

**THE GAZETTE OF THE DEMOCRATIC
SOCIALIST REPUBLIC OF
SRI LANKA**

Part II of May 07, 2010

SUPPLEMENT

(Issued on 10. 05. 2010)



**REGISTRATION OF DEATHS
(TEMPORARY PROVISIONS)**

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BILL

to provide for the Registration of Deaths of persons reported missing as a result of terrorist or subversive activity or civil commotion and of persons whose death is directly attributable to any natural disaster or calamity and such activity, disaster or calamity results in serious consequences at national level; and for matters connected therewith or incidental thereto.

*Ordered to be published by the Minister of Public Administration and
Home Affairs*

PRINTED AT THE DEPARTMENT OF GOVERNMENT PRINTING, SRI LANKA

TO BE PURCHASED AT THE GOVERNMENT PUBLICATIONS BUREAU, COLOMBO 5.

Price : Rs. 11.00

Postage : Rs. 5.00

Registration of Deaths (Temporary Provisions)

L. D.—O. 36/2008.

AN ACT TO PROVIDE FOR THE REGISTRATION OF DEATHS OF PERSONS REPORTED MISSING AS A RESULT OF TERRORIST OR SUBVERSIVE ACTIVITY OR CIVIL COMMOTION AND OF PERSONS WHOSE DEATH IS DIRECTLY ATTRIBUTABLE TO ANY NATURAL DISASTER OR CALAMITY AND SUCH ACTIVITY, DISASTER OR CALAMITY RESULTS IN SERIOUS CONSEQUENCES AT NATIONAL LEVEL; AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

WHEREAS several persons have died or have been reported missing in the course of the civil disturbances that have taken place in Sri Lanka due to terrorist or subversive activities or civil commotion: Preamble

5 AND WHEREAS several people have died due to being exposed to natural disasters or calamities of national proportions and where the number of persons dead has reached alarming proportions:

10 AND WHEREAS there are certain practical difficulties which impede the registration of deaths in the circumstances which are enumerated above under the provisions of the Births and Deaths Registration Act:

15 AND WHEREAS it has now become necessary to enact legislation providing measures for the registration of such deaths:

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:—

20 1. (1) This Act may be cited as the Registration of Deaths (Temporary Provisions) Act, No. of 2010. The provisions of this Act shall be in operation for a period of three years from the date of its commencement. Short title, duration and extension of operation of the Act.

25 (2) Notwithstanding the provisions of subsection (1), the Minister may not less than one month prior to the expiration of any period of operation of this Act, by Order published in the *Gazette*, extend such period of operation:

2 *Registration of Deaths (Temporary Provisions)*

Provided however, that any such extension shall not in any one instance, be for more than a period of two years.

(3) Notification of the date of any extension granted in terms of subsection (2) shall be published in the *Gazette*.

5

PART I

REGISTRATION OF DEATHS OF PERSONS MISSING DUE TO TERRORIST
OR SUBVERSIVE ACTIVITY OR CIVIL COMMOTION

10 2. (1) Where any person is reported missing and he has not been heard of for a period exceeding one year by those who would naturally have heard of him had he been alive and his disappearance is attributable to any terrorist or subversive activity or civil commotion which has taken place within Sri Lanka, a next of kin of such person if he verily believes such persons to be dead, may apply in the manner
15 hereinafter provided, to register the death of such person under the provisions of the Births and Deaths Registration Act and to have issued to him, a Certificate of Death in respect of such person.

Who may apply for the issue of a certificate of Death in case of persons missing due to terrorist activity &c., and procedure.

20 (2) Every application under this section shall be substantially in the Form specified in the Schedule to this Act and shall be forwarded to the Registrar-General or the District Registrar of Birth and Deaths of the District in which such missing person was last resident or had his permanent residence.

25 3. Every application under this Act shall be supported by an Affidavit of the applicant setting out the grounds for his belief that the person whose death is sought to be registered, is dead, and shall be accompanied by a Report from the Grama Niladhari of the Grama Niladhari Division
30 in which the person whose death is sought to be registered was last resident or had his permanent residence, confirming the fact that such person has not been seen alive or heard of, for a period of over one year, and accompanied by any other evidence in support of such application.

Additional material to be supplied.

4. Upon receipt of an application under this Act, the Register General or the District Registrar, as the case may be, shall cause a copy of such application to be displayed for a period of two weeks on the Notice Board kept at his office
5 and in the office of the Grama Niladhari in whose division the person whose death is sought to be registered was last resident or had his permanent residence.

Display of application.

5. Any person may, within one month of the date on which a copy of an application under this Act is first displayed
10 as provided for in section 4, forward to the Registrar-General or the District Registrar, as the case may be, his objections in writing to the registration of the death of the person to whom such application relates, and such objection shall be supported by and Affidavit of the objector and of any other
15 person, setting out clearly the grounds for their objections.

Objections to registration.

6. (1) On the expiry of the period of one month allowed for the forwarding of objections to an application, the Registrar-General or the District Registrar, as the case may be, shall consider the application together with the evidence
20 in support of the application and the objections, if any, and the evidence tendered in support of such objections, and after such inquiry as he may deem necessary, if satisfied as to the truth of the matters stated in the application, allow such application and shall forward to the Registrar-General a
25 Report under his hand setting out such of the particulars of the death as is required to be registered, under the Births and Deaths Registration Act as he has been able to ascertain upon the completion such inquiry as aforesaid.

Registration of Death.

(2) On receipt of the Report under subsection (1), the
30 Registrar-General shall, except in a case where he disallows a Report in the exercise of the powers conferred on him by section 7, make order directing the appropriate Registrar to enter in the Register of Deaths maintained by such Registrar

4 *Registration of Deaths (Temporary Provisions)*

under the Births and Deaths Registration Act, the particulars specified in such Report and issue in respect of such person a Certificate of Death.

(3) On receipt by a Registrar of an order under subsection
5 (2) directing him to enter the particulars in relation to the relevant death in the Register of Deaths maintained by him under the Births and Deaths Registration Act and issue in respect of such person a Certificate of Death, the Registrar shall forthwith enter those particulars in such register and
10 sign the Register in the appropriate place and issue the Certificate of Death.

(4) There shall be attached to the duplicate of the relevant registration entry, the written order of the Registrar-General made under subsection (2) and such duplicate and order
15 shall be sent together by the Registrar to the appropriate District Registrar for transmission to the Registrar-General to be kept in his custody in his office.

7. An applicant who is dissatisfied with the decision of the District Registrar refusing to issue a Certificate of Death
20 to him under section 6, or a person who has objected under section 5 to the issue of a Certificate of Death under this Act and who is dissatisfied with the decision of the District Registrar to issue such Certificate, may within one month of the notification of such refusal or issue, as the case may be,
25 appeal to the Registrar-General against such refusal or issue, as the case may be. The Registrar-General may after review of the material before him, either affirm the decision of the District Registrar or direct the District Registrar to issue a certificate under section 6 or disallow the report issued by
30 that District Registrar under section 6, as the case may be.

Appeal
against
refusal to
issue
certificate or
issue of
certificate.

8. (1) Where a Commission appointed under the Special
Commissions of Inquiry Act (Chapter 393) or a Special procedure
Presidential Commission of Inquiry established under the relating to
Special Presidential Commission Law, No. 7 of 1978 finds registration
5 that a person has disappeared or is missing, the next of kin of of deaths of
that person may, apply to the Registrar-General or to the person in
District Registrar of Births and Deaths of the district in which respect of
that person was last residing or had his permanent residence, whom there
substantially in the Form set out in the Schedule to this Act, are finding
10 to register the death of that person under the Births and by a
Deaths Registration Act and to have issued to him, a Commission
Certificate of Death in respect of the death of that person. of Inquiry or
Every such application shall be accompanied by an Affidavit a Special
15 the findings of the Commission of Inquiry or Special Presidential
Presidential Commission of Inquiry, as the case may be, Commission
relating to the death of such person. of Inquiry.

(2) Upon receipt of an application under subsection (1),
the District Registrar shall, notwithstanding anything to
20 contrary in the preceding provisions of this Act, forthwith
send to the Registrar-General a Report under his hand, setting
out the particulars of the death required to be registered
under the Births and Deaths Registration Act, as he has been
able to ascertain from the application and the accompanying
25 Affidavit and finding.

(3) Upon receipt of the Report under subsection (2), the
Registrar-General shall make order directing the appropriate
Registrar to register in the Register of Deaths maintained by
such Registrar under the Births and Deaths Registration Act,
30 the particulars specified in such Report and issue in respect
of such person a Certificate of Death.

(4) Upon receipt of an order under subsection (3)
directing him to enter the particulars relating to the relevant
death in the Register of Deaths maintained by him under the

Births and Deaths Registration Act, the Registrar shall forthwith enter such particulars in such Register and sign the Register in the appropriate place.

(5) There shall be attached to the duplicate of the relevant registration entry, the written order of the Registrar-General made under subsection (3) and such duplicate and order shall be sent together, by the Registrar to the appropriate District Registrar for transmission to the Registrar-General to be kept in his custody in his office.

10 (6) Where the application under subsection (1) is made to the Registrar-General, the provisions of subsections (2) and (5) shall *mutatis mutandis* apply as if the reference in those section to the District Registrar is a reference to the Registrar-General.

15 PART II

REGISTRATION OF DEATHS OF PERSONS MISSING DUE TO NATURAL DISASTERS OR CALAMITIES

9. Where there has been within Sri Lanka a natural disaster or calamity which has caused either to the whole of Sri Lanka or to certain areas thereof, destruction to persons and property, which has had far reaching effects at the national level, and where the number of persons dead as a result of such disaster or calamity has reached alarming proportions thereby making the application of the provisions of the Births and Deaths Registration Act to the registration of the deaths of such persons impractical, the Registrar-General may, upon verification of the fact that a natural disaster or calamity has occurred, declare any Administrative District, Divisional Secretaries Division or Grama Niladhari Division as the case may be, affected by such disaster or calamity, as a "National Disaster Area".

10. (1) Where any person or persons—
- (a) who had been resident within an area declared to be a National Disaster Area under section 9 ; or
- (b) who have been resident within any other area but was at the time of the occurrence of such natural disaster or calamity known to have gone to or to have been within any area declared to be a National Disaster Area under section 9,
- cannot be found subsequent to such natural disaster or calamity and has for all intent and purposes disappeared as a result of such disaster or calamity, a next of kin of such person or persons or where no members of the family have survived the natural disaster or calamity, any person having knowledge of such person or persons may, if he verily believes such person or persons to be dead, apply to register the death of such person or persons, in the manner hereinafter provided, under the Birth and Deaths Registration Act and to have issued to him a Certificate of Death in respect of the death of such person or persons.
- (2) Every such application shall be made to the Grama Niladhari of the area within which such person, whose death is sought to be registered, was habitually resident.
- (3) Every such application shall be submitted in any form whatsoever, containing wherever possible at least some of the information set out in the Schedule hereto, which information would as far as practicable be a description of the person whose death is sought to be registered. Every such application shall be accompanied by an Affidavit in support of such facts. The Grama Niladhari shall as soon as possible upon the receipt of such application, and after such inquiry as he deems necessary, recommend the same and forward it along with a report certifying to the best of his knowledge the accuracy of the facts stated therein, to the Divisional Secretary of the Division within which his
- Who may apply for the issue of a Death Certificate in case of persons believed to be dead as a result of any natural disaster or calamity, and procedure.

8 *Registration of Deaths (Temporary Provisions)*

Division is situated. The Divisional Secretary shall endorse every such application and forward the same to the Registrar-General.

(4) Upon receipt of an application under subsection (2),
5 duly recommended and endorsed in terms of the provisions of subsection (3), the Registrar-General shall make order directing the appropriate Registrar to register in the Register of Deaths maintained by such Registrar under the Births and Deaths Registration Act, the particulars specified
10 in such application and issue in respect of the person to whom the application relates, a Certificate of Death

(5) Upon receipt of an order under subsection (4) directing him to enter the particulars relating to the relevant death in the Register of Deaths maintained by him under the
15 Births and Deaths Registration Act, the Registrar shall forthwith enter such particulars in such Register and sign the Register in the appropriate place.

(6) There shall be attached to the duplicate of the relevant registration entry, the written order of the Registrar-General made under subsection (4) and such duplicate and order
20 shall be sent together by the Registrar to the appropriate District Registrar for transmission to the Registrar-General for custody in his office.

(7) Where the application under subsection (1) is made
25 directly to the Registrar-General, the provisions of subsection (2) to (6) shall *mutatis mutandis* apply as if the reference in those sections to the District Registrar is a reference to the Registrar-General.

11. Where there is evidence to show that a national of
30 another State had been in Sri Lanka and temporarily resident within an area declared as a National Disaster Area in terms of section 9, and that it is apparent that such person has died as a result of the natural disaster or calamity in question, then any person having knowledge of these facts may apply
35 for the issue to him of a Certificate of Death in respect of

Registration
of Deaths of
foreign
nationals.

such person. Every such application shall be authenticated by the representative of the country of which such person was a citizen, present in Sri Lanka, and such application shall be forwarded directly to the Registrar-General who shall
5 forthwith proceed to register such death and issue in respect of such person a Certificate of Death.

PART III

MISCELLANEOUS PROVISIONS

10 **12.** The provisions of this part of this Act, shall notwithstanding the provisions of section 108 of the Evidence Ordinance as amended by the Evidence (Amendment) Act, No. 10 of 1988, be applicable to the issue of a Certificate of deaths in respect of a person whose death is attributable to any terrorist or subversive acting or civil commotion or to
15 any natural disaster or calamity where the death in question had occurred within an area declared to be a National Disaster Area in terms of section 9.

Provisions of the Evidence Ordinance not to apply.

20 **13.** (1) Where a death has been registered pursuant to an application made under section 2 or section 10 of this Act, and where any person at any time thereafter becomes aware that the person whose death has been so registered is alive, such person shall forthwith furnish such information to the Registrar-General.

Procedure if person registered as dead is found to be alive.

25 (2) The Registrar-General shall, on receipt of such information convey the information to the Officer-in-Charge of the relevant police station, who shall investigate the truth of such information and make a report to the Registrar-General, within four weeks from the date on which such information is conveyed to such officer.

30 (3) Upon receipt of a report under subsection (2) and after such inquiry as he may deem necessary the Registrar-General, if satisfied that the person whose death has been registered is alive, shall take such action, or make such order or give such

10 *Registration of Deaths (Temporary Provisions)*

direction, under section 52 of the Births and Deaths Registration Act, as is appropriate in the circumstances of the case.

5 (4) Any inquiry held by the Registrar-General under this Act shall be concluded within one month of its commencement and the Registrar-General may, for the purpose of an inquiry under this Act, exercise all the powers exercisable by him under the Births and Deaths Registration Act, in relation to an inquiry held by him under that Act.

10 **14.** For the avoidance of doubt it is hereby declared that— Avoidance of doubt.

15 (a) if the operation of this Act has lapsed upon the expiry of the period specified in subsection (1) of section 1, and no Order for the extension of the period of operation of the Act is made in terms of subsection (2) of section 1; and

20 (b) if a person has been reported as dead and the application for the issue of a Certificate of Death in relation to such person has been made in terms of the provisions of section 2 and 10 of this Act prior to the expiry of the period of operation of the Act,

25 the Registrar-General may proceed to register the death of such person and issue the Certificate of Death in respect of such person, in terms of the provisions of Part I and Part II of this Act.

15. Any person who— Offences.

 (a) knowingly, makes a false statement in an application made by him under this Act, or furnishes false information under this Act; or

30 (b) being aware that a person whose death has been registered in pursuance of an application made under this Act, is alive, fails to furnish such information to the Registrar-General; or

- (c) dishonestly or fraudulently uses a Certificate of Death issued under the Births and Deaths Registration Act knowing or having reason to believe that the person referred to in such certificate is alive,

shall be guilty of an offence under this Act, and shall upon conviction after trial by the High Court be sentenced to a term of imprisonment of not exceeding five years.

- 16.** In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.
- Sinhala text to prevail in case of inconsistency.

- 17.** In this Act, unless the context otherwise requires— Interpretation.

"Appropriate District Registrar", "Appropriate Registrar" and "District" have the respective meanings assigned to them by the Births and Deaths Registration Act;

"Births and Deaths Registration Act" means the Births and Deaths Registration Act (Chapter 110);

"District Registrar" means a District Registrar of Births and Deaths appointed under the Births and Deaths Registration Act;

"Registrar-General" means the Registrar-General of Births and Deaths appointed under the Births and Deaths Registration Act and includes an Additional Registrar-General, a Deputy Registrar-General or an Assistant Registrar-General.

12 *Registration of Deaths (Temporary Provisions)*

SCHEDULE (Section 2 and 10)

APPLICATION FOR REGISTRATION OF DEATH OF A MISSING PERSON

1. Full Name of missing person :
2. Sex and race ;
3. Age :
4. Date of Death (approximately) :
5. Address of last known residence:
6. Address of permanent residence :
7. Rank or profession :
8. Applicant's full name and residence :
9. Applicant's relationship to missing person :

I..... of
..... do hereby state that
the said..... (name of person
missing)..... has been
missing for a period of over one year, and I verily believe that the
said..... is dead.

I therefore request that the death be registered under the Births
and Deaths Registration Act (Chapter 110) and a Certificate of Death
in respect of such death be issued to me.

Date.....
Signature of Applicant

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