



SAMOA

## BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 2002

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## **BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 2002**

**2002**

**No.17**

**AN ACT** to provide for:

- (a) the establishment and maintenance of a Register of Births, Deaths and Marriages and the recording in the Register of information in respect of births, deaths, marriages, changes of name, and adoptions, that take place in Samoa and in certain other circumstances; and
- (b) the issuing of certificates in respect of information recorded in the Register; and
- (c) access to information recorded in the Register.

*[Assent date: 22 August 2002]*

*[Commencement date: 4 November 2002]*

**BE IT ENACTED** by the Legislative Assembly of Samoa in Parliament assembled as follows:

## **PART 1 PRELIMINARY**

**1. Short title and commencement** – (1) This Act may be cited as the Births, Deaths and Marriages Registration Act 2002.

(2) This Act comes into force on a date appointed by the Minister by notice in the Savali.

(3) For the purposes of this subsection, different provisions of this Act may be brought into force on different dates.

**2. Interpretation** – In this Act, unless the context otherwise requires:

“adoption” means a change in the legal parents of a child;

“adult” means a person who:

(a) is 18 years of age or more; or

(b) although under 18 years of age, is or has been married;

“Assistant Chief Executive Officer” means a person appointed as such under section 4(1);

“birth” includes still-birth;

“birth registration form” means a birth registration form prescribed by regulations;

“change”, in relation to a name, includes an addition, deletion, or substitution;

“child” means a person who is not an adult, and includes a still-born child;

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“Court” means the District Court or, where necessary, the Supreme Court;

“death” does not include a still-birth;

“death registration form” means a death registration form prescribed by regulations;

“disposal of human remains” means the following:

- (a) cremation of the remains;
- (b) burial of the remains (including burial at sea);
- (c) placing the remains in a mausoleum or other permanent resting place;
- (d) placing the remains in the custody of an educational or scientific institution for the purpose of medical education or research; or
- (e) removal of the remains from Samoa;

“doctor” means a registered medical practitioner within the meaning of the Medical Practitioners Act 2007 and the Healthcare Professions Registration and Standards Act 2007;

“document” includes electronic information;

“event” means a birth, death, marriage, change of name, or an adoption;

“foundling” means any new born child found in Samoa alive but abandoned;

“former Act or other law” includes the Births and Deaths Registration Ordinance 1961 and the Marriage Ordinance 1961, as the case may require;

“health care facility” means a place at which medical care or medical advice is regularly provided by or under the supervision of a doctor;

“marriage” means a marriage solemnised under the Marriage Ordinance 1961 or a former Ordinance or Act;

“marriage officer” means a marriage officer licensed as such under the Marriage Ordinance 1961;

“marriage registration form” means a marriage registration form prescribed by regulations;

“medical attendant” means a doctor, midwife or a traditional birth attendant;

“Minister” means the Minister responsible for Justice or such other Minister who, under the authority of a warrant or with the authority of the Prime Minister, is responsible for the administration of this Act;

“Minister of religion” means an ordained Minister of a religious body;

“name”, in respect of a child, means 1 name designated to be treated as the surname of the child and 1 or more other names;

“parent”, in respect of a child, includes a person who has legally adopted the child whether such adoption has occurred in Samoa or elsewhere;

“perinatal death” means:

- (a) the death of a live-born child within 28 days after the birth; or
- (b) a still-birth;

“prescribed fee” means a fee prescribed by regulations;

“prohibited name” means a name that in the Registrar General’s opinion:

- (a) may cause offence to a reasonable person; or
- (b) is unreasonably long; or
- (c) without adequate justification, is, includes, or resembles a matai title or other official title or rank;

“register” means the Register of Births, Deaths and Marriages created and maintained by the Registrar General under section 69;

“to register” or “registered”:

- (a) for an event, means the recording or causing to be recorded in the Register by the Registrar General, an Assistant Chief Executive Officer or a Senior Registry Officer (in a manner authorised by the Registrar General) under this Act, a former Act, or other law, of information about the event; and
- (b) for any information, means the recording in the Register of the information (in a manner authorised by the Registrar General) under this Act, a former Act, or other law;

“Registrar General” or “Registrar” means the Government Statistician appointed as specified under section 13 of the Statistics Act 2015;

“Regulations” means Regulations made under section 94;

“responsible person” means:

- (a) for a child born in a health care facility or brought to a health care facility within 24 hours after birth, the Director General of Health, or, if the health care facility is privately owned, the chief executive or doctor-in-charge of the facility; or
- (b) in any other case—

- (i) the medical attendant responsible for the professional care of the mother at a birth or, for a still-born child, the medical attendant who examined the body of a still-born child after the birth; or if none,
- (ii) a person in attendance at the birth; and
- (iii) the President of the Women’s Committee of a village or her appointee, or Sui-ole-Nuu, or Minister of religion, if that person is satisfied that it is likely that no one else has advised or is likely to advise the Registrar General under section 10(1);

“Senior Registry Officer” means a Senior Registry Officer appointed under section 4;

“still-birth” means the birth of a still-born child;

“still-born child” means:

- (a) a child of at least 20 weeks gestation; or
- (b) if it cannot be reliably established whether the period of gestation is more or less than 20 weeks, a child with a body mass of at least 400 grams at birth, that exhibits no sign of respiration or heartbeat, or other sign of life, after birth;

“unavailable” means dead, unknown, missing, of unsound mind, or unable to act by virtue of a medical condition.

## **PART 1A ADMINISTRATION**

### **Division 1 – Registrar General**

#### **3. Government Statistician to be Registrar General –**

(1) The Government Statistician appointed pursuant to the Statistics Act 2015 is also the Registrar General of Births, Deaths and Marriages.

(2) The Registrar General is responsible for the general administration of this Act.

(3) In the administration of this Act, the Registrar General has the powers conferred by this Act only and cannot exercise his or her powers as the Government Statistician in the carriage of his or her duties as the Registrar General under this Act.



**4. Appointment of Assistant Chief Executive Officer and Senior Registry Officers** – (1) The Registrar General may appoint such officers of the Public Service or of the Samoa Bureau of Statistics either by name or by office designation to be Assistant Chief Executive Officer and Senior Registry Officers as may be desirable for the effective and efficient administration of this Act.

(2) Subject to the control of the Registrar General, an Assistant Chief Executive Officer has and may exercise and perform the powers, functions, and duties of the Registrar, save for matters referred to in section 82.

(3) Subject to this Act, a Senior Registry Officer must exercise and perform powers, functions, and duties under this Act under the directions of the Registrar.

**5. Functions of the Registrar General** – (1) The functions of the Registrar General are:

- (a) to establish and maintain the Register; and
- (b) to administer the registration system established by this Act and ensure that it operates efficiently, effectively, and economically; and
- (c) to ensure that this Act is administered in the best way calculated to achieve its objects in a cost effective manner.

(2) When a vacancy occurs, for any reason, in the office of Registrar, or in the absence of the Registrar, and for so long as the vacancy or absence continues:

- (a) the Assistant Chief Executive Officer if there is only one; or
- (b) an Assistant Chief Executive Officer, or a Senior Registry Officer, so authorised in writing by the Minister or by the Registrar General in any other case, –

has and may exercise and perform all the powers, functions, and duties of the Registrar General.

(3) The fact that an Assistant Chief Executive Officer exercises or performs any power, function, or duty of the Registrar is conclusive evidence of the authority of the Assistant Chief Executive Officer to do so.

(4) No authority given under subsection (2)(b), and no act done by an Assistant Chief Executive Officer or a Senior Registry Officer under any such authority, or done by an Assistant Chief Executive Officer under section 4(2) or by a Senior Registry Officer under section 4(3), may in any

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proceedings be questioned on the ground that the occasion for the giving of the authority had not arisen or had ceased, or that the act was contrary to a direction of the Registrar General.

**6. Delegation** – The Registrar General may, in writing, delegate to any person appointed under section 4 any of the powers of the Registrar General under this Act, other than this power of delegation.

**Division 2 – Execution of documents**

**7. The Registrar General’s seal** – The Registrar General must have a seal.

**8. Execution of documents** – (1) The Registrar General may issue a certificate or other document under his or her signature, seal, or both, or by a copy of his or her signature, seal, or both produced by stamp, machine imprint, computer system or by a method prescribed by this Act or by the Regulations.

(2) All courts must take judicial notice of the signature and seal of the Registrar General affixed under subsection (1) and, until the contrary is proved, must presume that it was properly affixed.

**PART 2  
REGISTRATION OF BIRTHS**

**Division 1 – Births in Samoa must be registered**

**9. Births in Samoa must be registered** – (1) A birth in Samoa not registered under a former Act or other law must be registered under this Part.

(2) In this Act, “birth” includes a still-birth.

**Division 2 – Registrar General must be advised of births**

**10. Responsible person required to advise Registrar General** – (1) The responsible person must advise the Registrar General of the birth of a child:

- (a) within 14 days from the date of the birth or, in for the Director General of Health, any date not later than 28 days from the date of the birth as

the Registrar General in writing may approve;  
and

- (b) in a form and manner and subject to any conditions as the Registrar General in writing requires.

(2) Advice of a birth under subsection (1) must include the following:

- (a) the gender of the child;
- (b) the date and place of birth of the child;
- (c) the complete names and the address of the mother, and of the father if known; and
- (d) any other information as prescribed by Regulations.

(3) In the event of a still-birth, in addition to the advice required by subsection (1), the responsible person must obtain and provide to the Registrar General a medical certificate in a form and manner the Registrar General in writing requires completed and signed by the medical attendant:

- (a) responsible for the care of the mother at the birth;  
or
- (b) who examined the body of the still-born child, – certifying to the best of his or her knowledge and belief the cause of the still-birth and such other information as the Registrar in writing requires.

### **Division 3 – Registrar General must be notified of births**

**11. Births in Samoa must be notified** – (1) A birth in Samoa not registered under a former Act or other law must be notified under this Part.

(2) A birth is notified under this Part when a person required or authorised by this Part to notify the Registrar General of the birth:

- (a) completes and signs a birth registration form and gives, sends, or posts it to the Registrar General; or
- (b) records and provides to the Registrar General the information required by a birth registration form in a form and manner and subject to such conditions as the Registrar in writing approves.

**12. Persons required to notify Registrar General** – (1) The father and the mother of a child whose birth must be

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notified under this Part must notify the Registrar General within 3 months from the date of birth of the child.

(2) When one parent notifies the Registrar General under subsection (1), the other parent is not required to do so.

(3) If a child is a foundling, whoever has care of the child must notify the Registrar General within 3 months from the date the child is found.

(4) A person who:

(a) has knowledge of some or all of the relevant facts about a birth which must be notified under this Part; and

(b) is aware that the parents of the child are unwilling or unable or unlikely to notify the Registrar General; and

(c) is aware that no one else is likely to notify the Registrar of the birth, –

must notify the Registrar of the birth within 3 months from the date of birth of the child, or, for a foundling, within 3 months from the date the child is found.

(5) When a person required by subsection (4) to notify the Registrar General does so, no one else is required to do so.

### **13. Births outside Samoa may be notified in certain circumstances – (1) If a child is born:**

(a) in an aircraft during a flight to a place of disembarkation in Samoa; or

(b) on a vessel during a voyage to a place of disembarkation in Samoa, –

a person may notify the Registrar General.

(2) A person notifying a birth under subsection (1) must do so within 3 months from the date of birth of the child.

**14. Late notification must be accompanied by fee –** When notification of a birth under this Part is made after the date by which notification is required or, if there is no such date, in the Registrar General's opinion is unreasonably delayed, notification of the birth must be accompanied by the prescribed fee.

### **Division 4 – Registrar General may require advice or notification of birth**

**15. Registrar General may require person to advise or to notify birth – (1) If the Registrar General is satisfied that a person required by section 10 to advise the Registrar**

General has failed to do so, the Registrar General in writing may require the person to advise the Registrar General by a date specified by the Registrar General.

(2) If the Registrar General is satisfied that a person required by section 12 to notify a birth has failed to do so, the Registrar General in writing may require the person to notify the birth by a date specified by the Registrar General.

(3) A person required by the Registrar General:

(a) under subsection (1) to advise the Registrar General ; or

(b) under subsection (2) to notify a birth, –

who without reasonable excuse fails to do so by the date specified by the Registrar General commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

**16. Registrar General must obtain birth information –**

(1) If a person required by the Registrar General under section 15(2) to notify a birth fails to do so by the date specified by the Registrar General, the Registrar General must take all reasonable steps to obtain the information required to notify the birth.

(2) If the Registrar General is satisfied that the information obtained under subsection (1) is adequate for the purpose, the Registrar General must register the birth under this Part.

**Division 5 – Registration of births**

**17. Births notified must be registered –** (1) If the Registrar General is satisfied on being notified of a birth under this Part that:

(a) the birth is a birth required or authorised to be notified under this Part; and

(b) the information provided is complete and correct,– subject to sections 19 and 20, the Registrar General must register the birth by recording the information in the Register.

(2) If the Registrar General is satisfied on being notified of a birth under this Part that information required to be provided is not provided, the Registrar General:

(a) subject to sections 19 and 20, must register the birth by recording the information provided in the Register General;

(b) must require the person notifying the birth to provide the missing information by a date specified by the Registrar General;

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- (c) may take such other steps as in the Registrar General's opinion are reasonable and necessary to obtain and record in the Register General the missing information.

(3) If the Registrar General is satisfied on being notified of a birth under this Part that information provided is or may be misleading or false, the Registrar General must:

- (a) require the person providing the information to clarify or correct the information or to provide evidence that supports the clarity or accuracy of the information by a date specified by the Registrar General; and
- (b) register the birth under this Part only when satisfied as to the clarity and accuracy of the information.

(4) A person required by the Registrar General under subsection (2) or (3) to do something who without reasonable excuse fails to do so by the date specified by the Registrar General, commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

**18. Registration of still-births** – A still-birth must be registered so that the fact the birth is a still-birth is clearly recorded in the Register.

**19. Recording of information in respect of parents** – The Registrar General must not record in the Register any information identifying or likely to identify a person as a parent of a child unless satisfied in respect of one of the following:

- (a) the person has signed the relevant birth registration form and there is no reason to suspect the person is not a parent of the child;
- (b) the person has acknowledged in writing that they are a parent of the child and there is no reason to suspect the person is not a parent of the child;
- (c) the person did not sign the birth registration form because they are unavailable and the person is a parent of the child;
- (d) the person is aware of and has not disputed the correctness of the information and the person is a parent of the child;
- (e) the Court has ordered that the information be recorded in the Register;

- (f) the Court has made a finding that the person is a parent of the child.

### **Division 6 – Child’s name**

#### **20. No registration where no name or prohibited name**

– Subject to section 22, if the Registrar General is satisfied on being notified of a birth under this Part that the information provided does not include a name for the child or includes a name for the child that is a prohibited name, the Registrar General must:

- (a) decline to register the birth;
- (b) require the person notifying the birth to advise the Registrar in writing of a name for the child that does not include a prohibited name by a date specified by the Registrar General;
- (c) on being advised of a name for a child under paragraph (b), record the name in the notification of the birth of the child and register the birth under this Part.

**21. Parents may apply to Court for name** – (1) If the parents of a child are unable to agree on a name for the child, either parent or both parents may apply to the Court for an order giving the child a name.

(2) On hearing an application under subsection (1), the Court must give the child a name and order that the name be recorded in the notification of the birth of the child.

(3) On the making of an order under subsection (2), the Registrar of the Court which made the order must provide a sealed copy of the order to the Registrar General.

(4) On receipt of notification of a birth that is under an order made under subsection (2), or, after recording the name of the child under any order in the notification of the birth of the child already held, the Registrar General must register the birth under this Part.

**22. Registrar General must give child name** – When the Registrar General is notified of a birth to which section 20 applies and is satisfied that:

- (a) the person required to provide a name for the child under that section has failed to do so by the date specified by the Registrar General; and

(b) neither parent of the child has applied or intends to apply to the Court under section 21,–  
the Registrar General must give the child a name, record the name in the relevant birth registration form, and register the birth under this Part.

### **PART 3 CHANGE OF NAME**

#### **Division 1 – Name changed by registration**

**23. Change of name by registration** – Subject to section 31, the name of a person is changed when details of the change are recorded in the Register under this Part.

**24. Change of name of adult** – (1) An adult:

(a) who is domiciled or ordinarily resident in Samoa;  
or

(b) whose birth is registered in Samoa, –  
may apply to the Registrar General, in the form and manner the Registrar General in writing approves, for registration of a change of their name.

(2) For the purposes of this Part, the Registrar General may require a statutory declaration from the applicant and any other documents as the Registrar General shall determine.

**25. Change of name of child** – (1) The parents of a child:

(a) who is domiciled or ordinarily resident in Samoa;  
or

(b) whose birth is registered in Samoa, –  
may apply to the Registrar General, in the form and manner the Registrar General in writing approves, for registration of a change of the name of the child.

(2) An application under subsection (1) may be made by one parent if:

(a) the applicant is the sole parent named in the Register; and

(b) the Registrar General is satisfied the other parent is unavailable.

(3) If the parents of a child are unavailable or for some other reason cannot or are unwilling to exercise their parental responsibilities to the child, the guardian or legal custodian of the child may apply under this section for registration of a change of the name of the child.



**26. Consent of child to change of name** – If an application under section 25 is for a child over 16 years, the Registrar General may register the change only if the Registrar General is satisfied that:

- (a) the child consents to the change of name; or
- (b) the child is unable by reason of mental illness or intellectual or physical incapacity to understand the meaning and implications of the change of name and the change of name is in the best interests of the child.

**27. Application to be accompanied by fee** – An application for a change of name under this Part must be accompanied by the prescribed fee.

**28. Registration of change of name** – (1) If, in respect of an application for a change of name under this Part, the Registrar General is satisfied in respect of the following:

- (a) that the application is in accordance with this Part;
- (b) as to the identity and age of the person whose name is to be changed;
- (c) that the change of name is not sought for a fraudulent or other improper purpose;
- (d) that the proposed name is not and does not contain a prohibited name; and
- (e) the requirements of section 26 have been met where the application is in respect of a child over 16 years, –

the Registrar General may register the change of name in a form and manner approved by the Registrar.

(2) Nothing in this Part requires the Registrar General to register a change of name where the Registrar General is not satisfied as to the purpose and intention of an applicant.

**29. Court may order change of name of child** – (1) A parent or guardian or legal custodian of a child may apply to the Court for an order changing the name of the child.

(2) Subject to subsection (3), the Court may order that the name of the child be changed, if the Court is satisfied that:

- (a) the change of name is in the best interests of the child; and
- (b) the proposed name is not and does not contain a prohibited name.

(3) For child over 16 years, the Court must take into account the views of the child before any order is made under this section.

(4) On the making of an order under subsection (2), the Registrar of the Court which made the order must provide a sealed copy of the order to the Registrar General who on receipt of the order must register the change of name.

**30. Change of name to be included with birth information** – If the name of a person whose birth is registered under this Act or a former Act is changed under this Part, the Registrar General must record the change of name in the Register as part of the information about the birth of that person.

**31. Change of name by repute or usage** – Nothing in this Part prevents a change of name by repute or usage or deed poll, or as otherwise provided by this Act or other law.

#### **PART 4 REGISTRATION OF ADOPTIONS**

##### **Division 1 – Adoptions in Samoa must be registered**

**32. Adoptions in Samoa must be registered** – An adoption in Samoa not registered under a former Act must be registered under this Part.

**33. Registration of Samoan adoptions** – (1) On the making of an adoption order under the Infants Ordinance 1961, the Registrar of the Court which made the order must provide to the Registrar General a sealed copy of the order together with a notice which must include the following information, so far as it is known to the Court:

- (a) the full name of the child, if any, immediately before the making of the order;
- (b) the full name of the child after the making of the order;
- (c) the date and place of birth of the child;
- (d) the gender of the child;
- (e) the full names of the natural parents, or the last preceding adopting parents of the child;
- (f) the full names, occupation and address of the adopting parent, or parents of the child;

- (g) the name of the Judge by whom the adoption order was made, and the date of the order;
- (h) any other information as the Registrar General requires.

(2) On receiving a copy of an order and a notice under subsection (1) for a child whose birth has been registered under this Act, the Registrar General must record in the Register as part of the information about that birth the information contained in the notice and must amend that birth information by:

- (a) recording the name conferred on the child by the adoption order in substitution of the name of the child immediately prior to adoption; and
- (b) recording the full name and details of each adopting parent in substitution of the name and details of the natural or last adopting parents.

(3) On receiving a copy of an order and a notice under subsection (1) in respect of a child whose birth has not been registered under this Act or a former Act or other law, the Registrar General must register the adoption as if it is notified of a birth under section 11 subject to such modifications or adaptations of the registration and Register as the Registrar General in writing approves.

**34. Variation or discharge of adoption order – (1)** On the making of an order varying or discharging an adoption order, the Registrar of the Court making the order must provide a sealed copy of the order to the Registrar General.

(2) On receipt of a copy of an order under subsection (1), the Registrar General must record in the Register, as part of the information in respect of the birth of the child to whom the order relates, particulars of the variation or discharge including, where appropriate:

- (a) the name conferred on the child by the variation or discharge in substitution of the name of the child immediately prior to the variation or discharge; and
- (b) the full name and details of each parent whose status as such arises from the variation or discharge in substitution of the name and details of the persons most recently recorded as parents.

(3) On receiving a copy of an order under subsection (1) in respect of a child whose birth has not been registered under

this Act or a former Act or other law, the Registrar General must register the order varying or discharging an adoption order under subsection (2), subject to any modifications or adaptations of the registration and Register, as the Registrar General in writing approves.

**35. Registration of overseas adoptions** – If the Registrar General is satisfied that:

- (a) a person whose birth is registered under this Act has been properly adopted in accordance with laws of a state outside Samoa; and
- (b) the particulars required for the purpose of this Part have been provided, and are likely to be correct, –

the Registrar General may direct that sections 33 and 34, with any necessary modifications, apply to the adoption as if the adoption has been effected by an adoption order made by the Court.

**36. Birth information of adoption** – (1) If a person requests for any purpose information in the Register about the birth of a child to whom this Part or a corresponding part of a former Act or other law relates, subject to sections 75, 77, 79, 81 and 82, the Registrar General must provide the information only as most recently amended under section 33(2) or 34(2) or the corresponding provisions of a former Act or other law which for the purposes of this Act shall be a true record of the entry in the Register in respect of that birth.

(2) If a person requests to inspect the information in the Register about the birth of a child to whom this Part or a corresponding part of a former Act or other law relates in its original form or previously amended forms, subject to sections 75 and 81, the Registrar General may allow the person to inspect that information only if the Registrar General is satisfied that:

- (a) the information in that form is material to the purpose for which inspection of the information is required; and
- (b) allowing the information to be inspected in that form will not constitute an unjustified intrusion on the privacy of any person.

(3) For the purposes of subsection (2), the Registrar General may require the person making the request to provide to the Registrar General in writing or otherwise the purpose

for which the information is required and the reasons why it ought to be inspected by that person.

(4) The Registrar General may require the written consent of a child or a parent before providing information under this section or section 37.

**37. Registrar General may provide adoption information to registration authorities overseas** – If the Registrar General is satisfied that:

- (a) an authority constituted in a state outside Samoa has the function of recording information relating to births within the state; and
- (b) a person who has been adopted in Samoa was born in the state, –

the Registrar General may supply to the authority information about the adoption when requested by the authority to do so.

## **PART 5 REGISTRATION OF DEATHS**

### **Division 1 – Deaths in Samoa must be registered**

**38. Deaths in Samoa must be registered** – (1) A death in Samoa not registered under a former Act or other law must be registered under this Part.

(2) In this Act, “death” does not include a still-birth.

### **Division 2 – Registrar General must be notified of deaths**

**39. Deaths in Samoa must be notified** – (1) A death in Samoa not registered under a former Act or other law must be notified under this Part.

(2) A death is notified under this Part when a person required or authorised by this Part to notify the Registrar General :

- (a) completes and signs a death registration form and gives, sends, or posts it to the Registrar General; or
- (b) records and provides to the Registrar General the information required by a death registration form in a form and manner and subject to such conditions as the Registrar General in writing approves.

**40. Minister of religion must notify death** – A minister of religion who conducts a funeral service for a person whose death occurred in Samoa must notify the Registrar General within 14 days from the date of the funeral service.

**41. Notification of death where no funeral service – (1)**  
A person who arranges for the disposal of the human remains of a person whose death occurred in Samoa who is satisfied that the human remains of the person have been disposed of without a funeral service must notify the Registrar General within 14 days from the date of disposal of the human remains.

(2) A person who:

- (a) is present at a death in Samoa; or
- (b) is the President of the Women’s Committee of a village in which a death occurs; or
- (c) is a Sui-o-le-Nuu of a village in which a death occurs; or
- (d) is the occupier of a place in Samoa where a death occurs, –

who is satisfied that the human remains of the person have been disposed of without a funeral service and that it is likely that no one else has advised or is likely to advise the Registrar General, must notify the Registrar General within 14 days from the date of disposal of the human remains.

(3) If a person required by subsection (2) to notify the Registrar General does so, no one else is required to do so.

**42. Registrar General may require person to notify death – (1)** If the Registrar General is satisfied that a Minister of religion required by section 40 to notify a death has failed to do so, the Registrar General in writing may require the Minister of religion to notify the death by a date specified by the Registrar.

(2) If the Registrar General is satisfied that a person required by section 41 to notify the Registrar General has failed to do so, the Registrar General in writing may require the person to notify the Registrar General by a date specified by the Registrar General.

(3) A person required by the Registrar General under subsection (1) or (2) to notify the Registrar General who without reasonable excuse fails to do so by the date specified by the Registrar General commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

**Division 3 – Form of recording and notifying deaths**

**43. Form of recording and notifying deaths – (1)** For the purpose of recording and notifying deaths under this Part, a minister of religion who conducts a funeral service must:

- (a) keep a book, supplied for the purpose by the Registrar General, called “The Death Register Book” comprising death registration forms in duplicate; or
- (b) maintain any other form of recording and manner of notifying deaths, as the Registrar in writing approves.

**(2)** When a death is recorded and notified under this Part, the minister of religion notifying the death must:

- (a) retain in the death register book a copy of; or
- (b) preserve or duplicate in a manner and form the Registrar in writing approves, –

the information provided to the Registrar General.

**44. Death information must be kept secure – (1)** A person having lawful custody of a death register book or information otherwise preserved or duplicated under this Part must:

- (a) take reasonable precautions to ensure the book and the information are kept secure and maintained in good condition; and
- (b) immediately provide the book or the information to the Registrar General when the Registrar General in writing so requires.

**(2)** A person who, without reasonable excuse, fails to comply with section 43 or this section commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

**45. Offence to alter death information – (1)** A person who without the written authority of the Registrar General alters an entry in a death register book or alters information otherwise preserved or duplicated under this Part commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

**(2)** A person having lawful custody of a death register book or information otherwise preserved or duplicated under this Part who permits another person to unlawfully alter an entry in the book or to unlawfully alter the information

commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

**46. Deaths outside Samoa may be notified in certain circumstances** – (1) A person may notify the Registrar General that occurs in any of the following circumstances:

- (a) in an aircraft during a flight to a place of disembarkation in Samoa;
- (b) on a vessel during a voyage to a place of disembarkation in Samoa;
- (c) outside Samoa of a person born in Samoa;
- (d) outside Samoa of a person who is domiciled in or ordinarily resident in Samoa;
- (e) outside Samoa of a person leaving property in Samoa.

(2) A person notifying a death under subsection (1)(a) or (1)(b) must do so within 14 days from the date of death, if known, or if not known, within 14 days from the date the death is discovered.

(3) A person notifying a death under subsection (1)(c), (1)(d) or (1)(e) must do so as soon as practicable.

#### **Division 4 – Cause of death to be determined**

**47. Registrar General must be advised of cause of death** – (1) If there is a death in Samoa and:

- (a) the death occurred in a health care facility; or
- (b) the human remains are brought to a health care facility; or
- (c) a doctor working in or employed by a health care facility—
  - (i) attended the death; or
  - (ii) recently attended the deceased before death; or
  - (iii) examined the human remains, –

the Director General of Health, or, if the health care facility is privately owned, the Chief Executive or doctor-in-charge of the health care facility, subject to section 48, must provide the Registrar General with a medical certificate certifying the cause of death in a form and manner as the Registrar General in writing requires.

(2) A person required by subsection (1) to provide a medical certificate to the Registrar General must do so:

- (a) within 28 days from the date of death if known; or
- if the date of death is not known; or



(b) within 28 days from the date of discovery of the death.

(3) When the Registrar General is notified of a death to which subsection (1) does not apply, the Registrar General must provide the information contained in the notification to:

(a) a doctor instructed by the Director General of Health to practice in the place where the death occurred; or

(b) if none, the doctor practising in the place nearest to the place of death,—

and in writing require the doctor to provide to the Registrar, by a date specified by the Registrar, a medical certificate certifying the cause of the death in a form and manner the Registrar General approves.

(4) A doctor required to provide medical certificate under subsection (1) or (6) must make such inquiries as in the opinion of the Director-General of Health or the Chief Executive or doctor-in-charge of a health care facility (as the case may be), are reasonable and necessary in the circumstances to determine the cause of death.

(5) A doctor required to provide a medical certificate under subsection (3) must:

(a) carefully question any person who was present at the death and who recently was with the deceased before death; and

(b) make any other inquiries as in the opinion of the doctor are reasonable in the circumstances to determine the cause of the death.

(6) The Director-General of Health or the Chief Executive or doctor-in-charge of a health care facility (as the case may be) may require any doctor in his or her employ or under contract to the health care facility to complete a medical certificate under subsection (2).

**48. Death must be reported to Coroner in certain circumstances** – (1) A person required by section 47 to provide a medical certificate who:

(a) forms the opinion that in all the circumstances the cause of death requires further investigation; or

(b) has reasonable cause to suspect that the death was—

(i) the result of violence or otherwise was unnatural; or

(ii) sudden and of unknown cause, –

subject to subsection (2), immediately must report the death to the Coroner setting out the circumstances of the death and the reasons why they are of that opinion or have that suspicion, and provide to the Registrar General a copy of the report.

(2) When a death has been reported to the Coroner, a person required by section 47 to provide the Registrar with a medical certificate must do so only if the Coroner determines not to hold an inquest into the death.

(3) Before providing a medical certificate under subsection (2), a person must determine the result of a post mortem examination, if any, carried out or ordered by the Coroner to be carried out in respect of the death.

**49. Registrar General may require person to act – (1)**

If the Registrar General is satisfied that a person has failed to do something they are required to do by this Part, the Registrar General in writing may require the person to do it by a date specified by the Registrar General.

(2) A person required by the Registrar General under subsection (1) to do something who without reasonable excuse fails to do so by the date specified by the Registrar General commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

**50. Registrar General must obtain death information**

– (1) If a person required by the Registrar General:

- (a) under section 42(1) to notify a death; or
- (b) under section 49 to provide a medical certificate certifying the cause of death, –

fails to do so by the date specified by the Registrar General, the Registrar General must take all reasonable steps to obtain the information required to notify the death or to establish the cause of the death.

(2) If the Registrar General is satisfied that the information obtained under subsection (1) is adequate for the purpose, the Registrar General must:

- (a) register the death under this Part and, as the case may require; and
- (b) record the cause of death in the Register as part of the information in respect of a death already registered.

**Division 5 – Registrar General must register deaths**

**51. Deaths must be registered – (1)** If the Registrar General is satisfied on being notified of a death under this Part that:

- (a) the death is a death required or authorised to be registered under this Part; and
- (b) the information provided is complete and correct,

the Registrar General must register the death by recording the information in the Register.

**(2)** If the Registrar General is satisfied on being notified of a death under this Part that information required to be provided is not provided, the Registrar General:

- (a) must register the death by recording in the Register the information contained in the notification; and
- (b) must require the person notifying the death to provide the missing information by a date specified by the Registrar General; and
- (c) may take any other steps, as in the Registrar General's opinion are reasonable and necessary to obtain and record in the Register the missing information.

**(3)** If the Registrar General is satisfied on being notified of a death under this Part that information provided is or may be misleading or false, the Registrar General must:

- (a) require the person providing the information to clarify or correct the information or to provide evidence that supports the clarity or accuracy of the information by a date specified by the Registrar General; and
- (b) register the death in accordance with subsection (1) only when satisfied as to the clarity and accuracy of the information.

**(4)** A person required in writing by the Registrar General under subsection (2)(b) or (3)(b) to do something who without reasonable excuse fails to do so by the date specified by the Registrar General commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

#### **Division 6 – Cause of death must be recorded in Register**

**52. Cause of death must be recorded in Register – (1)**  
On receipt of:

- (a) a medical certificate for a death under this Part;
- or

- (b) a certificate for a death under section 21(2) of the Coroner's Ordinance 1959, –  
subject to subsection (3), the Registrar General must record the cause of death certified by the certificate in the Register as part of the information for the death.
- (2) If, in respect of a death registered under section 51, the cause of death is not determined, the Registrar General must record that fact in the Register as part of the information about the death.
- (3) If the Registrar General is satisfied that a medical certificate provided under this Part is incomplete or is or may be misleading or false, the Registrar General may:
- (a) require the person providing the certificate to complete, clarify, or correct the certificate or to provide evidence that supports the completeness, clarity, or accuracy of the certificate by a date specified by the Registrar General; and
  - (b) record the cause of death in the Register under subsection (1) only when satisfied as to the completeness and accuracy of the certificate.
- (4) A person required in writing by the Registrar General under subsection (3) to do something who without reasonable excuse fails to do so by the date specified by the Registrar commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

### **Division 7 – Perinatal Death**

**53. Registrar General may forward medical certificates** – The Registrar General must provide a copy of a medical certificate under the control of the Registrar General relating to a perinatal death when requested to do so by a government department.

### **Division 8 – Disposal of human remains of still-born child**

**54. Disposal of human remains of still-born child** – No person may dispose of or allow the disposal of the remains of a deceased child as if it were still-born without prior receipt of:

- (a) a written certificate that the child was not born alive, signed by a doctor present at the birth or who examined the body of the child; or

- (b) if none, a written certificate that the child was not born alive signed by a traditional birth attendant present at the birth; or
- (c) if none, a statutory declaration, signed by a person required by section 10(1) to notify the birth, stating—
  - (i) that no doctor, midwife or traditional birth attendant was present at the birth; or
  - (ii) if present, that their certificate cannot be obtained, and that the child was not born alive; or
- (d) an order for disposal of the human remains given by the Coroner for the child.

## **PART 6 REGISTRATION OF MARRIAGES**

### **Division 1 – Marriages in Samoa must be registered**

**55. Marriages in Samoa must be registered** – A marriage solemnised in Samoa not registered under a former Act or other law must be registered under this Part.

### **Division 2 – Registrar General must be notified of marriages**

**56. Marriages in Samoa must be notified** – (1) A marriage in Samoa not registered under a former Act or other law must be notified under this Part.

(2) Subject to subsection (3), a marriage is notified under this Part when the marriage officer solemnising the marriage:

- (a) completes and signs a marriage registration form and gives, sends, or posts it to the Registrar General; or
- (b) records and provides to the Registrar General the information required by a marriage registration form in a form and manner and subject to conditions as the Registrar General in writing approves.

(3) A notification under subsection (2) must be assented to by the parties to the marriage and 2 witnesses by signature on the marriage registration form or in a form and manner and subject to conditions as the Registrar General in writing approves.

**57. Marriage officer must notify marriage** – A marriage officer who solemnises a marriage in Samoa must notify the Registrar General within 14 days from the date of the marriage.

**58. Registrar General may require person to notify marriage** – (1) If the Registrar General is satisfied that a marriage officer required by section 57 to notify a marriage has failed to do so, the Registrar General may require the marriage officer to notify the marriage by a date specified by the Registrar.

(2) A marriage officer required in writing by the Registrar General under subsection (1) to notify a marriage who, without reasonable excuse, fails to do so by the date specified by the Registrar General commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

**59. Registrar General must obtain marriage information** – (1) If a marriage officer required by the Registrar General under section 58(1) to notify a marriage fails to do so by the date specified by the Registrar General, the Registrar General must take all reasonable steps to obtain the information required to notify the marriage.

(2) If the Registrar General is satisfied that the information obtained under subsection (1) is adequate for the purpose, the Registrar General must register the marriage under this Part.

### **Division 3 – Form of recording and notifying marriages**

**60. Form of recording and notifying marriages – (1)** For the purpose of recording and notifying marriages under this Part, a marriage officer must:

- (a) keep a book, provided for the purpose by the Registrar General, called “The Marriage Register Book” comprising marriage registration forms in triplicate; or
- (b) maintain such other form of recording and manner of notifying marriages as the Registrar General in writing approves.

(2) When a marriage is recorded and notified under this Part, the marriage officer notifying the marriage must:

- (a) give to the parties to the marriage a copy of;
- (b) retain in the marriage register book a copy of; and

- (c) preserve or duplicate in a form and manner approved in writing by the Registrar General,

–  
the information provided to the Registrar.

(3) A marriage register book supplied to a marriage officer under section 17 of the Marriage Ordinance 1961 is taken to be a marriage register book provided under subsection (1).

**61. Marriage information must be kept secure – (1)** A person having lawful custody of a marriage register book or information preserved or duplicated under this Part must:

- (a) take reasonable precautions to ensure the book and the information are kept secure and maintained in good condition; and
- (b) immediately provide the book or the information to the Registrar General when the Registrar General in writing so requires.

(2) A person who without reasonable excuse fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

**62. Offence to alter marriage information – (1)** A person who without the written authority of the Registrar General alters an entry in a marriage register book or alters information otherwise preserved or duplicated under this Part commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

(2) A person having lawful custody of a marriage register book or information otherwise preserved or duplicated under this Part who permits anyone to unlawfully alter an entry in the book or to unlawfully alter the information commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

#### **Division 4 – Marriages notified must be registered**

**63. Marriages notified must be registered –** On being notified of a marriage under this Part, the Registrar General must register the marriage by recording the information in the Register.

**64. End of marriage must be recorded in Register – (1)** On the making by the Court of:

- (a) a decree absolute of dissolution of marriage; or

(b) a decree of presumption of death and of dissolution of marriage; or

(c) a decree of nullity of marriage, –

in respect of any marriage solemnised in Samoa, the Registrar of the Court which made the decree must provide to the Registrar General a certificate in respect of the decree in the form prescribed by the Regulations.

(2) On receipt of a certificate under subsection (1), the Registrar General must record in the Register as part of the information in respect of the marriage the information contained in the certificate.

**65. Marriages outside Samoa may be registered – (1)**

A representative of the Government who has attended the marriage of a Samoan citizen in a country other than Samoa and who is satisfied that the marriage has been solemnised under the laws of that other country may complete and provide to the Registrar General a certificate in respect of the marriage in a form approved by the Registrar General.

(2) If the Registrar General is satisfied as to the authenticity of a certificate received under subsection (1), the Registrar General must register the marriage by recording in the Register the information contained in the certificate.

**66. Record of marriages ended outside Samoa – (1)**

If the Registrar General is satisfied that a marriage registered under this Act or a former Act or other law has ended as a result of legal process outside Samoa, the Registrar General must record in the Register as part of the information in respect of the marriage that fact and particulars in respect of the relevant legal process.

(2) For the purposes of subsection (1), the Registrar General may require such information in respect of the ending of the marriage and the relevant legal process as in all the circumstances the Registrar General considers necessary.

**67. Convictions for bigamy must be recorded in Register – (1)**

On conviction of any person for bigamy, the Registrar of the Court in which the conviction is entered must provide to the Registrar General in a form approved by the Registrar General a certificate in respect of the conviction which must specify the following:

(a) the names of the parties to the form of marriage in respect of which the offence was committed;



- (b) the date and place of the offence;
- (c) the date of the conviction;
- (d) any other particulars as the Registrar General requires.

(2) On receipt of a certificate under subsection (1), the Registrar General must record in the Register as part of the information in respect of the marriage the information contained in the certificate.

**68. Changes of name in relation to marriage** – (1) A party to a marriage who, during the marriage has changed their name under this Act or other law, or if such person has died, the other party to the marriage, may apply to the Registrar in a form approved by the Registrar General to record the change of name as part of the information in respect of the marriage recorded in the Register.

(2) An application under subsection (1) must be accompanied by the prescribed fee.

(3) If the Registrar General is satisfied that the change of name that is the subject of an application under subsection (1) is properly made under this Act or other law the Registrar General must record the change of name in the Register as part of the information for the marriage.

## **PART 7 REGISTER OF BIRTHS, DEATHS, AND MARRIAGES**

### **Division 1 – Creation and Maintenance of the Register**

**69. Register of Births, Deaths, and Marriages** – (1) The Registrar General must create and maintain the currency of a register to be known as the Register of Births, Deaths, and Marriages and which may comprise wholly or partly an electronic or computer system or any other form or forms as the Registrar General from time to time considers appropriate for the purposes of this Act.

(2) Any register, document, index, and all information, proceedings, and generally all acts, which were made, created, collected, or originated under the Birth and Deaths Registration Ordinance 1961 or any enactment repealed by that enactment and the Marriage Ordinance 1961, which subsist or are in force on the date this Act comes into force shall remain in force for all purposes, and if there is a corresponding provision in this Act, are deemed to have been

made, created, collected, or originated under or by that provision.

(3) A register maintained under the Births and Deaths Registration Ordinance 1961 forms part of the Register created under this Act.

(4) The Registrar General:

- (a) must record in the Register information required to be so recorded by this Act or other law;
- (b) may record in the Register information that is authorised to be so recorded by this Act or other law;
- (c) subject to this Act or other law, may record in the Register information which the Registrar is satisfied should be recorded in the Register.

(5) The Registrar General must maintain any indexes on information recorded in the Register and in respect of documents and information otherwise held by the Registrar General under this Act, a former Act, or other law as in the Registrar General's opinion are necessary to ensure the information and the documents are reasonably accessible to the Registrar General and to any person authorised by this Act or other law to have access to them.

(6) The Registrar General must ensure that all information stored in an electronic or computerised form remains intact and preserved by means of an appropriate form of computer backup or other duplication.

**70. Registrar General must keep documents** – The Registrar General must retain in an electronic form or otherwise the original or a copy of every document received by the Registrar General that is required or authorised to be provided to the Registrar General in respect of the notification and registration of an event under this Act.

**71. Registrar General to be satisfied in respect of information** – Subject to this Act, on receipt of any notification, certificate, form, application, or other document or information in respect of an event the Registrar General must carefully consider the circumstances surrounding the event and the information received in respect of it and if the Registrar General is satisfied that:

- (a) the information is correct; and
- (b) the event and the information should properly be recorded in the Register or be otherwise recorded, –

certify that fact and register the event or amend, delete, or record the information in the Register, as the case may require.

**72. Corrections and additions to the Register – (1)** If, on application by any person or on the Registrar General's own initiative, after reasonable inquiry, the Registrar is satisfied that:

- (a) an event not required to be registered should be registered;
- (b) information recorded in the Register about an event is incomplete, incorrect, or misleading; or
- (c) information should be recorded in the Register as part of the information about an event previously registered,—

subject to sections 19 and 79, the Registrar General must register the event or amend, delete, or record information in the Register as the case may be.

**(2)** An application under subsection (1) must:

- (a) be in a form and manner the Registrar General in writing approves;
- (b) specify the event and the information that are the subject of the application;
- (c) where the Registrar General so requires, include the following—
  - (i) evidence supporting the accuracy of the information;
  - (ii) a statutory declaration verifying the accuracy of the information;
  - (iii) any other evidence the Registrar General requires; and
- (d) be accompanied by the prescribed fee.

**(3)** For the purposes of inquiry under subsection (1), the Registrar General may require any person to provide information in respect of an event by a date and in any form as the Registrar requires.

**(4)** A person required in writing to provide information to the Registrar General under subsection (3) who without reasonable excuse fails to do so by the date specified by the Registrar General commits an offence and on conviction is liable to a fine not exceeding 10 penalty units.

**73. Court may order that event be registered – (1)** If, on application by the Registrar General or any other person

or on its own initiative, the Court is satisfied on any of the following:

- (a) an event required to be registered under this Act is not registered;
- (b) an event not required to be registered under this Act should be registered;
- (c) information recorded in the Register about an event is incomplete, incorrect, or misleading;
- (d) information should be recorded in the Register as part of the information in respect of an event previously registered, –

the Court may order that the event be registered under this Act or make any orders as are necessary to complete, correct, clarify or delete an entry in the Register.

(2) On the making of an order under subsection (1), the Registrar of the Court which made the order must provide a sealed copy of the order to the Registrar General.

(3) On receipt of a sealed copy of an order under subsection (1), the Registrar General must:

- (a) register the event by recording in the Register the information contained in the order; or
- (b) amend, delete, or record information in the Register in accordance with the order.

**74. Office at which Registrar General may receive documents** - Unless otherwise provided in this Act or other law, any notification, certificate, form, application, or other document about an event required to be given, sent, posted, or made to the Registrar General under this Act may be given, sent, posted, or made to any office of the Registrar General.

## **Division 2 – Protection of privacy**

**75. Protection of privacy** – Subject to this Act, in any circumstance in which the Registrar General is required or authorised to provide information or documents recorded in the Register or otherwise held by the Registrar General, or to allow inspection of any information or documents, the Registrar General must, as far as it is practicable to do so, protect the privacy of those to whom the information or documents relate.

**76. Statement of policy** – The Registrar General must maintain in writing and make available on request a statement

of the matters the Registrar General will consider when determining whether or not to provide access to:

- (a) information recorded in the Register; and
- (b) information and documents otherwise held by the Registrar General.

### **Division 3 – Certificates**

**77. Certificates in respect of information recorded in Register** – (1) Subject to this Act, a person may apply to the Registrar General for a certificate in respect of information recorded in the Register or otherwise held by the Registrar General.

(2) An application under subsection (1) must be pursuant to the following:

- (a) be in a form and manner the Registrar General in writing approves;
- (b) specify the information that is the subject of the application;
- (c) state the reasons for the applicant's interest in the information;
- (d) include any other information the Registrar General requires;
- (e) be accompanied by the prescribed fee.

(3) In considering an application under subsection (1), the Registrar General must have regard to the following:

- (a) the relationship between the applicant and the person to whom the information relates;
- (b) the age of the information;
- (c) the content of the information;
- (d) whether providing the certificate will result in an unjustified intrusion into the privacy of someone other than the applicant;
- (e) whether providing the certificate will contravene or frustrate the purposes of any other enactment;
- (f) any other matters which in the Registrar General's opinion are relevant to the application.

(4) If the Registrar General is satisfied that it is appropriate to do so, the Registrar General may issue a certificate under section 78.

**78. Content of certificates** – (1) A certificate issued under section 77 may:

- (a) subject to sections 36 and 79, record and certify as accurate all or part of the information recorded in an entry in the Register or otherwise held by the Registrar General; or
- (b) certify that no information is recorded by entry in the Register or is otherwise held by the Registrar General, –

about a specified event.

(2) If the information to be contained in a certificate issued under section 77 about an event is prescribed by the Regulations, a certificate issued by the Registrar containing information about the event must contain the information so prescribed.

(3) If the Registrar is satisfied that a certificate to be provided under section 77 relates to birth information on someone who was still-born or is dead, the Registrar must cause the certificate to bear the expression “still-born” or “deceased” accordingly.

(4) Subject to section 79, if a certificate provided under section 77 relates to birth information on someone who has changed their name under Part 3, the Registrar General must cause the certificate to include the current and former names of the person.

**79. Protection of certain witnesses** – (1) This section applies to a person where the Minister:

- (a) has received a written request from the Minister of Police to protect a new identity adopted by the person on a specified day; and
- (b) being advised that it is in the interests of justice that the identity should not be available by reference to a former name, has given the Registrar General a written direction to protect the identity adopted by the person on that day; and
- (c) has not later revoked the direction.

(2) Subject to subsection (4), while this section applies to a person, when an application for a certificate under section 77 is made about the birth information on the person by reference to a former name of that person, any certificate issued on that information must contain:

- (a) the birth information that the certificate would contain if the former name of the person referred to in the application was the only name of the person ever included in the birth

information recorded in the Register or otherwise held by the Registrar General; and

- (b) no information that may identify the person by any other name.

(3) Subject to subsection (4), while this section applies to a person, when an application for a certificate under section 77 is made about the birth information on the person by reference to the names adopted by the person constituting the identity to which the direction under subsection (1)(b) relates, any certificate issued in respect of that information:

- (a) must not contain any information relating to the adoption of the names or the abandonment of the names used before the names were adopted; and
- (b) subject to paragraph (a), must contain all the information that such a certificate would contain if this section did not apply to the person.

(4) While this section applies to a person, if the Registrar is satisfied in respect of any of the following:

- (a) the person has requested the certificate;
- (b) someone else has requested the certificate, and the person has consented in writing to the issuing of a certificate containing the information to the person requesting it;
- (c) the person is dead;
- (d) 120 years has passed since the person was born, – a certificate issued by the Registrar General under section 77 in respect of birth information relating to the person must contain all the information that such a certificate would contain if this section did not apply to the person.

**80. Certificate admissible in legal proceedings** – A certificate issued by the Registrar General under section 77 is admissible in any legal proceedings as evidence of:

- (a) the recording by entry in the Register or the otherwise holding by the Registrar of the information to which the certificate relates; and
- (b) the facts recorded in the information to which the certificate relates.

#### **Division 4 – Searches of Register and other records held by Registrar General**

**81. Search of Register and other records – (1)** Subject to this Act, a person may by application to the Registrar General request that the Registrar General do any of the following:

- (a) search the Register or other electronic or computer systems under the control of and accessible to the Registrar General for information in respect of a specified event;
  - (b) provide a print-out of information located as a result of a search under paragraph (a);
  - (c) search documents, other than indexes, held by the Registrar General under this Act or a former Act, containing information in respect of a specified event;
  - (d) permit inspection of any document containing information located as a result of a search under paragraph (c);
  - (e) provide a copy of any relevant document containing information located as a result of a search under paragraph (c).
- (2)** A request under subsection (1) must:
- (a) be in a form and manner the Registrar General in writing approves;
  - (b) specify the event and the information to which the request relates;
  - (c) state the reasons for the request;
  - (d) include any other information the Registrar General requires;
  - (e) be accompanied by the prescribed fee.

**(3)** If a request under this section relates to information and documents about one person or to the parties to a marriage, the Registrar General must have regard to the following:

- (a) the relationship between the applicant and the person or parties to whom the information relates;
- (b) the age of the information or the document;
- (c) the content of the information or the document;
- (d) whether granting the request will result in an unjustified intrusion into the privacy of someone other than the applicant;
- (e) whether granting the request will contravene or frustrate the purposes of any other enactment;
- (f) any other matters which in the Registrar General's opinion are relevant to the request.



(4) If the Registrar General is satisfied that it is appropriate to do so, subject to sections 36 and 79, the Registrar General may grant the request.

(5) If a request under this section relates to information and documents about more than 1 person other than the parties to a marriage, and the Registrar General is satisfied in respect of the following:

- (a) the request is made by someone acting on behalf of a Government Department or agency or a body or person gathering statistics, or carrying out genuine health or demographic research;
- (b) information relating to particular individuals is not sought and will not be retained;
- (c) granting the request would not contravene or frustrate the purposes of this or any other enactment;
- (d) it is in the public interest that the request be granted, subject to subsection (6),–

the Registrar General must grant the request.

(6) In granting a request under subsection (5), the Registrar must impose any conditions, as in all the circumstances are practicable to protect from unjustified intrusion into their privacy those to whom the requested information and documents relate.

**82. Restrictions on searches relating to new names of certain witnesses** – (1) While section 79 applies to a person, despite section 4(2), only the Registrar General may:

- (a) permit a person to inspect; or
- (b) provide a person with a copy or print-out of any information contained in, –

any document relating to the acquisition of the new identity the Registrar General has been directed to protect.

(2) Subject to section 81, the Registrar General may permit a person to inspect, and may provide a person with a copy or print-out of any information contained in, a document to which subsection (1) applies only if the Registrar General is satisfied that the person to whom the document relates:

- (a) is the applicant under section 81; or
- (b) has consented in writing to the applicant inspecting it; or
- (c) is dead; or
- (d) was born more than 120 years ago.

(3) Except as provided in subsection (2), the Registrar General must not permit any person to inspect, and must not

provide any person with a copy or print-out of any information contained in, a document to which subsection (1) applies except on the order of a Court made:

- (a) for the purposes of a prosecution for making a false statement; or
- (b) in the event of any question as to the validity of a marriage; or
- (c) on any other special ground.

(4) Despite anything in this section, with the written approval of the Commissioner of Police, the Registrar General may notify any Government Department or agency that has an interest in ensuring that people do not have more than one identity of:

- (a) the fact that section 79 applies, or has at any time applied, to any person; and
- (b) the former and new name of the person.

### **Division 5 – Fees**

**83. Fees – (1)** If the Registrar General is empowered by this or any other Act, to do something for which a fee is payable, the Registrar General may refuse to do that thing until the fee is paid.

(2) If the Registrar General is satisfied that in all the circumstances it is just and fair to do so, the Registrar General may:

- (a) dispense with the payment of all or any part of any fee payable under this Act; or
- (b) refund all or any part of any fee paid under this Act.

### **Division 6 – Additional information and services**

#### **84. Registrar General may collect other information –**

(1) Despite anything to the contrary in this Act, the Registrar General may record information about an event registered under this Act that is not information required to be recorded by this Act.

(2) Records maintained under subsection (1) must be kept so they do not form part of the Register.

(3) If the Registrar is satisfied that a person has a special interest in an event registered under this Act, at the request of that person, the Registrar may include in the records maintained under this section information about that event.

**85. Services in respect of information in the Register General and elsewhere** – (1) The Registrar General may provide additional services in connection with information recorded in the Register or otherwise held by the Registrar General, including, but not limited to:

- (a) the provision of information in the form of a decorative certificate or other document; and
- (b) the provision of information from records maintained under section 84, including historical or genealogical information.

(2) When an additional service is provided under this section, the Registrar may charge for the service and the charge need not relate to the cost of providing the service.

## **PART 8 MISCELLANEOUS**

### **Division 1 – Review by the Court**

**86. Review by the Court** – (1) The Registrar General or any other person whose interests are affected by a decision of the Registrar General under this Act may apply to the Court for review of the decision.

(2) An application for review under subsection (1) must be made within 28 days from the day on which notification of the decision was received by the applicant, unless in all the circumstances the Court considers it fair and just that an application be made after that date.

### **Division 2 – Offences**

**87. False representation** – A person who, knowing it to be false or misleading, makes, or causes to be made, a false or misleading representation in any form, application, request, certificate, statement, notice, or other document provided to the Registrar General under this Act, commits an offence and on conviction is liable a fine not exceeding 20 penalty units or to imprisonment for a term not exceeding 2 years, or both.

**88. Unauthorised access to or interference with the Register** – A person who, without the written authority of the Registrar General does any of the following:

- (a) obtains access to information recorded in the Register;

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- (b) obtains access to information or documents otherwise held by the Registrar General under this Act;
- (c) alters, deletes, or records information in the Register;
- (d) alters, deletes, or records information otherwise held by the Registrar General under this Act;
- (e) alters, deletes, or records a document otherwise held by the Registrar General under this Act,

—  
commits an offence and on conviction is liable a fine not exceeding 30 penalty units or to a term of imprisonment not exceeding 3 years, or both.

**89. Falsification of certificate or document – (1)** A person who, without the written authority of the Registrar General, affixes or causes to be affixed to any document an impression of the signature or the seal of the Registrar General commits an offence and on conviction is liable to a fine not exceeding 30 penalty units or to a term of imprisonment not exceeding 3 years, or both.

(2) A person who without the written authority of the Registrar alters any document issued by the Registrar General under this Act commits an offence and on conviction is liable to a fine not exceeding 30 penalty units or to a term of imprisonment not exceeding 3 years, or both.

**90. Registrar General may impound and destroy certain documents** – If the Registrar General is satisfied a document:

- (a) bears a forged or unauthorised impression of the signature or the seal of the Registrar General;  
or
- (b) that purports to be issued under this Act has been forged or falsified; or
- (c) issued under this Act has been altered; or
- (d) issued under this Act contains information which, as a result of an addition, deletion, or substitution of information by the Registrar General under this Act, is no longer accurate or complete, –

the Registrar General may impound and (with the consent of either the Minister or the Controller and Auditor General or a Judge or the Attorney General) may destroy the document.

**91. No prosecution without notification to Registrar General** – A prosecution for an offence under this Act must not be commenced without written notification being given to the Registrar General.

### **Division 3 – Miscellaneous**

**92. Power to require and take statutory declarations** –  
(1) The Registrar General may require that information be given by statutory declaration.

(2) The Registrar General and an Assistant Chief Executive Officer are authorised to take any statutory declarations required for the purposes of this Act and are deemed to be persons authorised to take and record a statutory declaration under section 21 of the Oaths, Affidavits and Declarations Act 1963.

**93. Relaxation of time or conditions** – If, in all the circumstances, any act, matter, or thing required by this Act is unable to be done within the time set by this Act or in strict compliance with the conditions imposed by this Act, it is sufficient if, with the consent of the Registrar General, the act, matter or thing is done within a reasonable time as allowed by the Registrar General, or if the conditions imposed are complied with so far as is reasonably practicable as determined by the Registrar General.

**94. Regulations** – (1) The Head of State, acting on the advice of the Cabinet, may make regulations for all or any of the following purposes:

- (a) prescribing fees or a basis for calculating fees for the purposes of this Act;
  - (b) generally prescribing any matter, form, or thing required, authorised, or necessary to be prescribed for the purposes of this Act and for its effective and efficient administration;
  - (c) prescribing any remuneration for services carried out by any person under this Act.
- (2) Regulations made under this Act may:
- (a) be of general or limited application; or
  - (b) differ according to differences in time, place or circumstance; or
  - (c) require the making of a statutory declaration; or

- (d) require the giving and collecting of information for the purposes of statistics, including matters to be notified, matters to be registered, or both.

**PART 9**  
**REPEALS, TRANSITIONAL PROVISIONS**  
**AND AMENDMENTS TO OTHER ACTS**

**95. Repeal of the Births and Deaths Registration Ordinance 1961** – (1) The Births and Deaths Registration Ordinance 1961 is repealed.

(2) All entries, registers, notices, information, registration statements, certificates, certified copies of certificates and proceedings and generally all acts of authority which were made, or originated, under the Births and Deaths Registration Ordinance 1961 or any enactment repealed by that enactment, which subsist or are in force on the date this Act comes into force shall remain in force for all purposes, and where there is a corresponding provision in this Act, are deemed to have originated with that provision.

**96. The Register** – The registers maintained under the Births and Deaths Registration Ordinance 1961 and the Marriage Ordinance 1961 form part of the Register under this Act.

**97. Superseded references** – On and after the commencement of this Act, unless inconsistent with the context or subject-matter, in any Act other than this Act, Regulations, or any other document, a reference to:

- (a) the Births and Deaths Registration Ordinance 1961 is taken to be a reference to the Births, Deaths and Marriages Registration Act 2002; and
- (b) the Register of Births and Deaths is deemed to be a reference to the Register of Births, Deaths, and Marriages established under Part 7 of this Act; and
- (c) the Registrar-General holding office under the Births and Deaths Registration Ordinance 1961 is taken to be a reference to the Registrar of Births, Deaths, and Marriages appointed under the Births, Deaths and Marriages Registration Act 2002.

**98. Consequential amendments** – An Act specified in the heading to an item in the Schedule is amended as set out in that item.

**SCHEDULE**  
**(Section 98)**

**CONSEQUENTIAL AMENDMENTS TO VARIOUS  
ACTS AND ORDINANCES**

**1. The Marriage Ordinance 1961**

1.1 In section 2 repeal the definition of “Deputy Registrar-General” and substitute ““Deputy Registrar’ means an Assistant Chief Executive Officer appointed under the Births, Deaths and Marriages Registration Act 2002”.

1.2 In section 2, repeal the definition of “Registrar General” and substitute ““Registrar” means the Registrar appointed under the Births, Deaths and Marriages Registration Act 2002’.

1.3 In section 4 delete the heading “Registrar-General and Deputy Registrar-General” and substitute the words “Registrar and Deputy Registrar”.

1.4 In section 4(1) delete the words “Registrar-General” and substitute the word “Registrar”.

1.5 Repeal section 4(2) and substitute the following subsection:

“(2) An Assistant Chief Executive Officer shall, under the control of the Registrar, have all of the powers, duties and functions of the Registrar”.

1.6 Repeal section 4(3) and substitute the following subsection:

“(3) Where a vacancy occurs for any reason in the office of Registrar, or in the absence of the Registrar, and for so long as the vacancy or absence continues:

- (a) the Deputy Registrar if there is only one; or
- (b) an Assistant Chief Executive Officer so authorised in writing by the Minister or by the Registrar in every other case, has and may exercise and perform all the powers, functions, and duties of the Registrar.

1.7 Repeal section 5.

1.8 In section 7(3) delete the words “Registrar-General” and substitute the word “Registrar”.

1.9 Repeal Part IV.

- 1.10 Repeal section 22.
- 1.11 Repeal section 23.
- 1.12 Repeal section 24.
- 1.13 Repeal section 25.
- 1.14 Repeal section 26.
- 1.15 Repeal section 27.
- 1.16 Repeal section 28.
- 1.17 Repeal section 29.
- 1.18 Repeal section 32(b).
- 1.19 Repeal section 34(2)(d) and section 34(2)(e).

**2. Burials Ordinance 1961**

2.1 In section 2 add the following definition in alphabetical order - “Burials” includes cremations:’

2.2 In section 9(4) delete “Registrar-General” and substitute “Registrar appointed under the Births, Deaths and Marriages Registration Act 2002”.

**3. Coroner’s Ordinance 1959**

3.1 In section 21(2) delete the words “Registrar-General” and substitute the words “Registrar appointed under the Births, Deaths and Marriage Registration Act 2002”.

**4. Infants Ordinance 1961**

4.1 In section 27 delete the words “Registrar-General” from the heading and substitute the word “Registrar”.

4.2 In section 27 delete the words “Registrar-General” and substitute the words “Registrar appointed under the Births, Deaths and Marriages Registration Act 2002”.

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**REVISION NOTES 2008 – 2020/3 March 2021**

This is the official version of this Act as at 3 March 2021.

This Act has been revised by the Legislative Drafting Division from 2008 to 2020/3 March 2021 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The following general revisions have been made:

- (a) Amendments have been made to conform to modern drafting styles and to use modern language as applied in the laws of Samoa.
- (b) Insertion of the commencement date
- (d) Other minor editing has been done in accordance with the lawful powers of the Attorney General.



- (i) “Every” and “any” changed to “a”
- (ii) Present tense drafting style:
  - “shall be” changed to “is” and “shall be deemed” changed to “is taken”
  - “shall have” changed to “has”
  - “hereby” and “from time to time” (or “at any time”) removed
- (iii) Removal/replacement of obsolete and archaic terms with plain language
  - “notwithstanding” changed to “despite”
  - “pursuant to” or “in accordance with the provisions of” changed to “under”
- (iv) Numbers in words changed to figures
- (v) The terms “to register” and “registered” have been merged to mean the same as the current Act stated that they had corresponding meaning.
- (vi) Divisions inserted for subheadings within parts.

The following amendments were made to this Act since the publication of the Revised Statutes of Samoa 2007 – by the Statistics Act 2015:

- by replacing sections 3 and 4(1); and
- replacing “Registrar” with “Registrar General”; and
- replacing “Deputy Registrar” with “Assistant Chief Executive Officer”.



Savalenoa Mareva Betham-Annandale  
**Attorney General of Samoa**

*This Act is administered by  
the Ministry of Justice and Courts Administration.*