



**TRISTAN DA CUNHA**

**REVISED EDITION OF THE LAWS, 2017**

**FAMILY, EDUCATION AND WELFARE**

**BIRTHS AND DEATHS (REGISTRATION) (TRISTAN DA CUNHA)  
ORDINANCE, 1853<sup>1</sup>**

*Ordinance SH 1 of 1853  
In force 3 February 1853*

*Amended by SH Ordinances 6 of 1854, 4 of 1858, 1 of 1923, 4 of 1926, 4 of 1935  
10 of 1949, 14 of 1949, 10 of 1950, 2 of 1967, 8 of 1981  
4 of 1985, 12 of 2017*

*Applied to Tristan da Cunha by Cap. 118 of the Revised Edition, 1950 and Ordinance T1 of 1995 with modifications which have been incorporated in the text below. The text also modifies the St Helena Ordinance to the circumstances of Tristan da Cunha as required by section 2(2) of the Application of St Helena Law (Tristan da Cunha) Ordinance, 1987<sup>2</sup>.*

*SH subsidiary legislation:*

**BIRTHS AND DEATHS (FEES) ORDER, 2013**

*Legal Notice SH14 of 2013*

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**BIRTHS AND DEATHS (REGISTRATION)(TRISTAN DA CUNHA) ORDINANCE, 1853**

**ARRANGEMENT OF SECTIONS**

1. Short title
- 1A. Interpretation

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GENERAL**

2. Registrar-General to be appointed

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<sup>1</sup> *This text is not authoritative but was prepared by the Law Revision Commissioner under section 14 of the Revised Edition of the Laws Ordinance, 1999 as stating the law at 1 November 2017.*

<sup>2</sup> “(2) The said law of St Helena applies to Tristan da Cunha only in so far as it is applicable and suitable to local circumstances, and subject to such modifications, adaptations, qualifications, and exemptions as local circumstances render necessary.”

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AN ORDINANCE to provide for the registration of births and deaths in Tristan da Cunha.

**Short title**

1. This Ordinance may be cited as the Births and Deaths (Registration) (Tristan da Cunha) Ordinance, 1853.

**Interpretation**

1A. In this Ordinance –  
“**Registrar**” means the Registrar of Births and Deaths for Tristan da Cunha appointed under section 4;  
“**register book**” means a book required to be kept under this Ordinance for the registering of

births, still-births and deaths.

## **PART I GENERAL**

### **Registrar-General to be appointed**

2. There is to be a Registrar-General's Office at the Castle at Jamestown for the registration of births and deaths occurring within St Helena, Ascension and Tristan da Cunha, and the Governor must from time to time appoint a person to be Registrar-General.

### **Registrars to notify Registrar-General of all subsequent entries in register**

3. The Registrar, upon registering any birth or death occurring in Tristan da Cunha, must immediately send to the Registrar-General a certified copy of the relative entry in the register, and the Registrar-General must cause the certified copy to be incorporated in the records kept by the Registrar-General.

### **Appointment of Registrars**

4. The Governor may appoint a Registrar of Births and Deaths for Tristan da Cunha.

### **Registrar may appoint deputy**

5. (1) The Registrar may, subject to the approval of the Administrator, appoint by writing, under his or her hand, a fit and proper person to act as his or her deputy, in case of the illness or unavoidable absence of the Registrar.

(2) A deputy Registrar –

- (a) while acting as such, has all the powers and duties, and is subject to all the provisions and penalties concerning the Registrar set out in this Ordinance; and
- (b) in case of the death of the Registrar, must act as Registrar until another Registrar is appointed.

(3) The Registrar is responsible in civil law for the acts or omissions of his or her deputy.

### **Safe custody of records**

6. (1) The Registrar must be provided, at the expense of the Government of Tristan da Cunha, with a sufficient number of strong boxes (in this section referred to as “**the register box**”) to hold the register books to be kept by the Registrar.

(2) The register books, when not in use, must be always kept in the register box, which must always be kept locked.

### **Registrar to deliver records to successor**

7. (1) If the Registrar is removed from or ceases to hold office as Registrar,

all register boxes, keys, books, documents and papers in his or her possession as a Registrar (“**official papers**”) must be given, as soon as conveniently may be, to his or her successor in office.

(2) If any person refuses to give up the official papers, the Magistrate may, upon application made for that purpose, issue a warrant under his or her hand and seal for bringing such person before the Magistrate; and if the person does not appear, or cannot be found, may hear and determine the matter in a summary way.

(3) If it appears to the Magistrate that any official papers are in the custody or power of any person, and that the person has refused or wilfully neglected to deliver them up, the Magistrate must commit the offender to prison, there to remain without bail until the person delivers up the official papers to the person in whose custody they ought to be.

(4) The Magistrate may grant a warrant to search for any official papers, as in the case of stolen goods, in any dwelling-house or other premises in which any credible witness proves upon oath before him or her that there is reasonable cause to suspect the same to be; and the official papers, when found, must be delivered to the person in whose custody they ought to be.

### **Register books to be provided**

8. (1) The Registrar must cause to be printed, on account of the respective Register Office, a sufficient number of register books, for making entries of all births, still-births and deaths in the appropriate form respectively set out in Forms 1, 3 and 4 in the Schedule.

- (2) The register books must –
- (a) be of durable materials;
  - (b) have printed upon each side of every leaf the heads of information herein required to be known of births and deaths respectively;
  - (c) have every page of each book numbered progressively, from the beginning to the end of the book, beginning with number one;
  - (d) have every place of entry numbered progressively, from the beginning to the end of the book, beginning with number one; and
  - (e) have every entry divided from the following entry by a printed line.

### **Duties of Registrar**

9. (1) The Registrar must inform himself or herself of every birth, still-birth or death which happens within Tristan da Cunha, and register as soon after the event as conveniently may be done (without fee or reward except as otherwise expressly provided), the particulars of any such birth, still-birth or death as set out in the appropriate form in the Schedule.

- (2) *Omitted; applies to St Helena only*

## **PART II REGISTRATION OF BIRTHS**

### **Information concerning births**

**10.** (1) Subject to subsection (1A), in the case of every child born alive –

- (a) the persons with parental responsibility for the child; or
- (b) in default of persons with parental responsibility, the occupier of the house in which to the occupier's knowledge the child is born, each person present at the birth, and the person having charge of the child,

must give to the Registrar, within 21 days next after the birth, information of the particulars required to be registered concerning such birth, and in the presence of the Registrar sign the register.

**(1A)** In the case of an illegitimate child –

- (a) no person, as father of such child, is required to give information under this Ordinance concerning the birth of the child; and
- (b) the Registrar must not enter in the register the name of any person as father of the child,

unless 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 must sign the register, together with the mother.

**(2)** If any living new-born child is found exposed, any person finding the child, and any person in whose charge the child may be placed, must –

- (a) give, to the best of his or her knowledge and belief, to the Registrar, within 7 days after the finding of the child, any information of the particulars required to be registered concerning the birth of the child that the informant possesses; and
- (b) in the presence of the Registrar sign the register.

### **Births not registered within 21 days**

**11.** (1) If 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 21 days from the birth, by notice in writing, order any of the persons required by this Ordinance to give information concerning the birth to –

- (a) attend personally at the Registrar's office, or at any other place appointed by the Registrar, within a time (not less than 7 days after the receipt of the notice and not more than 12 months from the date of the birth) specified in the notice;
- (b) on such attendance, give information, to the best of the person's knowledge and belief, of the particulars required to be registered concerning the birth; and
- (c) on such attendance sign the register in the presence of the Registrar, subject to section 12.

**(2)** A person who is the subject of an order under subsection (1) must, unless the birth is registered before the expiration of the time specified in it, comply with the order.

### **Registration of birth after 6 months**

**12.** (1) After the expiration of 6 months next after the birth of any child, a Registrar must not register the birth except as provided in this section.

- (2)** After 6 months but not later than 12 months after the birth, the Registrar may

register the birth after a solemn declaration of the particulars required to be registered concerning the birth has been made before a Justice of the Peace by any of the persons required by this Ordinance to give information concerning the birth.

**(2A)** Upon any of the persons mentioned in subsection (2) making a declaration as contemplated by that subsection (whether pursuant to an order notified by the Registrar or not), and giving information concerning the birth, the Registrar must there and then, in presence of the Magistrate, register the birth according to the information of the declarant, and the Magistrate, as well as the Registrar and the declarant, must sign the entry of the birth.

**(3)** After the expiration of 12 months next after the birth of any child, the Registrar must not register the birth except with the written authority of the Chief Justice, and the fact of such authority having been given must be entered in the proper register.

**(3A)** Before giving authority as contemplated by subsection (3), the Chief Justice may require such information, by solemn declaration or otherwise, as he or she may direct, to be given by any of the persons required by this Ordinance to give information concerning the birth.

**(4)** A person who registers or causes to be registered the birth of any child in contravention of this section commits an offence.  
Penalty: A fine of £25.

### **Registration of still-births**

**13. (1)** The birth of every still-born child must be registered by the Registrar in a register of still-births containing the heads of information set out in Form 3 in the Schedule.

**(2)** In the case of every still-birth, unless there has been an inquest, the person who would, if the child had been born alive, have been required to give information under this Ordinance concerning the birth must-

- (a)* inform the Registrar of the particulars required to be registered concerning the still-birth; and
- (b)* upon giving such information, deliver to the Registrar a written certificate that the child was not born alive.

**(3)** Except as otherwise provided by this Ordinance, the provisions of it apply to the registration of a still-birth as they apply to the registration of the birth of a child born alive.

**(4)** The Registrar upon registering a still-birth must, if so required, deliver without fee or reward to the informant or to the person having charge of the burial, a certificate that he or she has registered the still-birth.

**(5)** In this section, “**still-born**” and “**still-birth**” apply to any child which has issued forth from its mother after the 28th 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.

### **Baptismal name registrable within 6 months**

**14. (1)** If a child whose birth has been registered under this Ordinance, within 6 months after it has been so registered, has any name given to it in baptism, the parent or guardian of the child, or other person procuring such name to be given may, within 7 days after the baptism, procure and deliver to the Registrar or person in whose custody the register of the birth of the child then is, a certificate of baptism in Form 5 in the Schedule, signed by the minister who performed the baptism.

**(2)** If a certificate of baptism is demanded, the minister who performed the baptism must deliver it immediately after the baptism, on payment of the fee prescribed by order by the Governor, which the minister is entitled to receive.

**(3)** The Registrar, upon receipt of such certificate, and on payment of the fee prescribed by order by the Governor, must -

- (a)* without any erasure of the original entry, immediately enter in the register that the child was baptised by that name; and
- (b)* certify upon the certificate the additional entry so made, and file the certificate in the office of the Registrar.

## **PART III REGISTRATION OF DEATHS**

### **Registration of deaths**

**15. (1)** Subject to subsection (2)—

- (a)* if a person dies in a house the nearest relatives of the deceased present at the death or in attendance during the last illness of the deceased, and in default of such relatives, every other relative of the deceased, and in default of such other relatives, each person present at the death, each inmate of the house in which the death took place, and the person causing the body of the deceased person to be buried, must give, to the best of his or her knowledge and belief, to the Registrar, within 24 hours following the death, information of the particulars required to be registered concerning the death;
- (b)* if a person dies in a place which is not a house, or a dead body is found elsewhere than in a house, every relative of the deceased person having knowledge of the death and of any of the particulars required to be registered concerning the death, and in default of such relative, every person present at the death, any person finding or taking charge of the body, the person causing the body to be buried, must give within 24 hours after the death or the finding (whichever is later) to the Registrar such information of the particulars required to be registered concerning the death as the informant possesses and in the presence of the Registrar must sign the register.

**(2)** In every case in which an enquiry is held on a dead body, the person holding the enquiry must inform the Registrar of his or her finding and the Registrar must make the entry accordingly.

**(3)** If any death has, from the default of the persons required to give information

concerning it, not been registered, the Registrar may, at any time after the expiration of 14 days and within 12 months from the day of the death or from the finding of the dead body elsewhere than in a house, by notice in writing, order any person required by this Ordinance to give information concerning the death –

- (a) attend personally at the Registrar's office, or at any other place appointed by the Registrar, within a time (not less than 7 days after the receipt of the notice and not more than 12 months from the date of the birth) specified in the notice;
- (b) on such attendance, give the said information to the best of the person's knowledge and belief, and
- (c) on such attendance sign the register in the presence of the Registrar.

**(3A)** A person who is the subject of an order under subsection (3) must, unless the death is registered before the expiration of the time specified in it, comply with the order.

**(4)** After the expiration of 12 months next after any death or after the finding of any dead body elsewhere than in a house, the death must not be registered except upon the written authority of the Chief Justice for registering it, and the fact of such authority having been given must be entered in the register.

**(5)** The Chief Justice may, before giving authority to register a death under subsection (4), require any evidence, whether sworn or not, and whether oral or in writing, the Chief Justice considers necessary to be given by any person required by this Ordinance to give information concerning such death; and any such person must comply with the requisition to the best of his or her knowledge and belief.

**(6)** A person who registers or causes to be registered any death in contravention of this section commits an offence.

Penalty: A fine of £25.

### **Registrar to issue certificate of death**

**16. (1)** The Registrar, immediately upon registering any death, or as soon thereafter as he or she is required so to do, must, without fee or reward, deliver to the undertaker or other person having charge of the funeral, a certificate under the hand of the Registrar, in Form 6 in the Schedule, that the death has been duly registered.

**(1A)** A certificate under subsection (1) must be delivered by the undertaker or other person having charge of the funeral, to the minister or officiating person required to bury or to perform any religious service for the burial of the dead body.

**(2)** Subject to subsection (2A), if any dead body is buried for which no certificate under subsection (1) has been delivered, the person who buries the body or performs a funeral or any religious service for the burial must immediately give notice thereof of the fact to the Registrar.

**(2A)** The person holding the enquiry may order the body to be buried, if the person holding the enquiry thinks fit, before registry of the death, in which case the person holding the enquiry must give a signed certificate of the order in writing in Form 7 in the Schedule, to the undertaker or other person having charge of the funeral, without fee or reward.



- (3) A person who-
- (a) buries, or performs any funeral or any religious service for the burial of any dead body, for which no certificate has been duly made and delivered as provided by this section either by the Registrar or Coroner; and
  - (b) fails within 7 days of the event to give notice thereof to the Registrar,
- commits an offence.  
Penalty: A fine of £10.

## PART IV MISCELLANEOUS

### Registers may be searched

17. (1) A Registrar who has the keeping for the time being of any register book must –
- (a) at all reasonable times allow searches to be made of any register book in his or her keeping; and
  - (b) give a copy certified by him or her of any entry or entries in the same,
- on payment of the fees prescribed by the Governor.

- (2) Any person who pays the prescribed fee and provides the entry number in the register of births and the year of birth is entitled to be supplied with a shortened form of certificate in Form 2 in the Schedule.

### Indexes to be made

18. A Registrar must cause indexes of the register books in his or her office to be made, and kept with the other records of the office, and every person is entitled, at all reasonable hours, to search the indexes, and to have a certified copy of any entry or entries in the register books or indexes, under the hand of the Registrar, on payment of the fees prescribed by the Administrator by notice published by the Administrator and affixed to the Notice Board at the Office of the Administrator after receiving the approval of the Governor and obtaining the advice of the Island Council.

### Register or certified copy when not evidence

19. (1) An entry in a register under this Ordinance, or a certified copy of an entry, is not evidence of a birth, death or still-birth, as the case may be, unless the entry either purports to be signed by some person professing to be the informant and to be such a person as is required by law at the date of the entry to give the Registrar information concerning such birth, death or still-birth, or purports to be otherwise made pursuant to this Ordinance with respect to the registration of births, deaths and still-births respectively.

- (2) A certified copy under the hand of the Registrar must not be received in evidence by any Court unless it is sealed or stamped with the Registrar's seal of office prescribed by regulations made under this Ordinance.

### Giving false information

**20.** A person who wilfully makes or causes to be made for the purpose of being inserted in any register book any false statement touching any of the particulars required by this Ordinance to be known and registered, is guilty of perjury and is liable to be prosecuted for that offence.

### **Penalty for refusal to supply information**

**21. (1)** It is an offence for a person who is required by this Ordinance to give information concerning any birth or death or still-birth, without reasonable excuse, to –

- (a) refuse to answer any question put to the person by the Registrar or to provide evidence required by the Chief Justice concerning the particulars required to be registered under this Ordinance; or
- (b) fail to comply with any order of the Registrar made under this Ordinance.

Penalty: A fine of £5.

**(2)** An offence under subsection (1) is committed by –

- (a) the parent of any child who fails to give information concerning the birth of such child, as required by this Ordinance; and
- (b) a person required by this Ordinance to give information concerning a death in the first instance, and not merely in default of some other person, if the information required by this Ordinance is not duly given.

### **Power to make regulations**

**22.** The Governor may make regulations for any of the following purposes—

- (a) prescribing an official seal for use by the Registrar and providing for the safe custody of it;
- (b) any other purpose for which regulations may be made under this Ordinance.

### **Offences**

**23. (1)** If the Registrar refuses, or without reasonable cause omits, to register any birth or death of which he or she has had due notice as provided by this Ordinance the Registrar commits an offence.

Penalty: A fine of £50.

**(2)** A person who has the custody of any register book or certified copy of a register book, or of any part of a register book or copy, who carelessly loses it, or allows it to be injured while in the person's keeping, commits an offence.

Penalty: A fine of £50.

### **Destruction or falsification of register books**

**24.** It is an offence for a person to –

- (a) wilfully destroy or injure, or cause to be destroyed or injured, any register book, or any part, or certified copy of any part of a register book;
- (b) falsely make or counterfeit, or cause to be made or counterfeited, any part of any register book or certified copy of a register book;
- (c) wilfully insert, or cause to be inserted, in any register book or certified copy thereof, any false entry of any birth or death;

(d) wilfully give any false certificate, or certify any writing to be a copy or extract of any register book, knowing the same register to be false in any part thereof; or

(e) forge or counterfeit the seal of the register office.

Penalty: A fine of £50.

**Errors may be corrected**

25. *Repealed by Cap. 118 of the 1950 Revised Edition*

**SCHEDULE**  
(Sections 8, etc.)

**FORMS**

**FORM 1**  
(Section 8)

**ENTRY OF BIRTH IN TRISTAN DA CUNHA**

No.  
When born  
Surname and other names  
Sex  
Name and surname of father  
Name and maiden surname of mother  
Rank or profession of father  
Signature, description, and residence of informant  
When registered  
Signature of Registrar  
Baptismal name if added after registration of birth

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**FORM 2**  
(Section 17(2))

**SHORT CERTIFICATE**  
**BIRTHS IN RISTAN DA CUNHA**

No.  
When born  
Surname and other names  
Sex  
When registered  
Signature of Registrar  
Baptismal name if added after registration of birth

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**FORM 3**  
(Section 13)

**FORM OF REGISTER OF STILL-BIRTHS**

No.  
When and where born  
Sex  
Name and surname of father  
Name and Maiden name of mother  
Rank or Profession of father  
Signature, description, and residence of informant  
When registered  
Nature of evidence upon which registered as still-born  
Signature of Registrar

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**FORM 4**  
(Section 8)

**DEATHS IN TRISTAN DA CUNHA**

No.  
When died  
Name and surname  
Sex  
Age  
Rank or profession  
Cause of death  
Signature, description, and residence of informant  
When registered  
Signature of Registrar

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**FORM 5**  
(Section 14)

**BAPTISM CERTIFICATE**

I, .....of ..... in Tristan da Cunha, do hereby certify that I have this day baptized by the name of ....., a male (or female) child, produced to me by ....., as the son (or daughter) of ..... and declared by the said ..... to have been born at ....., in Tristan da Cunha, on the ..... day of .....  
Witness my hand this ..... day of .....

Minister, etc.

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**FORM 6**  
(Section 16 (1))

I, ....., Registrar of Births and Deaths in Tristn da Cunha, do hereby certify that the death of ..... was duly registered by me, on the ..... day of .....  
 Witness my hand this ..... day of .....

Registrar

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**FORM 7**  
(Section 16 (2))

I, ....., Coroner for Tristan da Cunha, do hereby order the burial of the body now shown to the Inquest Jury, as the body of .....  
 Witness my hand this ..... day of .....

Coroner

**BIRTHS AND DEATHS (REGISTRATION) ORDINANCE, 1853**

**BIRTHS AND DEATHS (FEES) ORDER, 2013**  
(Sections 14, 17 & 18)

**Citation and commencement**

**1.** This Order may be cited as the Births and Deaths (Fees) Order, 2013, and comes into force on 1 April 2013.

**Fees**

**2.** The following fees are prescribed for the purposes of the Ordinance:

- |    |   |  |
|----|---|--|
| 1. | For every certified copy entry:             |  |
|    | Same day                                    | £6.50  |
|    | One day notice                              | £5.50  |
|    | 3 days notice                               | £4.50  |
| 2. | For every registration of a baptismal name: |  |
|    | Within 3 months after birth                 | £4.00  |
|    | Within 6 months after birth                 | £6.50  |
| 3. | For every search of the Register            | Fees assessed by the Registrar<br>not exceeding £40.00 |
| 4. | For correction made to the Register         | £5.00  |
| 5. | For certification of a certificate          | £5.00  |
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