



(Published 14th January, 2010)

Act

No. 13 of 2010

I assent

NGWAZI DR. BINGU WA MUTHARIKA
PRESIDENT
8th January, 2010

ARRANGEMENTS OF SECTIONS

SECTION

PART I_ PRELIMINARY

1. Short title and commencement
2. Interpretation

PART II_ NATIONAL REGISTRATION

3. Establishment of National Registration System
4. Appointment of Director and Deputy Director
5. Appointment of district registrars
6. Appointment of district registrars abroad
7. National register
8. Contents of national register
9. Registration
10. Registration requirement made through notice in the *Gazette*
11. Additional information
12. Processing a qualified application
13. Issue of identity cards
14. Forms of identity cards
15. Preservation of identity cards
16. Replacement of lost, damaged or destroyed identity cards
17. Identity card *prima facie* proof of contents of national register.
18. Change in particulars relating to a registered person
19. Immaterial change
20. Material change
21. Up-dating photograph

SECTION

PART III _ REGISTRATION OF BIRTHS AND ADOPTED CHILDREN

- 22. Register of births to be kept in every district
- 23. Mode of registration of births
- 24. Duty to register births
- 25. Registration of birth after six weeks from birth
- 26. Exposed child
- 27. Change of name
- 28. Registration of an adopted child.

PART IV _ REGISTRATION OF MARRIAGES

- 29. Register of marriages to be kept in every district
- 30. Mode of registration of marriages
- 31. Duty to register marriages
- 32. Registration of marriages after three months from marriage

PART V _ REGISTRATION OF DEATHS

- 33. Register of deaths to be kept in every district
- 34. Mode of registration of deaths
- 35. Duty of register deaths
- 36. Registration of deaths after six weeks from death

PART VI _ RECORDS AND RETURNS OF BIRTHS, MARRIAGES AND DEATHS

- 37. Duties of the Director in respect of births, etc.
- 38. Monthly and other reports
- 39. Indexes, searches and certified copies

PART VII _ MISCELLANEOUS PROVISIONS

- 40. Corrections of errors in registers
- 41. Delivery of birth report, etc.
- 42. Offences and penalties
- 43. Forgery, false information and undue influence
- 44. Secrecy
- 45. Evidence
- 46. Immunity

47. Regulations

48. Repeal and savings

An Act to provide for the registration of persons and registration of births, marriages and deaths of persons and to provide for matters connected therewith and incidental thereto

ENACTED by the parliament of Malawi as follows-

Part I- PRELIMINARY

1. This Act may be cited as the national Registration Act, 2009 and shall come into operation on such a date as the minister shall appoint by notice in the *Gazette*.
2. In this Act, unless the context otherwise requires-
 - ‘Authorized person’ means any person or class of persons prescribed by the Minister;
 - ‘birth report’ means a report of birth containing the prescribed particulars and made in the prescribed form;
 - ‘death report’ means a report of death containing the prescribed particulars and made in the prescribed form;
 - ‘district register’ means the register maintained by each district registrar;
 - ‘Director’ means the Director of national Registration appointed under section 4;
 - ‘identity card’ means an identity card issued in accordance with the provisions of this Act;
 - ‘marriage report’ means a report of marriage containing the prescribed particulars and made in the prescribed form;
 - ‘national register’ means the register maintained by the Director under section 7;
 - ‘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 prescribe;
 - (b) as to any marriage, the names, nationality, conditions, occupations, ages, dwelling or a place of abode of the bride- groom and bride and such other particulars as the Minister may prescribe; and

Short title and
commencement

Interpretation

(c) 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 prescribe;
'registered person' means a person registered under section 7 and section 9;

'specified area means' an area declared as such by the Director in accordance with section 10.

PART II- NATIONAL REGISTRATION

3.- (1) There shall be a National Registration System consisting of population Register established under this Act.

Establishment of
National
Registration
System

(2) The population register shall comprise the Births, Marriages and Deaths Registers recorded at the village, traditional authority, district national levels.

4. There shall be a Director and Deputy Director of national Registration appointed by the Minister.

Appointment of
Director and
Deputy Director

5. -(1) The Director may delegate any or all of his duties to be performed by a district registrar within the area of a district.

Appointment of
District registrars

- (2) Every District Commissioner or Chief Executive, as the case may be, shall be the registrar for the district over which he has the authority as a District Commissioner or Chief Executive, as the case may be:

Provided that the Minister may appoint any other person to be the district registrar for a District, or a specified part of a District, in place of, or in addition to the District Commissioner or Chief Executive, as a case may be.

6. The Minister may appoint a diplomatic or consular officer or a person attached to any Embassy Office, High Commission or Consulate or any other Malawi Government representative abroad or a representative of another government or any other suitable person to be district registrar for the purpose of this Act in respect

Appointment of
district registrars
abroad

of a district outside Malawi to be specific in the instrument of his appointment.

7. –(1) The Director shall keep or cause to be kept and maintained a national register of all persons-

National register

- (a) Who are citizens of Malawi and of or above the age of 16 years; or
- (b) Who are of or above the age of 16 years and who, not being citizens of Malawi, have been granted permanent residence permit, temporary employment permit or business residence permit under the immigration Act to reside in Malawi.

Cap 15:03

–(2) Every District registrar shall keep and maintain a district register of those persons who live within his district and who qualify for registration under paragraphs (a) and (b) of subsection (1) and to whom an identity card is issued.

8.- (1) The national register and the district registrar shall consist of two parts, of which part 1 shall be register of citizens of Malawi who meet the provisions of section 7 (1) (a) and Part II shall be a register of non-Malawian citizens, lawfully resident in Malawi, who meet the provisions of section 7 (1) (b).

Contents of
National register

(2) The national register shall consist of the following particulars relating to each applicant-

- (a) the applicant's full name;
- (b) the applicant's principal place of residence in Malawi;
- (c) the names of the applicant's parents;
- (d) the applicant's permanent home address (Village, T.A. and District; plot number, township and local authority);
- (e) the applicant's sex;
- (f) the applicant's date of birth;
- (g) the applicant's place of birth;
- (h) the applicant's marital status;
- (i) the date of registration of the applicant and the registration number;
- (j) in case of an applicant who is not a citizen of Malawi, his nationality;
- (k) height;
- (l) colour of eyes;
- (m) fingerprints;

- (n) photograph;
- (o) passport number, if any;
- (p) special observations, if any; and
- (q) such other particulars as the Minister may prescribe.

9. -(1) Subject to such regulations as shall be made by the Minister, every person of or above the age of 16 years-

- (a) who is a citizen of malawi; or
- (b) who, not being a citizen of Malawi, has been granted permanent residence permit, temporary employment permit, or business residence permit under the immigration Act to reside in Malawi,

Cap. 15:05

Shall qualify to be registered under this Act and shall apply to the district registrar in the area in which he ordinarily resides for registration within one month of his acquiring the relevant qualification as set out in this section.

(2) Every applicant shall submit to having his finger print and photograph taken by the district registrar or a person acting under his authority.

10.-(1) The Director may, by notice in the *Gazette* and such other manner as he may conceider suitable to bring the contents of the notice to persons affected, declare any area of malawi to be a specified area and require all persons within such specified area to whom this Act applies to attend before a district registrar at such place and between such dates as he may specify in such notice.

Registration
requirement
made through
notice in the
Gazette

(2) Every person so required shall attend before the district registrar and shall register himself by providing the particulars described in section 8 and shall permit his photograph and fingerprints to be taken in such manner as may be prescribed.

(3) Every unregistered person who-

- (a) being a person to whom this Act applies enters any specified area;
- (b) being within any specified area, becomes a person to whom this Act applies,

shall within fourteen days, attend before the nearest district registrar and register himself in athe manner prescribed in subsection (2)

- 11.** A district registrar may require any person applying for registration under this act to provide such documentary information as shall, in the opinion of the district registrar, be necessary to establish the truth of the information stated in the application form. Additional information
- 12.-** (1) Every district register shall, where he is satisfied that the applicant qualifies for registration, forward the application, and the photograph and record of fingerprints relating to that application, to the Director. Processing a qualified application
- (2) The Director shall, if he is satisfied that the applicant qualifies for registration, issue an identity card to the applicant.
- 13._** (1) Every person registered under this Act shall be issued with an identity card. Issue of identity card
- (2) An identity card issued to any person who is not a citizen of Malawi shall be valid for such period for which he is, at that time, entitled under the immigration Act, and such person shall be issued with a new identity card to cover any period for which his stay is extended. Cap 15:03
- (3) Where applicable, the identity card shall be renewed by issuing a new identity card with an up-to-date photograph and other particulars relating to the holder of the card.
- 14.** The Minister may prescribe the size and description of the identity card and the particulars it shall contain, and further may prescribe different identity cards for the different categories of persons referred to under section 7. Forms of identity cards
- 15. _** (1) Every person issued with an identity card under this Act shall, to the best of his ability, ensure safety and preservation of that card
- (2) Where an identity card is lost, damaged or destroyed, the person concerned shall immediately inform the district registrar of the area in which he is registered and provide him with any information at his disposal to satisfy the district registrar that the identity card was in fact not lost, damaged or destroyed through the fault or neglect of the person concerned.
- (3) The district registrar shall require the person whose identity card is lost, damaged or destroyed to execute an affidavit to the effect that

it was not lost, damaged or destroyed through the fault or neglect of the person making the affidavit.

(4) The Minister may prescribe the form of an affidavit to be executed under subsection (3)

(5) Any person who finds or unlawfully comes into possession of an identity card which was not issued to him shall, without undue delay, return it to the person to whom it was issued or forward it to the nearest district registrar.

Replacement
of lost
damaged
or destroyed
identity cards

16. (1) Where a district registrar is satisfied that the loss, damage or destruction of an identity card occurred through no fault or neglect of the person concerned, he may recommend to the Director that the new identity card be issued without payment of any fee or penalty, and shall cancel the registration in respect of the identity card that was lost, damaged or destroyed but in all other cases he shall levy the prescribed fee.

(2) Where the Director issues a new identity card in place of a damaged identity card, he shall ensure that the damaged identity card is destroyed and the national register and the district register shall be amended accordingly.

(3) Where the Director issues a new identity card in place of an identity card that was lost he shall inform all the district registrars and such other authorities, as the minister may prescribe, of the loss as soon as may be practicable.

Identity card
Prima facie
Proof for
Contents
Of national
Register

17. An identity card shall be *prima facie* proof of the particulars of an individual contained in the National register.

18. Where the particulars relating to any person, and to which he has sworn in his application for registration change after he has been issued with an identity card, such person shall, within 30 days of such change, inform the district registrar of the area in which he is registered of the change.

Change in
Particulars
relating to
Registered
Person

19. Where a district registrar is informed of any change in particulars relating to a registered person, he may, if he is of

Immaterial
change

the opinion that the change does not materially affect registration, note the change in his register and cause the change to be recorded in the national register by the Director.

20. _ (1) Where the district registrar is of the opinion that any change in the particulars relating to a registered person materially affect his registration, he shall record the change and notify the Director of the circumstances and recommend that the person concerned should be issued with a new identity card.

Material
change

(2) The Director shall, if he is satisfied that the change materially affects the registration of a person, cancel the identity card issued to the person and issue a new identity card to him.

(3) The particulars relating to the new identity card and its holder shall be recorded in the national register and the district register of the area in which that person is registered.

21. _ (1) Every registered person may, whenever he is satisfied that his appearance has changed so as to make it likely that his identity as certified by the identity card may be questioned, apply to the district registrar of the area in which he is registered for the issue of a new card with a more recent photograph and shall, when issued with a new identity card by the Director, surrender his existing identity card to the district registrar to be cancelled and destroyed.

Up-dating
Photograph

(2) The district registrar of the area in which the person is registered and the Director shall cause the change to be recorded in the relevant registers.

PART III__REGISTRATION OF BIRTHS AND ADOPTED CHILDREN

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

Register of
births to be
kept in every
district

23. 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

Mode of
registration of
births

attendance, by signing, or affixing his mark to, the prescribed form in which the prescribed particulars are reported to the district registrar.

24._(1) In the case of every child born alive after the commencement of this Act, it shall be the duty of the father and mother, and in default of the father and mother, of the occupier of the person 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 six weeks of the birth.

Duty to register births

(2) 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 district registrar of the district where the birth occurred.

(3) No person shall be bound as father to register the birth of the child born out of wedlock, and no person shall be entered in the register as the father of such child except_

(a) where it is proven in court; or

(b) at his own request, and with the agreement of the mother of the child, upon his acknowledging himself to be the father of the child, and signing, or affixing his mark to the birth report as such.

25. The district registrar shall not enter in the register the birth of any child after six weeks from the date of birth except upon payment of the prescribed fee.

Registration of birth after six weeks from birth

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

Exposed child

27. Where the birth of any child has been registered before it has received a name, or the name by which it has 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 district registrar may think necessary, register the name that has been given to the child.

Change of name

28._(1) The Director shall keep the Adopted Children Register and enter therein such entries as may be directed to be made therein by the adoption of a child order, but no other entries.

Registration of
an adopted
child

(2) Every adoption order shall contain a direction to the Director to make in the Adopted Children Register an entry recording the adoption of a child in the prescribed form.

PART IV _ REGISTRATION OF MARRIAGES

29. The district registrar of each district shall keep a register and enter therein every marriage that occurs within his district after commencement of this Act.

Register of
marriages to be
kept in every
district

30. Every person registering a marriage 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 district registrar.

Mode of
registration of
marriages

31._ (1) In the case of persons getting married after the commencement of this Act, it shall be the duty of the persons who get married to register their marriage within three months after the officiation of their marriage.

Duty to
register
marriages

(2) Registration of the marriage shall be effected by completing a prescribed form or delivering a copy of the marriage certificate, as the case may be, to the district registrar.

32. The district registrar shall not enter in the register any marriage after three months from the date of the officiation of the marriage except upon payment of the prescribed fee.

Registration of
marriage after
three months
from marriage

PART V _ REGISTRATION OF DEATH

33. The district registrar 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.

Register of
deaths to be
kept in every
district

34. Every person registering a death shall, to best of his knowledge and ability, give the prescribed particulars, and shall certify to their

Mode of
registration of
deaths

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 district registrar.

35. (1) In the case of every person dying after the commencement of this Act, 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 six weeks after the death or finding of the body, or where the district registrar is satisfied that from any other cause registration could not be effected within the said period, and that no undue delay has taken place, within six months after death or finding of the body.

Duty to register death

(2) 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 delivering it to the district registrar of the district where the death occurred.

(3) For the purpose of this section “nearest relatives” mean surviving spouse, if any, parents, child and siblings.

36. The district registrar shall not enter in the register a death more than six weeks after the death of the death, except upon payment of the prescribed fee.

sRegistration of deaths after six weeks from death

PART VI_ RECORDS AND RETURNS OF BIRTHS, MARRIAGES AND DEATHS

37. (1) The Director shall be responsible for registration of births, marriages and deaths.

Duties of Director in respect of births, etc.

(2) It shall be the duty of the Director to compile, after the close of each year, a summary of the births, marriages 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 Director shall have the duty of all filled registers and of all monthly returns made by each district registrar.

(4) It shall be the duty of the director to provide each district registrar with such books and forms as may be required, and with such instructions as he may consider necessary for the registration of births, marriages and deaths in his district.

38. _ (1) Every district registrar shall forward to the Director monthly returns in the prescribed form showing the births, marriages and deaths registered in his district during such month, and shall also forward to him all such registers as soon as the space in the registers for the registration has become exhausted.

Monthly and
other returns

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

39. _ (1) The Director shall cause to be prepared from the returns made to him alphabetical indexes of the births, marriages and deaths registered.

Indexes
searches and
certified
copies

(2) Any register, return or index in the custody of the Director shall, on payment of the prescribed fee, be open to inspection subject to such conditions as the Director may direct:

Provided that a person grieved by conditions imposed by the Director may apply to the High Court for Judicial review and the high Court may make such order regarding inspection as it deems proper.

(3) The Director 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 Director a short certificate of birth of any person in the prescribed form and containing such particular 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 certificate under the hand of the Director to be a correct copy shall be *prima facie* evidence in court of the dates and facts therein contained.

PART VII _ MISCELLANEOUS PROVISIONS

40. The following provisions shall apply to errors in the national register and in any register of births, marriages and deaths_

Correction of errors in registration

(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 Director:

(c) Any error of fact or substance in any such register may be corrected by the Director by making an additional entry in the registered (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 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.

41. Delivery of a birth report, marriage report, or death report, as the case may be, to a person for the time being employed by the local authority of the area in which the birth, marriage or death occurred shall deemed to constitute delivery of the report to the district registrar of the district in which such area is situated.

Delivery of birth report, etc.

42. _ (1) Any person who_

(a) is of or above the age of 16 years and qualifies to be registered under this Act but who fails to register within the time prescribed by this Act;

Offences and penalties

(b) Willfully obstruct the Director or district registrar in the execution of his duties under this Act;

Page 12

(C) Willfully destroys or mutilates or attempts to destroy or mutilate any identity card;

(d) unlawfully deprives or dispossesses any person of his identity card;

(e) Uses any identity card other than the card issued to him intending that some other person shall be led to believe that he is the person shown on the card he is using;

(f) is knowingly in possessing of an identity card in which any lawfully entry, alteration or erasure has been made or of any document so closely resembling an identity card as to be calculated to deceive;

(g) fails to register the birth of child, a marriage or death, which is his duty to do so;

(h) is in possession of more than one identity card purporting to show his identity; or

(i) permits any other person to use the identity card issued to him,

Commits an offence and upon conviction shall be liable to a fine of one million Kwacha (K1,000,000) and to imprisonment for five (5) years.

43. Any person, who_

(a) furnishes false information or makes any statement in his application for registration or in any affidavit sworn under this Act;

(b) forges any document for the purposes of obtaining registration under this Act;

(c) in any way seeks to illegally influence the decision of a district registrar;

(d) being already registered, applies for registration; or

(f) being in possession of any identity card, applies for a new card falsely alleging that his identity card was lost or destroyed,

Forgery, false information and undue influence

Commits an offence and upon conviction shall be liable a fine of one million Kwacha (K 1,000,000) and imprisonment for five (5) years.

44. (1) Subject to subsection (2), no person shall disclose to any other person information recorded in any register, document or proof of registration, except for purposes of this Act or any judicial proceedings or the performance of his functions in terms of any law, and no person to whom any such information has to his knowledge been disclosed in contravention of this section shall disclose such information to any other person.

Secrecy

(2) The Minister may furnish any information in relation to any person whose name or particulars are registered under this Act to any Ministry, local authority or body established by or under any law for any purpose of that Ministry, local authority or body.

45. Any document purporting to be signed by the Director or a district registrar or any officer authorized by him in writing, certifying a copy or extract of any record kept by the Director or district registrar under this Act shall, in any prosecution for an offence under this Act, be *prima facie*

Evidence

evidence of the facts stated therein , and, if stated to be signed by an officer authorized by the Director or district registrar, shall, unless the contrary be proved, be deemed to be signed by the officer so authorized without production of proof of such authorization.

46. No claim shall lie against the Government, the Minister, the Director or any district registrar or public officer for anything done in good faith and without negligence under the powers conferred upon him by this Act.

Immunity

47. (1) The Minister may make regulations for the better carrying out of the purposes of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), the regulations may make provision for_

- (a) the form of the application for registration;
- (b) the additional particulars that may be required of an applicant for registration;
- (c) the form of the identity card or cards that may be issued under this Act and the particulars each shall contain;
- (d) the form of the affidavit to be executed by a person whose identity card has been lost, damaged or destroyed;
- (e) the fees that may be levied under this Act;
- (f) the authorities that shall be informed by the district registrar of the loss of an identity card;
- (g) the procedures to be followed in correcting errors or issuing replacement identity cards;
- (h) the persons who shall be authorized persons for the purpose of this Act;
- (i) the place in each district and the hours at which births, marriages and deaths may be registered, and registers, returns and indexes kept open for inspection;
- (j) the conditions under which, and the mode in which, registration may be effected without personal attendance;
- (k) the duties of the district registrars;
- (l) the inspection of registers, returns, indexes and the provision of certified copies;
- (m) the places at which and period within which shall be registered births and deaths occurring on boards ships and aircraft, registered or un registered, while within the territorial waters air space of Malawi;
- (n) reports of births or deaths to be made by the officer or other person in charge of a hospital, clinic or other place where medical service is provided;

(o) The role of local and traditional authorities in facilitating registration of persons and registration of births, marriages and deaths under this Act; and

(p) All other matters necessary for the carrying out of the provisions of this Act.

(3) Any regulation made under this Act may, notwithstanding the provision of section 21 (e) of the General Interpretation Act, prescribe a fine up to one hundred thousand kwacha (K100,000.00) and imprisonment for up to (1) year for an offence committed against any provision of such regulation

Cap. 1:01

48._The Births and Deaths Registration Act is repealed.

Repeal and
savings
Cap. 24:04

(2) Any subsidiary legislation made under the Births and Deaths Registration Act repealed by subsection (1) and in force immediately before the coming into force of this Act, shall so far as it is not inconsistent with the provision of this Act, continue in force as made under this Act.

Cap. 24:01

(3) Any birth or death registered under the law repealed under subsection (1) shall, notwithstanding the repeal of the law, be deemed to have been registered under this Act.

(4) The Registrar General shall deliver or transmit to the Director any register, record or document in the custody or control of the Registrar General by virtue of the law repealed under subsection (1) .

Passed in Parliament this nineteenth day of November, two thousand and nine.

M. M. KATOPOLA
Clerk of Parliament