



LEGAL EAGLE  
LAW FORUM

---

**Review Document**

**The Birth, Death and Marriage Registration Act, 1886**

**Author- Ms. Randita Paul**

# **THE BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT, 1886**

## **ENACTMENT OF THE ACT**

The Births, Deaths and Marriages Registration Act, 1886 came into force on 8<sup>th</sup> March 1886. This Act came into force by notification in the Official Gazette by the Central Government. This Act extends to the whole of India.

## **OBJECTIVE BEHIND THE ENACTMENT OF THE ACT**

The Births, Deaths and Marriages Registration Act, 1886 was enacted to keep a record of the number of newly born, deaths and marriages in each day in India. This Act provides voluntary registration process. General Registry Offices are established for keeping registration records of births, deaths and marriages. All this records and documents are required for many other purposes. These documents serve as a proof for all. This registration details are declared to be admissible as evidence in government books.

## **IMPORTANT DEFINITIONS UNDER THE ACT**

1. **Sign** – Section 3 of the Act defines ‘sign’ as a mark which a person makes when he or she is unable to write his or her name.
2. **Prescribed** – Section 3 of the Act defines ‘prescribed’ as the rule which is made under the said Act.
3. **Registrar of Births and Deaths** – Section 3 of the Act defines ‘Register of Births and Deaths’ as any registration officer who is appointed under the said Act.

## **ESTABLISHMENT OF GENERAL REGISTRY OFFICES**

Section 6(a) of the Act states that every State Government has the authority to establish a general registry office. Such registry offices keep records of certified copies of registers of births, deaths and marriages. The births and deaths are registered under The Births, Deaths and Marriages Registration Act, 1886. The marriages which are registered under the Special Marriage Act, 1954 or the Indian Christian Marriage Act, 1872 or which are registered beyond the local limits of the ordinary original civil jurisdiction of the High Court of Judicature of Bombay, under the Parsi

Marriage and Divorce Act, 1865. All these registrations are to be recorded by the general registry office under this Act.

## **APPOINTMENT OF REGISTRAR GENERALS**

Section 6(b) of the Act states that every State Government has the authority to appoint the Registrar General of Births, Deaths and Marriages. The State Government appoints a person to be the officer-in-charge of the general registry office. This Registrars are appointed for the territories which are under the administration of the State Government.

## **INDEXES**

Section 7 of the Act talks about indexes to be kept at general registry office. It states that indexes of all certified copies of registers should be maintained in the prescribed manner. Each Registrar General of Births, Deaths and Marriages shall send these indexes to the general registry office under this Act or the Acts which are mentioned earlier.<sup>1</sup>

According to Section 8 of the Act, these indexes should be open for inspection. These indexes are kept open for inspection by any person, whoever want to inspect, for a reasonable time period on the payment of the prescribed fees. Any person who applies for the copies of such entries related to the index must be given to them. The copies of entries are certified by the Registrar General of Births, Deaths and Marriages or by any other officer who is authorised to certify them by the State Government. These copies of entries are to be treated as an evidence for proving the birth, death and marriage under Section 9 of the Act.

## **SUPERINTENDENCE OF REGISTRARS BY REGISTER GENERAL**

Section 10 of the Act states that the Registrar General of Births, Deaths and Marriages are authorised to exercise general superintendence over the Registrars of Births and Deaths in the territories for which he is appointed.

## **APPLICATION OF REGISTRATION OF BIRTHS AND DEATHS**

---

<sup>1</sup> The Special Marriage Act, 1954, Indian Christian Marriage Act, 1872 and Parsi Marriage and Divorce Act, 1936.

According to Section 11 of the Act, the persons who can register for their births and deaths are every member of every race, sect or tribe to which the Indian Succession Act, 1865 is applicable. All preaches of Christianity can also apply for registration under this Act. Other than these persons any other person who are notified by the State Government in the Official Gazette can also apply for registration under this Act.

## **PROCEDURE FOR ESTABLISHMENT OF REGISTRATION**

### **❖ POWER OF STATE GOVERNMENT TO APPOINT REGISTRARS FOR ITS TERRITORIES**

Section 12 of the Act authorises the State Government to appoint any person as the Registrars of Birth and Deaths for any local area which is under the administration of the State Government.

### **❖ REGISTRAR DEEMED TO BE A PUBLIC SERVANT**

Section 14 of the Act states that every Registrar of Births and Deaths are deemed to be the public servant within the meaning of the IPC, 1860.

### **❖ OFFICE AND ATTENDANCE**

There must be an office of each Registrar within the area for which he is appointed according to Section 16 of the Act. These offices must be attended only for the purpose of registration. The date and time of registration posted in the outer door of the office of the Registrar.

### **❖ ABSENCE OF REGISTRAR OR VACANCY IN HIS OFFICE**

Section 17 of the Act states that if any Registrar of the local area of Calcutta, Madras or Bombay, is absent or there is a temporary vacancy in the office of the Registrar the Registrar General appoints any person on behalf of the Registrar. If no such person is appointed on behalf then the Judge of the District Court who has jurisdiction of the office of the Registrar shall be the Registrar of Births and Deaths until the absence of the Registrar or the vacancy is filled by the State Government. It is mandatory for the Registrar General to inform the State Government of all the appointments which are made by him under this section.

## ❖ REGISTER BOOKS TO BE SUPPLIED AND PRESERVATION OF RECORDS TO BE PROVIDED FOR

Sufficient number of register books for the registration of births, deaths and marriages under this Act, are to be supplied to the Registrar. This register books shall be preserved and recorder in a suitable manner as per the provisions of Section 18 of the Act.

## MODES OF REGISTRATION

### ❖ DUTY OF REGISTRAR

- ❖ Section 19 of the Act states whenever a notice is given to the Registrar within the prescribed time period and in a prescribed mode by any person who is authorised under Section 2 of the Act, the Registrar has to make an entry of such birth or death in the register book. The *proviso* to this section says that the Registrar may refuse to make an entry in the register book if he believes or has reason to believe that such notice of birth or death is incorrect or false. He may register only if he receives an order from the Judge of the District Court. The Judge may direct him to make an entry in the register book in the prescribed manner. The *proviso* also states that until the mother of an illegitimate child or the person who claims himself to be the father of the child, the Registrar shall then enter the name of the person as the father of the illegitimate child.
- ❖ Section 24 of the Act states that every Registrar of Birth and Deaths are liable to send certified copies of entries made in the register book to Register General.

### ❖ PERSONS AUTHORISED TO GIVE NOTICE OF BIRTH

According to Section 20 of the Act, the following persons are authorised to give notice of birth of a child:

- ❖ Father or mother of the child.
- ❖ Any person who is present at the time of birth of the child.
- ❖ Any person who is staying in any part of the house, at the time when the child is born or if the person knows that a child is born in the house.
- ❖ Any medical practitioner who knows that the child is born.
- ❖ Any other person who is in-charge of the child.

## ❖ **PERSONS AUTHORISED TO GIVE NOTICE OF DEATH**

According to Section 21 of the Act, the following persons are authorised to give notice of death of the person:

- ❖ Any relative of the deceased who knows about the person's death and knows what are required to be registered for the death of the person.
- ❖ Any person who is present at the time of death of the person.
- ❖ Any person who is staying in any part of the house, at the time when the death had occurred or if the person knows that the person has died in the house.
- ❖ Any person who are present at the time of the illness of the deceased person.
- ❖ Any person who has seen the body of the deceased person.

## ❖ **ENTRY OF BIRTH OR DEATH TO BE SIGNED BY PERSON AUTHORISED TO GIVE NOTICE**

Section 22 of the Act states that the person giving the notice of the birth or death must sign the entry which is made under Section 19 of the Act. It is not necessary to attend before the Registrar if he has already given a notice. Until the person has signed the entry, the birth or death shall not be registered under this Act. Both the father and mother of the illegitimate child must sign the entry before registering the birth of the child.

## ❖ **GRANT OF CERTIFICATE OR REGISTRATION**

Section 23 of the Act grants a birth certificate or a death certificate to the person who gave notice within the prescribed period and prescribed manner. An application has to be made to the Registrar for getting the certificate.

## ❖ **SEARCHES AND COPIES OF ENTRIES IN REGISTER BOOKS**

Section 25 of the Act states that on payment of prescribed fees, the Registrar may allow to search the entries made in the register book. A copy of such entry will also be given to the person searching it. This search must be conducted in a reasonable time, most probably, within the office hours. Every such copy of the entry which is given has to be certified by the Registrar of Births and Deaths. These copies can be served as an evidence for proving the birth of a child or the death of a person.

### ❖ **PENALTY FOR FALSE INFORMATION**

Section 27 of the Act penalises any person who knowingly or wilfully gives false notice of the birth or death of a person and causes it to be entered in any register book of birth or death. He shall be imprisoned for up to 3 years or with fine or may be both.

### ❖ **CORRECTION OF AN ENTRY MADE IN THE REGISTER**

According to Section 28 of the Act alterations may be made in the entries made in the register book in a prescribed form and manner if the person is not satisfied with it. The erroneous in the form must be proved until the Registrar is satisfied with the proof. A separate certified copy of the erroneous entry and the marginal correction must be sent to the Register General of Births, Deaths and Marriages if a certified copy of the entry has already been sent to him.

## **SPECIAL PROVISIONS AS TO CERTAIN EXISTING REGISTERS**

### ❖ **PERMISSION TO PERSONS HAVING CUSTODY OF CERTAIN RECORDS TO SEND THEM WITHIN ONE YEAR TO REGISTRAR GENERAL**

Section 32 of the Act states that if any person, for the time being, has the custody of any record or register of birth, baptism, naming, dedication, death or burial of any person referred to in Section 11(1) of the Act, then they have to send the record or register to the office of the Registrar General of Births, Deaths and Marriages for the territories within which he resides within the period of 1 year.

### ❖ **APPOINTMENT OF COMMISSIONERS TO EXAMINE REGISTERS**

Section 33 of the Act talks about the examination of the registers. The register or records may be examined by the Commissioner. Such Commissioner may be appointed by the State Government. Any person whom the State Government thinks fit may be appointed. The Commissioner who is appointed shall have the authority of holding office for the period of time as long as he is appointed by the order of the application or any other order.

### ❖ **DUTIES OF COMMISSIONER**

The duties of the Commissioner who is appointed under Section 33 of the Act are stated in Section 34 of the Act. The duties are as follows:

- ❖ The Commissioner has the authority to enquire into the state, custody and authenticity of every register which is sent to the Registrar General under Section 32 of the Act.
- ❖ The Commissioner must deliver a descriptive list of all accurate and faithful records.
- ❖ These descriptive lists must be delivered in the prescribed format and it should match with the register or records.
- ❖ These lists have to be certified by the Commissioner either in full or certain portions of it.

### ❖ **SEARCHES OF LISTS PREPARED BY THE COMMISSIONERS AND GRANT OF CERTIFIED COPIES OF ENTRIES**

Section 35(1) of the Act states that on payment of prescribed fees by any person, the descriptive lists delivered by the Commissioner under Section 34(1) of this Act, will be open for inspection at any reasonable time. Section 35(2) of the Act states that the copy of entry should be certified by the Registrar General or any other person who is appointed on behalf of him.

## **CONCLUSION**

The Birth, Deaths and Marriages Registration Act, 1886 was enacted to keep a record of the number of children born each day, the number of persons dying each day and the number of marriages conducted each day. Without this Act, it would be very difficult to keep a track of all this. It provides a voluntary registration of all persons under this Act. This registration details can also be provided before the court of law as a proof of birth, death or marriage in any case. The certificate provided after registration is a valid evidence for the purpose of statement of proof.

## **REFERENCE**

- ❖ [https://www.indiacode.nic.in/handle/123456789/2309?view\\_type=browse&sam\\_handle=123456789/1362#:~:text=India%20Code%3A%20Births%2C%20Deaths%20and%20Marriages%20Registration%20Act%2C%201886&text=Long%20Title%3A,and%20for%20certain%20other%20purposes.](https://www.indiacode.nic.in/handle/123456789/2309?view_type=browse&sam_handle=123456789/1362#:~:text=India%20Code%3A%20Births%2C%20Deaths%20and%20Marriages%20Registration%20Act%2C%201886&text=Long%20Title%3A,and%20for%20certain%20other%20purposes.)



### **About the Author**



I am Randita Paul from Surendranath Law College, University of Calcutta. I had got a marvellous opportunity for one-month internship under LegalEagle Law Forum. This internship was very enriching for me. I had gathered a lot of experience. An internship like this was very challenging. Reviewing the Bare Acts is tough as well as knowledgeable. I had to go through the Bare Act thoroughly and review the same. This internship was a supplement to my academic education. It allowed me to work with experts in the organisation. An internship like this has bridged the gap between my academic knowledge and practical field. I have gained an outstanding experience that will help me in my future for the real world.