

## CHANGE OF SURNAME ACT, 2021

No. 11



of 2021

### ARRANGEMENT OF SECTIONS

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**An Act to re-enact, with amendments, the Change of Name Act and to make provision for restriction and regulation of the right of any person to assume a surname and for matters incidental thereto.**

*Date of Assent:* 08.10.2021

*Date of Commencement:* ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Change of Surname Act, 2021, and shall come into operation on such a date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

2. In this Act, unless the context otherwise requires —

Interpretation

“national register” means the register maintained by the Registrar of National Registration in terms of the National Registration Act;

Cap. 01:02

“Registrar” means the Registrar of Change of surname appointed under section 3 (1); and

“repealed Act” means the Change of Name Act.

3. (1) The Minister may appoint any officer in the public service as the Registrar of Change of Surname.

Appointment and functions of Registrar

(2) The Registrar shall —

(a) be the custodian of change of surname records;

- (b) determine policies for giving effect to the objects and purposes of this Act;
- (c) receive and consider every application for change of surname;
- (d) make, in respect of every person who has applied in terms of this Act for change of surname, more than two times, recommendations to the Minister as to the granting or refusal of change of surname to such person;
- (e) register, in a prescribed manner, every person who has changed his or her surname under this Act; and
- (f) perform such other functions entrusted from time to time to him or her by the Minister.

Restrictions to change of surname

**4. (1)** A person, who at any time bore a particular surname, shall not assume or describe himself or herself or pass under any other surname, other than a surname —

- (a) under which he or she has been included in the national register;
- (b) under which he or she obtained permanent residence in Botswana; or
- (c) under which he or she had passed before the commencement of this Act,

unless the change of surname is made in accordance with the provisions of this Act.

(2) A person may change his or her surname two times under this Act, with the authority of the Registrar.

(3) A person who wishes to change surname for the third or more time shall be authorised by the Minister.

Exceptions

**5.** The provisions of this Act shall not apply where —

- (a) a woman on her marriage assumes the surname of her husband;
- (b) a woman on her marriage assumes as her surname, her maiden surname and the surname of her husband or her husband's name;
- (c) a married or divorced woman or a widow resumes a surname which she bore at a prior time;
- (d) a woman who lives or lived with a man as his putative wife assumes the surname of that man or, after having assumed his surname, resumes a surname which she bore at a prior time;
- (e) a person who has been adopted in Botswana in accordance with any law relating to the adoption of children, assumes the surname of the person who adopted him or her;
- (f) a person, born out of wedlock, assumes the surname of his or her father after the marriage of his or her parents to one another;
- (g) a person assumes, as a surname, a name attaching to a title to which he or she succeeded by inheritance or which was conferred upon him or her by the State;
- (h) a woman, on her husband assuming another surname under the provisions of this Act, assumes that other surname; or
- (i) a person assumes the surname of his or her biological parent.

Application for change of surname to Registrar

**6. (1)** A person who wishes to make a change of surname in accordance with section 4 (2) shall file with the Registrar, an application for a change of surname stating the reasons why a change of surname is desired.

(2) The Registrar shall cause notification of an application made in accordance with subsection (1) to be published in the *Gazette* and in a newspaper circulating in the district in which the applicant resides.

(3) The notification referred to in subsection (2) shall call upon any person who objects to the application to notify the Registrar of such objection and the grounds thereof within 14 days of the publication of such notice.

(4) The Registrar shall, after considering any objection lodged under the provisions of subsection (2) and after making such inquiries as he or she may deem fit, grant his or her authority, unless he or she has reason to believe that there is insufficient reason for the assumption of another surname or that the application has been made for an improper purpose.

(5) The Registrar shall cause notification of an authorisation of change of surname made in accordance with subsection (4) to be published in the *Gazette* and in a newspaper circulating in the district in which the applicant resides for 14 days.

(6) Any person aggrieved by the decision of the Registrar under this section may appeal, in writing, to the Minister within 30 days of notification of such decision.

(7) The provisions of subsections (1), (2), (3) (4) and (5) shall apply, with necessary modifications, to applications made to the Minister in accordance with section 4 (3).

7. (1) Where the biological parent of a minor child assumes another surname under the provisions of this Act, that child shall be deemed to have assumed such a surname under this Act:

Child of applicant

Provided that the child bore the same surname as the applicant prior to the change of name.

(2) In this section, "child" has the meaning assigned to it under the Children's Act.

Cap. 28:04

8. Every application made under this Act shall be in the prescribed form and shall be accompanied by —

Contents of application

- (a) consent in writing, where necessary, in the form of an affidavit sworn before a Commissioner of Oaths or a court order dispensing with the consent; and
- (b) prescribed fees.

9. (1) A person who contravenes the provisions of section 4 commits an offence and is liable to a fine not exceeding P1 500.

Offences and penalties

(2) A person who, being at the time authorised under this Act to do so, assumes a particular surname and thereafter assumes, or describes himself or passes under a surname other than that particular surname, commits an offence and is liable to a fine not exceeding P1 500.

10. (1) The Minister may make regulations for the better carrying out of the provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations providing for —

Repeal of  
Cap.15:02  
Savings

- (a) the forms to be used in terms of this Act, and the particulars to be furnished in connection with any such application;
- (b) fees which may be charged under this Act; and
- (c) anything that under this Act requires to be prescribed.

**11. The Change of Name Act is hereby repealed.**

**12. (1)** Any change of surname proceedings which, before the coming into operation of this Act, were pending shall be continued as if they would have been continued before the coming into operation of this Act.

(2) Any legal proceedings in respect of any offence committed or alleged to be committed under the repealed Act shall be carried out or prosecuted as if commenced under this Act.

PASSED by the National Assembly this 16th day of August, 2021.

BARBARA N. DITHAPO,  
*Clerk of the National Assembly.*