

THE COMMITTEE ON THE RIGHTS OF THE CHILD
73rd Pre-Sessional Working Group (1 – 5 February 2016)

SOUTH AFRICA

**Civil Society Submission on the right of every child to acquire a nationality under
Article 7 CRC**

31 October 2015

Introduction

1. Lawyers for Human Rights (LHR)¹ and the Institute on Statelessness and Inclusion (the Institute)² welcome the opportunity to make this submission to the Committee on the Rights of the Child regarding South Africa's compliance towards every child's right to acquire a nationality under Article 7 CRC.
2. This submission draws on the extensive work and research carried out by LHR in South Africa under its Statelessness Project. It also draws on recent research and analysis carried out by the Institute, on all Concluding Observations and Recommendations made by the Committee in relation to the right of every child to acquire a nationality under Article 7 CRC.³ An annex to this submission contains the relevant legislative provisions of South Africa, for ease of reference of the Committee.
3. The Institute and LHR hope the Committee will draw on this submission to raise the issue of realising the right of every child to acquire a nationality in its **List of Issues for South Africa**, and address **recommendations to the Government of South Africa in its Concluding Observations** on the second, third and fourth report of South Africa to further prevent and reduce the problem of childhood statelessness in the country. This submission has been structured to highlight issues which may be included in the List of Issues by including them in text boxes under each substantive section, and recommendations which may be drawn on for the Committees Concluding Observations by listing them at the very end of the text.

¹ Lawyers for Human Rights is an independent human rights organisation with a 35-year track record of human rights activism and public interest litigation in South Africa. LHR uses the law as a positive instrument for change and to deepen the democratisation of South African society, and operates a Refugee and Migrants Rights Programme which has a specialist focus on issues of citizenship, nationality and statelessness. (<http://www.lhr.org.za/>)

² The Institute on Statelessness and Inclusion is an independent non-profit organisation committed to addressing statelessness and disenfranchisement in the world through the promotion of human rights, participation and inclusion. (www.institutesi.org)

³ This research has been made publicly available in the form of a comprehensive analytical database of all Concluding Observations, a Factsheet summarizing state party obligations and a longer draft policy paper, and was shared with the Committee at a briefing in September 2015. To access these materials, visit: <http://www.institutesi.org/ourwork/children.php>

The Report of South Africa to the Committee

4. In the government of South Africa's combined second, third and fourth reports to the Committee, it emphasised its efforts to increase birth registration in the country and the strategy which made this possible. The state also referenced various legislative changes aimed at protecting vulnerable children in relation to their rights under Article 7 CRC. These included amendments in 2010 to the Births and Deaths Registration Act, "to provide mechanisms for registering the births of orphans, abandoned children and adopted children; the revision also introduced a process for the provision of a birth certificate to children born in South Africa to asylum-seekers or refugees."⁴ According to the report, the South African Citizenship Act (2005) was also amended in 2010 "to clarify issues related to citizenship by birth, descent and naturalisation. In addition, the Alteration of Sex Description and Sex Status Act (2003) and Children's Act allow a child who has undergone gender reassignment to preserve his or her identity by applying to have the birth register changed".
5. While acknowledging these positive steps; as this submission sets out, there still remain vital gaps in the law and its implementation, which leave children stateless or at risk of statelessness in South Africa, in violation of their right to acquire a nationality.

Statelessness in South Africa⁵

6. Through its statelessness project, LHR has identified different populations of concern that are either stateless or at risk of statelessness.⁶ These include:
 - Those who should have an entitlement to South African citizenship, but who for various reasons elaborated on in this submission are at risk of statelessness;
 - Migrants and their children from neighbouring countries such as Zimbabwe, Lesotho, Swaziland, Botswana, Mozambique, Malawi;
 - Those fleeing persecution from across the African continent (such as, but not limited to Burundi, Ethiopia, Eritrea, DRC, Rwanda) who are unable to prove any connection to their own country upon arrival in South Africa; and
 - Orphaned and abandoned children of the different categories mentioned, who do not have access to any form of documentation.
7. South Africa is a party to the core international human rights treaties, including the ICCPR, the ICESCR, ICERD, CEDAW, CRPD, CAT and of course the CRC. South Africa, however, is not a party to both the 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.
8. The South African Constitution guarantees that "*every child has a right to a name and a nationality from birth*".⁷ While this provision does not stipulate that every child has a right to a *South African* nationality, it is a provision of the South African Bill of Rights, and therefore justiciable in South Africa. Furthermore, this provision should be interpreted in light of South Africa's obligations under Article 7 CRC, which includes an absolute protection against childhood statelessness. Section 2(2) of the Citizenship Act gives effect to this right in that it provides citizenship by birth to all children born in South Africa who do not have the nationality of another country. It does not however, protect children born outside but resident in South Africa, from statelessness.

⁴ Combined second, third and fourth state party reports, CRC/C/ZAF/2, 26 November 2014, Para 126.

⁵ According to Article 1.1 of the 1954 Convention relating to the Status of Stateless Persons, a stateless person is someone "who is not considered as a national by any state under the operation of its law." The United Nations High Commissioner for Refugees estimates more than 10 million people worldwide are stateless and without the protection of any state.

⁶ For more details of LHR's statelessness project, see: <http://www.lhr.org.za/programme/rmrp-statelessness-project-accessing-citizenship-and-nationality>

⁷ Article 28(1)(a) of the Constitution.

9. In addition to various gaps in the law, the biggest challenge is implementation, with the lack of documentation being the most significant factor which leads to statelessness or the risk of statelessness in the country. While birth registration rates are higher than ever before, as evidenced by the report of South Africa to the Committee, the births of over 10% of children are still not registered within one year. It is the most marginalised and vulnerable groups – including those listed above who are stateless or at risk of statelessness, who disproportionately fall within this group of children whose births are not registered.

Issues of concern related to the right to a nationality and suggested questions for the state party's review

Discriminatory application of the pre-requisite of birth registration

10. Section 2(1) of the Citizenship Act 88 of 1995 (as amended in 2010) which sets out the jus sanguinis citizenship rule, states that:
Any person –
 - (a) who immediately prior to the date of commencement of the South African Citizenship Amendment Act, 2010, was a South African citizen by birth; or*
 - (b) who is born in or outside the Republic, one of his or her parents, at the time of his or her birth, being a South African citizen,*
shall be a South African citizen by birth.
11. By contrast, subsequent provisions which provide citizenship to a) children born on the territory who would otherwise be stateless (Section 2(2)); b) children born on the territory and who have lived in South Africa until age of majority, and whose parents are permanent residents (Section 2(3)); and c) children adopted by South African citizens (Section 3); impose the additional requirement of birth registration.
12. Given the low birth registration rates in the country and the fact that the children of vulnerable and marginalised parents – particularly undocumented persons who themselves are stateless or at risk of statelessness – are less likely to have their births registered than the children of persons who have documented evidence of their South African citizenship, the condition of birth registration for the purpose of granting citizenship under Section 2(2) is both disproportionate and discriminatory. This condition also undermines the purpose of protecting all children from statelessness and ensuring that all children have the right to a nationality.
13. Furthermore, the stipulation under Section 2(3) that children born on the territory to parents who are not citizens can only acquire citizenship after they turn 18 is disproportionate, discriminatory and contrary to the best interests of the child.⁸ This provision is also at odds with the South African Constitution which provides for citizenship at birth.
14. Finally, treating adopted children differently to the biological children of South African parents by requiring birth registration of the former and not the latter in order to acquire citizenship amounts to discrimination which also undermines the child's right to acquire a nationality. This is particularly so in light of the principles of non-discrimination and the best interests of the child under the Convention and the fact that Section 242(3) of the Children's Act 38 of 2005 states that an adopted child must for all purposes be regarded as the child of the adoptive parent and the adoptive parent must for all purposes be regarded as the parent of the child. Section 3 of the Citizenship Act also arbitrarily distinguishes between adopted and biological children by naming adopted children citizens by "descent" as opposed to biological children who are referred to as citizens by birth.

⁸ See for example, General Comment 6 of the African Committee of Experts on the Right and Welfare of the Child

15. **In light of the discriminatory and disproportionate requirement of birth registration as a pre-condition to accessing nationality for some groups, heightened by the non-attainment of universal birth registration in South Africa, the Committee is urged to ask South Africa:**
- **On what basis does the law require birth registration as a pre-requisite to acquiring nationality for some children, but not others?**
 - **On what basis does the law distinguish between and disadvantage adopted children over biological children?**
 - **Whether it can provide disaggregated data that shows which percentage of persons unable to register the births of their children come from disadvantaged groups (undocumented and/or irregular migrants, socio-economically disadvantaged persons, those without permanent residence)?**
 - **What steps it is taking to increase access to birth registration for such disadvantaged groups?**

The lack of regulations to implement Section 2(2) of the Citizenship Act

16. There are no regulations in place to guide and monitor the implementation of Section 2(2) of the Citizenship Act which provides for the acquisition of South African nationality of children born in the territory who would otherwise be stateless. In 2014 LHR obtained a High Court order in which the applicant (who was born stateless in South Africa) was declared a South African citizen by birth and the Department of Home Affairs was ordered to make and implement a regulation to facilitate applications for nationality under Section 2(2) of the Act.⁹ The Department has to-date failed to implement this order.
17. While Section 2(2) may also serve as a ‘foundling’ provision (providing nationality to children born on the territory whose parents are unknown), this is not made explicit and there are no regulations in place to guide and monitor implementation. Furthermore, the Citizenship Act is silent on ‘foundlings’ who may have been born outside of South Africa.

18. **In the context of the lack of such key implementing and monitoring regulations, the Committee is urged to ask South Africa whether it intends to introduce regulations that address the present gaps in the law and facilitate its application in practice – including by making forms freely available in local offices - particularly in light of the 2014 High Court Order referred to above.**

Loss, deprivation and renunciation of citizenship

19. Sections 6 and 8 of the Citizenship Act provide respectively for the loss and deprivation of South African Citizenship. There is no adequate safeguard against statelessness in these provisions for naturalised citizens (see Sections 6(3) and 8(1)). Consequently, contrary to the principle of the best interests of the child, the Citizenship Act can render the parents of South African children stateless.
20. Of even greater concern is Section 10 of the Act which states that:

Whenever the responsible parent of a minor has in terms of the provisions of section 6 or 8 cease to be a South African citizen, the Minister may, with due regard to the provisions of the Children’s Act, order that such minor, if he or she was born outside the Republic and is under the age of 18 years, shall cease to be a South African citizen.

21. This provision makes the child’s citizenship contingent upon the parent’s, in violation of Article 20 of the South African Constitution which stipulates that “no citizen may be deprived of citizenship,” and can lead to the punishment of the child for the acts or omissions of the parent. Furthermore this provision does not contain a safeguard against statelessness for children born outside of South Africa.

⁹ DGLR and KMRG v The Minister of Home Affairs, The Director General of Home Affairs, The Deputy Director General of Civic Services and R Kruger N.O (unreported)

22. Section 7(1) of the Citizenship Act allows for the renunciation of citizenship by a South African who “intends to accept the citizenship or nationality of another country”, thereby leaving room for the person to become stateless, if their new nationality does not materialise. Furthermore, according to Section 7(3) of the Act:

Whenever a person ceases under subsection (2) to be a South African citizen, his or her minor children who are under the age of 18 years shall also cease to be South African citizens if the other parent of such children is not, or does not remain, a South African citizen.

23. Like section 10, this section too places South African children at risk of statelessness as a result of the actions of their parents, and is at odds with Article 20 of the South African Constitution.

24. In light of the above provisions which are contrary to the principle of the best interests of the child, Article 8 CRC and to South Africa’s obligation to protect the right of every child to a nationality, in particular where he or she would otherwise be stateless, the Committee is urged to ask South Africa what steps it is taking to ensure that children are not deprived of their nationality in any circumstance, including in the event of their parent’s loss, deprivation or renunciation of nationality.

Acquisition of citizenship through naturalisation

25. Section 4(3) of the Act provides for citizenship by naturalisation at the age of 18 for children born in South Africa to irregular or undocumented migrants; or those on a visa that does not lead to permanent residence status. At present, there are no regulations in place to guide and monitor the implementation of Section 4(3). Furthermore, as discussed below, the Birth and Deaths Registration Act prevents the registration of the births of children of undocumented or irregular migrants, undermining Section 4(3), particularly in the absence of implementing regulations. The present situation can (and does) therefore lead to children being rendered stateless upon attainment of majority, with no access to any nationality.

26. Furthermore, there is no provision in any South African legislation which facilitates naturalisation of unaccompanied migrant children who are not born in South Africa but are placed in care in South Africa. These children are not registered in SA but stay in child and youth care centres for years and risk statelessness and deportation when they turn 18. The Immigration Act 13 of 2002 currently does not make provision for an immigration status for unaccompanied and separated migrant children (USMCs). This means that a USMC cannot regularise her status in South Africa and therefore can never naturalise regardless of the amount of time spent legally in the South African child protection system. The exemption application in terms of section 31(2)(b) of the Immigration Act¹⁰ may be costly (R1,350) and is not known by social workers.

27. In the context of the lack of implementing and monitoring regulations and the gaps in the law, the Committee is urged to ask South Africa:

- **Does it intend to introduce regulations that address the present gaps in the law?**
- **Why is there no provision to facilitate the naturalisation of USMC’s and does the state intend to address this gap in the law?**

¹⁰ Section 31(2)(b): Upon application, the Minister may under terms and conditions determined by him or her – (b): grant a foreigner or a category of foreigners the rights of permanent residence for a specified or unspecified period when special circumstances exist which would justify such a decision: provided that the Minister may –

- (i) exclude one or more identified foreigners from such categories; and
- (ii) for good cause, withdraw such rights from a foreigner or category of foreigners;

Issues of concern related to birth registration and suggested questions for the state party's review

28. As set out above, birth registration is key to accessing nationality in South Africa – in particular, for the children of non-South African / unknown parents. The Birth and Deaths Registration Act (BDRA) and its Regulations provide the legal framework for birth registration of all children born on the territory, whether to South African or foreign parents. While South Africa is yet to achieve universal birth registration due to practical constraints related to access etc., the BDRA and its Regulations contain barriers which make it impossible or extremely difficult for certain categories of person to access birth registration, thus undermining their legal identity including their right to acquire a nationality. Below, are the primary concerns in this regard:

The requirement that the parents of the child have documentation

29. In order to register the birth of a child, the parents (or if they are deceased, other prescribed persons) must have legally valid documentation which confirms their legal status. I.e., South African citizens must have proof of their citizenship and foreign nationals must have a valid temporary or permanent resident visa.¹¹ Undocumented parents and those who have overstayed their visas cannot register their children's births. The combination of birth registration being required for children to benefit from the safeguard against statelessness and birth registration being impossible for parents without the requisite documentation or legal status means that both the registration of children and the safeguard against statelessness are contingent on the status of the parents. This restriction is contrary to Article 28(1)(a) of the South African Constitution and Article 7 CRC. It further undermines the protection against statelessness found in Section 2(2) of the Citizenship Act, perpetuates the cycle of lack of documentation and legal status (including nationality) and undermines the right to an identity of all children.

30. The requirement that document be legally valid is particularly harmful to children born to parents who have overstayed their visas. Such parents cannot register the birth of their child due to this restrictive provision, but also cannot leave South Africa with the child in order to regularise themselves in their country of origin (the Immigration Act requires the holder of an expired temporary visa to apply for a new visa to regulate stay in South Africa from country of origin), because according to regulation 6(12) of the Immigration Act, they cannot travel without an unabridged birth certificate.

31. In light of the discriminatory and disproportionate nature of provisions which only allow the registration of births of children whose parents have valid legal documentation, the Committee is urged to ask South Africa:

- **On what basis does the legal framework require documentation of the parents in order to register the births of their children?**
- **Can it provide disaggregated data on the number of births that were not registered over the most recent 5 year period due to these restrictions?**
- **What steps is it taking to break the cycle of lack of documentation, legal status and legal identity that is perpetuated by this requirement?**

Restrictive time limit

32. Another concern is the stringent requirement under the BDRA that all births in the country must be registered within 30 days. While the late registration of births is possible,¹² this subject to the payment of an administrative fee and compliance with prescribed requirements. Failure on either count can result in the birth not being registered.

¹¹ Regulation 3(3) of the BDRA, 2014.

¹² The late registration of birth process was created to accommodate people who had not been registered under the previous Acts

33. Of even greater concern, is the fact that the provisions regulating late registration of birth only apply to the children of South African citizens, permanent residents and refugees.¹³ The births of the children of non-permanent residents cannot be registered after the 30 day period has expired.¹⁴ This includes children of irregular/undocumented and/or stateless migrants who would otherwise be stateless and cannot access South African citizenship without birth registration. This gap in the law is therefore acutely discriminatory and contrary to the principle of the best interests of the child. Particularly so, because it further limits the scope of the application of Section 2(2) of the Citizenship Act, which is intended to serve as a safeguard against statelessness.
34. The Department of Home Affairs has indicated that it intends to stop the process for the late registration of births by the end of 2015. If this does happen, while it is believed that there will be an appeal process for those who fail to register the births of their children within the 30 day period, more details on the procedure and available remedies are not yet available. There is a significant danger that if implemented, this could heighten the risk of statelessness of a significant number of children of both South African and non-South African parents.
35. Regulation 2 to the Citizenship Act regulates the registration of births of children of South African parents abroad. Such birth registrations must also be made within 30 days, and there is no provision for late registration of children born abroad. LHR has found that in practice, not all parents are able to approach the South African foreign mission within 30 days of a child's birth.

36. **In the context of the above limited time limit for birth registration and discriminatory application of the late registration procedure, the Committee is urged to ask South Africa:**
- **Why does it impose such a restrictive time limit for birth registration?**
 - **On what basis does it discriminate against the children of non-nationals who are not permanent residents or refugees, and the children of nationals born abroad by excluding them from the late registration procedure?**
 - **Can it present disaggregated data on the number of children whose births have not been registered as a result of both the exclusion referred to above, and the imposition of fees for the late registration procedure?**
 - **Can it provide more information on the indicated plans of the Department of Home Affairs to stop the late registration process? Has adequate consideration been given to the impact this is likely to have on birth registration and the child's right to acquire a nationality? What steps will be taken to address any concerns in this regard?**

Restrictions on guardians registering the births of children

37. While the general rule under Section 9(1) of the Act is that the parents of the child shall register the birth, provision is made for a "prescribed person to register the birth of a child where parents of the child are deceased". This excludes children in the care of legal guardians or family members while their parents are still alive but unable to register their births, from accessing birth registration. In South Africa, 24% of children do not live with their parents and are cared for by family members¹⁵. While this percentage is likely to be lower at the time of birth, there is nonetheless a considerable risk that this provision excludes a significant number of children from having their births registered.

38. **In this context, the Committee is urged to ask South Africa to provide disaggregated data on the number of children whose births have not been registered as a result of this restrictive provision, and to ask on what basis the law discriminates against children separated from their parents.**

¹³ Regulations 4, 5, 6 and 7 of the BDRA, 2014.

¹⁴ Regulation 8 of the BDRA, 2014.

¹⁵ Mentjes H & Hall K (2013) Demography of South Africa's children. In: Berry L, Biersteker L, Dawes A, Lake L & Smith C (eds)(2013) South African Child Gauge 2013. Cape Town: Children's Institute, University of Cape Town. Pg 87

Additional conditions for children born outside of hospitals

39. In the event that a child is born outside a health care institution, Regulation 3(3) of the BDRA (for children born in South Africa) and Regulation 11 (for the children of South Africans born abroad) require the birth of such child to be confirmed by an affidavit by a South Africa citizen present at the time of the birth. This provision excludes children born under these conditions in the absence of a South African citizen.

40. The Committee is urged to ask South Africa why it imposes such a stringent requirement for birth registration for children born outside a health care institution, and to elaborate on how such a requirement, which may exclude children from birth registration can be compliant with the principle of the best interests of the child.

Children born out of wedlock

41. Section 10 and regulation 12 of the BDRA make provision for children born out of wedlock. Accordingly, it is the mother who must register the child. A father can only register such a child's birth, with the mother's consent. This is contrary to section 9 of the BDRA which states that either parent may register the birth of a child. It is also impossible under the BDRA for a child to have his or her father's details included in their birth certificate, without his consent. Even when DNA results are available, the father is required to be physically present and sign to admit paternity. Consequently, paternal orphans born out of wedlock can never access their father's nationality. It is unnecessary and discriminatory to distinguish between children born within and out of wedlock, when such distinction – as in this case – disadvantages extra-marital children. Furthermore, the child's right to an identity includes the right to know his or her parents, which can be undermined by these restrictive provisions, which also can cause the non-registration of the child's birth and resultantly, undermine their access to South African nationality.

42. Finally, children born out of wedlock who wish to add their father's particulars to their birth certificate (with their consent) are required to provide a costly DNA test (R1,800) to prove paternity of foreign fathers. This amounts to the multiple discrimination against children born out of wedlock to foreign fathers.

43. The Committee is urged to ask South Africa why it distinguishes between and disadvantages children born out of wedlock, particularly when their fathers are foreigners?

Foundlings

44. It is only foundlings whose births have been registered in South Africa according to Section 12 of the BDRA, who would have access to nationality through Section 2(2) of the Citizenship Act (see above). The procedure requires a social worker to register a child's birth, if such child is orphaned or abandoned. The Department is however reluctant to register foundlings who are not infants. The Birth and Deaths Registration Act in its new regulations also aims to exclude perceived foreigners. It states that if the orphan or abandoned child is clearly a foreigner he or she must be registered as a foreigner. This bars the child from accessing South African citizenship indirectly.

45. In this context, the Committee is urged to ask South Africa if it has considered applying Section 12 of the BDRA to foundlings of all ages, and not only to infants. The Committee is also urged to ask South Africa why the new regulations to the BDRA exclude foundlings who appear to be the children of non-South African parents.

Lack of legislation to protect vulnerable children

46. South African and foreign children in South Africa who are orphans, abandoned children, unaccompanied minors, separated children and members of child headed households are considered to be vulnerable children under the law. In most cases these children are unable to meet the procedural requirements to access nationality and documentation, even where their right to nationality and

documentation is clearly articulated under the law. Consequently, such children are at heightened risk of statelessness.

47. The Department of Social Development has suggested that USMCs are provided with an identifying document similar to an asylum seeker permit,¹⁶ until they have gone through the children's court process. In the absence of an electronic database at the Department however, a child may come in contact with many different social workers and police officials and hospitals without there ever being a combined record. This adds to the vulnerability of such children to trafficking and other child security concerns.
48. Such children are in need of care and protection¹⁷ and in addition to being identified as such by relevant government bodies, there is a need for their right to an identity (including birth registration and nationality) to be promoted, respected and fulfilled. Under the current framework, most children in such a state of vulnerability are provided with state care in a place of safety until the attainment of majority, after which, at the age of 18 they are compelled to live an undocumented life on the margins of society, without a claim to a nationality or access to basic human rights.

49. In this context, the Committee is urged to ask South Africa if it has considered legislating to protect extremely vulnerable children and to ensure in addition to the temporary care they receive as children, that their legal identity and nationality is recognised and respected, so they may continue to enjoy human rights in adulthood.

Recommendations

50. Based on the points identified above, the following recommendations are made which we hope the Committee will consider in urging the Government of South Africa to ensure the right of every child to acquire a nationality and to solve statelessness:
- I. **Ensure that national laws, regulations and policies are in line with South Africa's obligations under international law to ensure the right of every child to acquire a nationality, and to prevent childhood statelessness. In particular, guarantee the right to acquire a nationality for all otherwise stateless children born in South Africa, regardless of the parents' nationality or statelessness, or of their legal status.**
 - II. **Amend legislation that creates barriers to accessing birth registration. In particular, the legal status of the parent should not determine whether a child's birth can be registered or not, nor should the imposition of a short time limit for birth registration. Furthermore, the birth registration of foundling children must be clarified and implemented.**
 - III. **Address the current gap in the law which allows particularly vulnerable children who are stateless or at risk of statelessness, to reach adulthood without having accessed South African nationality. In particular, make provision for an immigration status and an identifying document for USMCs in order to facilitate naturalisation.**
 - IV. **Take further measures to reduce and ultimately eradicate existing cases of statelessness, particularly among children, including through retroactive implementation of safeguards to provide a nationality to stateless children born on the territory, and through ensuring that the loss, deprivation or renunciation of the parent's nationality does not result in the deprivation of the child's nationality.**
 - V. **Accede to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.**

¹⁶ Issued in terms of section 22 of the Refugees Act No.130 of 1998

¹⁷ Section 150(1) of the Children's Act 38 of 2005

ANNEX – Excerpts of relevant South African legislation

The Constitution of South Africa, Act 108 of 1996

Section 28(1) (a)

“every child has a right to a name and a nationality from birth”.

South African Citizenship Act 88 of 1995

Section 2:

- (1) Any person –
- (c) who immediately prior to the date of commencement of the South African Citizenship Amendment Act, 2010, was a South African citizen by birth; or
 - (d) who is born in or outside the Republic, one of his or her parents, at the time of his or her birth, being a South African citizen,
- shall be a South African citizen by birth.
- (2) Any person born in the Republic and who is not a South African citizen by virtue of the provisions of subsection (1) shall be a South African citizen by birth, if –
- (a) he or she does not have the citizenship or nationality of any other country, or has no right to such citizenship or nationality; and
 - (b) his or her birth is registered in the Republic in accordance with the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992).
- (3) Any person born in the Republic of parents who have been admitted into the Republic for permanent residence and who is not a South African citizen, qualifies to be a South African citizen by birth, if –
- (a) he or she has lived in the Republic from the date of his or her birth to the date of becoming a major; and
 - (b) his or her birth is registered in the Republic in accordance with the Births and Deaths Act, 1992 (Act No. 51 of 1992).“

Section 3:

Any person who is adopted in terms of the provisions of the Children’s Act by a South African citizen and whose birth is registered in accordance with the provisions of the Births and Deaths Registrations Act, 1992 (Act No. 51 of 1992), shall be a South African citizen by descent.”

Section 4(3):

Any child born in the Republic of parents who are not South African citizens or who have not been admitted into the Republic for permanent residence, qualifies to apply for South African citizenship upon becoming a major if –

- (a) he or she has lived in the Republic from the date of his or her birth to the date of becoming a major; and
- (b) his or her birth has been registered in accordance with the provisions of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992).

Section 6:

- (1) Subject to the provisions of subsection (2), a South African citizen shall cease to be a South African citizen if –
- (a) he or she, whilst not an being a minor, by some voluntary and formal act other than marriage, acquires the citizenship or nationality of a country other than the Republic;
- or

(b) he or she in terms of the laws of any other country also has the citizenship or nationality of that country, and serves in the armed forces of such country while that country is at war with the Republic.

- (2) Any person referred to in subsection (1) may, prior to his or her loss of South African citizenship in terms of this section, apply to the Minister to retain his or her South African citizenship in terms of this section, apply to the Minister to retain his or her South African citizenship, and the Minister may, if he or she deems it fit, order such retention.*
- (3) Any person who obtained South African citizenship by naturalisation in terms of this Act shall cease to be a South African citizen if he or she engages, under the flag of another country, in a war that the Republic does not support.”*

Section 7:

- (1) A South African citizen who intends to accept the citizenship or nationality of another country, or who also has the citizenship or nationality of a country other than the Republic, may make a declaration in the prescribed form renouncing his or her South African Citizenship.*
- (2) The Minister shall upon receipt of a declaration made under this section cause such declaration to be registered in the manner prescribed, and thereupon the person who made the declaration shall cease to be a South African citizen.*
- (3) Whenever a person ceases under subsection (2) to be a South African citizen, his or her minor children who are under the age of 18 years shall also cease to be South African citizens if the other parent of such children is not, or does not remain, a South African citizen. “*

Section 8:

- (1) The Minister may by order deprive any South African citizen by naturalisation of his or her South African citizenship if he or she is satisfied that –
 - (a) the certificate of naturalisation was obtained by means of fraud, false representation or the concealment of a material fact; or*
 - (b) such certificate was granted in conflict with the provisions of this Act or any prior law.**
- (2) The Minister may by order deprive a South African citizen who also has the citizenship or nationality of any other country of his or her South African citizenship if –
 - (a) such citizen has at any time been sentenced in any country to a period of imprisonment of not less than 12 months for any offence which, if it was committed outside the Republic, would also have constituted an offence in the Republic; or*
 - (b) the Minister is satisfied that it is in the public interest that such citizen shall cease to be a South African citizen.**
- (3) Whenever the Minister deprives a person of his or her South African citizenship under this section or section 10, that person shall cease to be a South African citizen with effect from such date as the Minister may direct and thereupon the certificate of naturalisation or any other certificate issued under this Act in relation to the status of the person concerned, shall be surrendered to the Minister and cancelled, and any person who refuses or fails on demand to the surrender any such certificate which he or she has in his or her possession, shall be guilty of an offence and liable to a fine or imprisonment for a period not exceeding five years, or to both such fine and imprisonment.”*

Section 10:

Whenever the responsible parent of a minor has in terms of the provisions of section 6 or 8 cease to be a South African citizen, the Minister may, with due regard to the provisions of the Children’s Act, order that such minor, if he or she was born outside the Republic and is under the age of 18 years, shall cease to be a South African citizen.”

Regulations on the South African Citizenship Act, 1995

Regulation 2:

- (1) If a child of a South African citizen is born outside the Republic, an application for the registration of the birth of that child must be submitted to the office of a South African Diplomatic or Consular Mission or to any office of the Department in the Republic within 30 days after the birth of such child.*
- (2) When a birth is registered in terms of section 13 of the Births and Deaths Registration Act, 1992 (Act No. 51 of 1992), the Director-General must issue a birth certificate to acknowledge South African citizenship."*

Birth and Deaths Registration Act 51 of 1992

Section 9:

- (1) In the case of any child born alive, anyone of his parents or her parents, or if the parents are deceased, any of the prescribed persons, shall, within 30 days after the birth of such child, give notice thereof in the prescribed manner, and in compliance with the prescribed requirements, to any person contemplated in section 4.*
- (3A) Where the notice of a birth is given after the expiration of 30 days from the date of birth, the birth shall not be registered, unless the notice of the birth complies with the prescribed requirements for a late registration of birth."*

Section 10:

- (1) Notice of birth of a child born out of wedlock shall be given
 - (a) under the surname of the mother; or*
 - (b) at the joint request of the mother and of the person who in the presence of the person to whom the notice of birth was given acknowledges himself in writing to be the father of the child and enters the prescribed particulars regarding himself upon the notice of birth, under the surname of the person who has so acknowledged.**
- (2) Notwithstanding the provisions of subsection (1), the notice of birth may be given under the surname of the mother if the person mentioned in subsection (1) (b), with the consent of the mother, acknowledges himself in writing to be the father of the child and enters particulars regarding himself upon the notice of birth."*

Section 12:

- (1) The notice of birth of an abandoned child which has not yet been given, shall be given, after an enquiry in respect of the child concerned in terms of the Children's Act, by the social worker concerned: Provided that in the event of any parent of the child being traced after the registration of the birth and the particulars in any document or record in respect of the child not being reflected correctly, the Director-General may on application, in the prescribed manner, amplify and correct the said particulars.*
- (2) The notice of birth of an orphaned child which does not list any of the persons contemplated in terms of section 9(1), shall be given by a social worker, after conclusion of an enquiry in respect of such child concerned in terms of the Children's Act."*

Section 13: *If a child of a father or a mother who is a South African citizen is born outside the Republic, notice of birth may be given to the head of a South African diplomatic or consular mission, or a regional representative in the Republic."*

Section 27B:

- (1) *The recording of adoption in a birth register contemplated in section 245(1) of the Children’s Act shall be made upon application, in the prescribed manner, accompanied by **The Regulations to the Births and Deaths Registrations Act***
- (2) *“3. Notice of birth for children the supporting documents mentioned in section 245(2) of the Children’s Act, and any other prescribed requirements in terms of this Act.*
- (3) *The Director-General shall, subject to the provisions of this Act, record in the prescribed manner the adoption and any change of the surname of the adopted child in the birth register in accordance with the adoption order.”*

Regulations on registration of birth

3. Notice of children born of South African citizens

- (1) *Any South African citizen must give notice of the birth of his or her child within 30 days of the birth as contemplated in subregulation (3).*
- (2) *Where both parents of a child whose birth is sought to be registered in terms of subregulation (1) are deceased, the notice of birth must be made by the next-of-kin or legal guardian of the child.*
- (3) *A notice of birth referred to in subregulation (1) must be given by, where possible, both parents to the Director-General on Form DHA-24 illustrated in Annexure 1A and be accompanied by -*
 - (a) *proof of birth on Form DHA-24/PB illustrated in Annexure 1D attested to by a medical practitioner who -*
 - (i) *attended to the birth; or*
 - (ii) *examined the mother or the child after the birth of the child;*
 - (b) *an affidavit attested to by a South African citizen who witnessed the birth of the child where the birth occurred at a place other than a health institution on Form DHA-24/PBA illustrated in Annexure 1E;*
 - (c) *biometrics, in the form of a palm, foot or fingerprint of the child whose birth is sought to be registered in the appropriate space on Form DHA-24 illustrated in Annexure 1A;*
 - (d) *fingerprints of the parents, which shall be verified online against the national population register: Provided that where the fingerprints cannot be verified online, the full set of fingerprints of the parents shall be taken on Form DHA-24/A illustrated in Annexure 1C;*
 - (e) *a certified copy of the identity document of the biological or adoptive mother or father or both parents of the child whose birth is sought to be registered, as the case may be;*
 - (f) *a certified copy of a valid passport and visa or permit, where one parent is a non- South African citizen;*
 - (g) *where applicable, a certified copy of a death certificate of any deceased parent;*
 - (h) *where applicable, a certified copy of the marriage certificate of the parents of the child whose birth is sought to be registered;*
 - (i) *where applicable, a certified copy of the identity document or valid passport and visa or permit of the next-of-kin or legal guardian; and*
 - (j) *where applicable, Form DHA-288/B illustrated in Annexure 2C.*
- (4) *Where a woman gives birth to more than one child during a single confinement, a notice of birth referred to in subregulation (1) must, be given for each child on a separate Form DHA-24 illustrated in Annexure 1A with all the supporting documents contemplated in subregulation (3) and the exact time of each birth must be recorded on this Form.*
- (5) *A notice of birth which does not meet the requirements of subregulations (3) and (4), shall not be accepted.*

4. Late registration of birth of children of South African citizens

- (1) *A notice of birth given later than 30 days after the birth but before the child is older than one year, shall be given in accordance with subregulation (3).*
- (2) *Where both parents of a child whose birth is sought to be registered in terms of subregulation (1) are deceased, the notice of birth must be given by the next-of-kin or legal guardian of the child.*

- (3) A notice of birth referred to in subregulation (1) must be given by, where possible, both parents to the Director-General on Form DHA-24/LRB illustrated in Annexure 1B and be accompanied by -
- (a) proof of birth on Form DHA-24/PB illustrated in Annexure 1D attested to by a medical practitioner who -
 - (i) attended to the birth; or
 - (ii) examined the mother or the child after the birth of the child;
 - (b) an affidavit attested to by a South African citizen who witnessed the birth of the child where the birth occurred at a place other than a health institution on Form of DHA-24/PBA illustrated in Annexure 1E;
 - (c) biometrics, in the form of a palm, foot or fingerprint, of the child whose birth is sought to be registered in the appropriate space on Form DHA-24 illustrated in Annexure 1A;
 - (d) fingerprints of the parents, which shall be verified online against the national population register: Provided that where the fingerprints cannot be verified online, the full set of fingerprints of the parents shall be taken on form DHA-24/A illustrated in Annexure 1C;
 - (e) a certified copy of the identity document of the biological or adoptive mother or father or both parents of the child whose birth is sought to be registered, as the case may be;
 - (f) a certified copy of a valid passport and visa or permit, where one parent is a non- South African citizen;
 - (g) where applicable, a certified copy of the death certificate of any deceased parent;
 - (h) where applicable, a certified copy of the marriage certificate of the parents of the child whose birth is sought to be registered;
 - (i) where applicable, a certified copy of the identity document or valid passport and visa or permit of the next-of-kin or legal guardian;
 - (j) Form DHA-288/A illustrated in Annexure 2A;
 - (k) where applicable, Form DHA-288/B illustrated in Annexure 2C; and
 - (l) proof of payment of the applicable fee.
- (4) Where a woman gives birth to more than one child during a single confinement, the notice of birth contemplated in subregulation (1) must be given for each child separately on Form DHA-24 illustrated in Annexure 1A with all the supporting documents contemplated in subregulation (3) and the exact time of each birth must be recorded in that Form.
- (5) A notice of birth which does not meet the requirements of subregulations (3) and (4), shall not be accepted.

5. Late registration of birth of children older than one year born of South African citizens

- (1) A notice of birth for a child or a person who is older than one year must be made by the biological parents of the child or a person as contemplated in subregulation (3).
- (2) Where both parents of a child or person whose birth is sought to be registered in terms of subregulation (1) are deceased, the notice of birth must be given by the next-of-kin or legal guardian of the child or person: Provided that where the person whose birth is sought to be registered is 18 years or older, such a person may give notice of his or her own birth.
- (3) A notice of birth referred to in subregulation (1) must be given by, where possible, both parents to the Director-General on Form DHA-24/LRB illustrated in Annexure 1B and be accompanied by -
- (a) proof of birth on Form DHA-24/PB illustrated in Annexure 1D attested to by a medical practitioner who -
 - (i) attended to the birth; or
 - (ii) examined the mother or the child after the birth of the child;
 - (b) an affidavit attested to by a South African citizen who witnessed the birth of the child or the person where the birth occurred at a place other than a health institution on Form DHA-24/PBA illustrated in Annexure 1E;
 - (c) biometrics, in the form of a palm, foot or fingerprint, of any child younger than 7 years whose birth is sought to be registered in the appropriate space on Form DHA-24 illustrated in Annexure 1A;
 - (d) fingerprints of the parents and the child or person who is 7 years or older, which shall be verified online against the national population register: Provided that where the parents, or the child

or the person's fingerprints cannot be verified online, the full set of fingerprints of the parents, the child or the person shall be taken on Form DHA-24/A illustrated in Annexure 1C;

(e) two recent identity size photographs of a child or person who is 7 years or older, affixed to the appropriate space on Form DHA-24/A illustrated in Annexure 1C;

(f) a certified copy of the identity document or passport and visa or permit of the parents of the child or person whose birth is sought to be registered, where one of the parents is a non-South African citizen;

(g) where applicable, a certified copy of the death certificate of any deceased parent of the child or person;

(h) where applicable, a certified copy of the marriage certificate of the parents of the child or person;

(i) where applicable, a certified copy of the identity document or passport and visa or permit of the next-of-kin or legal guardian of the child or person;

(j) Form DHA-288/A illustrated in Annexure 2A;

(k) Form DHA-288 illustrated in Annexure 2B;

(l) where applicable, Form DHA-288/B illustrated in Annexure 2C; and

(m) proof of payment of the applicable fee.

(4) Where a woman gives birth to more than one child during a single confinement, the notice of birth contemplated in subregulation (1) must be given for each child separately on Form DHA-24 illustrated in Annexure 1A with all the supporting documents contemplated in subregulation (3) and the exact time of each birth must be recorded in that Form.

(5) A notice of birth which does not meet the requirements of subregulations (3) and (4), shall not be accepted."

6. Verification, approval or rejection of notice of birth

(1) Upon approval of a notice of birth given in accordance with regulations 3,4 and 5 the Director-General must issue to the parents -

(a) a birth certificate on Form DHA-5 illustrated in Annexure 4; or

(b) an acknowledgement of receipt on Form DHA-25 illustrated in Annexure 3, if, for any reason, the birth certificate cannot be issued immediately.

(2) Any person who is issued with a birth certificate must verify the information contained therein and if found to be incorrect must, within 7 days of receipt of the birth certificate, return such birth certificate to the Director-General for rectification as contemplated in section 7 of the Act.

(3) The Director-General must, in respect of each notice of birth contemplated in regulations 3, 4 and 5, authenticate the veracity of the information furnished to him or her and either approve or reject the notice.

(4) For the purposes of subregulation (3), the Director-General may prior to approval of notice of birth contemplated in regulation 3, 4 or 5 cause any person who gives the notice or supported such notice to be interviewed by a screening committee established by him or her.

(5) The screening committee must, after interviewing all relevant persons relating to the information contained in the notice, make recommendations to the Director-General who shall consider and approve or reject the notice.

(6) Where it is apparent from a notice of birth that the child or the person whose birth is sought to be registered is a non-South African citizen, the Director-General may deal with the notice as contemplated in regulation 8.

(7) The date of birth or identity number allocated to a child or person whose notice of birth was approved as contemplated in subregulation (1) may not be rectified after the period contemplated in subregulation (2).

(8) Where a notice of birth is rejected, the Director-General shall inform the parents, in writing, of the rejection of the notice.

(9) If at any time after a birth certificate has been issued it becomes apparent that the birth certificate was issued erroneously to any person, the Director-General must cancel the birth registration, birth

certificate and any other documents, including an identity document or passport issued to the holder of such birth certificate.

7. Notice of birth of children born of permanent residents and refugees

- (1) Regulations 3, 4, 5 and 6 shall apply with the necessary changes to persons who hold permanent residence status in terms of section 26 or 27 of the Immigration Act and to persons who hold refugee status in terms of section 24 of the Refugees Act.
- (2) Upon approval of a notice of birth, the Director-General must issue to the parents a birth certificate with an identity number for holders of a valid -
 - (a) permanent residence permit issued in terms of the Immigration Act, on a Form DHA-19 illustrated in Annexure 24, as contemplated in terms of section 7(2)(b) of the Identification Act; or
 - (b) refugee permit issued in terms of section 24 of the Refugees Act, on Form DHA-19 illustrated in Annexure 24, as contemplated in terms of section 7(2)(b) of the Identification Act.

8. Notice of birth of children born of parents who are non-South African citizens

- (1) A notice of birth of a child born of parents who are non-South African citizens and who are not permanent residents or refugees must be given as contemplated in subregulation (3) by either parent of the child within 30 days of the birth of the child in the Republic.
- (2) Where the parents of the child whose birth is sought to be registered as contemplated in subregulation (1) are deceased, the notice of birth may be given by the next-of-kin or legal guardian of the child.
- (3) A notice of birth referred to in subregulation (1) must be given to the Director-General on Form DHA-24 illustrated in Annexure 1A and be accompanied by -
 - (a) proof of birth on Form DHA-24/PB illustrated in Annexure 1D attested to by a medical practitioner who -
 - (i) attended to the birth; or
 - (ii) examined the mother or the child after the birth of the child;
 - (b) an affidavit attested to by a person who witnessed the birth of the child where the birth occurred at a place other than a health institution on Form DHA-24/PBA illustrated in Annexure 1F;
 - (c) a certified copy of a valid passport and visa or permit of the mother or father, or both parents, of the child, as the case may be;
 - (d) where applicable, a certified copy of the valid identity document or passport and visa or permit of the next-of-kin or legal guardian;
 - (e) where applicable, a certified copy of an asylum seeker permit issued in terms of section 22 of the Refugees Act of the mother or father or both biological parents of the child;
 - (f) where applicable, a certified copy of the death certificate of any deceased parent of the child;
 - (g) where applicable, a certified copy, of the marriage certificate of the parents of the child whose birth is sought to be registered;
 - (h) where applicable, Form DHA-288/B illustrated in Annexure 2C; and
 - (i) proof of payment of the applicable fee.
- (4) Where a woman gives birth to more than one child during a single confinement, the notice of birth contemplated in subregulation (1) must be given for each child separately on Form DHA-24 illustrated in Annexure 1A with all the supporting documents contemplated in subregulation (3) and the exact time of each birth must be recorded in that Form.
- (5) Upon approval of a notice of birth, the Director-General must issue to the parents a birth certificate without an identity number on Form DHA-19 illustrated in Annexure 24, in terms of section 5(3) of the Act.

9. Notice of birth of abandoned or orphaned children

- (1) *A notice of birth of an abandoned or orphaned child in terms of section 12 of the Act must be given on Form DHA-24 illustrated in Annexure 1A by a social worker within 60 days of obtaining a court order in terms of section 156 of the Children's Act, and must be accompanied by -*
 - (a) *a court order issued by the children's court;*
 - (b) *a certified copy of the identity document or valid passport and visa or permit of the social worker;*
 - (c) *where available, a certified copy of the identity document or passport and visa or permit of the parents of the child;*
 - (d) *where available, a certified copy of the death certificate of the parents of the child; and*
 - (e) *a social workers' report that was presented to the children's court.*
- (2) *Where it is apparent from a notice of birth that the child whose birth is sought to be registered in terms of the court order is a non-South African citizen, the Director-General may deal with the notice as contemplated in regulation 8 and inform the relevant children's court accordingly.*
- (3) *The social worker who submits a notice of birth of a child referred to in subregulation (1), must give a name or surname, or both name and surname, to that child if the name or surname or both name and surname have not been given to the child.*
- (4) *A birth certificate issued in terms of section 12 of the Act must contain the particulars of the parents of the child where such particulars are known.*

10. Recording of adoption in birth register

- (1) *An application for recording of adoption referred to in section 27B of the Act must be made by the adoptive parents, within 90 days of the registration of the adoption order by the adoption registrar, on Form DHA-1773 illustrated in Annexure 13.*
- (2) *The application contemplated in subregulation (1) must be supported by the documentation referred to in section 245 of the Children's Act, which are -*
 - (a) *a certified copy of the adoption order;*
 - (b) *a certified copy of the original birth certificate of the child; and*
 - (c) *where applicable, proof of payment of the applicable fee.*
- (3) *Upon approval of the application to record the adoption of the child on the birth register, the old identity number of the adopted child must be blocked and marked and a new identity number issued, together with a corresponding birth certificate recording the names of the adoptive parents.*

11. Birth outside Republic

- (1) *A notice of birth given for a child born of South African citizens outside the Republic as contemplated in section 13 of the Act shall be on Form DHA-24 illustrated in Annexure 1A and be accompanied by -*
 - (a) *Form DHA-529 illustrated in Annexure 5; and*
 - (b) *an unabridged birth certificate or other similar document issued by the relevant authority in the country where the birth occurred.*
- (2) *A notice of birth contemplated in subregulation (1) must comply with the requirements as set out in regulation 3, 4 or 5, as the case may be.*
- (3) *A notice of birth contemplated in subregulation (1) must be given to the Head of a South African diplomatic or consular mission or to any district or regional office of the Department in the Republic.*
- (4) *The Director-General must, in respect of each notice received in terms of this regulation, determine the citizenship of the parents in accordance with the provisions of the South African Citizenship Act, and if one of the parents is a South African citizen, register the birth in terms of section 5(2) of the Act and issue a birth certificate to the parents.*
- (5) *Any person who, in terms of section 6 of the South African Citizenship Act, has lost and subsequently applied for resumption of his or her South African citizenship and requires his or her child to be registered in terms of this regulation, must give such notice in the Republic.*

12. Notice of birth of child born out of wedlock

- (1) *A notice of birth of a child born out of wedlock shall be made by the mother of the child on Form DHA-24 illustrated in Annexure 1A or Form DHA-24/LRB illustrated in Annexure 1A, whichever applicable.*

- (2) *The person who acknowledges that he is the father of the child born out of wedlock must -*
- (a) *enter his particulars and sign on Part D of Form DHA-24 illustrated in Annexure 1A or on Part D of Form DHA-24/LRB illustrated in Annexure 1B, as the case may be, at the offices of the Department and in the presence of an official of the Department as contemplated in section 10(1)(b) of the Act;*
 - (b) *submit an affidavit on Form DHA-288/C illustrated in Annexure 2D in which he -*
 - (i) *states his relationship to the mother; and*
 - (ii) *acknowledges paternity of the child; and*
 - (c) *have his fingerprints verified online against the national population register: Provided that in the event of the father being a non-South African citizen, he must submit a certified copy of his valid passport and visa or permit, permanent residents identity document or refugee identity document.*

13. Amendment of birth registration of child born out of wedlock

- (1) *An application for an amendment of birth registration referred to in section 11(1) of the Act shall be made on Form DHA-59 illustrated in Annexure 7.*
- (2) *The Director-General must upon the approval of the application contemplated in subregulation (1), amend the registration of the birth and issue a new birth certificate in accordance with the said application.*

14. Application for insertion of unmarried father's particulars in birth register of child born out of wedlock

- (1) *An application for the insertion of the father's particulars in terms of section 11(4) of the Act shall be made on Form DHA-1682 illustrated in Annexure 6.*
- (2) *An application contemplated in subregulation (1) made by a person who is a non-South African citizen shall be accompanied by original paternity test results, not older than 3 months, from an institution designated by the Director-General confirming that such person is the biological father of the child.*
- (3) *The Director-General must authenticate the veracity of the information furnished to him or her in respect of the application contemplated in subregulation (1) before approving the application.*
- (4) *Upon approval of the application, the Director-General must record the particulars of the person as the father of the child on the birth register of the child and issue to such person -*
 - (a) *a birth certificate on Form DHA-5 illustrated in Annexure 4; or*
 - (b) *an acknowledgement of receipt on Form DHA-25 illustrated in Annexure 3, if, for any reason, the birth certificate cannot be issued immediately.*

15. Alteration of particulars of registered father of child born out of wedlock

- (1) *Any person who requires to alter the particulars of a father whose particulars already appear in the birth register of a child as the father as contemplated in sections 10(1)(b) and 11(4) of the Act, shall submit an application on Form DHA-1682 illustrated in Annexure 6, supported by conclusive proof contemplated in subregulation (2).*
- (2) *The conclusive proof contemplated in subregulation (1) shall be in the form of original paternity test results not older than 3 months, obtained at the cost of the applicant from an institution designated by the Director-General.*