

SPECIAL ISSUE

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**THE REGISTRATION OF PERSONS
(AMENDMENT) BILL, 2019**

A Bill for

**AN ACT of Parliament to amend the Registration of
Persons Act and for connected purposes**

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the Registration of Persons (Amendment) Act, 2019.

Short title.

2. Section 3 of the Registration of Persons Act, in this Act referred to as “the principal Act” is amended by inserting the following new definitions in their proper alphabetical sequence —

Amendment of section 3 of Cap. 107.

“intersex” means a person who is born with physical or genetic features that are—

- (a) neither fully male nor fully female;
- (b) a combination of male and female; or
- (c) neither male nor female;

“sex” means either male, female or intersex;

3. The principal Act is amended by inserting the following new section immediately after section 9A —

Insertion of section 9B.

Change of particulars of intersex persons.

9B (1) An intersex person who undertakes a medical procedure that leaves them with physical features that are either fully male or fully female shall, within six months of the completion of the medical procedure, attend before a registration officer for the purpose of changing the particulars of their sex in the register.

(2) A person who changes their particulars under subsection (1) shall

simultaneously surrender their identity card to the registration officer.

(3) A registration officer shall, upon receipt of the identity card of a person under subsection (2), issue to that person a temporary waiting card in the prescribed form pending the issuance of a new identity card.

(4) Upon the change of particulars of a person under subsection (1) and surrender of identity card under subsection (2), the registration officer shall, within thirty days from the date of the change of particulars, issue to that person a new identity card in the prescribed form and reflecting the change in particulars.

(5) A person issued a temporary waiting card under subsection (3) shall surrender the card to the registration officer when issued with a new identity card.

4. Section 2 of the Births and Deaths Registration Act is amended by inserting the following new definition in the proper alphabetical sequence —

Amendment of
section 2 of Cap.
149.

Cap. 107.

“sex” shall have the same meaning assigned to it under the Registration of Persons Act;

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The Bill seeks to amend the Registration of Persons Act, Cap. 107 and the Births and Deaths Registration Act, Cap. 149 in order to make provision for the registration of persons born with both male and female reproductive organs. This will ensure that the registration of such intersex persons reflects their unique gender.

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

This Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill concerns county governments in that it makes further provisions on the registration of persons at birth, on the attainment of eighteen years and when deceased. Records on registration of persons in each county is essential to enable counties perform their county planning and development function as stated under paragraph 8 of Part 2 of the Fourth Schedule to the Constitution.

The Bill therefore affects the functions and powers of county governments in terms of 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 deals with matters other than those listed in the definition of a money Bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 18th March, 2019.

ISAAC MWAURA,
Senator.

Section 3 of Cap. 107 that the Bill proposes to amend—

3. Interpretation

In this Act, unless the context otherwise requires—

“**authorised officer**” means a registration officer authorized by the Principal Registrar to exercise the powers or perform the duties and functions in respect of which the expression is used;

“**chief fingerprint officer**”, “**deputy chief fingerprint officer**”, “**senior fingerprint officer**”, “**fingerprint officer**” and “**senior fingerprint assistant**” means the persons appointed as such by the Principal Registrar under section 4(2);

“**Director**” means the Director of National Registration appointed by the Public Service Commission;

“**District Registrar**” and “**Provincial Registrar**” means the persons appointed as such by the Principal Registrar under section 4(3);

“**identity card**” means a card issued under section 9;

“**Principal Registrar**” and “**Deputy Principal Registrar**” means the persons appointed as such under section 4;

“**register**” means the register established and maintained under section 5;

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

“**registration document**” means a document used for the purposes of registration of persons under this Act whether prescribed or not;

“**registration officer**” means the Principal Registrar, Deputy Principal Registrar and any of the persons appointed under section 4(2);

“**senior assistant principal registrar**”, “**assistant principal registrar**”, “**senior registrar**”, “**registrar**” and “**assistant Registrar**” means the persons appointed as such by the Principal Registrar under section 4(2).

Section 6 of Cap. 107 that the Bill proposes to amend—

6. Registration

(1) Every person who attains or has attained the age of eighteen years and is unregistered shall be liable to registration under this Act and shall within ninety days of attaining that age present himself before a registration officer and register himself by giving to the registration officer the particulars specified in subsection (1) of section 5, and for that purpose

shall permit his finger and thumb or toe or palm impressions to be recorded in any manner prescribed.

(2) The Principal Registrar may, by notice in the Gazette or in such other manner as he may think 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 a registration officer at such dates as may be specified in the notice for the purposes of registering under the provisions of this Act; and any such person, upon being so required, shall attend and give to the registration officer the particulars specified in subsection (1) of section 5 and for that purpose shall permit his finger, thumb, palm or toe impressions to be recorded in the manner prescribed.

(3) Where the Principal Registrar issues a notice in respect of any area under subsection (2), any unregistered person being of a class of persons required to register by the notice who enters that area or who, being within that area, thereafter becomes liable to registration shall present himself forthwith before a registration officer, and shall register himself in the manner provided in subsection (2).

(4) A requirement under subsection (2) may be made notwithstanding that any person or class of persons has, prior to that requirement, been registered under this Act.

(5) Where any person is required to register under subsection (2) and has been, prior to that requirement, registered under this Act and issued with an identity card, he shall, on being required by a registration officer so to do, forthwith surrender that identity card.

Section 2 of Cap. 149 that the Bill proposes to amend—

2. Interpretation

In this Act, unless the context otherwise requires—

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

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

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

“**prescribed particulars**” means—

- (a) as to any birth, the name, sex, date and place of birth, and the names, residence, occupations and nationality of the parents;

- (b) as to any death, the name, age, sex, residence, occupation and nationality of the deceased, and the date, place and cause of death;
- (c) such other particulars as may be prescribed;

“Principal Registrar” means the Principal Registrar of Births and Deaths, appointed under section 3 of this Act;

“registrar” means a registrar appointed to register births and deaths in any area or to register births and deaths occurring outside Kenya, and includes a deputy registrar;

“Registrar-General” *deleted by Act No. 7 of 1990, Sch.*

“the rules” means rules made under section 29 of this Act;

“the statistician” *deleted by Act No. 15 of 1961.*