

BIRTH REGISTRATION IN SOUTH AFRICA

KNOW YOUR RIGHTS



Who is a South African citizen?

The Citizenship Act governs the acquisition of citizenship in South Africa and states that you have a claim to South African citizenship if:

- a) you have at least one parent who is a South African citizen at the time of your birth regardless of whether you are born in or outside South Africa;
- b) you have been adopted by a South African citizen;
- c) you have at least one parent who is a permanent resident in South Africa at the time of your birth, you are born in South Africa and have lived in South Africa until the age of 18 years old;
- d) you have parents who are neither South African citizens nor permanent residents at the time of your birth, you are born in South Africa and have lived in South Africa until the age of 18 years old; or
- e) you were born in South Africa and you would otherwise be stateless (NB: a stateless child is a child who is not recognised by any state as a citizen or national)

It is important to note that birth registration is generally a prerequisite to making a claim for citizenship in South Africa or your country of origin.

What is birth registration and why is it important?

Birth registration is when the birth of a child is officially recorded by a branch of a government and an official document known as a "birth certificate" is issued as proof of registration.

Birth registration is a fundamental human right which enables children to secure their rights to an identity and nationality and prevents them from becoming stateless. Statelessness has adverse consequences for children and can deprive them of access to basic human rights and services such as education, healthcare, social assistance and child protection services.

What does a birth certificate look like?

The birth certificate sets out the child's legal name, date of birth and place of your birth at a minimum. Previously, South Africa issued "abridged" (short) birth certificates with only the

child's details and "unabridged" (long) birth certificates, which also included the child's parent(s) details. From 2013, only unabridged birth certificates are issued.

For children of South African citizens, the birth certificate is issued with an ID number and their details are entered into the National Population Register. For children of other migrant categories, the birth certificate does not have an ID number

Who is entitled to birth registration in South Africa?

Section 28 of the Constitution states that:

"every child has the right to a name and a nationality from birth"

This means, every child born in South Africa is entitled to birth registration regardless of nationality or their parents' documentation status.

Who must initiate the birth registration process (i.e. give notice of birth)?

The Birth and Deaths Registration Act stipulates that notice of birth must be given by:

- a) both parents where possible;
- b) the next of kin or legal guardian with the assistance of a social worker where the child has been orphaned; or
- c) the social worker where the child has been abandoned.

If the applicant is 18 years or older they can give their own notice of birth.

When should birth registration be initiated and what is the process?

The Birth and Deaths Registration Act stipulates that notice of birth must be given within 30 days of the child's birth.

The birth certificate is issued free of charge immediately or within a few days.

What happens if the birth is not registered within 30 days of the birth?

Late registration of birth ("LRB") is permitted, but there are additional requirements to be met and there are three main categories.

after 30 days but before one year

- notice of birth (DHA-24/LRB)
- proof of birth
- children born at health facilities: DHA 24/PB)
- children born outside health facilities: (DHA-24/PBA - affidavit by a witness)
- affidavit giving reasons for LRB (DHA-288/A)
- biometrics (palm, foot or fingerprint) of the child
- fingerprints of parent/s or next of kin or legal guardian
- ID/passport & permit of parent/s or next of kin or legal guardian
- marriage certificate and death certificate/s (if applicable)

after one year but before seven years

In addition to the above documents, you must submit an affidavit in support of notice of birth given after one year (DHA-288)

after seven years

In addition to the above documents, you must submit an affidavit in support of notice of birth given after one year (DHA-288) and biometrics (x2 ID photos and fingerprints) of the child

In support of the application, the following documents can also assist:

- maternity certificate/clinic card from the hospital or clinic where the child was born
- baptismal certificates
- school records (school reports and registers)
- DNA test results and testimonials etc.

The applicant will be interviewed by the screening committee and the application will be forwarded to the Department of Home Affairs head office for approval and the allocation of an ID number (where applicable).

What is the procedure if a South African citizen is born outside South Africa?

The same requirements for birth registration in South African must be met, including the following:

- notice of birth given at the Department of Home Affairs in South Africa or the South African embassy, mission or consulate abroad;
- birth certificate issued in the country of birth (the Department of Home Affairs will verify the authenticity of the birth certificate);

- documentary proof of the South African parent's South African citizenship;
- police clearance from country of birth and South Africa (for applicants who are 15 years old and above)

Which surname will the child be registered under?

Children born to married parents can be registered under the surname of the father or of the mother, or of both parents as a double-barrelled surname.

Children born to unmarried parents can be registered under the surname of the mother or of the father, only if the father acknowledges paternity.

(NB: if one parent refuses to assist with the birth registration of a child under 18 years old, the matter can be referred to the Children's Court)

What happens if you lose your birth certificate?

Submit an application for the re-issue of a duplicate certificate to the nearest office of the Department of Home Affairs if you are in South Africa, or the nearest South African embassy, mission or consulate if you are overseas, at a fee.

Where do you apply or get further information on the birth registration process?

The applications are done at the Department of Home Affairs local office in South Africa or the South African embassy, mission or consulate abroad.

For any additional information visit: www.dha.gov.za

Where can you get further legal advice or assistance?

If the Department of Home Affairs refuses to assist you with a service, you are entitled to request written reasons for the refusal and to submit a written complaint to the manager of the relevant local office or to the Head Office. If the situation remains unresolved, you can seek legal advice from a lawyer. The following organisations can provide legal advice and assistance:

For legal assistance contact:

Lawyers for Human Rights (JHB)

☎ 011 339 1960

🌐 www.lhr.org.za

Scalabrini Centre (Cape Town)

☎ 021 465 6433

✉ info@scalabrini.org.za

Legal Resources Centre (JHB)

☎ 011 836 9831

✉ info@lrc.org.za

Probono.Org (JHB)

☎ 011 339 6080

✉ info@probono.org.za