

**CIVIL STATUS ACT**

Act 23 of 1981 – 1 January 1982

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**CIVIL STATUS ACT**

**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as the Civil Status Act.

**2. Interpretation**

In this Act—

“authorised person” means a person to whom an authority is issued under section 26;

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

“Central Civil Status Office” means the Civil Status Office set up in Port Louis and designated as such;

“certificate”, in relation to any birth, death, marriage or any other civil status matter, means—

- (a) a certified extract of a manuscript entry in a register; or

(b) a certified print out from a computer system;

“Chagos Archipelago civil status records” means such copies as may have been duly certified by the Chief Officer of the Civil Status in the Seychelles of official documents recording the births, deaths and marriages that took place in the Chagos Archipelago from 1965 to 1973;

“computer system” means any computer system specified in section 3 and used for the purpose of recording, processing and storing any civil status matter;

“copy”, in relation to any entry, means a certified photocopy of the entry;

“CPD” means the Central Population Database established under section 8B\*;

“CSD” means the Civil Status Database established under section 8A;

“District Court Cash Office” means the cashier’s office situated on the same premises as a District Court;

“entry” —

(a) means a manuscript entry in a register or an input on a computer system recording a civil status matter and containing such particulars as may be specified in this Act; and

(b) includes the particulars of births, deaths and marriages in the Chagos Archipelago civil status records;

“infectious or contagious disease” —

(a) means a disease prescribed under the Public Health (Infectious or Communicable Diseases) Regulations 1987; but

(b) does not include Human Immuno Deficiency Virus (HIV) Infection and Acquired Immuno Deficiency Syndrome (AIDS);

“marriage” means a civil or religious marriage;

“Minister” means the Minister to whom responsibility for the subject of civil status matters is assigned;

“Muslim Family Council” means the Council established under section 29;

“NIC number” means the number generated by the Civil Status Database;

“office” means a Civil Status Office;

“officer” means a Civil Status Officer and includes any person appointed under section 4;

“register” —

(a) means any register required to be kept under section 5 in relation to the registration of any civil status matter; and

(b) includes —

(i) any input on a computer system;

- (ii) any print out from a computer system bound together so as to constitute a register;

“unauthorised person” means a person recognised by his religion as having authority to celebrate marriages according to his religion and who, for a marriage, is assisted in accordance with section 28.

[S. 2 amended by Act 9 of 1984; Act 2 of 1987; Act 45 of 1990; Act 8 of 1997; s. 3 of Act 40 of 2001 w.e.f. 1 September 2003; s. 3 of Act 22 of 2004; s. 2 (a) of Act 1 of 2008 w.e.f. 12 April 2008.]

## **PART II – GENERAL PROVISIONS**

### **3. Registrar of Civil Status**

(1) (a) There shall be established, at such places as the Minister may determine, Civil Status Offices for the registration of births, deaths, marriages and other matters concerning the civil status of any person, in any register or computer system.

(b) The Civil Status Offices shall be under the administrative control of the Registrar of Civil Status.

(2) The Registrar of Civil Status shall be responsible for the registration of all births, deaths and marriages, and of every other matter relating to the civil status of persons in Mauritius.

(3) The Registrar of Civil Status shall—

- (a) enforce this Act;
- (b) keep such documents and reports as the Minister may require;
- (c) report to the Attorney-General any irregularity in, or omission from, any register;
- (d) submit to the Minister, not later than 30 June in every year, a report on the statistics of Mauritius relating to civil status for the preceding year;
- (e) prepare such reports or returns as the Minister may require;
- (f) assist, where required, in the taking of any census;
- (g) where he considers it necessary, publish annually, in respect of entries recorded in registers, a general index arranged alphabetically to be kept at every office; and
- (h) perform such other duties appertaining or incidental to civil status as the Minister may require.

(4) For the purpose of enabling the Registrar of Civil Status to perform his duties under this Act, every public officer and every local authority shall, at the request of the Registrar of Civil Status, furnish the Registrar of Civil Status with such particulars relating to civil status as he may require.

[S. 3 amended by Act 9 of 1984; Act 8 of 1997.]

### **4. Officers in islands other than Mauritius**

(1) Where an officer in Rodrigues is, through illness or any other cause, unable to perform the duties of his office, any other public officer in Rodrigues may, on the written direction of the Island Chief Executive of Rodrigues, perform those duties.

(2) Where no officer has been appointed in an island other than the islands of Mauritius and Rodrigues, or where an officer has been so appointed but is unable, through illness or any other cause, to perform his duties, the Minister may direct any person to perform those duties in that island.

(3) Subject to subsection (4), where a person is appointed under subsection (2), he shall not be deemed to be a public officer by reason only of that appointment.

(4) Every person appointed under subsection (2) shall be deemed to be a public officer for the purposes of the Public Officers' Protection Act and the Criminal Code.

[S. 4 amended by Act 31 of 1982; Act 3 of 1988; Act 12 of 1990; s. 4 of Act 29 of 2002 w.e.f. 8 October 2002.]

#### **4A. Births, deaths and marriages in Chagos Archipelago**

(1) Where a person informs the Registrar of Civil Status of any birth, death or marriage that has taken place in the Chagos Archipelago after 1973, the Registrar of Civil Status may, upon production of a Court order of a District Magistrate, cause the birth, death or marriage to be registered in the register of births, deaths and marriages in the Chagos Archipelago.

(2) The District Magistrate may require such evidence as he thinks necessary to satisfy himself of the exact date of the birth, death or marriage to be registered.

(3) No order shall be made by the District Magistrate, except—

- (a) on the conclusions of the Ministère Public;
- (b) on payment of such fee not exceeding 500 rupees as may be determined by the Magistrate.

[S. 4A inserted by s. 4 of Act 22 of 2004.]

#### **5. Registers**

(1) The Registrar of Civil Status shall keep such registers as he thinks fit—

- (a) at each office, for the registration of—
  - (i) births under section 12;
  - (ii) civil marriages under sections 19A, 24 and 24A;
  - (iii) publication of proposed civil marriages under section 21 (b);
  - (iv) religious marriages having civil effect under section 28 (3) (d);
  - (v) deaths under section 38;
  - (vi) acknowledgment of children under section 60;
- (b) at the Central Civil Status Office, for the registration of—
  - (i) births, deaths and marriages in the Chagos Archipelago under section 4A;

- (iA) orders of a Court or a Judge in Chambers under section 6 or any other enactment;
- (ii) births on board of a Mauritian ship or aircraft under section 15 (3);
- (iii) religious marriages having civil effect under section 27 (2) or 28 (3) (d);
- (iv) deaths on board of a Mauritian ship or aircraft under section 44 (3);
- (v) unidentified bodies or remains under section 45;
- (vi) past religious marriages under section 74.

(1A) The Chagos Archipelago Civil Status records shall be deemed to form part of the register of births, deaths and marriages in the Chagos Archipelago and shall be kept as a permanent record at the Central Civil Status Office.

(2) (a) The officer in charge of an office, other than the Central Civil Status Office, shall, at the end of the year, forward to the Central Civil Status Office any register kept under subsection (1) (a).

(b) The officer in charge of the Central Civil Status Office shall forward to such place, at such time and in such form as the Registrar of Civil Status may direct, any register or information on a computer system to be kept as a permanent record.

(3) No register kept under this section shall be open for inspection except upon an order of a Judge in Chambers upon good cause shown for the inspection.

(4) Notwithstanding subsection (3) but subject to subsection (5), where the Registrar of Civil Status has assigned responsibility to an officer to make searches on behalf of the public in general indices kept under section 3 (3) (g) at any office, no member of the public shall have access to any general index kept at the office but may apply to, and obtain from, the responsible officer such information as he requires from the general indices.

(5) Subject to such conditions as the Registrar of Civil Status may impose, a member of the public may inspect a general index kept at an office where no officer has been assigned responsibility to make searches in general indices.

[S. 5 amended by Act 9 of 1984; Act 2 of 1987; Act 8 of 1997; s. 5 of Act 22 of 2004.]

## **6. Registration of judicial orders**

(1) Where a Court or a Judge in Chambers makes an order relating to civil status, the clerk of the Registry shall, not later than 7 days from the making of the order, transmit to the Registrar of Civil Status a copy of the order for registration.

(2) On receipt of a copy of an order under subsection (1), the Registrar of Civil Status shall cause—

- (a) the copy of the order to be registered in the appropriate register;

- (b) where the order amends an entry in any other register, the effect of the amendment to be annotated in that entry.

[S. 6 amended by Act 9 of 1984.]

#### **7. Officers not to act in certain cases**

No officer shall register—

- (a) any matter relating to his own civil status;
- (b) the birth, death, marriage or a declaration relating to the civil status of—
  - (i) his ascendant;
  - (ii) his descendant;
  - (iii) his brother or sister;
  - (iv) a person adopted by him or by whom he has been adopted.

#### **8. Entries**

(1) Every entry shall be in English and French and shall state the names, NIC number, profession and address of every person mentioned in the entry and the year, month and day the entry is made.

(2) No officer shall mention or record in any entry anything beyond what parties are required to declare to him.

(3) Except where the personal attendance of any person before an officer is required under any enactment for the purpose of making an entry, that person may be represented before the officer by another person duly appointed as agent by authentic deed.

(4) Any person other than a minor may be a witness to a marriage entry.

(5) (a) An officer shall, immediately after recording an entry, read out the contents of the entry to the parties and to any witnesses.

(b) Where a party or a witness does not understand the English or French language, the officer shall explain the contents of the entry to that person in a language which the person understands.

(6) (a) The officer, the parties and the witnesses shall sign the register.

(b) Where any of the parties or his witnesses is unable to sign, he may affix his mark and the mark shall for all intents and purposes have the effect of a signature.

(7) Where the identity of a person can be established, no entry shall be invalid on the ground that the names of that person in that entry are untrue or incorrect or that there is an error, discrepancy or variance in the description of that person.

[S. 8 amended by Act 8 of 1997; s. 4 of Act 40 of 2001 w.e.f. 1 September 2003.]

#### **8A. Civil Status Database**

(1) There is established a Civil Status Database.

(2) The Registrar of Civil Status shall be the repository of the CSD.

(3) The CSD shall—

- (a) consist of all entries registered under this Act and kept on a computer or other electronic device at the Central Civil Status Office; and
- (b) include—
  - (i) the particulars in the Chagos Archipelago civil status records;
  - (ii) such information in relation to a person who has acquired citizenship under Part II of the Mauritius Citizenship Act, as may be prescribed.

[S. 8A inserted by s. 5 of Act 40 of 2001 w.e.f. 1 September 2003; amended by s. 6 of Act 22 of 2004.]

### **8B. Setting up of Central Population Database**

(1) There is established a Central Population Database.

(2) The Registrar of Civil Status shall be the repository of the CPD and shall be responsible for the compilation of the following particulars with respect to every person whose birth has been registered in Mauritius or who becomes a citizen of Mauritius—

- (a) personal particulars—
  - (i) NIC number;
  - (ii) surname;
  - (iii) names;
  - (iv) latest notified address;
  - (v) sex;
  - (vi) date of birth;
  - (vii) date of registration or naturalisation as citizen;
  - (viii) surname after marriage;
  - (ix) marital status;
  - (x) date of issue of the identity card under the National Identity Card Act;
  - (xi) date of marriage;
  - (xii) NIC number of spouse;
  - (xiii) surname of spouse;
  - (xiv) names of spouse;
  - (xv) date of divorce;
  - (xvi) date of death;
  - (xvii) date of loss or renunciation of citizenship;
  - (xviii) photograph;
  - (xix) signature;

- (b) particulars of father—
  - (xx) NIC number of father;
  - (xxi) surname of father;
  - (xxii) names of father;
  - (xxiii) nationality of father;
- (c) particulars of mother—
  - (xxiv) NIC number of mother;
  - (xxv) surname of mother;
  - (xxvi) maiden surname of mother;
  - (xxvii) names of mother;
  - (xxviii) nationality of mother; and
- (d) such other particulars as may be prescribed.

(3) Where there is any change in the particulars compiled under subsection (2), the person, or in the case of a minor or mentally handicapped person, his responsible party, shall within 28 days notify the change to the Registrar of Civil Status.

[S. 8B inserted by s. 5 of Act 40 of 2001 w.e.f. 16 September 2013; amended by s. 3 of Act 18 of 2013 w.e.f. 16 September 2013.]

#### **8C. Access to CPD**

The Registrar of Civil Status shall grant access to the CPD to any Ministry and Government department in such manner and to such extent as may be prescribed.

[S. 8C inserted by s. 5 of Act 40 of 2001 w.e.f. 16 September 2013.]

#### **9. Copies of entries and certificates**

(1) Subject to subsection (4), any person may, on payment of the appropriate fee specified in the Schedule, obtain a certificate in respect of an entry or copy of an entry relating to the registration of—

- (a) his birth, the birth of his spouse or any of his ascendants or descendants;
- (b) his marriage, any previous marriage of his spouse or the marriage of his ascendants or descendants;
- (c) any death.

(2) No certificate or copy of an entry shall be delivered except upon satisfactory proof of the identity of the applicant.

(3) An application for a certificate may be made to an officer at—

- (a) the Central Civil Status Office; or
- (b) any office where the entry is registered.

(4) An officer shall deliver, free of charge, the first certificate in respect of an entry, on application made in that behalf by—

- (a) any person making a declaration of birth or death; or
- (b) any spouse to a marriage celebrated under this Act.

(5) Where a certificate of an entry or a copy of the entry relating to a registration of death is delivered, the cause of death shall not be stated except on production of an order from a Judge in Chambers.

(6) Where any entry is amended under Part VI, any certificate relating to that entry shall reproduce the entry as amended with an indication that the entry is amended.

(7) Where any marriage is dissolved or cancelled, any certificate relating to such marriage shall reproduce the entry with an indication that the marriage is dissolved or cancelled.

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(8) Where any change of name has been authorised under Part VII, any certificate of an entry where such change of name has been inscribed under section 59, shall reproduce the new name with an indication that the change of name has been authorised.

(8A) An application for a copy of an entry shall be made to an officer at the Central Civil Status Office or at such other office as the Registrar of Civil Status may determine.

(9) Where any copy of an entry relating to any birth, death or marriage is required for the purpose of any official enquiry, such copy may be delivered, free of charge, by the Registrar of Civil Status.

(10) Where in a case other than one provided for under subsection (9), any person requires any copy of an entry relating to any birth, death or marriage for production in any Court in a case where the status of any party or the signature of any party or witness is in issue, such copy shall be delivered to that person on production of an Order from the Judge in Chambers and on payment of the fee specified in the Schedule.

(11) Where a certificate or a copy of an entry is required by a consulate or an embassy for its official purposes, the Registrar of Civil Status may deliver the certificate or the copy of an entry free of charge to the consulate or embassy, as the case may be.

(12) (a) Every certificate of birth, marriage or death shall be in English and French.

(b) Where an entry is in the English language, an officer shall deliver a certificate with a faithful translation into French of that entry with an indication that the French version is a translated version of the entry.

[S. 9 amended by Act 9 of 1984; Act 25 of 1985; Act 25 of 1990; Act 8 of 1997; s. 6 of Act 40 of 2001 w.e.f. 1 September 2003; s. 7 of Act 22 of 2004.]

## **10. Evidence**

(1) Every certificate under the hand of the Registrar of Civil Status or an officer shall be evidence, until the contrary is proved, of the contents of the entry reproduced in the certificate, even where the register containing the entry has disappeared or been lost or destroyed.

(2) A birth, death or marriage may be proved by oral or written evidence where—

- (a) the registers have been lost or are non-existent; or
- (b) where the leaves of the registers on which the entries relating to the birth, death or marriage are alleged to have been made, are partially or entirely destroyed or defaced;
- (c) the marriage was celebrated or the birth or the death occurred in a country the law of which does not provide for civil status registers or certificates.

(3) Notwithstanding subsection (1), where it is found that the contents of a certificate are at variance with the contents of the entry of which it purports to be a copy or extract, the certificate shall be surrendered to the Registrar of Civil Status who shall issue, free of charge, to the person surrendering the document, a true copy or extract of the entry, as the case may be.

[S. 10 amended by Act 9 of 1984; Act 35 of 1985; Act 8 of 1997.]

#### **11. Validity of civil status documents**

(1) A civil status document drawn up in Mauritius shall not be valid unless it is in accordance with this Act.

(2) A civil status document drawn up outside Mauritius shall not be valid in Mauritius unless—

- (a) it is in accordance with the law relating to civil status matters of the place where it is drawn up;
- (b) the Registrar of Civil Status or authority to which it is presented is satisfied it is genuine; or
- (c) it is in accordance with any treaty to which Mauritius is a party.

[S. 11 amended by Act 9 of 1984.]

### **PART III – REGISTRATION OF BIRTH**

#### **12. Declaration of birth**

(1) Subject to subsections (2) and (3) and sections 15, 16 and 17, a declaration of birth shall be made—

- (a) before an officer of the district in which the birth took place or in which the parents resided at the time of the birth;
- (b) within 45 days of the birth,

and shall be registered in the appropriate register.

(2) (a) Subject to subsection (3), where a birth has not been declared within 45 days, the birth shall not be registered except upon an order of a District Magistrate or of the Registrar of Civil Status.

(b) The District Magistrate or Registrar of Civil Status may require such evidence as he thinks necessary to satisfy himself of the exact date of birth which is sought to be registered.

(3) Where the birth to be registered is that of a person more than 3 months old—

- (a) no order under subsection (2) (a) may be made by the Registrar of Civil Status;
- (b) no order shall be made by the District Magistrate, except—
  - (i) on the conclusions of the Ministère Public; and
  - (ii) save where the declaration is made under section 14 (3), on payment of such fee not exceeding 500 rupees as may be determined by the Magistrate.

[S. 12 amended by Act 9 of 1984; Act 7 of 1992; Act 30 of 1994.]

### 13. Contents of entry

(1) In the entry registering a birth, the officer shall record—

- (a) the date, time and place of the birth;
- (b) the sex and the names of the child;
- (c) the names and addresses of the informant;
- (d) subject to subsection (2), the names, nationality, profession and address of each parent;
- (e) the national identity card number of each parent;
- (f) any other particulars the officer may require.

(2) The name of a parent of a child shall be mentioned in an entry only—

- (a) where the parent is married to the other parent of the child;
- (b) where that parent is not married to the other parent of the child but—
  - (i) appears before the officer and signs the entry; or
  - (ii) has appointed an agent to appear and sign on his behalf.

(3) Where an agent has signed an entry, the officer shall keep the original or a copy of the power of attorney authorising the agent to sign and shall annotate the entry accordingly.

(4) For the purposes of section 3 (3) (f), the Registrar of Civil Status shall in respect of any birth declared to him ascertain from the declarant—

- (a) the age of the mother;
- (b) the number of children born to the mother; and
- (c) the duration of the marriage.

[S. 13 amended by Act 9 of 1984; Act 8 of 1997; s. 7 of Act 40 of 2001 w.e.f. 6 March 2002.]

### 14. Responsibility for declaration of birth

(1) (a) Subject to paragraph (b), the father or mother of a child shall declare the birth of the child.

(b) Where a child is born in a prison, asylum, quarantine area or station, orphanage or other institution and the father is unknown or untraceable and the mother has passed away, is insane or otherwise incapable on medical grounds of declaring the birth, the person in charge of that place shall declare the birth.

(2) —

(3) Where the birth of a child more than 45 days old has not been registered, the Permanent Secretary of the Ministry responsible for the subject of child development may cause the birth to be registered under section 12 (2) or (3).

[S. 14 amended by Act 30 of 1994; Act 15 of 1998; s. 8 of Act 22 of 2004.]

**15. Birth on Mauritian ship or aircraft**

(1) Where a birth takes place on board any ship or aircraft registered in Mauritius while the ship is at sea or the aircraft is in the air, the master of the ship or aircraft shall draw up and sign a memorandum of the birth, and shall cause it to be signed by the witnesses.

(2) The memorandum shall contain—

- (a) the names, the date of the birth and the sex of the child;
- (b) the names and address of his mother and of his father, if known;
- (c) the place from which the mother has been embarked; and
- (d) such other information as the master considers necessary.

(3) On the arrival of the ship in any harbour of Mauritius or the landing of the aircraft in Mauritius, the master shall deliver the memorandum to the Director of Shipping or the Director of Civil Aviation, as the case may be, for transmission to the Registrar of Civil Status, who shall cause the birth to be registered in a separate register.

(4) Any child whose birth is registered under this section shall be deemed to have been born in Mauritius.

[S. 15 amended by Act 9 of 1984; Act 28 of 1986.]

**16. —**

**17. Finding of newborn child**

(1) Any person who finds a newborn child shall within 24 hours of the finding give notice of the fact to the nearest police station.

(2) (a) Upon a notification under subsection (1), the police officer in charge of the police station shall examine the child and take possession of the clothing and any effects found with the child.

(b) He shall draw up a report indicating—

- (i) the names, profession and residence of the person who found the child;
- (ii) the place where the child was exhibited to him;
- (iii) the sex and probable age of the child;
- (iv) the time and place where the child was found;
- (v) the nature of all clothing and effects found with the child; and
- (vi) any other particulars which in his opinion may assist in the identification of the child.

(3) The report made under subsection (2) shall be signed by the police officer, the person who found the child and any witnesses.

(4) The police officer shall forthwith send the report to the Permanent Secretary of the Ministry responsible for the subject of child development, who shall take all necessary steps for the declaration of the birth of the child and for his upbringing in an orphanage or institution.

(5) The child shall bear the names given to him by the Permanent Secretary of the Ministry responsible for the subject of child development.

[S. 17 amended by Act 15 of 1998.]

## **PART IV – MARRIAGE**

### **Sub-Part A – Civil Marriage**

#### **18. Application of Sub-Part**

A civil marriage shall be governed by the Code Civil Mauricien and this Sub-Part.

#### **19. No marriage before publication**

(1) Before a civil marriage may be celebrated, a publication of the intended marriage shall be made in the office of the district where the marriage is to take place.

(2) Subject to section 24A, the publication shall also be made in the office of the district in which each of the parties has resided in Mauritius for 7 days immediately preceding the day of publication.

[S. 19 amended by Act 39 of 1988.]

#### **19A. Marriage of non-citizen to a citizen**

(1) Notwithstanding any other enactment and subject to subsection (3), no marriage shall take place between a non-citizen and a citizen of Mauritius unless the parties comply with this section.

(2) No marriage under subsection (1) shall be celebrated—

(a) unless—

- (i) publication of the intended marriage is made at the Central Civil Status Office and at the office of the district in which each of the parties to the marriage has been residing for at least 7 days immediately preceding the day of publication;
- (ii) the non-citizen has resided in Mauritius for a continuous period of at least 7 days before the first day of the publication;
- (iia) the non-citizen and the citizen declare, at the time of making an application for the publication of the marriage, that they have disclosed to each other whether or not they are HIV positive or have AIDS;
- (iii) the non-citizen produces at the time of making an application for the publication of the marriage—
  - (A) all certificates required for the purpose of ascertaining whether he may lawfully get married;
  - (B) his passport;
  - (C) subject to subsection (3), a certificate or certificates issued by the competent authorities of his country of

residence attesting that he is of good character and is not the suspect in relation to any pending criminal proceedings, investigation or process;

- (D) an affidavit sworn before the Master and Registrar of the Supreme Court of Mauritius, as well as a certificate from his country of residence, attesting that he is in gainful employment or, alternatively, has sufficient means to maintain himself;
- (E) medical certificates attesting that he is not suffering from any infectious or contagious disease;
- (F) such other information as may be prescribed;

- (b) before the expiry of a period 10 days commencing on the first day of the publication;
- (c) on any private premises or at any place other than at the Central Civil Status Office; or
- (d) by any authorised or unauthorised person.

(3) Where the non-citizen satisfies the Registrar of Civil Status that he is unable to comply with subsection (2) (a) (iii) (C), he may produce an affidavit—

- (a) attesting to the matters specified in that subsection; and
- (b) sworn and duly authenticated in accordance with the law of his country of residence.

(4) —

[S. 19A inserted by Act 22 of 1995; amended by Act 8 of 1997; Act 15 of 1998; s. 8 of Act 40 of 2001 w.e.f. 1 September 2003; s. 9 of Act 22 of 2004; s. 2 (b) of Act 1 of 2008 w.e.f. 12 April 2008.]

## **20. Publication of proposed civil marriage**

(1) Where an application is made to an officer for the publication of a proposed civil marriage, the officer shall—

- (a) require the applicant to produce—
  - (i) the civil status documents which are necessary to ascertain whether the intending spouses may lawfully be married;
  - (ii) the national identity card of each of the intending spouses;
- (b) inform the applicant that—
  - (i) different matrimonial regimes are provided for under the Code Civil Mauricien and give the applicant a printed explanatory note to that effect; and
  - (ii) the intending spouses should consider under which matrimonial regime they wish to be married;
  - (iii) the intending spouses and any witness to the marriage shall produce their national identity cards at the time of the celebration of the marriage;

- (c) record in the column provided for marginal entries in the notice of the publication of the marriage that he has complied with paragraph (b).

(2) No civil status document required under subsection (1) (a) shall be valid unless it has been issued within 3 months of the date of the application for publication of the marriage.

(3) Where a person has been authorised to marry in accordance with Articles 145 to 147 or 154 of the Code Civil Mauricien, a copy of the order authorising the marriage shall be produced to the officer.

(4) Where a copy of an order is filed under subsection (3), the officer making the publication of the marriage shall mention that fact in the margin of the notice.

(5) Where any party cannot produce a civil status document required under subsection (1) (a), he may instead produce an affidavit in such form as the Registrar of Civil Status may approve.

[S. 20 amended by Act 9 of 1984; Act 8 of 1997.]

## 21. Publication how made

Publication of a civil marriage shall—

- (a) be made by posting up in some conspicuous place in or about the office a notice signed by the officer in such form as the Registrar of Civil Status may approve;
- (b) be recorded by entering the notice in the appropriate register.

[S. 21 amended by Act 9 of 1984.]

## 22. Objections to marriage

(1) Where, after publication of a proposed civil marriage, any person has any ground to object to the celebration of the marriage or is of the opinion that any provision of this Act or of any other enactment relating to the marriage is likely to be infringed, he may lodge with the Registrar of Civil Status a notice of objection to the proposed marriage.

(2) Upon receipt of a notice of objection under subsection (1), the Registrar of Civil Status shall enquire into the matter and, after hearing the parties, make a decision upholding or rejecting the objection, and inform the parties accordingly.

(3) Any party aggrieved by a decision of the Registrar of Civil Status under subsection (2) may, within a period not exceeding 30 days from the date on which he is informed of the decision, apply to the Judge in Chambers for an order to quash the decision.

(4) Upon hearing an application under subsection (3), the Judge in Chambers shall make an order quashing or upholding the decision, or such other order as he may deem fit.

(5) An order under subsection (4) shall be transmitted to the Registrar of Civil Status who shall cause it to be entered in the appropriate register.

(6) Where the proposed marriage may be celebrated in virtue of an order transmitted to the Registrar of Civil Status under subsection (5), the Registrar of Civil Status shall cause the marriage to be celebrated—

- (a) at such time as is convenient to the parties; and
- (b) without the parties having to make a fresh publication of their proposed marriage.

[S. 22 amended by Act 22 of 1995.]

### **23. Time of civil marriage**

(1) Subject to sections 24A and 24B, a civil marriage shall not take place until after 10 days from the publication of the marriage under section 19.

(2) Where the marriage does not take place within 3 months from the publication, a new publication shall be made before the marriage is celebrated.

[S. 23 amended by Act 39 of 1988; Act 25 of 1990.]

### **24. Proceeding at celebration**

(1) A marriage shall be celebrated in the presence of 2 witnesses and may take place on the date selected by the parties in the office or in any private premises.

(2) The officer shall—

- (a) read aloud the names and other particulars relating to the parties;
- (b) enquire from the parties as to the matrimonial regime under which they wish to be married and whether any marriage settlement has been made between them and if so, the name of the notary with whom it is deposited;
- (c) read Articles 212, 213 and 215 of the Code Civil Mauricien to the parties;
- (d) obtain the consent of each party to the marriage;
- (e) declare the parties married;
- (f) draw up in the appropriate register the entry relating to the marriage;
- (g) record in the entry the answer of the parties to the question asked in paragraph (b).

[S. 24 amended by s. 9 of Act 40 of 2001 w.e.f. 6 March 2002.]

### **24A. Marriage of non-citizens**

(1) Notwithstanding sections 19 (2), 21 and 23 of this Act, an officer may, where the intending spouses are not citizens of Mauritius and do not reside in Mauritius, celebrate their civil marriage on the day immediately following the day of publication.

(2) The temporary presence in Mauritius of the intending spouses specified in subsection (1) shall not be deemed to constitute residence for the purposes of that subsection.

(3) A certificate issued under the authority of the Prime Minister shall be sufficient proof, for the purposes of subsection (1), that the intending spouses are not citizens of and do not reside in Mauritius.

[S. 24A inserted by Act 39 of 1988.]

#### **24B. Marriage within the prison compound**

(1) Notwithstanding section 24 (1), the marriage of a person serving a term of imprisonment may be celebrated, within the prison compound where he is detained, not less than 28 days after the publication of the marriage under section 19 as the officer in charge of the prison may approve.

(2) No marriage shall be celebrated pursuant to subsection (1) except on such terms and conditions as may be approved on the ground of security.

[S. 24B inserted by Act 25 of 1990.]

### **Sub-Part B – Religious Marriage having effect as Civil Marriage**

#### **25. Application of Sub-Part**

A religious marriage with civil effect shall be governed by the Code Civil Mauricien and this Sub-Part.

#### **26. Authority to celebrate religious marriage with civil effect**

(1) Subject to subsection (2), where the Registrar of Civil Status is satisfied that an applicant has the requisite knowledge and understanding of the Code Civil Mauricien and this Act in regard to marriage to be able to celebrate a religious marriage having civil effect, he shall—

- (a) issue a written authority to the applicant to celebrate a religious marriage; and
- (b) give written notice in the *Gazette* of the issue of the authority.

(2) (a) Where a person applies for authority to celebrate Muslim religious marriages, the Registrar shall forward a copy of the application to the Muslim Family Council.

(b) Upon receipt of a copy of an application under paragraph (a), the Muslim Family Council shall convene the applicant and ascertain whether he has the knowledge required under subsection (1) and make a recommendation to the Registrar accordingly.

(c) Where the Muslim Family Council is not satisfied that the applicant has the requisite knowledge, it may assist him in acquiring such knowledge and inform the Registrar accordingly.

(3) An authorised person may celebrate a religious marriage which shall have the effect of a civil marriage.

(4) The Registrar may cancel an authority issued under subsection (1), and where he does so, he shall require the return of the authority issued by him.

(5) The Registrar—

- (a) may, before cancelling an authority under subsection (4), consult the Muslim Family Council where the holder of the authority is a Muslim;
- (b) shall give notice in the *Gazette* of the cancellation of any authority.

[S. 26 amended by Act 45 of 1990.]

## **27. Marriage by authorised person**

(1) Any authorised person shall ensure, in respect of every marriage he celebrates, that the requirements of the Code Civil Mauricien and of section 20 (1) (a) and (b) are complied with.

(2) Any authorised person shall immediately on completing a marriage ceremony enter in a register provided by the Registrar of Civil Status the particulars of the marriage he has celebrated and shall, within 7 days of the celebration of the marriage, transmit a copy of the particulars of the marriage to the Registrar of Civil Status for registration in the appropriate register.

(3) Every register issued to an authorised person shall be closed at the end of each year and forwarded to the Registrar of Civil Status before the end of January of the ensuing year with a memorandum drawn up, dated and signed by the authorised person in which the number of marriages entered in the register shall be recorded.

(4) The Registrar of Civil Status may at any time call for, examine, inspect or verify the register issued to an authorised person.

[S. 27 amended by Act 9 of 1984.]

## **28. Marriage by unauthorised person**

(1) Where any person wishes to be married religiously with civil effect by an unauthorised person, he or the unauthorised person who will celebrate the marriage ceremony shall, not less than 10 days before the date of the proposed marriage, inform the Registrar of Civil Status in writing of that fact and of the time and place of the proposed marriage.

(2) On receipt of notification under subsection (1), the Registrar of Civil Status shall designate an officer to attend to the marriage ceremony and inform the person who gave notice under subsection (1) of the designation of the officer.

(3) An officer designated under subsection (2) shall—

- (a) ensure, in respect of the marriage, that the requirements of the Code Civil Mauricien and of section 20 (1) (a) and (b) are complied with;

- (b) attend the place of celebration of the marriage at least 15 minutes before the time appointed for the ceremony till the end of the marriage ceremony;
- (c) assist in the marriage ceremony either—
  - (i) actively if the unauthorised person so requests; or
  - (ii) passively; and
- (d) be responsible for the registration of the marriage by making an entry in the appropriate registers in the same manner as for a civil marriage.

(4) The unauthorised person shall give the officer every assistance to enable the officer to fulfil his duties under subsection (3).

[S. 28 amended by Act 9 of 1984.]

### **29. Establishment of Muslim Family Council**

(1) There shall be a Muslim Family Council which shall consist of—

- (a) a Chairperson who shall be a legally qualified person of not less than 5 years' standing;
- (b) 2 persons who are conversant with Muslim marriage and traditions;
- (c) 2 persons who are officiating Muslim priests.

(2) (a) The Chairperson and the other members of the Council shall be appointed by the Minister on such terms and conditions as he thinks fit.

(b) The Chairperson and members of the Council shall not be entitled to any fee or remuneration.

[S. 29 added by Act 45 of 1990.]

### **30. Duties of Council**

The Council—

- (a) shall keep a register of all marriages celebrated in accordance with Muslim rites;
- (b) shall keep a register of all provisional decrees of divorce communicated to it under section 31;
- (c) may make rules governing marriages celebrated in accordance with Muslim rites and the dissolution of such marriages.

[S. 30 added by Act 45 of 1990.]

### **31. Communication of provisional decree to Muslim Family Council**

Where in the course of divorce proceedings, the parties declare that they were married by a Muslim priest under Sub-Part B and the Supreme Court grants a provisional decree of divorce, the Registrar of the Court shall inform the Muslim Family Council accordingly and the Council shall take such action as it may deem appropriate.

[S. 31 added by Act 45 of 1990.]

### **32. —**

**Sub-Part C – General**

**33. Celebration of religious marriage**

Except in the case of a marriage celebrated in accordance with Muslim rites, no religious marriage shall be celebrated unless—

- (a) the parties to the religious marriage are already civilly married to each other; or
- (b) the celebrant is the holder of an authority issued under section 26; or
- (c) the celebrant is actively or passively assisted at the religious ceremony by an officer in accordance with section 28.

[S. 33 amended by Act 2 of 1987; Act 45 of 1990.]

**34. Publication of marriage celebrated abroad**

Where a person intends to be married outside Mauritius and, under the law of that place, it is necessary that the publication of the marriage be made in Mauritius, the publication shall be made at the Central Civil Status Office in the same manner as if the marriage were to be celebrated in Port Louis.

**35. Fees for marriages**

(1) (a) No fee shall be charged for the publication of a civil marriage or celebration of a civil marriage at any office.

(b) Where the intending parties to a civil marriage request an officer to celebrate the marriage in any private premises, the officer shall comply with such request and the parties shall—

- (i) pay to the Government the prescribed fee;
- (ii) if so requested by the officer, provide a means of conveyance to and from the private premises.

(2) Where any marriage is celebrated under this Act, the officer shall forthwith deliver to the spouses, free of charge, an attestation of the celebration of the marriage.

[S. 35 amended by Act 8 of 1997; s. 10 of Act 40 of 2001 w.e.f. 1 September 2003.]

**36. Annotation of marriage in register**

(1) Where—

- (a) the Registrar of Civil Status receives any particulars of a religious marriage under section 27 (2); or
- (b) an officer celebrates a civil marriage under section 24, or assists in the celebration of a religious marriage having civil effect under section 28,

the Registrar of Civil Status or the officer shall, not later than 7 days after receiving the particulars or celebrating the marriage, as the case may be, forward to the Central Civil Status Office and to any other office where the register containing the entry relating to the declaration of birth of each of the

spouses is kept as a permanent record, a statement of the particulars of the marriage for the purpose of annotating the relevant entries.

- (2) The particulars in a statement under subsection (1) shall include—
- (a) the names of the spouses;
  - (b) the office at which the birth of each of the spouses was registered and the register and folio number of the declaration of birth;
  - (c) the office at which the register containing the marriage entry is kept as a permanent record; and
  - (d) the register and folio number, and date of the entry, relating to the marriage.

[S. 36 amended by Act 9 of 1984.]

## PART V – DEATH

### 37. Interment, cremation or immersion at sea

(1) Notwithstanding sections 161 and 168 of the Public Health Act but subject to subsections (2) and (3) and to any other enactment, the body of any dead person may be disposed of by interment, cremation or immersion at sea.

(2) No interment, cremation or immersion at sea of the body of any dead person shall take place—

- (a) without a permit from an officer in such form as the Registrar of Civil Status may approve;
- (b) except where the Permanent Secretary of the Ministry responsible for the subject of health or any person authorised by him otherwise consents in writing, before the expiry of 24 hours after the death of the person;
- (c) in the case of an immersion at sea, except in accordance with such conditions as the Minister, or any person authorised by him, thinks fit to impose.

[S. 37 amended by Act 9 of 1984.]

### 38. Registration of death

- (1) (a) A person who has been—
- (i) present at the death;
  - (ii) in attendance during the last illness; or
- (b) the occupier of the house or premises where the death took place,

shall, within 24 hours of the death, attend personally at the office of the district where the death took place or where the deceased last resided to declare such death and produce a medical certificate of the cause of death.

(2) He shall—

- (a) furnish to the officer such particulars as the officer may require; and

- (b) sign the relevant entry in the appropriate register in presence of the officer.

[S. 38 amended by Act 7 of 1992; s. 11 of Act 40 of 2001 w.e.f. 6 March 2002.]

### **39. Contents of entry**

- (1) The entry in the register under section 38 shall mention—
  - (a) the names, age, sex, residence and profession of the deceased;
  - (b) the names of the spouse of the deceased if he was or had been married;
  - (c) the cause of death;
  - (d) the names of the declarant;
  - (e) the names of the parents of the deceased;
  - (f) the place and date of birth of the deceased; and
  - (g) the national identity card number if available, of—
    - (i) the deceased;
    - (ii) his spouse, if he was or had been married;
    - (iii) the parents of the deceased;
    - (iv) the declarant.

(2) Where any of the particulars specified in subsection (2) are not known to the declarant, that fact shall be recorded.

[S. 39 amended by Act 8 of 1997; s. 12 of Act 40 of 2001 w.e.f. 6 March 2002.]

### **40. Registration in special circumstances**

(1) Where a death results from a cause specified in section 110 of the District and Intermediate Courts (Criminal Jurisdiction) Act, the Superintendent of Police of the district where the death occurred shall cause it to be registered.

(2) (a) Where a death is declared by a private party and the circumstances reported to the officer who receives the declaration raise a suspicion that the death may not have been natural, the officer shall report the matter to the nearest police station.

(b) Where the Police sees no grounds for inquiry, they shall notify the officer who shall then register the death on the declaration of the party.

(3) Where a death is declared to be the result of an accident, and there exist, in the opinion of the officer, no circumstances which raise a suspicion that an offence may have been committed, notwithstanding that there has been a lapse of several days between the time of the accident and the time of death, the officer may register the death on the declaration of the party.

[S. 40 amended by s. 13 of Act 40 of 2001 w.e.f. 6 March 2002.]

#### 41. Death in institutions and similar places

(1) Where a death occurs in a prison, police station, institution, orphanage or asylum, quarantine area or station or similar place, the person in charge of that place shall cause the death to be registered within 24 hours.

(2) Every person in charge of any such place shall keep a register in a form to be determined by the Registrar of Civil Status in which each death shall be recorded.

[S. 41 amended by Act 9 of 1984.]

#### 42. Certificate of cause of death

(1) An officer shall, on request, furnish without charge to every medical practitioner within his district printed forms of certificates of cause of death in such form as the Registrar of Civil Status may approve.

(2) Every person who, under this Act, is bound to give notice of the occurrence of any death shall—

- (a) in the case of the death of any person who has been attended during his last illness by a medical practitioner, apply to the medical practitioner for a certificate of the cause of death;
- (b) in the case of the death of any person who was not attended during his last illness by a medical practitioner, but who was under treatment at a Government dispensary, apply to the officer in charge of the dispensary for a certificate of the cause of death,

and the medical practitioner or the officer in charge of the dispensary shall sign and deliver to the applicant a certificate of the cause of death.

(3) (a) In any case not covered by subsection (2), any one of the persons required to give notice of the occurrence of any death shall cause the dead body to be examined by a medical practitioner who shall, after examination, duly sign and deliver a certificate of the cause of death.

(b) Where the persons are too poor to defray the expenses of the examination—

- (i) they shall make a written statement to that effect before an officer in such form as the Registrar of Civil Status may approve;
- (ii) the office shall issue them a written authority to apply to a Government Medical Officer for the examination of the dead body and the delivery of a certificate of the cause of death, and the Government Medical Officer shall, on application, examine the body and deliver the certificate required.

[S. 42 amended by Act 9 of 1984.]

#### 43. Death in quarantine stations

(1) Where no officer has been appointed for a quarantine station, the person in charge of the station shall keep a register, in a form to be determined by the Registrar of Civil Status, in which he shall record the particulars of every person who dies in the station.

(2) Notwithstanding section 37, where a death in a quarantine station has been recorded under subsection (1), the body may be disposed of without a permit having been issued by an officer.

(3) (a) Where a death has been recorded under subsection (1), the person in charge of the quarantine station shall, not later than 8 days after the quarantine station ceases to be a quarantine station, forward the register kept by him to the Registrar of Civil Status who shall cause an entry to be made in the appropriate register kept at the Central Civil Status Office in respect of every death recorded under subsection (1).

(b) Every entry in the appropriate register made under paragraph (a)—

- (i) shall contain a marginal note of the circumstances in which it is made; and
- (ii) where the particulars of the deceased person required under section 38 are not complete, may be completed by information supplied by 2 persons who have known the deceased.

(c) Where an entry is completed under paragraph (b) (ii), this Act shall have effect, in respect of any particulars supplied by a person who has known the deceased, as if that person was a declarant under section 38.

(4) After all the deaths recorded in a register specified in subsection (1) have been entered in the appropriate register under subsection (3), the register shall be forwarded to the Permanent Secretary of the Ministry responsible for the subject of health, to be kept as a permanent record.

[S. 43 amended by Act 9 of 1984.]

#### **44. Death on board Mauritian ship or aircraft**

(1) Where a death occurs on board any ship or aircraft registered in Mauritius, during any voyage, the master of the ship or aircraft shall draw up and sign a declaration of the death and have the declaration attested by 2 witnesses.

(2) The declaration shall contain the names, age, sex and profession of the deceased, the place at which he has embarked and the cause of death.

(3) On the arrival of the ship in any harbour of Mauritius or the landing of the aircraft, the master shall deliver the declaration to the Director of Shipping or the Director of Civil Aviation, as the case may be, for transmission to the Registrar of Civil Status who shall cause the death to be registered in a separate register.

[S. 44 amended by Act 28 of 1986.]

#### **45. Unidentified dead bodies and human remains**

(1) Where any dead body or human remains have been discovered and cannot be identified, the Commissioner of Police or any Superintendent of Police authorised by him shall cause the dead body or the human remains to be inspected by a medical practitioner, and shall forward the report of the medical practitioner to the Registrar of Civil Status.

(2) (a) The report shall contain a description of the place where the body or remains may have been found.

(b) It shall mention what clothing or other effects have been found near or upon the body or remains, describe the conformation, state and condition of the body, the conformation, length and density of the bones found and the lesions which may exist upon the body or remains.

(c) The sex, the probable date of death of the person whose body or remains have been discovered, and every detail which may afterwards be useful for the identification of the body or human remains shall also be mentioned.

(3) (a) The report shall be signed and dated by the medical practitioner who has drawn it, and countersigned by a police officer not below the rank of Inspector.

(b) It shall be kept by the Registrar of Civil Status at the Central Civil Status Office, and shall be entered verbatim in the appropriate register.

[S. 45 amended by Act 9 of 1984.]

**46. —**

[S. 46 repealed by Act 8 of 1997.]

**47. Registration after disposal of body**

(1) Where at the time of the disposal of the body of a dead person, his death has not been registered at an office, no officer shall register the death except upon an order of a Magistrate authorising the registration of death.

(2) No order under subsection (1) shall be made except upon the favourable conclusions of the Ministère Public.

(3) Where the death of a dead person is registered under subsection (1), the order authorising the registration shall be annotated against the entry.

**48. Death outside Mauritius**

Where a person has died outside Mauritius and the body is brought to Mauritius for disposal, an officer may, on production to him of a certificate from a Health Inspector that there is no objection to the disposal, issue a permit authorising the disposal.

**PART VI – AMENDMENT OF ENTRIES**

**49. Multiple entries of birth**

Where the birth of any person is registered more than once, the Registrar of Civil Status shall cause all the entries but one to be cancelled.

[S. 49 amended by Act 9 of 1984.]

**50. Amendment of entries**

(1) In this Part, “amendment” includes rectification or cancellation.

(2) An officer or an interested party may make written application to the Magistrate of the district in which any entry has been registered for an order authorising the Registrar of Civil Status to amend an entry.

(3) Upon receipt of an application under subsection (2), the Magistrate shall refer the application to the Ministère Public for its conclusion and upon receipt of those conditions shall grant or refuse the application.

(4) Any person who is dissatisfied with the decision of a Magistrate may, not later than 6 weeks from the date of the decision, move the Supreme Court for a reconsideration of the application.

(5) Notwithstanding subsection (4), the Ministère Public may refer any application to the Supreme Court for determination.

(6) Notwithstanding any other enactment, no fee shall be payable in respect of an application made under this section.

[S. 50 amended by Act 9 of 1984.]

#### **51. Powers of Attorney-General**

(1) The Attorney-General may dispute the validity of any entry or require its amendment.

(2) Every proceeding by or on behalf of the Attorney-General shall be by motion to the Supreme Court calling upon the parties interested to show cause against the motion.

#### **52. Amendment to be annotated in margin**

The order or judgment authorising the amendment of an entry shall be recorded verbatim in the appropriate register and a summary of the amendment shall be made in the margin of the entry in every register in which the entry has been registered.

#### **53. Completion of incomplete entries**

(1) Where it is discovered that any entry which is required to be made has not been made, filled up, signed or otherwise completed in any register by the officer having charge of the register, a Judge in Chambers may upon the application of the Attorney-General authorise, by an order in writing, the Registrar of Civil Status to make, fill up, sign or otherwise complete the entry.

(2) Any order under subsection (1) shall be entered in the appropriate register and any entry made, filled up, signed or otherwise completed in accordance with the order, shall be as valid as if the entry had been correctly made at the time it should have been made.

[S. 53 amended by Act 9 of 1984.]

#### **54. Amendment of entries by Court after trial**

(1) Without prejudice to the other provisions of this Part, where during the trial of any action or proceeding, whether civil or criminal, it appears to a Court that any entry in a register should be amended, the Court after reference to the Ministère Public, may make an order directing the Registrar of Civil Status to amend the entry.

(2) An order under subsection (1) shall not issue before the judgment in the action or proceeding has become final.

(3) The Ministère Public or any aggrieved party may, where an order has been made under subsection (1), by way of motion, within 15 days of the order, appeal to the Supreme Court.

(4) An order under subsection (1) shall be registered in the appropriate register.

[S. 54 amended by Act 9 of 1984.]

## PART VII – CHANGE OF NAME

### 55. Application for change of name

Any Mauritian citizen may petition the Attorney-General for leave to make any change to his names.

### 56. Notice of application in *Gazette*

(1) The applicant shall give notice of his application in the *Gazette* and in 2 daily newspapers, one of which at least shall be approved by the Attorney-General.

(2) The notice shall be published at least 3 times in the *Gazette* and in each of the newspapers.

(3) At any time within 28 days from the last publication under subsection (2), any interested person may oppose the application by filing at the Attorney-General's Office an objection in writing, specifying his grounds of objection.

[S. 56 amended by s. 3 of Act 24 of 2011 w.e.f. 1 August 2011.]

### 57. Attorney-General may authorise change

Where—

- (a) within the period specified under section 56 (3), no objection is made to the application, or if any objection is made but is rejected by the Attorney-General; and
- (b) the Attorney-General is satisfied that there are good and sufficient grounds in support of the application,

the Attorney-General may grant the application and authorise the change.

### 58. Registration of change of name

(1) Where the Attorney-General is satisfied that the appropriate fee specified in the Schedule has been paid or has been remitted under section 62, as the case may be, he shall cause to be gazetted his decision authorising any change of name.

(2) The name authorised to be borne by the applicant shall be deemed his name, family name and that of his wife and minor children and of any other person by law entitled to bear the name of the applicant.

(3) This Act shall not affect the right of any person to assume and bear any surname or family name which he may be entitled to assume and bear under any other enactment.

### **59. Registrar of Civil Status to rectify entries**

Where a notice authorising a change of name has been published under section 58 (1), the Registrar of Civil Status shall inscribe in the margin of the entry of birth of the applicant in the appropriate register and of any other entry concerning the application in any other register, the change authorised by the notice.

[S. 59 amended by Act 9 of 1984.]

## **PART VIII – MISCELLANEOUS**

### **60. Acknowledgment of natural child**

(1) Any deed containing the acknowledgment of a natural child shall be entered in full in the appropriate register.

(2) A mention of the acknowledgment with the date of the deed shall be entered in the margin of the entry of birth of the child in every register in which the birth is entered.

### **61. Costs**

The Ministère Public or the Government shall not incur any costs nor be liable to any damages with respect to civil status matters.

### **62. Fees**

(1) (a) The fee specified in item 1 of the Schedule shall be levied by means of stamps.

(b) The fee specified in item 2 of the Schedule shall be paid at the time the application is made under section 55.

(c) The fee collected under paragraph (b) shall be paid into the Consolidated Fund.

(2) The Minister may, by regulations, amend the Schedule.

(3) The Minister may remit the fee payable for any change of name where he is satisfied that the person who applies for the change of name is unable to pay the fee.

[S. 62 amended by Act 36 of 1994; s. 3 of Act 37 of 2011 w.e.f. 1 January 2012.]

### **63. Specific offences by officers**

(1) Any officer who—

- (a) makes any entry on a loose sheet;
- (b) receives, draws up or registers any entry or certificate otherwise than in strict conformity with this Act;
- (c) loses, damages or causes or permits to be lost or damaged any register or part of a register or any document in his custody connected with civil status;
- (d) celebrates a marriage when the publication prescribed has not been made;
- (e) allows or permits any person, without any lawful authority, to have access to the computer system;

- (f) reveals or discloses any information which enables any person to have access to, or to obtain any information in relation to, the computer system;
- (g) alters, damages or causes the loss of any information of the computer system;
- (h) fails to comply with any instruction issued by the Registrar of Civil Status regarding the operation of such computer system; or
- (i) tampers in any manner with the computer system,

shall commit an offence.

(2) Sections 106 and 107 of the Criminal Code shall be applicable to any officer who—

- (a) commits a forgery in any entry in a register or in any copy of the entry in one or more of the modes referred to in section 106 of the Criminal Code; or
- (b) in making any entry in any register or in any copy of the entry, fraudulently alters the substance or particulars thereof in one or more of the modes referred to in section 107 of the Criminal Code.

[S. 63 amended by Act 8 of 1997.]

### **63A. Other offences**

Any person who, without lawful authority—

- (a) operates or attempts to obtain access to the computer system;
- (b) obtains any information from the computer system;
- (c) alters, damages or causes the loss of any information on the computer system; or
- (d) tampers with the computer system,

shall commit an offence.

[S. 63A inserted by Act 8 of 1997.]

### **64. Offences by authorised persons**

Any authorised person who makes an entry on a loose sheet or registers a marriage otherwise than in conformity with this Act shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2,000 rupees and to imprisonment for a term not exceeding 2 years.

### **65. Destruction or damage to documents**

Every officer or other person who wilfully destroys or damages or permits or causes to be destroyed or damaged any register or any document relating to civil status shall commit an offence.

### **66. Counterfeiting and altering documents**

Any person not being an officer who—

- (a) falsely makes or counterfeits or causes to be made or counterfeited any entry, or copy of an entry, certificate or extract or any other document relating to civil status;

- (b) fraudulently counterfeits or alters any signature, date or writing in any document specified in paragraph (a);
- (c) fraudulently inserts in, or adds to, any document specified in paragraph (a) any word, letter, figure or sign which did not exist in the document at the time it was signed by an officer;
- (d) fraudulently erases or alters in any document specified in paragraph (a) any word, letter, figure or sign; or
- (e) knowingly makes use of any document specified in paragraph (a) which has been counterfeited, altered or added to as mentioned above,

shall commit an offence.

#### **67. Failure to transmit acknowledgments**

Any notary or other public officer authorised by law to draw up a deed of acknowledgment, shall, within 7 days of drawing up of the deed, transmit a copy of the deed to the Registrar of Civil Status and if he fails to do so, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 2,000 rupees.

[S. 67 amended by Act 9 of 1984.]

#### **68. False statements or declarations**

Any person who—

- (a) on being examined, or in any affidavit, makes a statement which he knows to be false;
- (b) makes, signs or marks before an officer a declaration which he knows to be false;
- (c) makes, signs, or marks before an officer a declaration containing a statement which he knows to be false; or
- (d) on giving any notice under this Act or any regulations under this Act, makes a statement which he knows to be false,

shall commit an offence.

#### **69. Offences in respect of children**

(1) Any person who carries away, conceals or suppresses a newborn infant, or substitutes any child for another, or falsely attributes a child to a woman who has not delivered the child, shall commit an offence.

(2) Where any person having the care of a child, with intent to prejudice or conceal the status of the child, does not produce the child to anyone lawfully entitled to claim it, he shall commit an offence.

#### **70. Concealment of birth**

(1) Every person who, by any secret disposition of the dead body of a child, whether the child died before, at, or after its birth, endeavours to conceal the birth of the child, shall commit an offence.

(2) Where any person charged before a Judge and jury for infanticide is acquitted and the jury finds that the child has recently been born and that the person charged did, by any secret disposition of the dead body of the child, endeavour to conceal the birth of the child, the Court may convict the person charged and pass sentence on him as if he had been convicted upon an information for the concealment of the birth in breach of subsection (1).

(3) The father or mother of a legitimate child who fails within 3 months of the birth of the child to declare the birth shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

(4) The mother of a natural or illegitimate child who fails within 3 months of the birth of the child to declare the birth of the child shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees.

(5) Where any person who finds a newborn child neglects to make the declarations and fulfil the formalities required of him by section 17, he shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding 6 months.

(6) No proceedings shall be instituted under subsection (3) or (4) where the birth of a child has been registered under section 12 (3).

[S. 70 amended by Act 5 of 1999.]

#### **71. Disposal of dead body**

Any person who buries or otherwise disposes of any human body—

- (a) without having previously obtained a permit from an officer;
- (b) before the required period; or
- (c) in any unauthorised burial ground,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees or to imprisonment for a term not exceeding 6 months.

[S. 71 amended by Act 5 of 1999.]

#### **72. Concealment of dead body**

(1) Any person who conceals, privately buries or disposes of the body of a person killed, or who has died from the effects of any blow or wound, shall commit an offence and shall, on conviction, be liable to a fine not exceeding 10,000 rupees or to imprisonment for a term not exceeding 2 years.

(2) Any person who, at the time of making a declaration of death, knowingly fails to disclose that a death has occurred by violence or in suspicious circumstances shall commit an offence and shall, on conviction, be liable to a fine not exceeding 5,000 rupees or to imprisonment for a term not exceeding 6 months.

[S. 72 amended by Act 5 of 1999.]

### **73. Penalties**

Any person who contravenes this Act shall commit an offence and shall, on conviction, be liable, where no other penalty is provided, to a fine not exceeding 2,000 rupees and to penal servitude for a term not exceeding 3 years.

### **74. Past religious marriages**

(1) Parties to a religious marriage celebrated before the commencement of this Act who wish that their marriage be registered, whether the marriage took place in Mauritius or abroad, shall make a joint declaration to an officer at the Central Civil Status Office and the officer shall thereupon register the religious marriage in the appropriate register.

(2) Where one of the parties refuses or is unable to make the declaration referred to in subsection (1) or is dead, the other party may, on proof of the marriage, make the declaration.

(3) Proof of the marriage under subsection (2) shall be either by affidavit or by a certificate from the person who celebrated the religious marriage.

(4) Where the declaration is made by one party to the religious marriage under subsection (2), the officer shall—

- (a) serve a notice by registered post on the other party at the address of the other party, if known; and
- (b) cause a copy of the declaration to be posted in a conspicuous place in the Central Civil Status Office.

(5) The other party to the religious marriage may, within 15 days of receipt of the notice under subsection (4) (a), or the posting up of the copy of the declaration under subsection (4) (b), object to the declaration by lodging a notice of objection with the officer.

(6) (a) Subject to paragraph (b), where a declaration is made under subsection (2), the Registrar of Civil Status shall forward the declaration through a State Attorney to a Judge in Chambers for adjudication.

(b) Where a notice of objection is lodged with the Registrar of Civil Status under subsection (5), paragraph (a) shall not apply, but the Registrar of Civil Status shall inform the party making the declaration of the objection, and either party may apply to a Judge in Chambers for adjudication.

(7) The Judge in Chambers after hearing the parties shall, as soon as convenient, adjudicate on the declaration and make an order authorising the registration of the declaration or upholding the objection, if any.

(8) The Clerk of the Registry of the Supreme Court shall, within 8 days of the making of the order, transmit a copy of the order to the Registrar of Civil Status who shall forthwith cause it to be registered in the appropriate register.

(9) Where the order authorises the registration of the religious marriage, the Registrar of Civil Status shall cause the declaration of the marriage to be registered in the appropriate register.

(10) Notwithstanding the other provisions of this section, no religious marriage shall be registered in the Register of Past Religious Marriages if any of the parties was already civilly married and the civil marriage had not been dissolved at the time of the religious marriage.

(11) Where a religious marriage has been entered in the appropriate register, the Registrar of Civil Status shall cause every entry concerning the parties to the religious marriage in every register kept by him to be annotated.

(12) Where any religious marriage is registered in the Register of Past Religious Marriages, Articles 228-1 to 228-10 of the Code Civil Mauricien shall apply in relation to such marriage.

[S. 74 amended by Act 9 of 1984; Act 35 of 1985; Act 48 of 1991.]

## 75. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) The Minister may, by regulations, amend the Schedule.

(3) Any regulations made under subsection (1) may provide for—

- (a) the taking of fees; and
- (b) the amount of fees that may be charged.

[S. 75 amended by s. 14 of Act 40 of 2001 w.e.f. 1 September 2003.]

76. – 77. —

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### SCHEDULE

[Sections 9, 58 and 62]

	<i>Fees</i>
	<i>Rs</i>
1. For certificate or photocopy of an entry, other than the first copy of such certificates	25
2. For any change of name	500

[Sch. amended by Act 8 of 1997.]

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