REPUBLIC OF NAURU

BIRTHS DEATHS AND MARRIAGES REGISTRATION ACT 2017

No. 33 of 2017

An Act to repeal the Births Deaths and Marriages Act 1957; for the establishment and maintenance of registers of births, deaths, marriages, adoptions, change of names and the recording in the registers of information in respect of births, deaths, marriages, changes of name and adoptions that take place in the Republic and in certain other circumstances; the issuing of certificates in respect of information recorded in the Register and access to information recorded in the Register and related matters

Certified: 19th December 2017

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Enacted by the Parliament of Nauru as follows:

PART 1 - PRELIMINARY

1 Short title

This Act may be cited as the *Births Deaths and Marriages Registration Act 2017.*

2 Commencement

This Act commences on 1 February 2018.

3 Definitions

In this Act, unless the context requires otherwise:

'adoption' means a change in the legal parents of a child under the Adoption of Children Act 1965;

'adult' means a person who is 18 years of age or more;

'approved organisation' means an organisation or religious body approved by the Cabinet for the purposes of and under this Act;

'approved person' means a person approved by the Cabinet for the purposes of and under this Act;

'birth registration form' means a birth registration form prescribed by regulations;

'change' in relation to a name, includes an addition or substitution;

'child' means a person who is not an adult and includes a stillborn 'child' and has a corresponding meaning to that in the Child Protection and Welfare Act 2016;

'Court' means the District Court or where necessary, the Supreme Court;

'deed poll' means a legal deed made and executed by a person to formalise a change of the person's name;

'disposal of human remains' has the same meaning as provided for in the Funeral Burial and Cremation Act 2017;

'document' includes electronic information;

'event' means a birth, death, marriage, change of name, an adoption, stillbirth or dissolution of marriage;

'former Act or other law' includes the Births Deaths and Marriages Act 1957 or other preceding legislation;

'guardian' includes the person having the custody or control of a child or young person;

'health practitioner' means a registered medical practitioner within the meaning of the Health Practitioners Act 1999;

'marriage' means a voluntary union between one man and one woman;

'Marriage Officer' means:

(a) the Registrar;

(b) the Deputy Registrar; or

(c) an approved person;

'Minister' means the President of the Republic;

'minor' means any person under the age of 18 years;

'Nauruan' means a citizen of the Republic;

'Order' means an order of the Court;

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

'prescribed fee' means a fee prescribed by regulations;

'prohibited name' means the proposed names which are prohibited under section 14(7);

(a) may cause offence to a reasonable person; or

(b) is longer than 5 words as provided for under section 14 (5);

(c) is indecent and obscene;

(d) resembles an animal, plant or fish;

(e) resembles violence;

(f) is treasonous or seditious or resembles names of persons involved in such activities; or

(g) contravenes the laws of the Republic;

'Register' means one of the 7 Registers maintained under this Act; or such records of registers in digital or electronic form;

'to register' or 'registered':

(a) for an event, means the recording or causing to be recorded in the Register by the Registrar, under this Act, a former Act, or other law, of information about the event; and

(b) for any information, means the recording in the Register of the information in a manner authorised by the Registrar under this Act, a former Act, or other law;

'tribe' means the tribes which exist or existed in the Republic;

'Registrar' means the Registrar appointed under this Act;

'stillbirth' means the birth of a dead baby, the delivery of the foetus that died before birth for which there is no possible resuscitation;

PART 2 – ADMINISTRATION

4 Registrar of Births Deaths and Marriages

(1) The Minister in consultation with the Cabinet shall appoint a Registrar under this Act.

(2) No person shall be appointed as the Registrar unless he or she has been employed in the Registry of Births, Deaths and Marriages for a term of at least 5 years.

5 Deputy Registrars

(1) The Minister may on the recommendation of the Registrar appoint a person to be a Deputy Registrar.

(2) The Deputy Registrar shall exercise such powers and functions as may be delegated by the Registrar.

(3) In the absence of the Registrar, the Deputy Registrar shall act as the Registrar.

6 Functions of the Registrar

The functions of the Registrar are to:

(a) establish and maintain a separate Register for:

(i) births;

(ii) deaths;

(iii) stillbirths;

(iv) marriages;

(v) adoptions;

(vi) change of names; and

(vii) national identity code; and

(b) perform such duties and functions prescribed by this Act or any other law.

7 The Registrar's seal

(1) The Registrar shall have a seal marked *'Registrar of Births, Deaths and Marriages, Republic of Nauru'*.

(2) A certificate or any document issued under the authority of the Registrar shall be by the seal of the Registrar accompanied by the signature of the Registrar.

(3) The seal of the Registrar shall constitute the validity of the document issued by the Registrar and shall be conclusive evidence for any purposes.

8 Register of Births Deaths and Marriages

The following form part of the Registers of Births Deaths and Marriages under the Act**:**

(a) a register or record of births, deaths and marriages that was maintained or purported to have been maintained by the Administrator of the Republic;

(b) a register or record of births, deaths and marriages that was in existence before the commencement of the Births Deaths and Marriages Act 1957;

(c) a register or record of births, deaths and marriages that was in existence before 31 January 1968 which were certified by the Administrator to the best of his or her knowledge as the true record of births, deaths and marriages that occurred in the Republic on and after 25 January 1915; and

(d) a register or record of marriages that was before 31 January 1968 which were certified by the Administrator to the best of his or her knowledge and belief as the true record of marriages that occurred in the Republic on and after 7 July 1921.

9 Compulsory registration of births deaths and marriages

The Registrar shall register each birth, death or marriage occurring in the Republic and other matters contained in section 6(a) of the Act.

10 Access to registration of births, deaths and marriages

The Registrar may cause a search of information to be made or permit the inspection of a source document or provide a person with a print-out, certificate, copy of a source document or information requested only if:

(a) the request is in respect of a named person;

(b) the request is for a source document of the named person's birth, death, marriage or change of name;

(c) the person making the request satisfies the Registrar that he or she is a person authorised by law to access the information;

(d) the request is made in a prescribed form or procedure approved by the Registrar; and

(e) the prescribed fee is paid.

11 Persons authorised to obtain registered information

(1) The following persons may obtain information in relation to a birth or change of name in the form of a print-out or a certificate:

(a) the person who is the subject of the information;

(b) a guardian or immediate family member of the person who is the subject of the information;

(c) any person, if the person who is the subject of the information was born 75 years from when the information is sought;

(d) any person, in the case of a still birth, where the still birth occurred more than 20 years from when the information is sought;

(e) the persons described in subsection (4).

(2) The following persons may obtain death information in the form of a print-out or a certificate:

(a) the person authorised to register a death under section 38;

(b) an immediate family member of the person who is the subject of the information:

(c) any person, if the person who is the subject of the information:

(i) died 20 years or more from when the information is sought ; or

(ii) was born 75 years or more from when the information is sought;

(d) the persons described in subsection (4).

(3) The following persons may obtain marriage information in the form of a print-out or a certificate:

(a) a person who is the subject of the information;

(b) an immediate family member of a person who is the subject of the information;

(c) any person in the case of a marriage that occurred 75 years or more from when the information is sought;

(d) the persons described in subsection (4).

(4) The following persons may obtain information on births, deaths, marriages or change of names in the form of a print-out or a certificate:

(a) a person who has been granted a power of attorney or has a written authority to obtain the information by the person who is the subject of the information;

(b) a person who requires the information for use in proceedings in a Court or quasi-judicial bodies;

(c) an executor, administrator or trustee of an estate or trust who requires the information for administration of the estate;

(d) the Nauru Lands Committee established under the Nauru Lands Committee Act 1956;

(e) a public authority to avoid prejudice to the maintenance of the law, including the prevention, detection, investigation, prosecution and punishment of offences;

(f) the Nauru Police Force;

(g) a person who satisfies the Registrar that he or she requires the information for a proper purpose related to the purpose of recording information under the Act; and

(h) family members for the purpose of undertaking family history or research.

PART 3 – REGISTRATION OF BIRTHS

12 Compulsory notification of births

Where a child is born at a hospital in the Republic, the Director of Medical Services shall notify or cause the birth to be notified to the Registrar within 7 days of the birth.

13 Compulsory registration of births

(1) Where a person is born in the Republic one or both parents jointly shall register the birth of the person within 21 days of the birth.

(2) Where the parents are not able to register the birth of the person in subsection (1), a guardian may register the birth in the same manner and form as the parents would have registered the birth.

14 Particulars of birth

(1) The particulars which shall be provided for the purposes of registration of a birth are:

(a) name of the child;

(b) gender of the child;

(c) date of birth;

(d) place of birth;

(e) name of the mother as it appears in the marriage certificate;

(f) name of the father as it appears in the marriage certificate;

(g) where the parents are not married, the names of the respective parents or mother as it appears in their birth certificates;

(h) nationality of the parents;

(i) registered districts of the parents;

(j) tribe; and

(k) any other information as prescribed by regulations.

(2) A Nauruan when registering a birth shall register the surname:

(a) of the biological father; or

(b) of the biological mother where the name of the biological father of the person whose birth is to be registered is not provided.

(3) Where the Nauruan biological father intends to register the name of a person whose biological mother is a Nauruan and both the biological parents are not married to each other or to any other person, the father shall prior to registration:

(a) obtain the consent of the biological mother; or

(b) obtain an Order from the Supreme Court declaring him as the father.

(4) Where a foreign person registers a birth without a surname, the foreign person's second name may be registered as a surname.

(5) The Registrar shall not register a proposed name for registration under subsection (1) where the proposed name including the surname and combination of which in any language exceeds 5 words.

(6) The Registrar shall not register a name he or she deems a prohibited name in any language.

(7) The Cabinet may make regulations declaring certain names or class of names to be prohibited names.

15 Births in the Republic shall be registered

A birth in the Republic not registered under a former Act or other law shall be registered under this Act by the Registrar.

16 Late registration of birth

Where a birth of any person is not registered under section 13 of this Act or under any former Acts, the Registrar shall register the birth of a person:

(a) on an application for registration of birth;

(b) upon payment of a late fee prescribed by regulations; and

(c) a statutory declaration verifying the information in section 14.

17 Births on aircrafts and vessels to the Republic may be notified

(1) Where a person is born:

(a) in an aircraft during a flight; or

(b) on a vessel during a voyage, -

to the Republic, one or both parents, a guardian, the Captain of the aircraft or the Master of the vessel may notify the Registrar.

(2) A birth under subsection (1) shall be registered within 28 days from the date of birth of the person.

18 Registration of stillbirths

(1) A stillbirth shall be registered by one or both parents in the Register of Stillbirths.

(2) The details required for the registration of stillbirths shall be prescribed by regulations.

19 Child born outside the Republic

(1) Where a Nauruan is born outside the Republic, whether or not the birth is registered in the foreign country of birth in accordance with the laws of the foreign country, the birth shall be registered in the Republic.

(2) The particulars required for the registration of the birth under subsection (1) shall correspond with section 14.

20 Registration of birth of a foreign child in the Republic

(1) Where a foreign child is born in the Republic and both parents are foreigners, the parents may register the birth of the child in the Republic.

(2) The registration of birth of a foreign child shall not be deemed to be recognition or a declaration that the foreign child is a citizen of the Republic.

(3) At the time of the registration and issuing of the birth certificate, the Registrar shall record the nationality or citizenship of the foreign child as that of the foreign parents.

21 Where name other than registered name is given at baptism

(1) The parents of a child who is to be baptised shall provide the birth certificate of the child to the officiating minister prior to the time of baptism.

(2) Where a child is given a name at baptism different to the registered name, the officiating minister shall provide a certificate or notification of the baptismal name to the parents.

(3) The parents may register the baptismal name with the Registrar.

(4) Where the parents apply to register the baptismal name, the Registrar:

(a) shall not substitute the registered name with the baptismal name;

(b) may only register the baptismal name in the Register without altering or making changes to the registered name in the birth certificate.

(5) The registered name shall be recognised as the name for all official purposes.

22 Change of name by deed poll

(1) A person who has attained the age of 18 years may change his or her forenames or surname by a deed poll.

(2) The parents may change the forenames or surname of their child under the age of 18 years by a deed poll.

(3) The deed poll shall be in the form prescribed by regulations.

(4) Where the name of a person has been changed by deed poll under subsection (1) or (2), the new name shall be registered by an application to the Registrar:

(a) in the prescribed form;

(b) accompanied by the deed poll; and

(c) the reason or reasons for the change of name.

(5) Where satisfied, the Registrar shall enter and sign on the original entry a memorial of the change of name by deed poll in the Register.

(6) Every certificate or certified copy issued under this Act after registration shall show the name as changed and no other name.

(7) The registration of any change of name by deed poll may be prescribed by regulations.

(8) An application for a change of name under this section shall be accompanied by the prescribed fee.

23 Registration of change of name

The Registrar may register the change of name proposed under section 22 if in respect of an application for a change of name under this Act, the Registrar is satisfied:

(a) that the application is in accordance with this Part;

(b) as to the identity and age of the person whose name is to be changed;

(c) that the change of name is not:

(i) sought for a fraudulent or other improper purpose;

(ii) to conceal any criminal convictions; or

(iii) to conceal any deportation or prohibition of entry into any foreign country;

(d) that the proposed name is not and does not contain a prohibited name; and

(e) the requirements of section 22 have been met where the application is in respect of a minor.

24 Court may order change of name of child

(1) Subject to section 22, a parent or guardian of a child may apply to the Court for an order changing the name of the child.

(2) The Court may order that the name of the child be changed if the Court is satisfied that:

(a) the change of name is in the best interests of the child; and

(b) the proposed name is not a prohibited name.

(3) On the making of an Order under subsection (2), the Registrar of the Court which made the Order shall provide a sealed copy of the Order to the Registrar who on receipt of the Order shall register the change of name.

25 Change of name to be included with birth information

Where there is a change of name of a person whose birth is registered under this Act or a former Act, the Registrar shall:

(a) register the change of name; and

(b) retain all other information about the birth of that person provided at the initial registration of birth.

PART 4 - REGISTRATION OF ADOPTIONS

26 Registration of adoptions under former Act

(1) No adoptions other than adoptions under the Adoption of Children Act 1965 shall be a registrable adoption.

(2) An adoption under the Adoption of Children Act 1965 not registered under the former Act may be registered under this Act.

27 Registration of adoptions

(1) On the making of an adoption Order, the Resident Magistrate shall provide to the Registrar a sealed copy of the Order together with a notice which shall include:

(a) the registered name of the minor, if any, immediately before the making of the Order;

(b) the name of the minor to be registered after the making of the Order;

(c) the date and place of birth of the minor;

(d) the gender of the minor;

(e) the forenames and surnames if any of the biological parents or the last preceding adoptive parents of the child;

(f) the forenames and surnames, occupation and address of the adoptive parent or parents of the child;

(g) the name and title of the judicial officer granting the Order;

(h) the date the Order was made; and

(i) any other information the Registrar may require.

(2) The Registrar shall on the receipt of the information under subsection (1) amend such particulars of the registration of a birth by:

(a) registering the name conferred on the child by the adoption Order in substitution of the name of the child immediately prior to adoption; and

(b) registering the name and details of each adoptive parent in substitution of the name and details of the biological or last preceding adoptive parents.

28 Registration of birth after adoption Order where birth not registered

Where the birth of a person was not registered under the former Act or this Act but an adoption Order was subsequently made by the Court, the Registrar shall register the adoption as if the birth was registered under section 13.

29 Variation or discharge of adoption order

(1) Where an adoption Order is subsequently varied or vacated, the Registrar of the Court making the Order shall provide a sealed copy of the Order to the Registrar.

(2) On receipt of a copy of an Order under subsection (1), the Registrar shall register the Order in accordance with section 27.

30 Registration of overseas adoptions

The Registrar shall not register the name of a foreign person adopted by a Nauruan under the written laws of a foreign country.

31 Requisition of information of adoption

(1) Where a person requests for any purpose information in the Register in respect of the birth of a person to whom this Part of the Act relates, the Registrar shall provide:

(a) the most recent registered information; and

(b) a certified record of the entry in the Register.

(2) The Registrar shall not divulge, reveal or make accessible any historical registration other than the limitation provided under subsection (1).

32 Inspection of register of adoption

Where a person requests to inspect the information in the Register in respect of a birth registered under this Part of the Act, the Registrar may allow the person to inspect the Register if the Registrar is satisfied that:

(a) the information sought is material to the purpose for which inspection is required; and

(b) allowing the information to be inspected will not be an unjustified intrusion of the privacy of any person.

33 Request to be in writing

For the purposes of sections 31 and 32, an application for a request for information or inspection of the Register shall be:

(a) made in the prescribed form;

(b) upon payment of prescribed fees; and

(c) supported by detailed reasons for the request for inspection or information.

34 Registrar may provide adoption information to registration authorities overseas

Where the Registrar is satisfied that:

(a) an authority constituted in a foreign country has the function of recording information relating to births within the foreign country; and

(b) a person adopted in the Republic was born in the foreign country, -

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

PART 5 - REGISTRATION OF DEATHS

35 Compulsory notification of deaths

Where a person dies at a hospital in the Republic, the Director of Medical Services shall notify or cause the death to be notified to the Registrar immediately after the death.

36 Compulsory registration of deaths

(1) The Registrar shall register each death occurring in the Republic on the provision of the particulars of the death provided to him or her in the prescribed form.

(2) A death in the Republic not registered under a former Act or other law shall be registered under this Act.

37 Particulars of death

The particulars of the deceased which shall be provided for the purposes of the registration of a death are:

(a) name;

(b) age;

(c) gender;

(d) address;

(e) nationality;

(f) tribe;

(g) date of death;

(h) place of death;

(i) date of burial or cremation;

(j) name and address of the approved person officiating the funeral service of the deceased person;

(k) name and address of person registering the death; and

(l) such other requirements which may be prescribed by regulations.

38 Persons to notify death

(1) Subject to subsection (3), the right to register a death vests in the following persons in order of priority:

(a) the spouse of the deceased;

(b) the adult child of the deceased;

(c) the parents of the deceased;

(d) the adult siblings of the deceased;

(e) where a deceased is a minor or still born child, the parents or the guardians; or

(f) where there are no persons described in subparagraphs (a) to (e), any person who knew or was living with the deceased.

(2) Where the person at the top of the order of priority in subsection (1) is unavailable or unwilling to register the death, the right to register passes to the person who is next in the order of priority.

(3) Where a person prior to his or her death makes a testamentary instrument providing for a personal representative to register the death and administer the estate, the testamentary instrument shall prevail over subsection (1).

39 Registration of death

The person who has the right to register a death under section 38 shall register the death in the prescribed form.

40 Certificate of a health practitioner

(1) A health practitioner who attended the person during his or her last illness or examined or carried out a post mortem of the deceased shall issue a notification of death.

(2) The notification of death issued under subsection (1) shall provide the following details of the deceased:

(a) name;

(b) age or date of birth;

(c) gender;

(d) address;

(e) nationality;

(f) tribe;

(g) date of death;

(h) cause of death; and

(i) place of death.

41 Duty of health practitioner in case of suspicious death

(1) Where the health practitioner is of the opinion that a person has died under suspicious circumstances, he or she shall report the death to the Nauru Police Force.

(2) A health practitioner under subsection (1) who reports a death to the Nauru Police Force, shall not without the direction of the Nauru Police Force issue a notification of death.

(3) A health practitioner shall not issue a notification of a stillbirth without reporting the matter to the Nauru Police Force where he or she has any reason or cause to believe of any suspicious circumstances of a stillbirth or infanticide.

42 Resident Magistrate to notify Registrar

(1) Where a Resident Magistrate is notified of a death under the Inquest Act 1977, the Resident Magistrate shall:

(a) notify the Registrar; and

(b) if the Resident Magistrate has certified that an inquest into the death is unnecessary, -

provide to the Registrar such information as the Registrar requires for the purpose of registering the death.

(2) Where a Resident Magistrate has certified that an inquest into a death is necessary, the Registrar shall not register the death until the inquest has been held.

(3) After an inquest into a death has been held, the Resident Magistrate shall notify the Registrar of his or her findings and provide to the Registrar such information as the Registrar requires for the purpose of registering the death or under the Inquests Act 1977.

43 Approved person shall notify burial or cremation

An approved person who conducts a funeral service shall notify the Registrar of the burial or cremation within 7 days from the date of the burial or cremation.

44 Notification of death where no funeral service

An approved person or a person under section 38 shall notify the Registrar within 7 days from the date of disposal of the human remains.

45 Registrar may require person to notify funeral service, burial or cremation

(1) Where the Registrar is satisfied that an approved person fails to comply with sections 43 and 44, the Registrar shall issue a prescribed notice in writing requiring the approved person to notify the funeral service, burial or cremation by a date specified by the Registrar.

(2) A person who contravenes this section commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 2 years.

46 Deaths outside the Republic may be notified in certain circumstances

(1) The Registrar may be notified of a death:

(a) on an aircraft during a flight to the Republic by the Captain;

(b) on a vessel during a voyage to the Republic by the Master;

(c) outside the Republic of a person born in the Republic by a person under section 38;

(d) outside the Republic of a person who is domiciled in or ordinarily resident in the Republic by a person under section 38; or

(e) outside the Republic of a person leaving property in the Republic by a person under section 38.

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

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

PART 6 - REGISTRATION OF MARRIAGES

Division 1 – Compulsory registration of marriages

47 Compulsory registration of marriage

(1) The Registrar shall register marriages solemnised in the Republic.

(2) A marriage solemnised in the Republic and not registered under a former Act or other law may be registered under this Part.

48 Registration of marriages of Nauruans solemnised outside the Republic

(1) Subject to subsection (4), where a Nauruan marries outside the Republic, whether or not the marriage is registered in the foreign country in accordance with the laws of the foreign country, the marriage shall be registered in the Republic.

(2) The particulars required for the registration of a marriage under subsection (1) shall correspond with the requirements under section 54.

(3) The Registrar may require particulars or evidence of such marriage.

(4) Where satisfied with the particulars provided under subsections (2) and (3), the Registrar may register the marriage.

49 Persons to marry

Marriage in the Republic shall be the voluntary union of one man and one woman.

50 Marriageable age

(1) The marriageable age of a person under the Act shall be at least 18 years.

(2) No person shall solemnise a marriage of a person who has not attained the age of at least 18 years.

Division 2 – Marriage Officers

51 Marriage officers

(1) For the purposes of this Act, the Marriage Officers shall be:

(a) the Registrar;

(b) Deputy Registrar; and

(c) persons approved by the Cabinet to solemnise marriages.

(2) For the purposes of subsection (1)(c), the Cabinet may appoint such approved person to be Marriage Officers upon a request made by approved organisations.

52 List of Marriage Officers

(1) The Registrar shall maintain a list of Marriage Officers which shall contain the following details:

(a) name;

(b) approved organisation;

(c) residential and email addresses; and

(d) telephone number.

(2) The Registrar shall publish in the Gazette in January of each year a notice containing the list of persons authorised to solemnise marriages with the corresponding particulars under subsection (1).

53 Power of Registrar to amend list of Marriage Officers

Where a Marriage Officer dies or ceases to be a person authorised to solemnise marriages, the Registrar shall remove that person's name from the list of Marriage Officers.

Division 3 – Marriage process

54 Marriage application

(1) A man and a woman who desire to marry shall jointly apply to the Registrar in the prescribed form at least 7 days before the day of the intended marriage.

(2) The particulars which shall be provided by the persons under subsection (1) shall include:

(a) birth certificates;

(b) addresses;

(c) marital status;

(d) nationalities;

(e) tribes;

(f) where applicable, a Dissolution of Marriage Order of the Court;

(g) date of intended marriage; and

(h) any other information which the Registrar may require specifically for the purposes of determining whether the proposed marriage is a prohibited marriage.

(3) The Registrar shall submit the application to the Minister who may in consultation with the Cabinet:

(a) endorse the marriage; or

(b) decline to endorse where the intended marriage is prohibited under the Act.

55 Registrar to publish notice of Marriage in Gazette

Subject to section 54(3)(b) the Registrar shall publish the Notice to Marry in the Gazette.

56 Objections to Marriage

(1) A person may lodge with the Registrar an objection to the marriage of any person on the ground that the marriage is one in respect of which the Notice to Marry be revoked.

(2) An objection shall be in writing signed by or on behalf of the person and shall state his or her full name and residential address and such grounds of objection.

(3) The objection shall be given to the Registrar within 5 days of the publication of the Notice to Marry.

(4) Until the objection is withdrawn by the person lodging the objection or has been discharged as provided by section 57, the marriage shall not be solemnised.

57 Discharge of objection

(1) On receiving notice under section 55 of an intended marriage against which he or she is aware that an objection has been lodged, the Registrar shall submit the objection to the Resident Magistrate, who shall forthwith inquire into the grounds of objection stated in the objection and if the Resident Magistrate decides that those grounds should not prevent the solemnisation of the marriage, he or she shall discharge the objection.

(2) An objection shall be deemed to be discharged after the expiration of 3 months from the date on which it was lodged unless within that time a notice of the intended marriage to which the caveat relates has been given.

58 Vexatious objection

Any person who has lodged an objection shall, if the court considers the grounds on which the objection was lodged to be vexatious and unreasonable, be liable for damages.

59 Renewal or revocation of notice of marriage required if marriage not solemnised within 3 months

(1) Where a marriage is not solemnised within 3 months of the publication of the notice by the Registrar, the endorsement by the Minister for the proposed marriage shall lapse.

(2) The persons intending to marry under subsection (1) may reapply to the Registrar for the renewal of the notice for a period of not more than 3 months.

(3) Where the notice has lapsed or not renewed, the persons intending to marry may make an application for marriage to any other person.

(4) Where a person after giving notice of marriage has no intention of marrying within 3 months of the publication of the notice, he or she may revoke the notice of marriage by giving a prescribed notice of revocation to the Registrar.

(5) The Registrar shall publish the notice of revocation or withdrawal in the Gazette.

60 Witnesses to marriage

(1) A marriage shall be solemnised in the presence of 2 witnesses who shall:

(a) sign a certificate;

(b) the certificate must be signed by the Marriage Officer solemnising the marriage; and

(c) the certificate shall be signed by the persons marrying –

in the presence of each other.

(2) The witnesses shall be at least 18 years of age.

61 Marriage Officer not to solemnise marriage

(1) A Marriage Officer shall not solemnise a marriage:

(a) contrary to the requirements of section 54 (3); and

(b) without a current notice of marriage published in the Gazette.

(2) A Marriage Officer who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 2 years or to both.

(3) Where a Marriage Officer is convicted under subsection (2), his or her appointment as Marriage Officer shall be revoked.

62 Place and form of marriage

(1) Every marriage shall be solemnised at a place described in the Notice to Marry published in the Gazette.

(2) Subject to subsection (1), such marriage shall take place between the persons named in the licence according to such form and ceremony as they may think fit to adopt.

63 Declaration of marriage

(1) A Marriage Officer solemnising a marriage shall require each of the parties in his presence and in the presence of witnesses to say to the other '*I, AB (name of person), do take you, CD (name of person) to be my lawful wedded wife/husband'*, or words as nearly corresponding in a language other than English.

(2) After the solemnisation of the marriage, the Marriage Officer shall declare the marriage by stating, *'Pursuant to the powers conferred upon me by the Births Deaths and Marriages Registration Act, I now pronounce you to be husband and wife'.*

(3) The Minister may in consultation with the Cabinet make regulations for the declaration of marriage in the Nauruan language.

64 Certificate of marriage

(1) Where a Marriage Officer other than the Registrar or Deputy Registrar solemnises a marriage, the Marriage Officer shall:

(a) prepare triplicate copies of the certificate of the marriage in accordance with the prescribed form;

(b) require the persons marrying and witnesses to sign the triplicate copies of the certificate; and

(c) sign the certificate.

(2) The Marriage Officer shall:

(a) give one of the certificates to the persons married;

(b) submit a certificate to the Registrar within 7 days of the marriage; and

(c) retain a certificate for his or her records which shall be given to the approved organisation nominating the appointment of the Marriage Officer before he or she ceases to be a Marriage Officer.

(3) Where a Marriage Officer fails to comply with this section, he or she commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 2 years or to both.

65 Marriage certificates to be recorded in the Register

(1) On the receipt of a marriage certificate under section 64, the Registrar shall:

(a) record the certificate in the Register;

(b) publish the marriage in the Gazette.

(2) Where the Registrar fails to comply with subsection (1), he or she commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 2 years or to both.

66 Change of name in a marriage certificate

(1) Where a person married under this Act has subsequently changed his or her name under this Act, he or she may apply to the Registrar in the prescribed form to vary the marriage certificate by substituting the changed name with the name recorded in the marriage certificate.

(2) The Cabinet may make regulations for the purposes of this section.

Division 4 – Prohibited marriages

67 Prohibited marriages

(1) A marriage shall not be solemnised between two persons who fall within the relationships set out in the Schedule.

(2) No Marriage Officer, Court or any person shall authorise or permit the solemnisation or celebration of a proposed marriage of a man and a woman under subsection (1).

(3) Any person who contracts, conspires, aids, abets, solemnises or celebrates a marriage prohibited under subsection (1) commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 10 years or to both.

(4) A person living in a relationship with another person whose relationship falls within the ambit of a prohibited marriage shall not be validated by any laws in any manner or form.

Division 5 – Void marriages

68 Grounds where marriages are void

A marriage is void where:

(a) at the time of the solemnisation of the marriage, a person was lawfully married to another person either under the laws of the Republic or of a foreign country;

(b) the marriage is prohibited under Division 4;

(c) there was mistaken identity of the other person;

(d) there was misunderstanding of the nature and language of the solemnisation of the marriage;

(e) a person had medical, physical or mental incapacity at the time of the solemnisation of the marriage;

(f) a person was induced into the solemnisation of marriage;

(g) the marriage was solemnised under duress, coercion or other oppressive manner by one of the parties to the marriage or by a third person;

(h) the person was below the age of 18 years; and

(i) it is contrary to section 54 (3).

Division 6 – Recognition of marriage solemnised in foreign country

69 Recognition of marriage solemnised in foreign country

(1) Where a Nauruan applies to the Registrar for the recognition of his or her marriage solemnised in a foreign country, he or she shall provide the particulars of the marriage in the prescribed form.

(2) The particulars to be provided by the person under subsection (1) shall include:

(a) a certificate issued by the marriage authority of the foreign country certifying that the marriage was solemnised;

(b) photographs and documentary evidence of the marriage;

(c) the local laws of the foreign country where the marriage was solemnised; and

(d) a copy of the certificate of marriage duly translated into the English language by a practising lawyer, judicial officer or a Head of a Diplomatic Mission.

70 Certain marriages solemnised in foreign country not recognised

A marriage solemnised in a foreign country shall not be recognised as a marriage in the Republic if the marriage is:

(a) between a male and another male;

(b) between a female and another female;

(c) not recognised as a lawful marriage under the written laws of the foreign country;

(d) a customary marriage practised in the foreign country; or

(e) of a person under the age of 18 years.

Division 7 – Additional marriage ceremony

71 Remarriage

A person may remarry another person provided the person has an Order from the Court declaring that the earlier marriage has been dissolved.

72 Marriage not to be solemnised where a person is already married

A Marriage Officer shall not solemnise a marriage where:

(a) a person seeking to marry is already legally married; or

(b) the Marriage Officer has received information that persons seeking marriage are already legally married.

73 Contract of marriage void

A contract of marriage or any other form of arrangement or understanding shall be void and not recognised under the laws of the Republic.

Division 8 – Legitimation of children

74 Legitimation by marriage of parents

A person whose parents were not married to each other at the time of his or her birth, but have subsequently married each other, by virtue of the marriage becomes the legitimate child of his or her parents retrospectively from the date of birth.

75 Legitimacy of children of certain void marriages

Where a marriage is deemed a void marriage, any child born during the course of the subsistence of the void marriage shall be deemed to be a legitimate child.

Division 9 – Dissolutions to be recorded

76 Dissolutions to be recorded

Where a Court grants:

(a) an Order dissolving a marriage; or

(b) an Order declaring that a party to a marriage is presumed to be dead and that the marriage is dissolved; or

(c) an Order declaring a marriage to be void,—

the Registrar of the Court shall provide a sealed Order of the Court to the Registrar.

77 Record of dissolution of marriages outside the Republic

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

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

PART 7 – APPROVED ORGANISATIONS

78 Approval of Organisation

(1) Any organisation or religious body may apply to the Registrar for approval as an organisation which may nominate persons to solemnise marriages or to officiate funeral services or both.

(2) Every such application shall be accompanied by a statement signed by the highest ranking office bearer and 5 members of the organisation being at least 18 years of age stating:

(a) the constitution or the objects and beliefs of the organisation; and

(b) the number or, if this cannot accurately be ascertained, the approximate number of members of the organisation of or over the age of 18 years.

(3) The signatures of the signatories to every application shall be attested by some other person who shall, by statutory declaration attached to the statement, verify the signatures being genuine signatures of the persons whose signatures they purport to be.

(4) The Registrar shall submit the application to the Minister, being satisfied of the principal object or objects of the organisation is to uphold or promote religious beliefs or philosophical or humanitarian convictions, by notice in the Gazette declare the organisation to be an approved organisation.

79 Marriage Officers or funeral Officiators from approved organisations

(1) The name of every adult member of an approved organisation nominated to be a Marriage Officer shall be sent to the Registrar together with a certificate from the organisation declaring that it wishes the member to be a Marriage Officer or funeral officiator.

(2) The certificate shall be signed and attested in the manner specified in section 64 for applications for approval.

(3) The Registrar shall submit the application to the Minister and if the Minister is satisfied that any person so nominated is of good character and otherwise qualified to act as a Marriage Officer or officiate funerals and that the provisions of this Act in respect of the submission of his or her name have been complied with, in consultation with the Cabinet, he or she shall enter the name of the person on the list.

PART 8 – NATIONAL IDENTITY CODES

80 National Identity Codes

(1) The Cabinet may make regulations for national identity codes.

(2) The Registrar shall establish and maintain a Register of identity codes.

PART 9 - OFFENCES

81 Offence to alter Register

(1) Any person who without the authority of the Registrar makes any alteration in a register, commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 5 years or to both.

(2) Any person having lawful custody of a register who permits any such alteration under subsection (1), commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 5 years or to both.

82 Causing false entry in Registers

(1) A person shall not knowingly, whether by means of false information provided to the Registrar or to a person empowered to solemnise marriages or by any other means, cause a false or incorrect entry to be made in a Register.

(2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 5 years or to both.

83 Safe keeping of records of Registers

A person having lawful custody of a Register shall keep the Register safely and any such person who negligently loses the Register, or wilfully or negligently destroys or defaces any entry in the Register, or wilfully or negligently allows any entry in the Register to be destroyed or defaced while the Register is in his or her custody, commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment of 5 years or to both.

84 False Declarations, Etc.

(1) A person who wilfully makes a false statement in a declaration under this Act commits an offence.

(2) A person who, in connection with a proposed religious ceremony of marriage, makes to another person a written statement as to the matters specified in section 54 that, to the knowledge of the first-mentioned person is false in a material particular commits an offence.

(3) A person who forges a document or forges a signature to a document for the purpose of inducing another person to solemnise a marriage commits an offence.

(4) A person convicted of an offence under this section is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 5 years or to both.

85 Marriage of convenience

(1) Any person who contracts or otherwise enters into a marriage:

(a) knowing or having reason to believe that the purpose of the marriage is to assist one of the parties to the marriage to obtain an immigration advantage; and

(b) where any gratification whether from a party to the marriage or another person is offered, given or received as an inducement or reward to any party to the marriage for entering into the marriage, -

commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to imprisonment for a term not exceeding 5 years or to both.

(2) Any person who aids or abets in arranging a marriage between 2 other persons with the intention of assisting one of the parties to the marriage to obtain an immigration advantage, commits an offence and upon conviction is liable fine not exceeding $100,000 or to imprisonment for a term not exceeding 10 years or to both.

(3) This section shall apply to a marriage entered into by any persons whether in the Republic or outside the Republic.

(4) In this section:

(a) ***'gratification'*** includes:

(i) money or any gift, loan, fee, reward, commission, valuable security or other property or interest in property of any description, whether movable or immovable;

(ii) any office, employment or contract;

(iii) any payment, release, discharge or liquidation of any loan, obligation or other liability whatsoever, whether in whole or in part; and

(iv) any other service, favour or advantage of any description whatsoever;

(b) ***'immigration advantage'***, in relation to a party to a marriage, means the grant or extension of the validity of any visa, permit or re-entry permit

under the Immigration Act 2014 or the regulations or any order made for that party or for a child or parent of that party.

86 Marriage before persons not registered Marriage Officers

A person who goes through a form or ceremony of marriage with another person knowing that the person solemnising the marriage is not registered to solemnise the marriage commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 2 years or to both.

87 Offence to solemnise marriage falsely pretending to be Marriage Officer

(1) No person shall falsely pretend to be a Marriage Officer and solemnise any marriage.

(2) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 5 years or both.

88 Marriage of minors

A person who solemnises, aids or abets the marriage of a person under the age of 18 years commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 5 years or to both.

89 Failure to require marriage declaration

A Marriage Officer who solemnises a marriage without requiring the parties to make the declaration referred to in section 63 commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 5 years or to both.

90 Offence for obtaining document

A person who makes a written or oral statement knowing that it is false or being reckless as to whether it is false, for the purpose of obtaining a source document or a copy of a source document or information recorded under this Act, commits an offence and upon conviction is liable to a fine not exceeding $50,000 or to a term of imprisonment not exceeding 5 years or to both.

PART 10 – MISCELLANEOUS

91 Power of Registrar to correct errors

(1) Where the Registrar discovers or is informed of an error, omission or mis-statement in an entry in a Register, he or she may correct the error, omission or mis-statement after making inquiries to:

(a) determine whether a registrable event has occurred;

(b) collect details of a registrable event; or

(c) ensure that there is a correct record of a registrable event.

(2) Subject to subsection (3), a correction under subsection (1):

(a) in the case of the entry of a birth, shall be made in the presence of and attested by a parent of the child;

(b) in the case of the entry of a death, shall be made in the presence of and attested by the person who notified the Registrar of the death; and

(c) in the case of the entry of a marriage, shall be made in the presence of and attested by the persons who were married.

(3) Where under subsection (2) a correction is required to be made in the presence of and attested by a person who is dead or absent or who has no knowledge of the truth of the correction, the correction may be made in the presence of and attested by 2 witnesses who have knowledge of the truth of the correction.

(4) A correction under this section shall:

(a) be made in the margin of the Register opposite to the entry;

(b) contain a notation of the date on which the correction was made; and

(c) be signed by the Registrar.

(5) Where a correction is made under this section, the Registrar shall where practicable:

(a) advise any person to whom a certified copy or extract of the entry has been issued containing the error, omission or misstatement which has been corrected of the correction; and

(b) if requested by that person, issue to that person without charge, a certified copy or extract or the entry as corrected.

92 Validation

Where an entry of a birth, death or marriage is contained in a register or record of births, deaths or marriages that has been certified under section 8 and forms part of a Register:

(a) the birth, death or marriage shall be deemed to have been duly registered;

(b) the entry shall be deemed to have been made by a person duly appointed to register the birth, death or marriage, as the case may be; and

(c) in the case of a marriage, the person who officiated at the marriage shall be deemed to have been a person duly appointed for that purpose.

93 Certificates to be prima facie evidence

A birth, death or marriage certificate shall in any proceedings be received as prima facie evidence of the truth of the information it contains.

94 Electronic Transaction

(1) Any transaction under this Act may be conducted by electronic means subject to the approval of the Registrar and any conditions that the Registrar thinks fit.

(2) In allowing a transaction to be conducted electronically, the Registrar may require an electronic scanned copy of a signature be provided.

95 Registrar to inform himself or herself correctly of particulars

(1) Subject to subsection (3), the Registrar shall, before making an entry in a Register, make such inquiries as he or she thinks necessary to inform himself or herself correctly of the particulars required to be entered.

(2) A person shall not fail to provide to the Registrar any information which is required of him or her by the Registrar under subsection (1).

(3) The Registrar may dispense with any of the particulars required to be entered in a Register.

96 Defence where information not furnished

It is a defence to a prosecution for an offence under this Act of failing to provide information to the Registrar if the defendant establishes that the information had not come to the defendant's knowledge.

97 Certificate of no impediment to Nauruan intending foreign marriage

(1) A person who intends to marry outside the Republic in accordance with the law of another country or jurisdiction may apply to the Registrar for a certificate of no impediment.

(2) An application shall:

(a) be made in the prescribed form; and

(c) contain the prescribed information; and

(d) be accompanied by the prescribed fee.

(3) On receipt of an application under subsection (1), the Registrar shall carry out any investigation and inquiries he or she considers appropriate and where satisfied, issue the prescribed 'Certificate of No Impediment to Marriage'.

98 Declarations

(1) A person shall not make a declaration which he or she is required or permitted to make for the purposes of this Act knowing any statement in the declaration to be false.

(2) A declaration which a person is required or permitted to make for the purposes of this Act may be made before:

(a) the Registrar or Deputy Registrar;

(b) a Resident Magistrate;

(c) a Commissioner for Oaths;

(d) a Notary Public;

(e) the Registrar of the Court; or

(f) a Marriage Officer.

99 Form of information or particulars

Any particulars or information required to be provided to the Registrar shall if the Registrar so determines, be in a form determined by the Registrar.

100 Protection from liability

The Registrar shall not be liable in any suit, action or proceeding including constitutional redress in any Court of the Republic or any quasi-judicial or administrative body for anything done in the bona fide exercise or the purported exercise of a power or function under this Act.

101 Jurisdiction of the court

The District Court shall have jurisdiction to hear and determine all offences under this Act and, shall have power to impose the penalty or punishment in respect of the offences under this Act.

102 Regulations

(1) Cabinet may make regulations prescribing all matters necessary or convenient to be prescribed for giving effect to this Act.

(2) Without limiting subsection (1), the regulations may provide for:

(a) any forms that are required under this Act; and

(b) fees for any applications or services that are required to be paid under this Act.

PART 11 – REPEAL, SAVINGS AND TRANSITIONAL

103 Repeal of Act

The *Births Deaths and Marriages Act 1957* is repealed by the provisions of this Act.

104 Savings and transitional provisions

Despite the repeal of the *Births Deaths and Marriages Act 1957* or former legislation, all registrations and certificates under that Act or former legislation remain valid.

SCHEDULE

Section 67

Prohibited degrees of consanguinity and affinity

(1) A man shall not marry his:	(2) A woman shall not marry her:
(a) Grandmother;	(a) Grandfather;
(b) Grandfather's wife;	(b) Grandmother's husband;
(c) Wife's grandmother;	(c) Husband's grandfather;
(d) Father's sister;	(d) Father's brother;
(e) Father's sister's daughter;	(e) Father's brother's son;
(f) Father's brother's daughter;	(f) Father's sister's son;
(g) Mother's sister;	(g) Mother's brother;
(h) Mother's sister's daughter;	(h) Mother's brother's son;
(i) Mother's brother's daughter;	(i) Mother's sister's son;
(j) Mother;	(j) Father;
(k) Wife's mother;	(k) Husband's father;
(l) Daughter;	(l) Son;
(m) Wife's daughter;	(m) Husband's son;
(n) Son's wife;	(n) Daughter's husband;
(o) Sister;	(o) Brother;
(p) Son's daughter;	(p) Son's son;
(q) Daughter's daughter;	(q) Daughter's son;
(r) Son's son's wife;	(r) Son's daughter's husband;
(s) Daughter's son's wife;	(s) Daughter's daughter's husband;
(t) Wife's son's daughter;	(t) Husband's son's son;
(u) Wife's daughter's daughter;	(u) Husband's daughter's son;
(v) Brother's daughter;	(v) Brother's son;
(w) Sister's daughter;	(w) Sister's son;
(x) Stepmother;	(x) Stepfather;
(y) Stepdaughter; or	(y) Stepson; or
(z) Stepdaughter's daughter.	(z) Stepson's son.

(3) The provisions of this Schedule with respect to any relationship shall apply whether the relationship is by the whole blood or by the half blood and whether the relationship is legitimate or illegitimate and includes adopted persons.

(4) In this Schedule, unless the context otherwise requires, the term '*wife'* means a former wife whether she is alive or deceased, and whether her marriage was terminated by death or divorce or otherwise; and the term *'husband'* has a corresponding meaning.

(5) In this Schedule, the relationship between an adopted person and the adoptive parent, or each of the adoptive parents, shall be deemed to be or to have been the natural relationship of child and parent.