

BIRTHS AND DEATHS REGISTRATION ACT

Principal Act

Act. No. 1887-01		<i>Commencement</i>	20.1.1887
		<i>Assent</i>	15.1.1887
Amending enactments	Relevant current provisions		Commencement date
Acts. 1889-07	s. 36		
1928-02	ss. 13, 14		
1934-26	ss. 3(1), 4-14, 16, 20, 21, 23, 26, 29, 31, 33-35, 36(3), 37, 39(2), 40, 41		
1950-14	ss. 2, 3,(2), 19, 36(2)		
1963-11	s. 40		
1972-06	s. 15		
1973-31	s. 18		
1980-04	s. 3(2)		
1986-02	ss. 2, 6, 8, 10(2), 11, 12, 13(3), 16(4), 20, 21, 26, 29, 35(2), 36(3), 37, 39(3), 40, 42, Sch.		1.7.1986
1991-19	ss. 6, 8, 10(2), 11, 12, 13(3), 16(4), 21, 22, 23, 24, 26, 27, 29, 30, 31, 33, 35(1), (3), 36(3), 37, 39(3)		18.7.1991
1993-22	ss. 10, 11 and 13(1)		16.12.1993

English and Scottish sources

- Births and deaths Registration Act 1836 (6 & 7 Wm. 4 c.86)
- Registration of Births, Deaths and Marriages (Scotland) Act 1854 (17 & 18 Vict. c.80)
- Births and Deaths Registration Act 1874 (37 & 38 Vict. c.88)
- Perjury Act 1911 (1 & 2 Geo. 5 c.6)
- Births and Deaths Registration Act 1926 (16 & 17 Geo. 5 c.48)
- Family Law Reform Act 1969 (1969 c.46)

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AN ACT TO PROVIDE FOR THE REGISTRATION OF BIRTHS AND DEATHS.

Short title.

1. This Act may be cited as the Births and Deaths Registration Act.

Interpretation.

- (1874 c.88, s.47). 2. In this Act, unless the context otherwise requires,—

“birth” includes live-birth and still-birth;

“burial” includes interment, cremation, burial at sea;

“minister of religion” includes the representative of any religious organisation or other person in charge of a burial service.

“occupier” includes the governor, keeper, master, matron, superintendent or other chief resident officer of every prison, hospital and public or charitable institution, and, where a house is let in separate apartments or lodgings, includes any person residing in such house who is the person under whom such lodgings or separate apartments are immediately held, or his agent;

“relative” includes a relative by marriage;

“Registrar” means the Registrar of Births and Deaths, appointed under section 3;

“stillborn” and “stillbirth” shall apply to any child which has issued forth from its mother after the twenty-eighth week of pregnancy and which did not at any time after being completely expelled from its mother, breathe or show any other signs of life.

Appointment of Registrar.

3. (1) The Governor shall from time to time appoint a fit and proper person to be the Registrar of Births and Deaths who shall have a seal of such design as the Governor may approve.

(2) The Governor may appoint one or more assistant registrars of births and deaths, and any assistant registrar so appointed may, subject to any directions given to him by the Registrar, exercise all the powers and perform all the duties of the Registrar.

Registers and searches, etc.

4. The Registrar shall keep the prescribed registers and shall cause indexes thereof to be prepared and maintained. Upon the payment of the prescribed fees the Registrar shall permit any person to search the registers and indexes during office hours and shall make and deliver to any person requiring the same a certified copy of any entry in the registers in the prescribed form under the hand and seal of the Registrar.

Certified copies of entries to be evidence.

5. Any certified copy of any entry in the registers purporting to be sealed or stamped with the seal of the Registrar shall be received as evidence of the birth or death to which the same relates in all courts without any further proof of such entry. *(1836 c.86, s.38).*

Penalty for using a false certificate, etc.

6. A person who, knowing any certificate, declaration or order under or for the purposes of this Act to be false or forged, uses the same as true or gives or sends the same as true to any person is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale. *(1874 c.86, s.40; 1911 c.6, s.17).*

Registrar to learn and register births and deaths.

7. The Registrar shall, subject to any rules to be made as hereinafter provided, be and he is hereby authorized and required to, inform himself carefully of every birth and death which shall happen in Gibraltar, and to learn and register, as soon after the event as conveniently may be done, and without fee or reward, save as herein provided, in the books to be kept by him for that purpose, the prescribed particulars touching every such birth or every such death, as the case may be. Every such entry shall be made in order from the beginning to the end of the book. *(1854 c.80, s.26).*

Penalty for not duly registering.

8. If the Registrar refuses, or without reasonable cause omits, to register any birth or death of which he has had due notice, or to make any additions to or alterations upon the registers in accordance with the provisions of this Act, he is guilty of an offence and is liable on summary conviction to a penalty at level 3 on the standard scale for every such offence. *(s.61).*

Correction of errors in registers.

9. With regard to the correction of errors in registers of births and deaths:— *(1874 c.88, s.36)*

- (a) no alteration in any register shall be made except as authorized by this Act;
- (b) any clerical error which may from time to time be discovered in any such registers may be corrected by the Registrar who shall initial the same;
- (c) any error of fact or substance in any such registers may be corrected by the Registrar by entry in the margin (without any alteration of the original entry) upon production to him by the person requiring such error to be corrected of a statutory declaration setting forth the nature of the error and the true facts of the case and made by two persons required by this Act to give information concerning the birth or death with reference to which the error has been made, or in default of such persons then by two credible persons having knowledge of the truth of the case. Every such alteration shall be made in the presence of a justice of the peace who shall attest the same according to the truth of the case, and shall sign the marginal entry, and add thereunto the day of the month and year when such correction shall be made.

Registration of Births.

Information concerning birth, by whom to be supplied.

(1874 c.88, s.1). 10. (1) The following persons shall be qualified to give to the Registrar information of the particulars required to be registered concerning the birth of every child born alive in Gibraltar, that is to say—

- (a) the father and mother of the child;
 - (b) each person present at the birth;
 - (c) the occupier of the house in which the child is born, if he knew of the happening of the birth;
 - (d) the person having charge of the child.
- (2) Subject to section 15, it shall be the duty—
- (a) of the father or mother of the child;
 - (b) if the father or mother of the child is dead, ill or absent, of each such person as is mentioned in paragraphs (b), (c) or (d) of subsection (1),

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within 21 days of the birth to give to the Registrar information of the particulars required to be registered concerning the birth and in the presence of the Registrar, to sign the Register:

Provided that the giving of the information by one qualified informant shall act as discharge of any duty under this sub-section of every other qualified informant.

(3) A person who fails to give information as required by this section, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Requisition by Registrar of information.

11. When a birth has, from the default of the parents or other persons required to give information concerning it, not been duly registered, the Registrar may at any time after the end of twenty-one days from such birth, by notice in writing, require any of the persons qualified by this Act to give information concerning such birth, to attend personally at the registry office within seven days after the receipt of such notice, and to give information, to the best of such person's knowledge and belief, of the particulars required to be registered concerning such birth and to sign the register in the presence of the Registrar, and it shall be the duty of such person to comply with such requisition, and any person who makes default is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale. *(1874 c.88, s.2).*

Information of finding new born child to be given.

12. In case any living new born child is found exposed, it shall be the duty of any person finding such child, and of any person in whose charge such child may be placed, to give, to the best of his knowledge and belief, to the Registrar, within seven days after the finding of such child, such information of the particulars required to be registered concerning the birth of such child as the informant possesses, and in the presence of the Registrar to sign the register, and in default such person is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale. *(s.3).*

Registration after three months from birth of child.

13. (1) After the expiration of three months following the day of the birth of any child the Registrar shall not register such birth, save as herein provided. In case the birth of any child shall not have been registered according to the provisions hereinbefore made — *(1874 c.88 s.5).*

- (a) in the case of a legitimate child, any of the persons qualified in accordance with section 10(1); and

- (b) in the case of an illegitimate child, the mother or any such person as is mentioned in paragraphs (b), (c) or (d) of section 10(1),

shall make a declaration in writing before a justice of the peace of the particulars required to be registered touching the birth of such child according to the best of his or her knowledge and belief, and, subject to the provisions of subsection (2), the Registrar shall thereupon register the birth of such child according to the information of the person making such declaration. In every such case a justice of the peace shall sign the entry of the birth in the register as soon as conveniently may be after such declaration shall have been so made and for every such registration the Registrar shall be entitled, unless the delay shall have been occasioned by his default, to the prescribed fee from the person requiring such birth to be registered, and no register of births shall be admissible in evidence to prove the birth of any child wherein it shall appear that more than three months have intervened between the day of the birth and the day of registration of the birth of such child, unless the entry shall be signed by a justice of the peace.

(2) After the expiration of twelve months next after the birth of any child, that birth shall not be registered except with the written authority of the Governor for registering the same and except in accordance with any rules made in that behalf and upon payment of the prescribed fee, and the fact of such authority having been given shall be entered in the register.

(3) A person who knowingly registers or causes to be registered the birth of any child in contravention of this section is guilty of an offence and is liable on summary conviction to a fine of at level 3 on the standard scale.

Births registered after twelve months without authority, not evidence.

14. Save as in section 13 provided, after the expiration of twelve calendar months following the birth of any child the Registrar shall not register the birth of such child, and no register of births shall be given in evidence to prove the birth of any child wherein it shall appear that twelve calendar months had intervened between the day of the birth and the day of the registration of the birth of such child and that the authority from the Governor as is required by section 13 was not given.

Saving for father of illegitimate child.

- (1874 c.88, s.7) 15. (1) In the case of an illegitimate child no person shall, as father of such child, be required to give information under this Act concerning the birth of such child, and the Registrar shall not enter in the register the name of any person as father of such child, except—

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- (a) at the joint request of the mother and of the person acknowledging himself to be the father of the child (in which case that person shall sign the register together with the mother); or
- (b) at the request of the mother on production of—
 - (i) a declaration in the prescribed form made by the mother stating that that person is the father of the child; and
 - (ii) a statutory declaration made by that person acknowledging himself to be the father of the child.

(2) If on the registration of the birth of an illegitimate child no person has been entered in the register as the father, the Registrar may re-register the birth so as to show a person as the father—

- (a) at the joint request of the mother and of that person (in which case the mother and that person shall both sign the register in the presence of the Registrar); or
- (b) at the request of the mother on production of—
 - (i) a declaration in the prescribed form made by the mother stating that the person in question is the father of the child; and
 - (ii) a statutory declaration made by that person acknowledging himself to be the father of the child,

but no birth shall be so registered except with the authority of the Registrar and any such re-registration shall be effected in such manner as may be prescribed.

(3) A request under paragraph (a) or (b) of subsection (2) may, instead of being made to the Registrar, be made by making and signing in the presence of and delivering to such officer as may be prescribed a written statement in the prescribed form and in the case of a request under paragraph (b), producing to that officer the documents mentioned in that paragraph, and the officer shall send the statement together with the documents, if any, to the Registrar; and thereupon that subsection shall have effect as if the request had been made to the Registrar and, if the birth is re-registered pursuant to the request, the person or persons who signed the statement shall be treated as having signed the register as required by that subsection.

Registration of name or alteration.

(1874 c.88, s.7). 16. (1) When the birth of any child has been registered and the name (if any) by which it was registered is altered, or if it was registered without a name, when a name is given to it, the parent or guardian of such child, or other person procuring such name to be altered or given may, within twelve months next after the registration of the birth, deliver to the Registrar a certificate in the prescribed form, and the Registrar upon the receipt of that certificate and on payment of the prescribed fee shall, without any erasure of the original entry, forthwith enter in the register book the name mentioned in the certificate as having been given to the child, and shall state upon the certificate the fact of such entry having been made,

(2) The certificate shall be signed by the minister or person who performed the rite of baptism upon which the name was given or altered, or if the child is not baptized shall be signed by the father, mother or guardian of the child, or other person procuring the name of the child to be given or altered.

(3) Every minister of any denomination or other person who performs the rite of baptism shall deliver the certificate required by this section on demand, on payment of the prescribed fee and no further fee shall be demanded or taken for any such certificate.

(4) A minister or other person who refuses or neglects to deliver such certificate when demanded is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

When minister to send notice to Registrar.

(1854 c.80, s.34) 17. There shall be produced to the minister or other person performing the rite of baptism of any child a certificate of the registration of the birth of such child, and failing such production such minister or other person shall forthwith intimate the baptism of such child, with all the information which he may have regarding the birth and parentage of such child, to the Registrar.

18. *Repealed.*

Registration of stillbirths.

19. (1) The birth of every stillborn child shall be registered by the Registrar in a register of stillbirths in the manner prescribed.

(2) In the case of every stillbirth, it shall, unless there has been an inquest, be the duty of the person who would, if the child had been born alive, have been required by this Act to give information concerning the

birth, to give information to the Registrar of the particulars required to be registered concerning the stillbirth; and every such person upon giving information shall either—

- (a) deliver to the Registrar a written certificate that the child was not born alive, signed by a registered medical practitioner or certified midwife who was in attendance at the birth or who has examined the body of such child; or
- (b) make a declaration in the prescribed form to the effect that no registered medical practitioner or certified midwife was present at the birth, or has examined the body, or that his or her certificate cannot be obtained and that the child was not born alive.

(3) Subject to the provisions of this Act, and subject to the prescribed exceptions, the provisions of this Act shall apply to the registration and entry of a stillbirth as they apply to the registration or entry of the birth of a child born alive.

(4) The Registrar upon registering a stillbirth shall, if so required, give, either to the person giving information concerning the stillbirth or to the person who has control over or who ordinarily buries bodies in a burial ground in which it is intended to bury the stillborn child, a certificate under his hand in the prescribed form that he has registered the stillbirth, but may, on receiving written notice of a stillbirth accompanied by a certificate given by a registered medical practitioner or certified midwife under the foregoing provisions of this section, before registering the stillbirth give to the person sending the notice a certificate that he has received notice of the stillbirth, and any certificate given under this subsection shall be given without fee.

Registration of Deaths.

Register of deaths.

20. The Registrar shall keep a register of deaths, in which he shall record the death of every person who dies in Gibraltar.

When medical practitioner to transmit to Registrar certificate of death.

21. Every medical practitioner present at the death or in attendance during the last illness of any person who shall die in Gibraltar, or if there be more than one such medical practitioner then some one of such medical practitioners, shall, within twenty-four hours after such death, or after such death shall come to his knowledge if not present thereat, deliver or transmit to the Registrar a certificate in the prescribed form signed by himself of the death of such person, and of the date and cause of death to the best of his

(1874 c.88, s.20(2); 1826 c.48, s.6(2)).

knowledge and belief, and in default thereof every such medical practitioner, and if more than one, each and every of such medical practitioners, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Certificate from medical practitioner to be inserted in register.

22. The Registrar shall, upon receipt of the certificate referred to in section 21 or of a certificate of the Coroner certifying that an inquest is unnecessary, insert in the register the proper number and, in the proper columns, such information as is contained in the certificate and required to be registered touching the death of the person named therein.

Information concerning death by whom to be supplied.

(1874 c.88, s.10) 23. (1) The following persons shall be qualified to make a declaration concerning the death of any person who shall die in Gibraltar, that is to say—

- (a) any relative of the deceased person;
- (b) any person present at the death;
- (c) the occupier of the house if he knew of the happening of the death;
- (d) an inmate of the house who knew of the happening of the death;
- (e) the person causing the burial of the body.

(2) It shall be the duty—

- (a) of the nearest relative of the deceased person;
- (b) if there is no relative, of each such person as is mentioned in paragraph (b) or (c) of subsection (1); or
- (c) if there are no such relatives or persons as aforesaid, of each such person as is mentioned in paragraph (d) or (e) of that subsection,

within eight days after the day of such death, personally to make before and deliver to the Registrar a declaration in writing signed by him in the prescribed form setting forth to the best of his knowledge and belief all the particulars by this Act required to be registered concerning such death:

Provided that—

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- (i) the making of a declaration by any one qualified informant shall act as discharge of any duty under this subsection of every other qualified informant;
- (ii) this subsection shall not have effect if an inquest is held touching the death of the deceased person.

24. *Repealed.*

Entry of particulars in register.

25. The Registrar shall thereupon insert in the proper columns of the register the several particulars required to be known and registered concerning the death of the person named in such declaration, and concerning such person so far as he shall have ascertained the same from such declaration, and from the examination of the person by whom the same shall have been made.

Entry to be signed by person supplying particulars.

26. The person by whom such declaration shall have been made, when and so soon as the Registrar shall have entered in the register the several particulars to be ascertained and registered, shall sign his name ... in the proper place in the said register, and in default thereof is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Completion of register.

27. The Registrar shall thereupon insert the date of registration and all such other observations as he may think necessary, and sign his name, and thereupon such death shall be deemed to be fully registered.

When register admissible in evidence.

28. No register of deaths made or kept under the provisions of this Act, except as hereinafter provided, shall be admissible in evidence which shall not be signed by some person professing to be the informant, and to be such party as is by this Act required to make such declaration as aforesaid before the Registrar relating to such death, nor unless the same shall be duly signed by the Registrar in manner required by this Act. *(1874 c.88, s.38)*

Refusing to make declaration, etc., as to death.

29. Any person who in accordance with section 23 is required to personally make before and deliver to the Registrar a declaration hereinbefore required within the period hereinbefore mentioned, and who refuses or omits *(1874 c.88, s.39)*

personally to deliver that declaration, and every such person who refuses to answer any such question hereby authorised or prescribed to be put, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

No declaration required where inquest held.

30. Notwithstanding the other provisions of this Act, in every case in which an inquest shall have been held upon the dead body of any person who shall die in Gibraltar, no declaration shall be required, nor shall any penalty attach by reason of the non-making thereof, if the Coroner with or without a jury, shall enquire of and find and record by the verdict (which he, or they, are hereby authorised and required to do) all the particulars required by this Act to be known, enquired into and registered concerning the death of such person and concerning such person, and required to be supplied by a person specified in section 23.

Coroner to transmit particulars found by jury to Registrar.

31. The Coroner who shall hold any inquest shall immediately transmit to the Registrar a certificate in the prescribed form under his hand, of the several particulars so required to be known and registered concerning the death of and concerning such person, as found by the Coroner or where there was a jury, by the jury, together with the proper date of the holding of such inquest.

Registrar to enter particulars in register.

32. The Registrar shall upon the receipt of such certificate, enter in the proper column of the register the several particulars so found and recorded, unless the same shall have been previously registered, and shall insert in the proper column, under the head of observations, the date of the receipt of such certificate, and such observations as he may consider necessary, and sign his name, and thereupon such death shall be deemed to be fully registered.

Registrar to give certificate to person in charge of funeral, unless inquest.

33. The Registrar when requested so to do by the person having the charge of the funeral of the dead body of any person whose death shall have been duly registered or part registered under the provisions of this Act, shall deliver to such person, without fee or reward, a certificate in the prescribed form, unless he shall be of opinion that it may be necessary that an inquest shall be held on the body of such deceased person, in which case the Registrar shall give notice thereof to the Coroner, and the Registrar is

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hereby authorized to give such notice whenever he may think it necessary to do so.

Coroner when to issue order of burial.

34. At or before the termination of any inquest the Coroner shall issue his order in the prescribed form for the burial of the body upon which such inquest was held, and the Coroner shall, when requested so to do, deliver such order to the person having the charge of the burial of such body.

Certificate or Coroner's order to be given to minister before burial.

35. (1) Except in the case of a burial in the cemetery in North Front, every person having charge of any funeral shall, before the commencement of the burial of the body of any person who shall die in Gibraltar, or performance of any religious or other service or ceremony at or for such burial, deliver to the minister or other person by whom such service or ceremony is intended to be performed, a certificate that the death of such person has been duly registered or part registered under the provisions of this Act or an order made for burial by the Coroner in the prescribed form and in default thereof it shall not be lawful for any person to bury such dead body or to perform any religious or other service or ceremony at or for such burial:

Provided that when the burial shall be of any member of the armed forces of the Crown, it shall not be necessary to deliver the certificate in this section mentioned to the minister or other person performing the burial service.

(2) In the case of every burial in the cemetery in North Front the person in charge of the funeral shall before the commencement of the burial ceremony deliver to the cemetery keeper the certificate of the Registrar issued under section 33, or the order of the Coroner made under section 34; and the cemetery keeper shall, after the burial endorse upon such certificate or order the date of the burial, sign his name on such certificate or order, and forthwith send such certificate or order as endorsed and signed to the Registrar.

(3) A person who offends against the provisions of this section is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Burial of deceased children as stillborn.

36. (1) A person shall not wilfully bury or procure to be buried the body of a deceased child as if it were stillborn. *(1874 c.88, s.18)*

(2) The officer, keeper or other person who has control over or ordinarily buries bodies in the cemetery at the North Front shall not permit to be buried in such burial ground the body of any deceased child alleged to have been stillborn before there is a certificate given by the Registrar under the provisions of section 19 or, if there has been an inquest, an order of the Coroner.

(3) A person who acts in contravention of this section is guilty of an offence and is liable on summary conviction to a fine of at level 3 on the standard scale.

Ministers, etc., to indorse and sign certificate and transmit to Registrar.

37. Save in the case of a burial to which section 35(2) applies, every minister by whom any religious service or ceremony, or any other person by whom any civil service or rite, shall be performed at the burial of any person who shall die in Gibraltar, shall forthwith indorse the date of such burial on the certificate or order delivered to him by the person having charge of the funeral, and sign his name thereto and transmit the same so indorsed and signed to the Registrar, and in default is guilty of an offence is liable on summary conviction to a fine at level 3 on the standard scale.

Death in Gibraltar presumed when dead body found therein.

38. Every dead body of a person which shall be found or be in Gibraltar, shall for the purposes of this Act, be presumed to be, until the contrary be shown, the dead body of a person who has died in Gibraltar.

Powers of Registrar to require registration of full particulars of death.

39. (1) If the Registrar shall have reasonable grounds to believe that any person shall at any time within six months previously have died in Gibraltar, the particulars relating to whom and to whose death by this Act required to be registered shall not have been duly registered, or have been erroneously or imperfectly registered, he shall upon being supplied with the necessary particulars by the person by this Act required or authorized to supply the same, register such particulars, and if necessary cancel any former registration, by a marginal note referring to the correct entry.

(2) For the purposes aforesaid the Registrar by summons under his hand shall cause to come before him at his office, on a day and at an hour therein mentioned, any person by this Act authorized to supply any such particulars, and shall require him to make declaration of all such particulars to the best of the declarant's knowledge and belief.

(3) A person duly served with any such summons who without lawful excuse, the proof whereof shall lie on the person charged, refuses or

neglects to obey the same or to make such declaration as aforesaid, is guilty of an offence and is liable on summary conviction to a fine at level 3 on the standard scale.

Modification of Act in case of death of members of armed forces, etc.

40. The provisions in this Act contained relating to the registration of deaths shall be modified in the manner following in the case of every person who at the time of his death was an inmate of any premises inhabited by the Governor, or by any member of the armed forces of the Crown, and also in the case of every person dying in any hospital provided for members of the armed forces of the Crown and their families or in any barracks or quarters so provided or on board any of Her Majesty's ships or any merchant or other private vessel in the port of Gibraltar, that is to say:—

- (a) in lieu of the declaration required to be made under section 23 there shall be transmitted to the Registrar within eight days after the day of the death, a certificate in the prescribed form signed by such officer as may be prescribed;
- (b) on receipt of such certificate the Registrar shall record in the register, the fact that the death has been reported in manner provided by this section and shall enter in the register the date of the certificate together with the several particulars contained in the certificate and such other observations as the Registrar considers necessary. In lieu of the signature of the informant of the death there shall be entered in the appropriate column by the Registrar the official designation of the officer supplying the certificate and thereupon such death shall be deemed to be fully registered.

Rules.

Rules.

41. It shall be lawful for the Governor to make rules for the better carrying out of the provisions of this Act and in particular he may prescribe forms and fix fees for the several matters to which this Act relates.

Notices, etc.

Sending of documents by post.

42. Any notice, information, certificate, requisition, return or other document required by or under this Act may be sent by post.