



# **REPUBLIC OF NAMIBIA**

**MINISTRY OF HOME AFFAIRS, IMMIGRATION, SAFETY AND SECURITY**

INTRODUCTION OF THE  
**CIVIL REGISTRATION AND IDENTIFICATION BILL**  
IN THE NATIONAL ASSEMBLY

**PRESENTED BY:**

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SAFETY AND SECURITY**

**Wednesday, 14 JUNE 2023**

**Hon Speaker;**

**Hon. Members;**

1. I rise today to introduce the **Civil Registration and Identification Bill**.
2. The United Nations defines civil registration as the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital events pertaining to the whole population.
3. In Namibia, this registration is regulated by the ***Births, Marriages and Deaths Registration Act, 1963 (Act No. 81 of 1963)***. The issuance of Identity Documents ("IDs") is not a vital event and therefore not included in the definition of Civil Registration. The issuance of IDs is regulated by the ***Identification Act, 1996 (Act No. 21 of 1996)***. Civil registration and identity management are managed as one function using the integrated National Population Registration System (NPRS) under the Department of Civil Registration. This consolidation, which is evident in the name of the Bill, is regarded as best practice in civil registration.
4. Although the Identification Act was enacted after Namibia gained independence, it was drafted based on manual registration processes and system. The current legislative provisions do not adequately provide for the prevailing needs for the current civil registration and identity management environment.

5. The Bill that I am introducing will amalgamate the:
  - (a) Births, Marriages and Deaths Registration Act, 1963;
  - (b) Aliens Act, 1937;
  - (c) Identification Act, 1996; and
  - (d) Certain provisions of the Marriage Act, 1961.

**Honourable Speaker;**

**Honourable Members;**

6. Civil registration establishes a person's legal identity. Without a legal identity, one is guaranteed to suffer the scandal of invisibility without access to essential services.
7. The comprehensive objects of the Bill are as follows:
  - (a) to provide for a national civil registration system for the notification, registration and certification of births, stillbirths, adoptions, deaths, name changes, marriages and divorces and for the issuing of identity documents;
  - (b) to provide for the keeping of registers for recording and preserving information relating to civil events;
  - (c) to regulate the issuing of civil event certificates;
  - (d) to provide for a system of e-notices relating to certain civil events;
  - (e) to provide for a system to assist persons who lack national documentation; and
  - (f) to provide for access to, authentication, verification and sharing of information contained in the Civil Register or other information kept by the Ministry.
8. The Bill has 93 clauses arranged in 12 Parts.

9. I will now highlight some of the key changes this Bill is introducing to our country's civil registration and identity management landscape.

**Honourable Speaker;**

**Honourable Members;**

10. In this Bill, the minimum age for obtaining an ID has been lowered from 16 (sixteen) to 14 (fourteen). At age 14, a person's biometrics are well developed and therefore fingerprints may be taken at this age. This move will enable children in schools to get their IDs early enough before they sit for their national examinations. This is also done with the foresight that other biometrics such as iris and facial recognition, which are possible at a younger age, will be integrated in our identity management system.
11. The Bill provides for the appointment, by the minister, of the Registrar General and the designation of registrars of births, marriages and deaths who will also serve as commissioners of oath for the purpose of administering the Act. Information provided for the purpose of civil registration and identity management will be provided under oath or affirmation. This means, when one lies under oath, they will be committing the common law offense of perjury and can be prosecuted.
12. Having registrars as commissioners of oath will be useful in shortening time spent at our service desks. Sometimes clients are sent back numerous times to re-do a statement because it does not answer the exact queries that are key to a particular application. We will be able to assist clients at the counter instead of sending them back and forth to

police stations to commission forms and certify documents. This is aimed at making our services customer-centric. The registrars' status as commissioners of oaths will ONLY be when they perform their duties under this Act; not generally or elsewhere outside their duties as registrars.

13. One of the issues we have in this country is people changing their dates of birth as they please, at times intentionally changing to a wrong age. Some people change their dates of birth when they want to retire and or when they do not want to retire. Sometimes the change of age is just to obtain a certain benefit then change back to the correct age later.
14. The Bill makes provision for the Age Determination Committee as a statutory body to deal with matters like this. Age Determination Committees will be empowered to determine one's age from available documentation and evidence. When it is not possible to make the determination, the committees will invoke the procedure in the Child Care and Protection Act (for children) or refer the applicant to a medical practitioner (in the case of adults).

**Honourable Speaker;**

**Honourable Members;**

15. The Identification Act provides that only citizens and permanent residents of Namibia may be recorded in the Population Register. In clause 6, one will note that the categories of persons to be included in the Civil Register will now be wider to ensure comprehensiveness of the Civil Register.

16. In this Bill, the Civil Register will contain:
- (a) all Namibian citizens;
  - (b) all permanent residents of Namibia;
  - (c) all persons with permits longer than 12 months;
  - (d) all refugees;
  - (e) all persons born in Namibia, irrespective of citizenship, including persons born to asylum seekers, protected, undocumented and stateless persons;
  - (f) any civil event that takes place in Namibia, irrespective of the citizenship of the persons involved; and
  - (g) any other categories of persons prescribed by the Minister, which may include asylum-seekers, protected persons, undocumented persons and stateless persons.
17. A unique identifier number will now be assigned to every person from the time of such person's entry in the Civil Register, including from birth. This means one will have an identity number from birth. This will of course not be applicable retrospectively; it will only be applicable from the time the law is operational.

**Honourable Speaker;**

**Honourable Members;**

18. IDs are currently issued to Namibian citizens, permanent residents, and refugees aged 16 and above. This Bill expands the scope to cover foreigners in Namibia on permits longer than 12 months and any other categories the Minister may prescribe such as asylum-seekers and protected persons.

19. An ID serves as identification and may reflect one's citizenship but it does not confer citizenship itself. So issuing IDs to more categories of foreigners just serves as identification. It must not be confused with conferment of citizenship. Even the permanent residents of Namibia have IDs but are not Namibian citizens. The determination of citizenship remains within the purview of Article 4 of the Constitution of the Republic of Namibia read with the Namibian Citizenship Act, 1990.
  
20. Similar to the current Identification Act, the Bill provides that the type of ID to be issued will be prescribed in Regulations. This is to provide flexibility to move with the times in this digital era as and when Namibia is ready.

**Honourable Speaker;**

**Honourable members;**

21. As we should all be aware by now, the Government implemented a system for the electronic notification of births in 2017, while the one for deaths was introduced in 2018. This system is operational. The notifications are done by the Health Authorities, this includes both public and private health facilities and hospitals. From this e-notification system, the Civil Registration Authority can easily proceed with the registration after the child has been given a name. This Bill legislates these electronic notifications into law.

22. Through the introduction of the e-notification systems, medical personnel notify births and deaths as well as causes of deaths. While we are doing very well in the registration of deaths, urgent improvement is required in recording causes of deaths by doctors. Doctors do not update causes of deaths, and this negatively affects the mortality and causes of deaths statistics which are required for developmental planning. Like the current Births, Marriages and Deaths Registration Act, this Bill also makes it mandatory for doctors to record causes of death on the system. Distinctly though, in this Bill, willful failure to notify a cause of death is a criminal offence.

**Honourable Speaker;**

**Honourable Members;**

The Bill creates three categories of birth registration as follows:

- (1) ***Timely birth registration:*** 0 days – 12 months old
- (2) ***Late birth registration:*** 1 – 14 years old
- (3) ***Mature birth registration:*** 14 years and above

23. The requirements to register births in those three different categories differ. The later the registration, the higher the requirements.

24. It is important to highlight here that Namibia has full birth certificates that indicate whether the holder is a Namibian citizen by birth or not. Namibia does not have separate citizenship certificates for Namibians by birth, therefore this will continue.



25. In this Bill three types of birth certificates are provided for:

(a) Birth certificate for Namibian citizens

- These will be issued to people who clearly meet requirements of Article 4 (1) of our Constitution.

(b) Birth certificate for non-Namibian citizens

- These will be issued to people who clearly do not meet requirements of Article 4 (1) of our Constitution.

(c) Birth certificate where citizenship is undetermined

- These will be issued where it is not clear whether the person meets requirements of Article 4 (1) of our Constitution. In this case, there is a determination procedure provided for where the Ministry will investigate; the investigation must be finalised within six months. This is in line with the principles laid down by the Supreme Court in the matter of *De Wilde v Minister of Home Affairs* on 23 June 2016. This will be especially for people born here by parents who are not Namibians but are ordinarily resident in Namibia such as those on employment permits. The principle of ordinary residence is a fluid one and can only be determined on a case-to-case basis by looking at the specific facts of each case.
- After the investigation is finalized, we will then change the certificate to reflect whether the person is a Namibian or not.

26. Nonetheless, we will continue to issue birth certificates on the spot even if the citizenship is not determined – this will help to avoid a situation of undocumented persons in the country.
27. The Bill makes provisions for the assignment of names and surnames for the purpose of birth registration. The following are possibilities for surnames:
- (a) If only one parent is listed in the birth record: the current or former surname of the parent listed in the birth record and one which is consistent with the established cultural traditions of that parent, and
  - (b) If both parents are listed in the birth record:
    - i. the current or former surname of either parent, or
    - ii. a hyphenated surname consisting of both parents' surnames (limited to a total of two parts), or
    - iii. Where parents do not agree, a hyphenated surname consisting of both parents' surnames will be given.
28. Moving onto the registration of birth for the vulnerable members of our communities.
- Abandoned children will be handled in line with the Child Care and Protection Act by the assignment of a social worker who will see to the child's registration. To prevent statelessness, if it cannot be proven that the child is not Namibian, such child will be registered as a Namibian citizen.
  - Children conceived as a result of rape also receive special attention in the Bill. For this provision in the Bill, "rape" refers

to a rape which has been proven in a court of law other than a traditional tribunal or community court. Where the case is still pending, for purpose of birth registration, the rape must be treated as having been proven. If at the conclusion of the trial the accused perpetrator is exonerated, then the birth record can be amended without the payment of a fee.

**Honourable Speaker;**

**Honourable Members;**

29. I will now deal with one new critical aspect of death registration.
30. We have incidents where people fight over who may have a death certificate or burial order. This delays burials and entangles the Ministry in family squabbles. A new order of preference is being created on who may register a death and who may be issued a burial order without which a burial may not take place. The Bill lists people who are entitled to a death certificate or burial order.
31. Here I must pause to highlight one common misunderstanding of what a death certificate is and consequently to whom it should be issued. Many a time, orphans are denied copies of their parents' death certificates to prevent them from inheriting what is legally due to them.
32. It is important to note that being in possession of a death certificate does not confer the holder any rights. A death certificate is merely a document indicating details or particulars of a death. Therefore, it is

permissible for multiple identical death certificates or official copies of death certificates to be issued in terms of this Bill. The person requesting for a death certificate must provide proof of his or her identity (ID, passport or birth certificate) and a registrar must record such person's relationship with the deceased person.

33. At the moment, the Ministry does confirmation letters to service providers to confirm that a person has died. We do not issue death certificates. This causes problems and increases fraud as the letters have no security features and can be forged. The Bill will change this. It will be possible to issue an official copy of the death certificate to institutions.
34. In terms of this Bill, a death certificate will not contain a cause of death. This is to protect the dignity and privacy of the deceased and the family members. An official medical certificate of cause of death ("MCCD") can, on request, be issued by the registrar, to someone with a valid reason for needing to know the cause of death.

**Honourable Speaker;**

**Honourable Members;**

35. The Identification Act limits the sharing of information from the Population Register with the public sector only; private sector is excluded. Ideally the Population Register must be the only source of identity verification in the country. Because of this statutory limitation, we have seen private sector creating "mini population registers"

wherein their clients' information is stored. This information included biometrics. This unfortunately is done without any legislative framework to offer protection for the information so collected and stored.

36. This Bill enables the verification of information and authentication for as well as access to information for all sectors, including the private sector.

Please indulge me as I spend some time expounding on this new development and its relevance.

37. The purpose of a country's civil registration system is to record and store information on the occurrence of vital events and their characteristics and to permit retrieval of the information when needed for legal, administrative, statistical, and other uses. A civil registration system is characterised as being compulsory, universal, continuous, permanent and confidential.

38. Confidentiality is important because civil registration systems collect a variety of information about individuals, some of which may be highly personal and sensitive. In order to encourage members of the public to provide full and accurate data, the confidentiality of the information must be protected and be used only for the purposes prescribed by law, or in anonymized, aggregated forms such as for producing statistics.

39. One of the concerns in civil registration and identity systems is how to balance the privacy of individuals and their information against the need to maintain a system that allows access to information relevant to civic obligations and duties such as law enforcement and verification of entitlement to benefits. Third parties have an interest in personal data for many legitimate purposes.

**Honourable Speaker;**

**Honourable Members;**

40. Namibia's recent mutual evaluation by the Financial Action Task Force (FATF) under the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) found Namibia to be wanting. Namibia's financial sector must be able to conduct Know-Your-Customer for their customers directly with the Population Register to comply with international obligations. Failing to do so will result in Namibia's grey listing. Namibia does not have all the necessary policies and procedures to deal with anti-money laundering (AML), combatting the financing of terrorism (CFT), and proliferation financing (CPF) framework.
41. The fast-tracking of this Bill is part of the National Action Plan to address shortcomings identified in the country's national anti-money laundering and combating the financing of terrorism and proliferation (AML/CFT/CPF) Policy. The verifications and authentications will be subject to prescribed fees to ensure the continuous improvement of the identification system as a versatile and agile public digital infrastructure.

42. There are different requirements for access to the Civil Registration and Identification Management System by organs of State; private entities; law enforcement and intelligence authorities; as well as persons authorised by court order.
43. Part 10 of the Bill has been drafted having had regard to:
- (a) **key international standards**, including:
    - i. the **EU General Data Protection Regulation (GDPR)**, which is automatically binding on all members of the EU, and highly influential beyond the EU for purposes of cross-border data transfers; and
    - ii. the **African Union Convention on Cyber Security and Personal Data Protection**, which Namibia has joined but which is not yet in force regionally.
  - (b) **existing Namibian legislation**; and
  - (c) Namibia's **draft Data Protection Bill**.

**Honourable Speaker;**

**Honourable Members;**

44. One of the challenges the Ministry faces is litigation that can be averted if there was an internal appeal structure. It is also a cost-effective mechanism for members of the public who do not have the means to access the courts. The Bill creates an appeals structure to the Registrar-

General (for decisions by Ministry officials below the position of Registrar-General) and an Appeals Tribunal constituted by the Minister (for decisions by Registrar-General).

45. The Bill seeks to repeal the following Acts:

- (a) The Aliens Act, 1937
- (b) The Births, Marriages and Deaths Registration Act, 1963
- (c) The Identification Act, 1996.

46. The Bill seeks to amend the following Acts:

- (a) Repeal of sections 6, 7, 8, 9, 10, 11 and 12 of the Commonwealth Relations Act, 1962
- (b) Sections 181 and 182 of the Child Care and Protection Act, 2015
- (c) Section 2 of the Namibian Citizenship Act, 1990

**Honourable Speaker;**

**Honourable Members;**

47. As I draw towards the end of my statement, I want to highlight specific issues that are excluded from this Bill:

- 1) **same sex marriages** - This Bill does not legalise same sex marriages – it only regulates the registration of civil marriages that have already been solemnised in terms of the applicable marriage law. The solemnisation of civil marriage is regulated by the Marriage Act, not the Acts being repealed by this Bill.



- 2) **automatic out of community of property marriages for so called “natives” north of the Police Zone (“red line marriages”)**: a separate Bill called Uniform Matrimonial Property Bill will make its way to this August House to scrap that discriminatory law out of our statute books.
- 3) **statelessness**: statelessness is not, in principle, an issue of registration. Separate Bills called Statelessness Determination and Protection Bill is intimated in Harambee Prosperity Plan II and should reach this House if it receives principle approval by Cabinet.
- 4) **Recognition or appointment of marriage officers** – this is catered for in the Marriage Bill, which is also on its way to this August House.

**Hon. Speaker,**

**Hon. Members,**

48. I now present the **Civil Registration and Identification Bill** for consideration by this Honourable House.

I thank you!

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