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REGISTRATION OF PERSONS ACT

CHAPTER 107

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CHAPTER 107

REGISTRATION OF PERSONS ACT

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SCHEDULE

CHAPTER 107

REGISTRATION OF PERSONS ACT

[Date of commencement: 16th May, 1949.]

An Act of Parliament to make provision for the registration of persons and for the issue of identity cards, and for purposes connected therewith

[Act No. 33 of 1947, Cap. 50 (1948), Act No. 13 of 1951, Act No. 39 of 1956, L.N. 140/1956, L.N. 172/1960, L.N. 604/1963, L.N. 2/1964, L.N. 236/1964, Act No. 21 of 1966, Act No. 11 of 1979, Act No. 18 of 1979, Act No. 13 of 1980, Act No. 9 of 1987, Act No. 21 of 1990, Act No. 2 of 2002, Act No. 12 of 2012, Act No. 19 of 2014, Act No. 25 of 2015, Act No. 36 of 2016, Act No. 18 of 2018.]

1. Short title

This Act may be cited as the Registration of Persons Act.

2. Application

This Act shall apply to all persons who are citizens of Kenya and who have attained the age of eighteen years or over or where no proof of age exists, are of the apparent age of eighteen years or over.

[Act No. 11 of 1979, s. 2, Act No. 13 of 1980, Sch.]

3. Interpretation

In this Act, unless the context otherwise requires—

“**authorised officer**” means a registration officer authorized by the Principal Registrar to exercise the powers or perform the duties and functions in respect of which the expression is used;

“**Biometric**” means unique identifiers or attributes including fingerprints, hand geometry, earlobe geometry, retina and iris patterns, voice waves and Deoxyribonucleic Acid in digital form;

“**chief fingerprint officer**”, “**deputy chief fingerprint officer**”, “**senior fingerprint officer**”, “**fingerprint officer**” and “**senior fingerprint assistant**” means the persons appointed as such by the Principal Registrar under section 4(2);

“**Director**” means the Director of National Registration appointed by the Public Service Commission;

“**District Registrar**” and “**Provincial Registrar**” means the persons appointed as such by the Principal Registrar under section 4(3);

“**Global Positioning System coordinates**” means the unique identifier of precise geographic location on the earth, expressed in alphanumeric character being a combination of latitude and longitude;

“**identity card**” means a card issued under section 9;

“**physical form**” means existing in a form that one can see and touch;

“**Principal Registrar**” and “**Deputy Principal Registrar**” means the persons appointed as such under section 4;

“Principal Secretary” means the Principal Secretary in the ministry responsible for matters relating to registration of persons;

“register” means the register established and maintained under section 5;

“registered person” means a person who is registered under this Act;

“registration document” means a document used for the purposes of registration of persons under this Act whether prescribed or not;

“registration officer” means the Principal Registrar, Deputy Principal Registrar and any of the persons appointed under section 4(2);

“senior assistant principal registrar”, “assistant principal registrar”, “senior registrar”, “registrar” and “assistant Registrar” means the persons appointed as such by the Principal Registrar under section 4(2).

[Act No. 11 of 1979, s. 3, Act No. 9 of 1987, s. 2, Act No. 21 of 1990, Sch., Act No. 25 of 2015, Sch., Act No. 18 of 2018, Sch.]

4. Appointment of Principal Registrar and staff

(1) The Minister shall, by notice in the *Gazette*, appoint officers to be Principal Registrar and Deputy Principal Registrar for the purposes of this Act.

(2) The Principal Registrar may, by notice in the *Gazette*, appoint the officers specified in the Schedule for the purposes of the Act.

(3) The Minister may by order published in the *Gazette* amend the Schedule.

(4) The Principal Registrar may, by notice in the *Gazette*, appoint any of the persons appointed under subsection (2) to be Provincial Registrar or the District Registrar for any province or district for the purposes of this Act.

[L.N. 604/1963, Act No. 11 of 1979, s. 4, Act No. 9 of 1987, s. 3.]

5. Register

(1) The Principal Registrar shall cause to be kept a register of all persons in Kenya to whom this Act applies, in which there shall be entered the following particulars in respect of each person—

- (a) registration number;
- (b) name (in full);
- (c) sex;
- (d) (i) county of birth; or
(ii) county of residence;
- (e) date of birth or apparent age, and place of birth;
- (f) occupation, profession, trade or employment;
- (g) place of residence and postal address, Global Positioning Systems coordinates, Land Reference Number, Plot Number or House Number, if any;
- (h) finger and thumb impressions but in case of missing fingers and thumbs, palm or toe or palm and toe impressions in physical form;
- (ha) biometric data;
- (i) date of registration;
- (j) such other particulars as may be prescribed.

(2) Any public officer, duly authorized by the Minister in writing in that behalf, may, in the exercise of his official duties, inspect the register and make extracts therefrom.

[Act No. 13 of 1951, s. 3, L.N. 140/1956, L.N. 172/1960, L.N. 604/1963,
Act No. 11 of 1979, s. 5, Act No. 9 of 1987, s. 4, Act No. 18 of 2018, Sch.]

6. Registration

(1) Every person who attains or has attained the age of eighteen years and is unregistered shall be liable to registration under this Act and shall within ninety days of attaining that age present himself before a registration officer and register himself by giving to the registration officer the particulars specified in subsection (1) of section 5, and for that purpose shall permit his finger and thumb or toe or palm impressions to be recorded in any manner prescribed.

(2) The Principal Registrar may, by notice in the *Gazette* or in such other manner as he may think fit to bring the contents thereof to the notice of the persons affected thereby, require any person or class of persons in any particular area of Kenya to attend before a registration officer at such dates as may be specified in the notice for the purposes of registering under the provisions of this Act; and any such person, upon being so required, shall attend and give to the registration officer the particulars specified in subsection (1) of section 5 and for that purpose shall permit his finger, thumb, palm or toe impressions to be recorded in the manner prescribed.

(3) Where the Principal Registrar issues a notice in respect of any area under subsection (2), any unregistered person being of a class of persons required to register by the notice who enters that area or who, being within that area, thereafter becomes liable to registration shall present himself forthwith before a registration officer, and shall register himself in the manner provided in subsection (2).

(4) A requirement under subsection (2) may be made notwithstanding that any person or class of persons has, prior to that requirement, been registered under this Act.

(5) Where any person is required to register under subsection (2) and has been, prior to that requirement, registered under this Act and issued with an identity card, he shall, on being required by a registration officer so to do, forthwith surrender that identity card.

[Act No. 9 of 1987, s. 5, Act No. 21 of 1990, Sch.]

7. Registration of persons returning from abroad

Any person who, by reason of his absence from Kenya at the time at which he would otherwise have been required to register under this Act, is not a registered person, shall within thirty days of his entry into Kenya attend before a registration officer for the purpose of being registered.

[Act No. 11 of 1979, s. 7.]

8. Power to demand proof of information

(1) A registration officer may require any person who has given any information in pursuance of this Act or rules made thereunder to furnish such documentary or other evidence of the truth of that information as it is within the power of that person to furnish.

(1A) The Director may establish identification committees or appoint persons as identification agents to assist in the authentication of information furnished by a parent or guardian.

[Act No. 19 of 2014, s. 23.]

9. Registration officer to issue identity cards

(1) Upon the registration of a person under this Act, the registration officer shall within a period of thirty days from the date of registration issue an identity card in the prescribed form to that person.

(2) Every identity card shall contain—

- (a) a photograph, of the prescribed size and type, of the registered person; and
- (b) such of the finger and thumb or palm or toe impressions of the registered person as the registration officer may require,

and for the purpose of obtaining them the registered person shall permit his photograph and his finger and thumb or palm or toe impression to be taken:

Provided that a registered person may elect, or be required by a registration officer, to supply a photograph of himself in duplicate where the registration officer is satisfied that the photographs are of the prescribed size and type and have been taken within the prescribed time.

(3) A registered person whose identity card is torn, worn out, mutilated, tampered with or otherwise rendered unserviceable may attend upon a registration officer and apply for renewal of the identity card upon payment of such fee, if any, as may be prescribed and shall at the time surrender the torn, worn out, mutilated, tampered with or otherwise unserviceable identity card;

(4) Upon the re-registration of a person under subsection (3), the registration officer shall issue a new identity card to that person, and the provisions of subsection (2) shall apply thereto.

(5) Every person to whom an identity card has been issued shall keep the card in safe custody.

(6) Any person who loses his identity card shall, without undue delay, report the loss to the nearest registration officer, who, on payment of such fee, if any, as may be prescribed and subject to such conditions as may be prescribed, shall issue to that person a new identity card within a period of fourteen days from the date of payments of fees:

Provided that if the registration officer is satisfied that the loss was through no fault or neglect of that person the new identity card shall be issued free of charge.

(7) Any person who finds, or who comes into possession of, an identity card which does not belong to him shall without undue delay and without charging any fee therefor, return it either to its owner or to the nearest registration officer or alternatively to the nearest police station.

[Act No. 11 of 1979, s. 8, Act No. 18 of 1979, Sch., Act No. 9 of 1987, s. 6, Act No. 21 of 1990, Sch., Act No. 2 of 2002, Sch., Act No. 36 of 2016, s. 40.]

9A. Establishment of the National Integrated Identity Management System

(1) There is established a National Integrated Identity Management System.

(2) The functions of the system are —

- (a) to create, manage, maintain and operate a national population register as a single source of personal information of all Kenyan citizens and registered foreigners resident in Kenya;
- (b) to assign a unique national identification number to every person registered in the register;

- (c) to harmonise, incorporate and collate into the register, information from other databases in Government agencies relating to registration of persons;
- (d) to support the printing and distribution for collection all national identification cards, refugee cards, foreigner certificates, birth and death certificates, driving licenses, work permits, passport and foreign travel documentation, student identification cards issued under the Births and Deaths Registration Act, Basic Education Act, Registration of Persons Act, Refugees Act, Traffic Act and the Kenya Citizenship and Immigration Act and all other forms of government issued identification documentation as may be specified by gazette notice by the Cabinet Secretary;
- (e) to prescribe, in consultation with the various relevant issuing authorities, a format of identification document to capture the various forms of information contained in the identification documents in paragraph (d) for purposes of issuance of a single document where applicable;
- (f) to verify and authenticate information relating to the registration and identification of persons;
- (g) to collate information obtained under this Act and reproduce it as may be required, from time to time;
- (h) to ensure the preservation, protection and security of any information or data collected, obtained, maintained or stored in the register;
- (i) to correct errors in registration details, if so required by a person or on its own initiative to ensure that the information is accurate, complete, up to date and not misleading; and
- (j) to perform such other duties which are necessary or expedient for the discharge of functions under this Act.

(3) The Principal Secretary shall be responsible for the administration, coordination and management of the system.

[Act No. 18 of 2018, Sch.]

10. Production and inspection of identity cards

(1) Any authority to whom a person, required to be registered under this Act, applies for the grant of any licence, permit or other document, or for the exercise of its lawful or judicial functions, may require the applicant to produce his identity card; and, if the applicant when so required does not produce his identity card or other proof to the satisfaction of the authority that he has been registered, the authority may, notwithstanding the provisions of any other law for the time being in force, defer consideration of the application until the applicant produces either his identity card or other proof.

(2) During such times and within such areas as the Minister may by notice in the *Gazette* appoint, any person authorized by the Principal Registrar in writing in that behalf may require any person to whom this Act applies to produce his identity card, or, if the person fails to produce his identity card when required so to do may require him to produce it within such time, to such person and at such place as the person making the requirement may think fit.

(3) Any person purporting to act under subsection (2) shall, if so requested by any person from whom he has required the production of an identity card, produce,

for inspection by that person, the written authority under which he purports to be acting.

(4) The Principal Registrar, the Deputy Principal Registrar or any of the persons appointed under section 4(2) may, in the lawful exercise of his duties or functions under this Act, require a person to whom this Act applies to produce for inspection his identity card, and if the person fails to produce the identity card when required so to do, may require him to produce it within such time, to such person and at such place as the person making the requirement may think fit.

[L.N. 604/1963, Act No. 11 of 1979, s. 9, Act No. 9 of 1987, s. 7.]

11. Entries in identity card

No person, other than a registration officer or other person authorized by the Principal Registrar in writing in that behalf, shall make any entry in, alteration to or erasure from an identity card.

12. Proof of exemption

Where any person claims that this Act does not apply to him, the burden of proving that fact shall lie upon that person.

13. Evidential value of certificates

Any document purporting to be a certificate under the hand of the Principal Registrar, the Deputy Registrar, or any of the officers appointed under section 4 (2) and certifying that any return required to be made to him under this Act or any rules made thereunder has not been made, certifying a copy or extract of any record kept by the Principal Registrar under this Act or certifying that any thumb or finger impressions are the thumb or finger impressions of a person specified in the certificate shall, in any proceedings for an offence under this Act, be *prima facie* evidence of the facts stated therein.

[Act No. 13 of 1951, s. 6, Act No. 11 of 1979, s. 9, Act No. 2 of 2002, Sch.]

14. Offences and penalties

(1) Any person who—

- (a) fails to apply to be registered in accordance with the provisions of this Act; or
- (b) in giving any information for the purposes of this Act, knowingly or recklessly makes any statement which is false in a material particular; or
- (c) unlawfully deprives any person of an identity card issued to him under this Act; or
- (d) unlawfully makes an entry, alteration or erasure on any identity card or on any registration document; or
- (e) unlawfully issues an identity card or laminates or prints an identity card or any of its component parts; or
- (f) is in unlawful possession of or makes use of an identity card belonging to any other person; or
- (g) falsely states that he has not previously been registered or commits any act or makes any false representation or omission with the object of deceiving a registration officer; or
- (h) is knowingly in possession of an identity card containing any false entry, alteration or erasure; or

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- (i) having previously had issued to him an identity card under this Act, obtains or attempts to obtain another identity card without disclosing to the registration officer the fact of the previous issue and the loss, mutilation or destruction of any identity card previously issued; or
- (j) with intent to deceive—
 - (i) makes a false representation that he or any other person is the person to whom an identity card relates; or
 - (ii) except in such cases as may be prescribed permits any other person to be in possession of an identity card issued to him; or
 - (iii) forges or mutilates an identity card, or makes or has in his possession any document so closely resembling an identity card as to be calculated to deceive; or
- (k) being a person employed for the purposes of this Act, publishes or communicates to any person otherwise than in the ordinary course of his employment, any information acquired by him in the course of the employment; or
- (l) having, under subsection (2) of section 5, inspected the register and made extracts therefrom, publishes or communicates to any person, otherwise than in the ordinary course of his employment, any information so acquired; or
- (m) having possession of any information which to his knowledge has been disclosed in contravention of this Act, publishes or communicates that information to any other person; or
- (n) without the written authority of the Principal Registrar, charges fees for the delivery of lost and found identity cards,

shall be guilty of an offence and liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding eighteen months or to both:

Provided that nothing in Paragraphs (k), (l) and (m) shall apply to any publication or communication of information made for the purpose of any proceedings before a competent court.

(2) If any person contravenes any of the provisions of this Act or of any rules made thereunder or with any lawful demand or requirement made under this Act or under such rules, he shall be guilty of an offence and where no other penalty is specifically provided liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding two months or to both, and in any case where a person has been convicted of an offence involving failure to register under this Act the court may, in addition to or in substitution for any sentence which it may impose upon that person under this section, order him to register himself within such period as it may specify.

(3) Offences under this Act or under any rules made thereunder shall be triable by any subordinate court of the first or second class.

(4) A court shall have jurisdiction in any case brought before it under this Act against any person being at the time within its area of jurisdiction, whether the offence is alleged to have been committed within such area or not, or whether the person accused of the offence has his usual place of abode or residence within that area or not.

[Act No. 13 of 1951, s. 7, Act No. 11 of 1979, s. 10, Act No. 9 of 1987, s. 8, Act No. 21 of 1990, Sch., Act No. 19 of 2014, s. 24.]

15. Offences cognizable to police

Offences under this Act shall be cognizable to the police.

16. Rules

The Minister may make rules—

- (a) prescribing anything required to be prescribed under this Act;
- (b) prescribing the form of identity card;
- (ba) providing simple guidelines for the vetting of applicants prior to the issuance or replacement of an identity card;
- (c) providing for the insertion in, or removal from the register of the particulars of any person, and for the procedure to be followed in the issue, surrender or cancellation of any identity card, the issue of duplicate identity card and the renewal of identity cards;
- (d) providing for the procedure to be followed where any registered person has changed his name or changes his place of residence or postal address or leaves Kenya or dies;
- (e) prescribing the fees, if any, which may be charged for a duplicate identity card or for initial registration the renewal or alteration of an identity card;
- (f) generally for the better carrying out of the provisions of this Act.

[L.N. 604/1963, Act No. 21 of 1990, Sch., Act No. 36 of 2016, s. 41.]

17. Validity of identity cards previously issued

Every identity card issued under this Act, whether or not expressed to be valid up to any particular date, shall continue to be valid up to such time as the Minister may by notice in the *Gazette* declare and upon such declaration every person with an identity card so declared to be invalid shall within ninety days of the declaration present himself before a registration officer to be registered in accordance with section 6.

[Act No. 9 of 1987, s. 9, Act No. 2 of 2002, Sch.]

17A. Powers of arrest without warrant

Where a person is reasonably suspected of committing or having committed an offence under this Act or any rules made thereunder, an authorized officer or a police officer of or above the rank of inspector may demand his name and address and, if he refuses or fails to give that information to the satisfaction of that officer or if that officer has reasonable grounds for believing that unless arrested that person may escape or cause an unreasonable delay, trouble or expenses in being made answerable to justice, he may without warrant arrest him and hand him over to a police officer or in the absence of a police officer take him to the nearest police station without unnecessary delay.

[Act No. 21 of 1990, Sch.]

18. Prosecution of offences

A prosecution for an offence under this Act may, without prejudice to any other power in that behalf and in particular subject to the general or special directions of the Director of Public Prosecutions, be instituted and conducted by any registration officer of or above the rank of registrar or fingerprint officer.

[Act No. 9 of 1987, s. 9, Act No. 12 of 2012, Sch.]

18A. Power to cancel registration and revoke an identity card

(1) The Director shall cancel the registration and revoke the identity card of any person issued under this Act if the card was obtained through—

- (a) misrepresentation of material facts;
- (b) concealment of material facts;
- (c) fraudulently;
- (d) forgery;
- (e) multiple registration; or
- (f) any other justifiable cause.

(2) Before cancellation of the registration and revocation of the identity card as provided in sub section (1), the Director shall notify the card holder in writing of the intention to cancel the registration and revoke the card unless the holder can show cause within fifteen days why the cancellation should not be done.

(3) The cancellation of a registration and the revocation of a card under subsection (2) shall not take effect until after the expiry of fifteen days from the date of cancellation and revocation to allow the card holder to appeal to a court of competent jurisdiction.

(4) Any person whose registration has been cancelled and identity card revoked or whose citizenship has been otherwise revoked under an existing law shall be under obligation to surrender the identity card to the registrar.

(5) The Director shall by notice in the *Gazette* publish the names and identity card number of the person whose registration is cancelled and the identity cards revoked.

[Act No. 19 of 2014, s. 25.]

SCHEDULE

[Act No. 9 of 1987, s. 10.]

OFFICERS TO BE APPOINTED BY PRINCIPAL REGISTRAR

First category

Senior Assistant Principal Registrar, assistant principal registrars, senior registrars, registrars and other registration officers.

Second category

Chief Fingerprint Officer, deputy chief fingerprints officers, finger print officers and senior fingerprint assistants.
