to the registrar the—

Registration of
deaths occurring
outside Kenya.

- (a) certificate of death issued by the appropriate authority in the country in which the death occurred, with an English translation of the certificate, if it is not in English;
- (b) where there is a Kenya Mission in the country in which the death occurred, a certification by an officer of the Mission that the officer is satisfied, from the evidence produced to that officer and inquiries which the officer has made, that the particulars of the death given are correct; or

- (c) where there is no Kenya Mission in the country, any other evidence as the Cabinet Secretary may prescribe in the Regulations.

(2) The person giving notice of the death shall certify in writing, to the registrar, the correctness and authenticity of the evidence produced.

(3) Upon receiving the information required under subsection (1), the registrar shall enter the particulars of the death in the register in the prescribed manner.

21. (1) Upon the death of any person, it is the duty of—

Duty to notify of death.

- (a) the next of kin or the relative of the deceased present at the time of death of the deceased;
- (b) in the absence of persons contemplated in paragraph (i), the next of kin or relative of the deceased dwelling or being in the same area as the deceased; or
- (c) in the absence of persons contemplated in paragraphs (i) and (ii), the occupier of the house in which to the person's knowledge the death took place or an inmate of the house in which the death took place or any person finding or taking charge of the body of the deceased person or causing the body of the deceased person to be disposed of, in that order;

to give notice to the registrar or registration and identification agent of the area in which the death took place within such time as may be prescribed.

22. (1) In the case of a death occurring in Kenya of any person who has been attended during the person's last illness by a medical officer, the medical officer shall sign a certificate stating to the best of the medical officer's knowledge and belief the cause of death.

Certificate of cause of death.

(2) A certificate of cause of death signed in accordance with subsection (1) shall be forwarded forthwith by the medical officer to the registrar.

(3) The medical officer shall, on signing a certificate of death, issue a disposal permit to the person taking charge of the body of the deceased.

(4) Where an inquest is held on the body of a deceased person, the magistrate holding the inquest shall forward to the registrar a certified copy of such finding.

(5) A medical officer who refuses or fails without reasonable cause to comply with any of the provisions of this section commits an offence and is liable, on conviction, to imprisonment for a term not exceeding three months, or to a fine not exceeding fifty thousand shillings, or to both.

23. (1) Where a registrar receives a report in the prescribed form, in respect of a death occurring in Kenya and in that report a magistrate or a police officer has certified that the death is not one to which sections 386 or 387 of the Criminal Procedure Code apply, the registrar shall issue a written permit authorizing the disposal of the body of the deceased person.

Registrar to issue disposal permit.

Cap. 75.

(2) Where a person notifying of a death does not produce to the registrar a death report as provided for under sub-section (1), the registrar or registration and identification agent shall forthwith fill up, so far as the particulars thereby required are ascertainable by the registrar, a death report and forward the same to the nearest magistrate or police officer, who

shall, if after making the inquiries required by section 24 (1) of this Act and is satisfied that the case is not one to which sections 386 or 387 of the Criminal Procedure Code apply, make in the prescribed form the report required by section 24 (2) of this Act.

24. (1) Upon receipt of a death report from a registrar or registration and identification agent under section 21(2) of this Act, the magistrate or police officer, or any person specially empowered by the Service in that behalf, shall cause inquiries to be made as to the cause of the death as may be prescribed.

Inquiries as to cause of death.

(2) If the case does not appear from the inquiries to be one to which section 386 or 387 of the Criminal Procedure Code applies, the magistrate or police officer or such other person shall report accordingly to the registrar or registration and identification agent, who shall then issue a permit for the disposal of the body.

Cap. 75.

25. (1) Where it is proved that a person has not been seen and has not been heard of for seven years by those who might be expected to have seen or heard of the person if the person were alive, there shall be a rebuttable presumption that the person is dead.

Presumption of death.

(2) Where a person is presumed dead in accordance with subsection (1), any person who would have been under a duty under section 21 of this Act to notify of the death of the person being presumed dead may apply for an order of a presumption of death in a court of competent jurisdiction, and the order, once issued, shall be served upon the Director and shall have the same effect as a Certificate of Death issued under this Act.

(3) The Director shall maintain a register of presumed deaths and shall enter therein all orders issued by the court and served upon the Director in respect of presumed deaths.

26. (1) The Director shall upon application and payment of the prescribed fee issue a Certificate of Death in the prescribed form.

Certificate of death.

(2) A certificate of death issued under subsection (1) shall contain the—

- (a) name of deceased;
- (b) place of death;
- (c) date of death;
- (d) sex of deceased;
- (e) cause of death;
- (f) age of the deceased;
- (g) nationality;
- (h) identity card number or passport number or alien number of the deceased; and
- (i) any other information as may be prescribed by the Cabinet Secretary in the Regulations.

(3) The information contained in a certificate of death issued under this Act shall be presumed to be correct and the information may be received in evidence in any judicial proceedings.

27. (1) A person shall not dispose of the body of a deceased person without a permit issued in accordance with sections 22 (3), 23 (1) or 24 (2) of this Act.

No disposal without permit.

(2) Where due to religion a body has to be disposed within twenty four hours, a provisional permit authoring the disposal shall be issued within seven days after the death at a prescribed fee.

PART VI—ISSUANCE OF NATIONAL IDENTITY CARDS AND MAINTENANCE OF RECORDS

28. (1) The Director shall maintain records of all citizens to whom this Part applies.

Register.

(2) The records shall consist of—

- (a) personal data;
- (b) biometrics;
- (c) home particulars;
- (d) address; and
- (e) such other particulars as may be prescribed by the Cabinet Secretary in the Regulations.

(3) The Director shall have power to ensure, for control and regulation of the information in the register, necessary safeguards for protection and confidentiality of the data or information contained in the registration and database systems established, developed, and maintained, or so caused to be established, developed and maintained, under this Act including any database, data warehouse and networking infrastructure.

(4) A registrar may, in the exercise of the registrar's official duties, inspect and make extracts from the register.

29. (1) The Director shall for the purposes of this Part require an applicant to attend to give the registrar the particulars required and for this purpose shall permit a photo and thumb finger, palm or toe impressions to be recorded in the manner prescribed

Registration.

(2) For registration under subsection (1), an applicant shall appear before a registrar on attaining the age of twelve years but not later than the age of seventeen years.

(3) Where any person required to be registered under this section has been, prior to that requirement, registered under this Act and issued with a national identity card, such person shall, on being required to do so by a registrar, forthwith surrender that national identity card.

(4) The Director may, by notice in the Gazette or in such other manner as the Director may deem fit to bring the contents thereof to the notice of the persons affected thereby, require any person or class of persons in any particular area of Kenya to attend before the registrar at such dates as may be specified in the notice for the purpose of registration under the provisions of this Act.

(5) A person upon being so required under subsection (4) shall attend and give to the registrar the prescribed particulars and for the purpose shall permit a photo and thumb, finger, palm or toe impressions to be recorded in the manner prescribed.

(6) The Director shall issue a person who has made an application for registration for issuance of a national identity card with an acknowledgement forthwith.

30. (1) The Board shall—

- (a) establish an identification and registration committee to adjudicate over applications of registration where the citizenship of an applicant is in doubt; and
- (b) publish the general rules and guidelines to be used by the committee in execution of its work.

Identification and registration committee.

(2) It shall be the duty of an applicant to prove citizenship of Kenya before being registered under this Act.

31. (1) Any person who, by reason of the person's absence from Kenya at the time at which that person would otherwise have been required to register under this Act is not a registered person, shall within sixty days of the person's entry into Kenya for purpose of establishing ordinary residency, attend before a registrar for the purpose of being registered.

Registration of persons returning from abroad.

32. A registrar shall require any person who has given any information pursuant to this Act or rules made there under to furnish such documentary or other evidence of the truth of that information as the registrar may require before effecting registration for national identity card.

Furnishing evidence to registrar before registration.

33. Upon attainment of the age of eighteen years and upon registration of an applicant under this part, the Director shall process and issue a national identity card in the prescribed manner.

Issuance of a national identity card.

34. A national identity card shall be used by a citizen for purposes of identification and any other purpose as may be prescribed in any other law or in the Regulations.

Use of national identity card.

35. (1) A person holding a mutilated national identity card shall report to the registrar and shall be issued with a replacement of the national identity card upon application and payment of the prescribed fee and the surrender of the mutilated national identity card.

Mutilated, lost and found national identity cards.

(2) Any registered person who loses a national identity card issued to the person shall report the loss to the nearest registration office without undue delay and shall be issued with a replacement.

(3) An applicant under subsection (2) shall forthwith have the lost national identity card replaced upon application and payment of the prescribed fee.

(4) Any person who finds or comes into possession of a national identity card which does not belong to that person shall without undue delay return it either to its owner, the nearest registration office or the nearest police station.

36. (1) A state authority may require a person registered under this Act to produce the person's national identity card to the satisfaction of the authority in the exercise of its lawful functions.

Production and inspection of National Identity card.

(2) The Regulations may prescribe grounds under which the Cabinet Secretary may by notice in the Gazette require any person to whom this part applies to produce a national identity card to the Service for inspection.

(3) Where the Cabinet Secretary issues a notice in the Gazette on the basis of subsection (2), the cabinet secretary shall state in the Gazette notice the reason for requiring the production of the national identity card.

(4) The Director or any of the persons appointed by the Service may, in the lawful exercise of the Director's duties or functions under this Act, require a person to whom this act applies to produce for inspection a national identity card issued to that person.

37. Every national identity card issued under this Act, whether or not expressed to be valid up to such time as the cabinet secretary may by notice in the Gazette declare and upon such declaration every person with a national identity card so declared to be invalid shall within ninety days of the declaration present himself or herself before a registrar to be issued with another national identity card in accordance with section 29.

Validity of National Identity cards previously issued.

PART VII—OTHER REGISTRATION

38. (1) Any person who acquires Kenyan citizenship other than by birth shall, for the purposes of this Act, apply for registration within sixty days of acquiring citizenship and shall immediately provide particulars thereof required under section 28.

Registration other than by birth.

(2) Where the person acquiring citizenship is a minor or a person lacking legal capacity, it shall be the duty of the parent or the legal guardian to apply for registration of the person within sixty days of the minor or person's acquisition of citizenship.

PART VIII—ADMINISTRATIVE PROCEDURES

39. The Director shall transmit complete and validated data and subsequent changes entered in the registers established under the Act for entry in the national population register.

Duty to transmit data.

40. (1) No person, other than a registrar or other person authorized by the Director in writing in that behalf shall make any entry in, alteration to or erasure from the register.

Correction of registers.

(2) Corrections shall be made without erasing the original entry, and shall be authenticated by the signature of the Director or a registrar.

(3) Any person having a legitimate interest in the records held by the Director may, upon payment of the prescribed fee apply to the Director for a correction to be made under subsection (2).

(4) A person identified and registered as a citizen under this Act may apply for change of particulars in the Register upon such terms and conditions as may be prescribed under this Act or the Regulations.

(5) Where the facial features or biometrics or both the facial features and biometrics of a registered person have been permanently defaced or otherwise altered whether through accident, medical procedure or other cause, the registered person shall be required to report such event to a registrar and the registrar may issue a replacement national identity card and enter the particulars of the replacement in the register.

(6) A person who gives false details or through false means makes an application under this section commits an offence.

41. (1) The Director may cancel an entry in the register and revoke any document of registration and identification obtained through—

Cancellation and revocation of document of registration and identification.

- (a) misrepresentation of material facts;
- (b) concealment of material facts;
- (c) fraudulent means;
- (d) forgery; or
- (e) any other justifiable cause.

(2) The Director may cancel the registration for purposes of any identification or registration document where double or multiple registrations have taken place or where registration was done through misrepresentation of material facts.

(3) Upon cancellation of the registration, the Director shall proceed to cancel all the entries in the register pertaining to the registration.

(4) Before cancellation of the registration and revocation of the document of registration and identification as provided for in subsection (1) and (2), the Director shall issue notice to the holder of the Director's intention to revoke the document of registration and identification and shall provide the person with reasonable opportunity and forum to show cause why the registration should not be cancelled.

(5) Where the Director cancels registration of a citizen or revokes the document of registration and identification, but such cancellation or revocation does not lead to the loss of the persons Kenyan citizenship, the Director may require

such person to file a new application for registration and issuance of document of registration and identification within such timeline and upon meeting such conditions as may be provided for in the Regulations.

(6) Any person whose citizenship has been revoked under the Constitution or any other written law shall have the registration cancelled and the national identity card issued to that person revoked.

(7) The Director may by notice in the Gazette publish the names and numbers of documents of registration and identification of the persons whose registration have been cancelled including those who have refused, neglected or failed to surrender the document of registration and identification.

42. Every registrar in charge of a registration area shall, at the close of each month, forward to the Director a return in the prescribed form.

Monthly returns.

43. Within three months after the close of the calendar year, the Director shall compile a report of the births and deaths or the issuance of national identification cards of such year, and a report on the increase or decrease of the population of Kenya and on any special causes appearing to affect the same and present it to the Service Board.

Compilation of annual summary and report.

44. No information contained in the register shall be disclosed otherwise than as required by the Constitution or prescribed under this Act and any other written law as long as such disclosure shall have regard of the privacy interests of the citizen concerned and the purpose of the disclosure.

Inspection of registers and provision of copies and certificates.

45. Any document purporting to be a certificate issued under the hand of the Director, or any officer appointed by the Service and certifying that any return required to be made to the Director or the officer under this Act or any rules made there under has not been made, certifying a copy or extract of any record kept by the Director under this Act or certifying that any thumb or finger impressions are the thumb or finger impressions of a person specified in a certificate shall in any proceedings for an offence under this Act be prima facie evidence of the facts stated therein.

Identification documents.

46. (1) Any person aggrieved by a decision of a state officer or a public officer made under this Act may, within fourteen days of the notification of the decision, apply to the relevant committee of the Board for a review.

Review and Appeals.

(2) Any person aggrieved by a decision of the relevant committee under this Act, may apply to the Appeals Tribunal within fourteen days of making such decision.

PART IX—OFFENCES AND PENALTIES

47. (1) A person who is under legal duty to give notice of birth or death and who, without reasonable cause, fails to do so within the appropriate period provided in this Act commits an offence and shall be liable, upon conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding ten thousand shillings, or both.

Offences and penalties relating to registration of births and deaths.

- (2) Any person who, without lawful excuse—
- (a) willfully gives any false information for the purposes of the registration under this Act;
 - (b) falsifies or counterfeits or causes to be falsified or counterfeited any register or certified copy of an entry therein or any part thereof;
 - (c) inserts or causes to be inserted in any register or certified copy of an entry therein or any part thereof any false entry;
 - (d) issues, gives or alters any false certificate or certifies any writing to be a copy of or extract from a register or any entry therein, knowing such copy of extract to be false in any material particular;
 - (e) forges the signature, seal, impression or stamp of the Director or any registrar;
 - (f) knowingly registers a birth or death which has previously been registered; or
 - (g) knowingly permits any act referred to in paragraphs (a) to (f) to be committed in relation to any register of which that person has the custody or care or in relation to any certified copy of an entry in such register or any part thereof

commits an offence and is liable, on conviction, to imprisonment for a term not exceeding seven years, or to a fine not exceeding two hundred thousand shillings, or both.

48. Any person who—

- (a) fails to apply to be registered in accordance with the provisions of this Act:

Offences and penalties relating to registration of citizens.

- (b) unlawfully deprives another person of the possession of a national identity card or is in possession of another person's national identity card with the intention to commit an offence or makes unauthorized use of a National Identity card belonging to another person;
- (c) falsely states that that person has not previously been registered or commits any act or makes any false representation or omission with the object of deceiving a registrar;
- (d) having previously been issued with a national identity card under this Act, obtains or attempts to obtain another national identity card without disclosing to the registrar the fact of the previous issue and the loss, mutilation or destruction of any national identity card previously issued;
- (e) not having been previously registered allows another person to use that person's fingerprints, photographs and or documents to procure registration of that other person;
- (f) without the written authority of the Director, charges fees for the delivery of lost and found national identity cards;
- (g) unlawfully takes possession of ,withholds or detains any person's national identity card issued to that person under this Act;
- (h) has without reasonable excuse, a national identity card that is false, improperly obtained or relating to somebody else;
- (i) willfully obstructs or impedes a registrar or a police officer in the exercise of any of the registrar's or the police officer's functions under this Act; or
- (j) refuses or neglects to answer any question which that person is bound by law to answer, to furnish any information, to produce any document or to attend at any place when required to do so under this Act;

commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or to both.

49. Any person who—

Offences and penalties relating to entries.

- (a) unlawfully makes an entry, alteration or erasure on a national identity card or on any registration document;
- (b) is knowingly in possession of a National Identity card containing any false entry, alteration or erasure;
- (c) with intent to deceive or defraud makes a false representation that that person or any other person is the person to whom a national identity card relates;
- (d) recklessly gives any information, which the person knows or believes to be false in a material particular—
 - (i) in a bid to confirm the contents of an entry in register;
 - (ii) for the purpose of obtaining for himself or herself or another person registration under the Act;
 - (iii) for the purpose of securing the making or modification of an entry in the register;
 - (iv) in confirming the contents of an entry in the register; or
 - (v) for the purpose of obtaining
 - (vi) or another, registration as a Kenya citizen and issuance of a national identity card;

commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

50. Any person who—

Offences relating to fabrication of documents.

- (a) makes any document purporting it to be a national identity card or any registration document;
- (b) alters a national identity card or any registration document without authority in such a manner that if the alteration had been authorized it would have altered the effect of the National Identity card or any registration document;

- (c) introduces into a national identity card or any registration document whilst it is being drawn up in a matter, information which if it had been authorized would have altered the effect of the national identity card or any registration document;
- (d) without authority from the Director signs a National Identity card or any registration document;

commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

51. Any person who without authority, uses, deals with or does anything or tampers with—

Offences relating to tampering with registration systems.

- (a) the registration or database systems developed, established or maintained under this Act, including warehouse, any apparatus involved or networking infrastructure; or
- (b) the data or information contained, housed or transmitted therein;

commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both.

52. Any person who—

Offences and penalties relating to deceptive procurement of registration.

- (a) with intent to deceive issues or prints a National Identity card or any registration document;
- (b) procures unlawful registration of any person either directly or indirectly under this Act;
- (c) knowingly or recklessly and with intent to deceive utters any document or writing made, signed or executed by another person;
- (d) accepts any false, forged or otherwise tampered with document from any person for purposes of registration of such person under this Act, which that person reasonably believes to be so; or
- (e) without lawful authority or excuse, has in possession, otherwise than in the course of duty, registration forms, stamps or any registration materials;

commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

53. Any person who being a registration and identification agent as prescribed in the regulations, knowingly gives information that is false or misleading in any material respect regarding identification of an applicant as a Kenya citizen for purposes of this Act commits an offence and is liable, on conviction, to a fine of one hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

Offences and penalties relating to agents.

54. If a person contravenes any provisions of this Act or of any rules made subject to this Act where no other penalty is specifically provided for, that person commits an offence and is liable, on conviction, in the case of a misdemeanour to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding eighteen months or to both, and in the case of a felony to a fine of five hundred thousand shillings or to imprisonment for a term of not less than three years or to both.

General penalty.

PART X—MISCELLANEOUS PROVISIONS

55. (1) Offences under this Act or under any rules made there under shall be tried by any subordinate court.

Trial of offences.

(2) A court of law shall have jurisdiction in any case brought before it under this Act against any person being at the time within its jurisdiction, whether the offence is alleged to have been committed within such area or not, or whether the person accused of the offence is in the accused person's usual place of abode or residence within that area or not.

56. (1) A Registrar or a police officer who has reasonable cause to believe that a person has committed an offence under this Act shall, if it appears to the registrar or the police officer to be necessary to do so in order to ensure that the purposes of this Act are not defeated, arrest that person without a warrant.

Power to Arrest.

(2) An arrest made under subsection (1) shall be subject to the provisions of sections 33 and 36 of the Criminal Procedure Code.

Cap. 75.

57. (1) Prosecution for an offence under this Act may, without prejudice to any other powers granted to any other public officers, be instituted by a registrar on the registrar's own initiative or on a complaint made by any person.

Prosecution of offences.

(2) Proceedings instituted under subsection (1) shall be conducted by the office of the Director of Public Prosecutions.

58. The Cabinet Secretary may make Rules and Regulations generally for the better carrying out of the purposes and provisions of this Act.

Rules and Regulations.

59. The Births and Deaths Registration Act and the Registration of Persons Act are hereby repealed.

Repeal of Caps 149 and 107.

60. (1) Any register kept, registration effected, notice given, rules made or other thing done or deemed to have been done under the Births and Deaths Registration Act or the Registration of Persons Act (now repealed) shall be deemed to have effect and be given effect as if it had been kept, effected, issued, made or done, as the case may be, under the provisions of those Acts, and this Act shall apply thereto accordingly.

Savings and transition.

(2) For purposes of late registration, the dates set out in the Schedule to this Act shall be deemed to be the dates on which compulsory registration of births and deaths took effect in the respective areas set out against such dates.

61. (1) For the avoidance of doubt, nothing in this Act may be construed as providing for or dealing with—

Non-money Bill status.

- (a) taxes;
- (b) the imposition of charges on a public fund or the variation or repeal of any of those charges;
- (c) the appropriation, receipt, custody, investment or issue of public money;
- (d) the raising or guaranteeing of any loan or its repayment; or
- (e) matters incidental to any of those matters.

(2) There may be established a Fund which shall consist of monies specified under subsection (3).

(3) Any expenses that may be occasioned in the implementation of this Act shall be provided from—

- (a) such gifts, grants or donations as may be given;
- (b) such monies as may, in the future, be provided by the National Assembly for defraying the expenses incurred in the implementation of this Act; and
- (c) such other monies that may lawfully accrue in the discharge of the functions under this Act, not being monies accruing pursuant to Article 114 of the Constitution.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The main objective of this Bill is to provide for the notification and registration of births and deaths in Kenya. The Bill also seeks to provide for the identification of the citizens of Kenya and for the issuance of documents of registration and identification.

Part I deals with preliminaries and provides for the short title and interpretation.

Part II of the Bill deals with administration of the Act which is by the Kenya Citizens and Foreign Nationals Management Service established under the Kenya Citizens and Foreign Nationals Management Service Act, 2011.

Part III provides for the National Population Register as the principal register for all persons registered in Kenya, in which each registered person shall be assigned a unique identifier.

Part IV provides for registration of births and outlines the period, mode, requirements and process of registration. It further provides that the change of a child's name in the register must be done within seven years of the birth of the child and it can only be done once. Clause 17 provides for the issuance of a certificate of birth on registration while further providing for the issuance of a new certificate of birth to an adopted child on adoption.

Part V provides for notification and registration of deaths. Clause 25 provides for presumption of death where a person cannot be traced for seven years. Clauses 26 and 27 provide for the issuance of a certificate of death and that a body shall not be disposed without a permit respectively.

Part VI deals with the issuance of national identity cards and maintenance of records with Part VII dealing with registration other than by birth.

Part VIII provides for administrative procedures in which a registered person may apply for change of particulars in the register. Further, it provides for replacement of a national identity card on application where the facial features or biometrics of a registered person have been permanently defaced or altered.

Part IX provides for offences and penalties while Part X deals with miscellaneous provisions such as trial of offences, power to arrest, prosecution of offences, rules and regulations and repeal of Cap. 149 and Cap. 107.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

Section 58 of the Bill delegates legislative powers to the Cabinet Secretary, who is required to make regulations for the better carrying out of the purposes and provisions of this Act. The Bill does not however limit fundamental rights and freedoms.

Statement of how the Bill concerns County Governments

One of the functional areas of County Governments under Part 2 of the Fourth Schedule to the Constitution is county planning and development. In order to discharge this function, County Governments require and rely on the information collected and collated from the process of registration and identification of persons. This Bill therefore affects the powers and functions of County Governments and it is therefore a Bill that concerns County Governments in terms of Article 110 (1) (a) of the Constitution.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 17th October, 2014.

MOHAMED YUSUF HAJI,
Chairperson,
Standing Committee on National Security and Foreign Relations.