FAQs on Registration of Births & Deaths

Q: Whether registration of Births & Deaths can be done at any place ?In other word, Whether registration of Births & Deaths can be done at any place irrespective of the place of occurrence? Whether an event, which has taken place in Bombay, can be registered in Goa?

A: The event can be registered at the place of occurrence only. An event, which has taken place in Bombay, will be registered with the concerned local Registrar in Bombay within whose jurisdiction the event has occurred. The event cannot be registered in Goa.

Q: Which section of the RBD Act, 1969 indicate that the registration of events should be done according to place of occurrence?

A: Section 7 (2) read with Section 23 (2) of the RBD Act, 1969 make it very explicit that the Registrar has to register only those events of birth and death which take place in his jurisdiction.

Q: Whether the event of death occurred in a road accident at Hyderabad could be registered in the area of residence of the deceased in Goa on the ground that the dead body was cremated there?

A: As per provisions of section 7 (2) of the RBD Act, 1969 the event of births/deaths can be registered only at the place of occurrence. The event, which has taken in Hyderabad, should be registered with the concerned Registrar in whose jurisdiction the event has occurred. As such the event of death under reference could not be registered in Goa. In such cases , it is expected that the event of death might have been reported to the Registrar of births and deaths of the area where the death has occurred by the police officer in charge of Thana under Section 8 (1) (e) of the RBD Act, 1969.

Q: How the nationality of the incidence of the birth and death of a person can be ascertained by the Registrar?

A: The registration authority may register the nationality of non – Indian parents as entered in their passports. If doubt arises, this can be ascertained from the police authority where he or she is registered and issued with residential permit. As regards, the foreigners who pretend to be Indian nationals and the doubt is raised by the local registrar, the only alternative is to get the matter enquired by the police of the area concerned.

Q:Is the nationality mentioned by the reporter will be taken as valid evidence in the Court of Law?

A: The registrar who is functionary under the registration of Births and Deaths Act, 1969 and is appointed by the State Government is obliged to make entries as per the form prescribed under the Rules, although strictly under section 7(2) of the Act, the information required to be entered in the register is confined to information relating to births and deaths only.

Q: Is it obligatory on the part of the registrar to record in the Birth/ Death register regarding nationality?

A: The admissibility of evidence as to nationality of a person will be decided by a judge in the light of section 136 of the Evidence Act. The evidentiary value of the record depends upon the truth that it may, in the circumstances, reflect. Accordingly, the admissibility of evidence and evidentiary value of entries made would depend upon the facts of each particular case.

Q: In case of delayed reporting of institutional events, what procedure should be followed for registration of such events?

A: It may be seen from the RBD Act, 1969 that in respect of births and deaths in a hospital, health center, maternity or nursing home or other like institutions, responsibility of informing the events to the registrar lies on the Medical Officer or any person authorized by him in this behalf under section 8 (1) (b) . Therefore any delay in the reporting of institutional events the concerned officer in –charge of the hospital may be held responsible and all the formalities required under section 13 of the Act observed. Further, in such cases the officer concerned can be penalized in accordance with the provisions of section 23 and 24 of the Act.

Q: Is it necessary to collect late fee for events reported late by (i) institutions (ii) police authorities? In that case, from whom the fee should be collected?

A: If any officer in charge of an institution or police station or barrack does not report an event as required under section 8 of the Act within the prescribed time, he becomes liable to pay late fee and even penalty as provided under sub-section (1) of section 23 of the Act.

Q: Whether the head of the household may be allowed to intimate to the local Registrar by post of the occurrence of vital events in the prescribed form?

A: There is no objection to the head of the household submitting particulars of occurrence of vital events to the Registrar by post so long as the particulars are as per the prescribed reporting forms 1, 2 and 3 depending upon whether it is live – birth, still birth or death respectively. In this regard, it has been suggested that in such cases, a note may be made in the remarks column of the registers to the effect that the registration is made on the basis of postal reporting and reporting forms 1, 2 & 3 as the case may be preserved as an integral part of the register.

Q: Whether fisherman reported to have been missed in the sea can be considered as dead and if so, how registration in such cases can be made?

A: The question whether fishermen have drowned in the sea or not is a question of fact. If there is sufficient evidence to prove that the persons missing in the sea had actually drowned in the sea or not is a question of fact. If there is sufficient evidence to prove that the persons missing in the sea had actually drowned, a conclusion on the basis of that evidence may be drawn that they are dead. As regards the presumption of death, such presumption would arise after the expiration of 7 years from the date of missing.

Q: What procedure is to be followed for registering event of birth in respect of an abandoned child and whether the name of parent of such child could be entered in the relevant column?

A: Registration of birth of an abandoned child should be made in accordance with the procedure laid down in section 8 (1) (e) of the Act. Entries in the register of births relating to parents of such child should be either "un-known" or whatever the actual position. The names of adoptive parents should not be entered in place if natural parents (i.e. father and mother).

Q: Whether death certificate could be issued in respect of a person who has been missing and has not been heard of for seven years?

A: The death under section 2 (b) of the Registration of Births & Deaths Act, 1969, means the permanent disappearance of all evidence or life after live–birth has taken place. It will be question, a fact in each case, for the purpose of this Act, whether "death" has taken place as defined in the Act. In view of the entries to be filled in the death register, it is difficult to advise that these columns in death register can be filled on the basis of "burden or proof" only.

Q:What procedure for registration is to be followed in case of medico–legal cases of death occurred in hospitals?

A: In case of medico–legal cases, the hospital authorities/physicians should inform the Registrar concerned, details thereof for follow up action in obtaining required certificate from the police authorities. The object is that on receipt of the information the local Registrar could register the event of death without completing the column of cause of death, making a remark in the remarks column that the "inquest report is awaited". The cause of death could be filled in later on receiving the inquest report.

Q: Whether printing of family planning and health Education slogans on the back side of the birth certificate is permissible under the Act?

A: It is not desirable to use the birth certificate as publicity measure because of it being a legal document.

Q: Whether a column regarding cause of death can be inserted in the death certificate issued by the Registrar in form No. 6?

A: As per RBD Act, 1969 the cause of death cannot be disclosed by the Registrar to any person seeking extract under section 17 of the Act and hence Form No. 6, does not include it.

Q: Whether an extract given under section 12 will have the same evidentiary value as an extract given under section 17 under the Indian Evidence Act, 1872?

A: A certified extract under section 17 of the RBD Act, 1969 is intended for use for the purposes of legal dispute or judicial proceeding. In any such case, a document certified in the manner provided in section 76 is admissible in evidence under section 77 of the Indian Evidence Act, 1872, as "proof of the contents of the public documents or parts of the public documents of which they purport to be copies". Under section 76 of the Evidence Act any such copy of public document will bear a certificate written at the foot of such copy that it is a true copy of such document or part thereof, as the case may be, and every such certificate shall be dated and subscribed by such officer with his name and his official title shall be sealed whenever such officer is authorized by law to make use of a seal. As against the above, an extract of the prescribed particulars from the register of births and deaths given under section 12 of the RBD Act, 1969 is intended mainly for purposes of record and may be useful for extra-judicial purposes like admission in an educational institution. It may be mentioned in this connection that fees are chargeable in respect of certified copies under section 17. However, if the administrative Ministry desires to allow an extract under section 12 to serve the same purpose as a copy given under section 17 the same can be achieved by providing in the rules that at the foot of copy of extract given under section 12, a certificate shall be given to the effect that it is a true copy of such document and every such certificate shall be dated and subscribed by such officer with his name, title and seal of office. If this is done, the extract under section 12 will also qualify as a certified copy within the meaning of section 77 of the Evidence Act, but no fee can be levied for grant of copies under section 12.

Q:Whether the age of the diseased is to be shown in death certificate.

A: It is not desirable to record the age of the diseased in the death certificate. (Form no.6). The column for age in the death register has been provided mainly for statistical purposes. If any person wants to establish the age of the diseased for any purpose he has to produce the deceased's birth certificate or any other secondary evidentiary proof relating to the age of the diseased.

Q: Whether birth/death certificate could be issued in the language other than the language in which entries are made in birth/death register?

A: Extracts from birth/death register are to be issued only in the language in which entries have been made in the register.

Q:Whether a Still Birth Certificate could be issued under the provisions of Act and the State Rules?

A: According to section 2(1) (a) of the Act, word/term "birth" means live birth or still birth. As such, extract from still birth register (form no 9) could be issued in form no.5 with an appropriate changes in the wording in that form such as information has been taken from the original records of still birth------ date of still birth and place of still birth instead of word "birth" given in that form.

Q: Whether extracts of birth/ death under section 12 could be given free of charge also in respect of the events registered under section 13 of the Act?

A: Section 12 of the Act contemplates giving of extracts free of charge to the person giving information under section 8 or section 9 thereof. The provision of this section is, therefore, not applicable in relation to the event registered under section 13.

Q: Whether birth or death extracts could be issued in the language, other than the language in which the relevant register is maintained?

A: Extracts from the register of birth and death should be issued in the language in which the entries are made in the register. However, there is no objection, if the registrar also issues separately a copy of such extracts in other language. But such copy should be marked at top "Translated Version".

Q: Whether events occurring prior to the date of enforcement of the RBD Act, 1969 can be registered?

A: The events of births and deaths which occurred prior to the coming into force the RBD Act, 1969 can be registered under the provisions of the Act. The provisions of section 13 which related to delayed registration can also be applied in registration of such events.

Q: Whether the Registrar is liable to pay late fee in cases of any delay on his part in registering an event under section 13(1) and 13(2) of the Act?

A: Section 13(2) is attracted when the information required as per section 8 or section 9 of the Act is furnished after thirty days but within one year of the date of occurrence of the event. However, section 13(3) is attracted when an event has not been registered within one year of occurrence. Section 13 only speaks of payment of late fee under relevant sub-sections by the party concerned. There is no provision for payment of late fee by the registrar for any delay on his part in registering an event. However, the Registrar can be penalized for any undue delay on his part in registering an event. Section 23(2) provides that any Registrar or Sub-Registrar who neglects or refuses without reasonable cause, to register any birth or death occurring in his jurisdiction or to submit any return as required by sub-section (1) of section 19 of the Act, shall be punishable with fine which may extend to Rs.50.

Q: Whether the event of birth could be registered at the place other than the place of occurrence under the provisions of delayed registration as laid down in section 13(3) of the Act?

A: The event birth/death is to be registered under section 13(3) of the RBD Act, 1969 at the place, where the event took place. In such cases, the registration should be made only on order of the Magistrate having jurisdiction over the area concerned.

Q: Whether there is any time limit prescribed for delayed registration of births & deaths under section 13(3) of the Act?

A: Under the provisions of section 13(3) of the Act, as it exists at present, there is no time bar on delayed registration of such events.

Q: Who is the competent authority for collecting fee payable under section13 & corresponding State rule

A: Fees and penalties imposed for late/delayed registration under section 13 and 23 of RBD Act, 1969 and corresponding State Rules, are to be paid to the concerned Registrar of Births and Deaths, unless some other officer has been appointed or authorized for the purpose under the State Rules.

Q: Whether the column relating to the name of the child registered before 1-7-1970 (i.e. before the date of implementation of the Registration of Births & Deaths Act, 1969) can be filled in or not?

A: By virtue of provision under section 31(2) of the Registration of Births & Deaths Act, 1969, the entries made in respect of births & deaths under the repealed law would, therefore, be deemed to have been made under the provisions of this Act and continue in force until superseded by anything done or any action taken under this Act.

Q: Whether penalty can be imposed under section 23(4) if any person fails to report the name of the child to the Registrar within the time prescribed in the state rules?

A: In case where the birth of a child has been registered without name and the parent or guardian of the child gives information regarding name of the child the Registrar after the prescribed period of 12 months, the Registrar shall enter name in the register on payment of a late fee of rupees two. If the information is delayed without any reasonable cause he shall also be punishable with a fine which may extend to ten rupees under section 23(4) of the RBD Act, 1969 and the corresponding State Rules.

Q: Whether all corrections of other nature are to be made in the same manner as the correction of date of birth and the same procedure shall apply for the supply of certified copies?

A: Rule 11of Registration of Births and Deaths Rules, 2000 provides for uniform rule which applies to all types of corrections including date of birth and supply of certified copy. Registration of Births and Deaths Rules, 2000 requires convincing proof by the Registrar and provides for elaborate procedure for effecting corrections under section 15 of the Act.

Q: Whether the date of birth can be corrected on the strength of a declaratory decree obtained by another party from a competent court?

A: The application for correction of age has to be made by the person concerned and not by another person.

Q: Whether expansion of name by adding father's and mother's name by way of correction in the registration records is covered under section 15 of the RBD Act, 1969?

A: The provisions of section 15 of the Act are not attracted in such cases as these involve a change of name.

Q: Whether addition of name in old birth register could be made in respect of events occurred and registered prior to the coming into force of the RBD Act, 1969?

A: By virtue of provision of 31(2) of the Registration of Births and Deaths Act, 1969 the entries made in respect of births and deaths under the repealed law would, therefore, be deemed to have been made under the provision of this Act and continue in force until superseded by anything done or any action taken under this Act. It, therefore, follows that the events registered before the enforcement of this Act 1969 will continue to be regulated under the provisions of the aforesaid Act.

Q:Whether expansion of initial before name is possible under section 15 of the RBD Act, 1969.

A: If the Registrar feels that the earlier writing of short name (initials) was erroneous in form or substance, he may correct the same.

Q: Whether corrections in the name of father and grand-father could be made in the birth entries on the basis of court's judgment?

A: Section 15 of the Registration of Births and Deaths Act, 1969 provides for correction or cancellation of entry in the register. For this purpose, it has to be proved to the satisfaction of the Registrar that any relevant entry is erroneous in form or in substance (etc.). Even then, the original entry is not to be deleted or altered and a marginal entry is to be made. Rule 11 then deals with specific procedure to be followed. It does not seem to be a case of any formal error but the entries seem to be erroneous in substance…….if erroneous at all. For this purpose sub-rule (4) specifically provides for declaration by two credible persons having knowledge of the facts of the case. Further, the Registrar may before arriving at the satisfaction like to give opportunity to show cause to the mother or the persons who had given the report earlier.

Q: Whether the changes made in the name of father/mother through Gazette notification or otherwise subsequent to the date of registration of birth of child, could be incorporated in the birth register?

A: As such changes in the name are not covered under section 15 of the Act, these need not be incorporated in the birth register.

Q: Whether fee could be charged for correction/cancellation of entries in the birth/death register.

A: Section 30(2) (e) of the Registration of Births and Deaths Act, 1969 does not envisage making of provision in the state rules for charging of fee for correction/cancellation of entries in birth/death register under the provisions of section 15 of the Act. As such, no fee could be charged in this regard.

Q: Whether correction in the entry relating to name and sex in birth register could be made on the basis of a certificate from the surgeon performing such corrective operation.

A: The entries relating to name and sex of such child may be allowed if the surgeon performing corrective operation certifies the sex of the child.

Q: Whether ball-pen or dot-pen can be used for making entries in the register of births and deaths.

A: While making entries in the registers of births and deaths, use of ball/dot pen is not desirable as its use puts more strain on the paper. This was perhaps a reason that use of ink has been specifically recommended by the First Conference of the Chief Registrars for making entries in the registers. However, there is no objection if ball/dot pen is used while preparing the monthly returns etc., which are not to be preserved permanently.

Q:Whether a person can apply for a search only or he has to apply for search as well as grant of extra at the same time ?

A: Under the rules made by the state Government, under section 17 of the Act, separate provisions together with fees therefore exists for causing the search of the event and for giving extracts from the register relating

to a birth or death. In view of aforesaid position, it would be possible for a person to apply only causing a search for any entry in the register and he need not apply for both searching and obtaining extract. He can be informed regarding the existence of the event in the register.

Q: How long copies of monthly reports of birth and death should be preserved and what should be the procedure for destruction of such reports.

A: The monthly statistical returns are of not many consequences after the data is tabulated, it is left to the Chief Registrar to destroy them as and when they feel that the returns have lost their utility according to the procedure being followed in this regard in their respective State/Union Territories.

Q: Whether the Chief Registrar or his nominee can inspect the work of registration under section 4(4) of the Act as section 18 of the Act provides that the registration offices shall be inspected and registers kept therein shall be examined in such a manner and by such authority as may be specified by the District Registrar?

A: The Registrar will have to work under the control and supervision of the District Registrar and the District Registrar will have to work under the control and supervision of the Chief Registrar. Under section 4(4), the Chief Registrar shall either by issue of suitable instructions or otherwise, take steps to co-ordinate, unify or supervise the work of registration in the state. The word "Supervision" will include inspection. The dictionary meaning of word "Supervision" is to direct or watch with authority the work or proceedings or progress of anything. Inspection means to look closely into, to examine officially etc. Unless the person has the right to examine or look closely he cannot direct or watch with authority. Therefore, the authority of the Chief Registrar or his nominee to inspect the work of registration is implied within his authority to supervise under section 4(4). This further finds support in sub-section (2) of section 6 of the Act under which the District Registrar has to act subject to the direction of the Chief Registrar and to carry into execution the orders of the Chief Registrar. Section 18 provides for internal inspection of the registration offices within the jurisdiction of the District Registrar, but that does not take away the right of the Chief Registrar under section 4(4) to supervise the registration work throughout the state which by implication includes inspection of any registration office in any district in state.

Q: Who will appoint the Registrar for the Cantonments – the State Government or the Central Government (The Ministry of Defense)? Will the rules made by the state Government be applicable to the Cantonment, or will the Central Government Ministry of defense (Director, Military Land Records) have to make uniform rules for all the cantonments?

A: So far as the cantonments are concerned for the purpose of entry 30 of the concurrent list of the constitution, the "the state Government" is not the central but the state Government itself. It is only in relation to certain matters specified in the entry 3 of the Union List viz. Delimitation. Local self Government etc. which are the concern of the central Government all other functions appear to be that of state Government. It would be advantageous, however, to request the state Government to appoint cantonment authorities as the Registrars of births and deaths in these areas, so that there would be no difficulty in properly working out the Act.

Q: What is the correct procedure to be followed to make entry in the birth register in case..... "A" objects to his name: being entered in the birth register as father of a child born to his wife "B" on the ground that they are no longer living together and the conception took place outside conjugal life. The name of 'A' as father of child has been giving by 'B'. What is the correct procedure to be followed in similar cases and especially in the present case?

A: Since the birth has occurred to a parent who is legally married and in absence of separation decree, 'A' cannot refuse himself to be the father of the child on the contention that conception took place outside their conjugal life. As information is being given by 'B' and the record is only an evidence of birth, objection of 'A' may not be entertained.

Q: Whether Births or deaths of foreign nationals in India can be registered in India at the place of occurrence? Or, whether the births or deaths of foreign nationals in India are to be registered only in the respective foreign consulates as required in the case of births and deaths of Indian citizen abroad under section 20(1) of the Act?

A: Section 7(2) of the RBD Act, 1969 provides for the registration of every birth and death irrespective of nationality. The birth of the child of the foreign national may be registered by the local Registrar and a birth certificate to this effect may be issued under section 12 of the Act. Section 20(1) of the Act is not applicable in such cases.

Q: Under sub – section (5) of section 7, the Registrar may appoint Sub – Registrar and assign to them any or all of his powers and duties. Would there be any consistencies with the Act if a rule is made or directive issued from the Registrar General, India, under section 3 (3) to the effect that the powers of the Registrar conferred under section 12 and 15 should not be assigned to the Sub – Registrar?

A: Any such rule or directive by the Registrar General, India, under section 3 (3) of the Act, would not be consistent with the provisions of section 7 (5). Perhaps, the Chief Registrar may, while approving the appointment of Sub – Registrars under section 7 (5), instruct the Registrar not to delegate functions to Sub – Registrars.

Q: Deaths aboard ships:- while on sea are reported to the Director General of shipping by the captain of the ship at the next port of call, under section 214 of the Merchant Shipping Act, 1948. In respect of deaths of Indian Citizens, the Director General of shipping shall under that Act send a certified copy of such reports to the appropriate registration authority of that state where the deceased was a normal resident. The question arises as to what is the exact procedure of registering and where to register such events?

A: All deaths occurring on sea shall be registered formally only in the local registration area of which the deceased was a normal resident. The Chief Registrar may arrange to pass on the certified copies of deaths aboard ships received from Director General, shipping to the concerned local registrar, who shall register the same, after obtaining all relevant information from the next of kin of the deceased and making special remark about the report received through Director General of shipping. After such registration, extract may be issued in Form 6 to the informants.

Q: The Persons eligible for reporting births and deaths for registration of events have been specified in section 8 of the Act. But it is not possible to know from the name of the informant mentioned in form 1,2 or 3 whether he is eligible to report the event or not. Since the registration of the events is legalized, will it not be proper to add one column in forms 1, 2, 3, as well as in 7, 8, and 9 for indicating the relationship?

A: In respect of domiciliary event, a person specified in section 8 can also arrange to give the information through some other person, who need not be related to the new born or deceased as the case may be.

Q: The report of death aboard ship from the Director General, shipping is usually received very late after the actual deaths has taken place. Whether such events have to be registered under section 13 of the Act?

A: The registration of death on the basis of a report from Director General, shipping do not fall in the same category as the events that occur on land for which the Act casts duty on specified persons. Therefore section 13 is not attracted in case of registration of events reported by Director General, shipping.

Q:Exact date of death is not known: A police officer has forwarded a death report along with the inquest report for the registration of the death of a person. But, in the death report the date of death in noted as between '9.6.1975 and 14. 6.1975'. Since exact date of death is not known as the deceased was missing from 9.6.1975 onwards and dead body was found only on 14.6.1975. The inquest report was signed by the police officer on 14.6.1975. In the circumstances, whether it will be sufficient to note the date of death in the register as between 9.6.1975 and 14.6.1975 since no body can correctly say the actual date of death?

A: It is likely that the case of death was subjected to a detailed investigation and in such cases, normally post – mortem medical examination of the body is done. The post-mortem report may in that case indicate a more precise probable date of death and actual date of death.

Q: Registration of births and deaths occurring in a hospital: As per section 8(1)(b) of the RBD Act, 1969, registration of births and deaths occurring in a hospital has to be effected on the basis of information given by doctors. Form 1, 2, 3 have been supplied to the hospitals as prescribed in section 10 but information are still being received in old forms. It may be clarified if registration can be effected on the basis of information received in old form.

A: Under section 8(1)(b) of the RBD Act, 1969, it is the primary duty of the Medical Officer – in – Charge of hospital, health center maternity or nursing home or other like institutions to give or cause to be given either orally or in writing according to their best knowledge or belief and within such time as may be prescribed, information to the registrar of the several particulars required to be entered in the forms prescribed by the State Government under sub-section (1) of section 16. The office- in –charge of such institutions are statutorily enjoyed to register events occurring in such institutions with the registrar of the local area where such institutions are located. Public has no responsibility in this regard. Rule 5 under the above said section has prescribed period and forms. The officer – in – charge of such institutions has to supply information in Forms 1 for live – births, in Form 3 for still births and in Form 2 for deaths. They contain very few particulars. Registration cannot be effected on the basis of information contained in the notification form as it does not give all the particulars necessary for registration.

Q: A ship with all persons aboard was drowned in the mid-sea so that no one could be expected to report the matter at the next place of halt. In the situation it seems necessary that the registration of deaths should be done on the basis of the letter from the shipping Master, Ministry of shipping and Transport, Government Shipping Office, Bellard Estate, Bombay-1, addressed to the wife of deceased and which has been produced as an evidence by the applicant. However, it seems from the said letter that the deceased was a resident of Junagadh district. In view of this it is not clear as to how the applicant seeks the death to be registered in Diu?

A: The provision of the Act and the rule made there-under do not squarely provide for a situation where even the in-Charge of the ship along with the seamen and other people on board have been drowned leaving behind nobody to report about the incident. Rule 6 speaks of the person in-Charge of the ship to give information under sub-section (1) of section 8 at the first place of halt. There was no in-charge of the ship left behind in the instant case. On the basis of the information conveyed by the shipping master, Ministry of shipping and Transport, Government Shipping Office, Bellard Estate, Bombay-1, received by the wife of the deceased, the information of such death could only be given by the wife of the deceased or his heirs which should be regarded proper. Although such information according to sub-section (1) of section 8 should be given to the local registrar of the area of the state, however, if the delegation of such power is being made by the Central Government in favour of another authority, registration could possibly be done by him also. But such registration should normally be done at the place of which the deceased was resident. In view of this, in such situation where the ship itself seems to have drowned in mid-sea the next of the kin of the deseeded could alone be expected to report the event of death and the same should be regarded as proper. Registration of such case may be done at the place of which the deceased was normal resident.

Q: It may be clarified whether births occurring in hospitals in towns have to be registered by the registrar of the area in which the hospitals are situated or is it possible to register such births at the place of the normal residents of the concerned families?

A: The events occurring in a hospital will be registered with the registrar of the area in which such hospital falls. They will not be registered at the place of normal residence, since registration is done at the place of occurrence.

Q: Whether the reports of deaths furnished by the Director General, of shipping, Bombay are to be passed on to the local registrar or only copies of such reports are to be sent to Registrars for registering the events while retaining the original reports for preserving them as permanent record in chief registrar's office?

A: Certified copies (in original) of death report received from Director General, shipping may be sent to the concerned local Registrars. This will help the Registrar to retain the report as integral part of the register. The Chief Registrar's office need only keep a record of the receipt of such report and forwarding of the same to the concerned Registrars.

Q: One particular person committed suicide by hanging during the period between 26.6.76 and 2.7.76. The Inquesting Officer has reported that the deceased person was identified only on 18.7.76. When he reported the death for registration, the registrar demanded the late fee prescribed. Whether it is justifiable to realize late fee in such cases?

A: If the exact date is not known, it may not proper to rule that there has been a delay in reporting. As the report has been made by an officer of the police department of the Government, the Registrar cornered may be advised that strict interpretation of the law on the subject should not be made and the event should be registered with a suitable remark in the remarks column.

Q: Certain institutions send the birth or death reports on the last day of the reporting period and naturally the Registrar finds it difficult to register all the events on the same day. If the next day or next few days are holidays, registration is further delayed. Whether payment of late fee is involved in such case?

A: The question of late fee does not arise in this case as the events have been reported within the prescribed period. The registration can be done on the next working day after the holiday.

Q: whether local Registrar shall presume identical procedure as in the case of illegitimate birth? In the absence of any specific provisions for registration of illegitimate births in the statute itself whether local Registrar shall presume identical procedure as in the case of illegitimate birth? Whether the foot note 1 in Form No .7 (birth register) is as good as law? Section 7(2) of the Act requires a Registrar to take steps to inform himself carefully of every birth or death which takes place in his jurisdiction. There may be reasons for special precaution in case of registration of illegitimate births and suspected deaths. Please provide guidelines.

A: The procedures for registration of legitimate and illegitimate births are the same. In case of entry of an illegitimate birth the word 'illegitimate' has also to be entered in remarks column of the register. However no person's name may be entered as that of father unless there is a joint request of the couple. The foot notes in Form No.7 of the state rules to this effect are guidelines to the Registrar for registration in such cases. Since Form 7 is part of the rules framed under the Act the foot – notes are as good as law. In order to inform himself of the events of births/deaths occurring in areas of his jurisdiction the Registrar may require any person to furnish information within his knowledge in connection with a birth or death in the locality within which such person resides and that person shall be bound to comply with such requirement as provided under section 21 of the Act. As regards problem of ensuring protection for the Registrars for registering illegitimate births and suspected deaths, it may be mentioned that under section 26 of the Act, a Registrar is a public servant within the meaning of section 21 of the I.P.C. of 1860 and no legal proceedings shall be instituted against him while exercising or performing any of his duties under this Act, as provided under section 28 (1) of the RBD Act, 1969.

Q:whether the officer who conducts the inquest shall give the information to the concerned Registrar: According to rule 6(2) of Registration of Births and Deaths Rules, 2000 in the case of deaths not falling under clauses (a) to (e) of sub – section (1) of section 8 in which and inquest in held , the officer who conducts the inquest shall give the information to the concerned Registrar. The doubt is now raised in respect of a suicide committed in a house. Though the officer who has conducted the inquest has been asked to report the event, he has replied that in view of the rule 6(2) and because the event has happened in house it is to be reported by the person mentioned in section 8(1)(a) and not by him. Please provide necessary clarification.

A: In the case, it is the duty of the head of the household to report the death. Rule 6(2) of the Registration of Births and Deaths Rules 2000 is not applicable here. However, the officer who has conducted the inquest can be asked to notify the death, under section 10(1)(iii) of Act, to registrar,

Q: Who is responsible for reporting of the event of birth/death in following circumstances?

(i) If a case twin delivery is admitted in the Hospital wherein the first baby was born out side the Hospital and the second baby, after lapse of some time, is delivered at the Hospital.

(ii) (ii) If the first baby born out side the hospital is not brought to the Hospital along with the mother and subsequently expires.

(iii) (iii) If the delivery took place out side the Hospital and subsequently the mother admitted in the Hospital along with the new born baby for any puerperal complication.

(iv) (iv) If the patient is brought dead to the Hospital.

A: In all the four circumstances of births/deaths took place outside the Hospital. Hence it is not the responsibility of the hospital authorities to report the occurrence of the event to the registration authorities. However, in the case cited at (i) while making the report of the second baby it is to be mentioned in the remarks column that it is a twin and fact to the effect that the first baby was born out side the hospital is also to be mentioned.

Q: As per section 12 a Registrar shall, as soon as the registration of a birth or death has been completed, give free of charge, to the person who gives information under section 8 or 9 an extract of the prescribed particulars under his hand from the register relating to births or deaths. In the case of birth and death which occurred in medical institutions, the Medical Officers in-charge, are the informants. Now certain registrars have raised a doubt whether it is necessary to issue extract to such Medical Officers.

A: The section 12 of the RBD Act, 1969 reads as "The Registrars shall as soon as the registration of births and deaths has been completed, give free of charge, to the person who gives information under section 8 or section 9 and extracts of the prescribed particulars under his hand from the register relating to such birth or death". As the Medical Officer In-charge is the informant under section 8 (1) (b) in case of institutional events, extracts should be issued to him who will transmit them to the parents or relatives of the new born or the deceased as the case may be.

Q: More than one copy of certificates : Section 12 empowers the Registrar to issue an extract of the prescribed particulars under his hand from the registers relating to such birth or death. The Life Insurance Corporation etc. are insisting upon original copies of death certificates and they are not accepting the true copies of the certificates. Now a-days the general public are demanding more than one copy of certificates. What is to be done in such cases?

A: Section 12 of the Act, provides for issue of extract only. However any number of copies of the extract can be given on payment of prescribed fee under section 17 of the Act, if required. The extract issued under section 17 of the Act, has evidentiary value and serves the same purpose as extract under section 12 of the Act.

Q: Section 12 provides that registrar shall give free of charge, to the person who gives information under section 8 or section 9 an extract of the prescribed particulars from the register relating to such birth or death. Whether extract can be given free of charge to the person in case of delayed registration under section 13?

A: Section 12 of RBD Act, 1969 contemplates giving of extracts free of charge to the person giving information under section 8 or section 9 thereof. The provisions of the section are, therefore, not applicable in relation to the section 13. The extracts of charge therefore, cannot be given to the persons giving information to the Registrar under section 13 of the Act.

Q: Section 12 of the RBD Act, 1969 provides that as soon as the registration of birth or death is completed, the registrar should give an extract of the prescribed particulars under his hand from the register relating to such birth or death. Also section 17(2) provides that an extract can be obtained from the birth or death register subsequently on payment of fees and that such certificate shall be admissible in evidence for the purpose of proving the birth or death to which the entry relates. Whether such an extract can be produced in proof of the fact of birth or death and in proof of the civil status of the individual citizen arising from paternal, filial and marital relationship?

A: Entries in birth and death registers are public documents and are admissible as evidence under section 35 of the Indian Evidence Act, 1872. However, these entries are only conclusive evidence of the fact of birth or death, as the case may be. Other particulars as to which the registering officer concerned can have no personal knowledge or no means of checking cannot be treated a conclusive evidence. Where, for example, for a record in the birth register, the name of the father appears to have been furnished by the mother, that by itself cannot be conclusive evidence of paternity, being a unilateral statement by an interested party.

Q: As per section 13(1) of the RBD Act 1969, registration of events after the expiry of specified period is possible on payment of prescribed late fee. It has been reported from certain parts of the country that due to public disturbances and imposition of curfew etc. or in similar other situation births and deaths could not be registered within the specified time limit. In some cases the events could not be registered for more than two months. Whether payment of late fee under section 13(1) of the Act and corresponding states rules can be waived by the state Govt. in such situation? Whether the power of waiving can be exercised by the authority of the state Govt. itself?

A: It may be seen that the substantive provision in section 13 speaks of "payment" of such late fees as may be prescribed. There is no provision either in this section or anywhere in the Act which provides for any exemption from payment of late fee. The section 30 authorizes the state Govts. to make rules with approval of the Central Govt. and clause (1) of sub-section (2) of this section provides for making rules for the fees payable for registration made under section 13. Thus it is seen that legislative intent as incorporated in the section 13(1) of the Act is that late fees shall be payable in case of delayed information but the quantum of fee only can be prescribed by rules made by the state Govts. in exercise of powers under section 30 of the Act. The Act does not provide for waving of late fee under any circumstances in case the information is delayed beyond the period specified for the purpose. Next point is whether a provision for exemption can be made in the rules. The law is settled on the point that subordinate legislation shall remain within the scope of the Act wide Chaman Lal Vs. State of U.P. (AIR 1955 S.C. 435) the subordinate legislation can not be beyond the statute vide state of Assam Vs. Kidwai reported in (1957) S.C.R. 295 (317). In the instant case neither Act provides for any exemption nor does it authorize making of rules which may provide for exemption. Where statue provides for payment of fee in a particular matter the provision for exemption from payment of such fee becomes an essential legislative function. It cannot be delegated unless the statue lays down the policy and specifies the class or classes of cases in which, and circumstances under which exemption may be granted. Since there is no such provision in the statue in the instant case, provision for exemption cannot be made in the rules. The authority to make rules to carry out the purposes of the Act as mentioned in section 30(1) does not extend to the making of rules for the purposes not envisaged under the Act, not authorized by the Act. In the present circumstances as the law stands at present there is no scope for exercising any power of exemption either by any state Govt. or by the Central Govt.

Q: Some state Governments are proposing to organize "Registration Weeks". They are of the view that by organizing such a campaign there will be some impact and more and more people will come to know about the registration. The State Governments intend to exempt/waive payment of late fee during the registration week a gesture in the spirit of the campaign. However, the Act does not provide for waiving of late fee under any circumstances, if the report is delayed beyond the specified period. In the circumstances, it may be suggested as to how the State Governments, can organize a "Registration Week".

A: There is absolutely no doubt that there is no power to exempt the payment of late fee for delayed registration, RBD Act,1969 refers to the payment of such late fee as may be prescribed by the State Government under the rules . 'Such fee' does not mean no fee at all. However, it would be permissible to fix a nominal amount of fee say 5 paise or 10 paise, for delayed registration of these events during the observation of 'Registration Week' by providing for the same in the rules made under provisions of that section by the State Government. However, certain difficulties are likely to arise under sub-section (3) of the section 13. Any birth or death which has not been registered within one year of its occurrence can be registered only on an order made by magistrate of the first class or a Presidency Magistrate. In view of this provision every case of such delayed registration will have to be determined by a Magistrate and proceedings before such Magistrate will take its own time. Thus aspect therefore, requires careful consideration. Besides the aforesaid, every case of delayed registration may also attract the penal provisions of section 23(1) and (4) of the Act. Section 24, however, empowers any officer authorized by the Chief Registrar to compound such offences, by accepting a composition fee not exceeding Rs. 50. In view thereof, in every case of delayed registration during the 'week' some compounding fee will have to be taken from the concerned persons, which may be a nominal fee. Care will also have to be taken during the said 'week' to see that the benefit of delayed registration is not misused by way of recording incorrect dates of births with a view to getting favourable benefits in Government service.

Q: A person furnished the information to the Registrar in writing on 29th day from the date of occurrence by payment of late fees under section 13(1). The Registrar registers the event after 6 days from the date of receipt. It may be clarified whether the Registrar is supposed to pay any penalty for the registration of the event mentioned and obtain the written permission from the

District Registrar.

A: Section 13(2) is attracted only if information is given to the registrar after thirty days.

Q: An instance has come to the notice of the Registrar, wherein a person informed an event to the Registrar ten months after the occurrence of the event. As per section 13(2) of the RBD Act, 1969 and corresponding state rules 9 (2), sanction of Competent authority is required for registering the event. The informant was instructed to produce the written permission of the concern authority. By the time the informant produce the written sanction under rule 9(2), one year had elapsed and consequently sanction from the First Class Magistrate become necessary for registration of the event as provided under section 13(3) of the Act and the corresponding state rules 9(3). This has caused inconvenience to the party. In order to avoid such inconvenience the following procedure is suggested for consideration. The Registrar may enter the details of the event in the register without signature of the informant and without his own signature on receipt of a provisional written permission.

A: It may be found that sub-rules (1), (2) & (3) of rule 9 of the Maharashtra Registration of Births and Deaths, Rules 2000 are mutatis mutandis same as sub-sections (1), (2) & (3) of section 13 of the RBD Act 1969 except providing the quantum of late fee. Rule 9(3) as well as section 13(3) provides that any birth or death which has been registered within one year of its occurrence shall be registered only on an order by a Magistrate of specified class and payment of specified fee. It is, significant that while sub-section (1), (2) of section 13 speak of information as to birth or death being given. Sub-section (3) speaks of registration within the specified period. The word "registration" has not been defined in the Act. Section 11 provides for the manner in which it is to be done. Once the said action is complete, it can be said that birth or death has been registered. Mere filling the relevant columns without signatures of the informant and of the Registrar will not amount to registration under section 11 and therefore it cannot be said that birth of death has been registered for the purpose of sub-section (3) of the section 13. The provision contained in section 13(2) makes distinction between the giving of information and the registration and requires written permission of prescribed authority before the occurrence is registered. As stated above if the registration process has not been completed within one year, the order of the Magistrate will be required under sub-section (3). Neither the Act nor the rules provide for any provisional written permission from the competent authority. Section 13(2) of the Act as well as rules 9(2) of the rules envisages one type of written permission from the prescribed authority. If the registration process has not been completed, rule 9 (3), will be attracted. Amendment of rule 9(2) will not be of any help in view of the provisions contained in sub-section (2) and sub-section (3) of section 13 of the Act. Remedy lies either in quick disposal of the case by the prescribed authority under section 13(2) or suitable amendment of the Act.

Q: Authority to exercise power under rule 9(3) of Registration of Births and Deaths Rules: After coming into operation of the Criminal Procedure Code, 1973 with effect from 1/4/1974, the Government of Maharashtra has requested that the authority to exercise power under rule 9(3)of Maharashtra Registration of Births and Deaths Rules, 2000 be given to Executive Magistrate. As only a First Class Magistrate or a Presidency Magistrate is specified in section 13(3) of the Act, the authority can now be exercised only by a judicial Magistrate of the 1st class or a Metropolitan Magistrate and not by Executive Magistrate. It is also for advice whether it would require amendment of the RBD Act, 1969, itself or only an amendment in the rule 9(3) of the Maharashtra Registration of Births and Deaths Rules, 2000 would serve the purpose of specifying the appropriate Magistrate allowed by the Cr. P.C. 1973.

A: Sub-section (3) of section 13 of the RBD Act, 1969 provides that in case of delay of registration of birth or death beyond one year of its occurrence the same shall be registered only on an order made by a Magistrate of the first Class or a Presidency Magistrate after verifying the correctness of birth or death and on payment of prescribed fee. This function of verifying the correctness may involve the appreciation or sifting of evidence or the formulation of a decision but that decision will not expose any person to any punishable or penalty or will not have the effect of sending any person for a trail so as to bring this function within the meaning of clause (a) of sub-section (4) of section 3 of the Cr. P.C., 1973. At the most it may be said to be quasi-judicial function. Under the RBD Act, 1969, the function under section 13(3) of the said act is treated as dministrative or executive in nature. Clause (b) of sub-section (4) of section 3 of Cr. P. C. 1973 provides that the functions which are administrative or executive in nature exercisable by a Magistrate under any Law other than the code, shall be exercisable by an Executive Magistrate in view thereof the function under sub-section (3) of

section 13 of the RBD Act, 1969 can be exercised by an Executive Magistrate.

Q: Whether District Registrar can work in place of first class Magistrate under the provisions of sections 13 (2), 13 (3) of the RBD Act, 1969 and rules 9 (2) and 9 (3) of MaharashtraRegistration of Birth and Deaths Rules, 2000?

A: Section 13 (2) and (3) of RBD Act, 1969 and rule 9 (2) (3) of the Maharashtra Registration of Births and Deaths Rules, 2000 provide for separate authorities to grant permission for the delayed registration of births and deaths. Order of the first class Magistrate is required only in case of births / deaths not registered within period of one year and provisions of section 13 (3) only are applicable in this case. The District Health Officer who is district registrar cannot be given the powers of first class magistrate as the Act, does not provide for delegation of theses powers to any other person.

Q: As per section13 (3) of the RBD Act, 1969 any birth or death which has not been registered with one year of its occurrence shall be registered only on an order made by a magistrate of the first class or a presidency magistrate after verifying the correctness of the birth or death and on payment of the prescribed fee. Recently an instance has been brought to the notice of this office by one of the registration offices wherein the order from the first class magistrate states that the birth to be registered is that of an adopted son of a couple. However it was, verified that the adoption was not legally established under the adoption low in force. Neither the legitimacy of the person concerned can be proved since the persons who adopted him or all dead, nor it is possible to know the name of his real parents as for registration purpose, the order issued by the first class magistrate is the basis, but doubts now arise whether the birth can be registered as "adopted son" unless the adoption

A: The information required to be given under section 13 of the RBD Act, 1969 is that of birth or death as defined in the Act. This information may be given by the natural parents or sufficient evidence may be produced before the Magistrate within the prescribed period as provided under section 13. In view thereof what is required is the evidence of birth, which, in the absence his parents, may be given by the inhabitance of one's locality who were aware of his birth. It is stated that in the order of the first class Magistrate, the birth to be registered is that of an adopted son. In this case, unfortunately, the adopting couple is also dead and it is not possible to know the name of the real parents. While there may be no legal objection to registering the birth of an adopted son, it is however, necessary that the natural parents of the adopted son and there names should be entered in the register. The question of entering the name of adopted son in this case does not arise since there had been no valid adoption. In view there of only the evidence of his birth could be given by the natural parents or by persons who are aware of his birth.

Q: Whether suitable rules to lay down specific procedure for ascertaining/verification of the fact of an event of birth/death under section 13 (3) of the RBD Act, 1969 can be made in the state rules?

A: It is felt that it may not be proper to issue any guidelines which may have the effect of circumscribing or limiting the discretion of a Magistrate. The Magistrate is expected to pass an order according to the facts of each case on its own merits

Q:Relaxation for registration in view of the strike by the Registrar: Event of births and deaths, could not be registered in a state due to strike by the Gramsevak who is also working as Registrar of Births and Deaths, although the events were reported by the parties within the time limit prescribed under the state rules. The Chief Registrar of Births and Deaths of the state has proposed to grant certain relaxation for registration of such events in view of the strike by the Registrar. Whether such relaxation is possible under the RBD Act, 1969?

A: Under section 13 of the RBD Act, 1969, it is only in cases where there is a failure on the part of the informant informing the registrar as to the birth or the death of a person, the procedure contemplated therein is to be followed . It appears that the parties have reported the events within time and there is no default on their part. Due to strike in the department the authorities could not take steps to record the events reported by the parties. Under the above circumstances no late fee can be levied as section 13 applies only to cases where there is failure on the part of the parties to report the birth and death of a person the authorities can register the events reported by parties without any relaxation of the provisions of the Act.

Q: Section 23 of Registration of Births & Deaths Act, 1969 deals with the penalties. Sub-section 5 of this section states that an offence under this section shall be tried summarily by a Magistrate. The point has been raised whether a case in this connection is to be launched in the court of an Executive Magistrate or of a Judicial Magistrate.

A: Section 3(4) of the Code of Criminal Procedure provides that where the functions exercisable by a Magistrate under any law, relate to matters which involve the appreciation, or shifting of evidence or the formulation of any decision which exposes any person to any punishment or penalty or detention in custody pending investigation or enquiry or trial would have effect of sending him for trial before any court, they shall be exercisable by a Judicial Magistrate.

Q: Whether provisions of Section 13 will apply to cases where the events of births & deaths have been reported by informant within the time as prescribed in the State Rules but the same could not be registered by Registrar within one year of their reporting.

A: Section 13 applies only to cases where there is failure on the part of the informant to report such events in time. However, for any undue delay on the part of Registrar in registering the events, he may become liable for action under section 23(2) of the Act.

Q: A case has been referred by a person, where it is stated that his female child has changed sex after surgical operation. In support of his statement he has enclosed medical certificates issued by the doctors who attended the child at the operation. Now consequent upon the change in sex, the father of the child has requested to make necessary changes in the birth entry of the child. Clarify whether on the basis of the documents produced by the party, necessary changes such as name of child, sex can be effected in the original birth entry.

A: It is agreed that correction by way of change in name and sex in original birth entry in the birth register may be effected on the basis of medical documents produced by the party.

Q: The birth of a child born to Mrs. 'A' has been registered with name of the petitioner cited as the father of the child. The petitioner in his petition has denied the father-hood of the child. What procedure the Registrar should follow in such cases?

A: The Registrar has authority under section 15 of the RBD Act, 1969 to make correction in the register of births and deaths. In the present case the concerned Registrar may enquire into the matter and make the necessary corrections according to procedures laid down in rule 11 under the Act. If the petitioner is the legal husband of the mother of the child, his protest cannot stand unless there is a separation or divorce decree. If on the other hand, an error or fraud in the entry is suspected on the basis of the enquiry, to the satisfaction of Registrar, he may make a report as authorized by rule 11(6) giving necessary details to the officer authorized under section 25 and on hearing from him, take necessary actions as provided in the various sub-rules of rule 11.

Q: Section 15 of the RBD Act, 1969 gives full powers to the Registrars of Births and Deaths to effect corrections in the births and deaths registers. It has been pointed out that this power leads to many serious problems because some of the Registrars are forced to correct even date of birth which has been registered thirty or forty years ago. In certain cases, the dates of birth shown in the educational records etc. are quite different from the dates shown in the birth records. The Registrars are bound to correct the date of birth on receipt of requests from concerned parties. Consequently if the persons are employed, they may get extension in their service. The changes of malpractices cannot therefore be ruled out. Hence some restriction of this power of Registrars is felt a real necessity. Please advice.

A: Section of the RBD Act, 1969 authorizes the Registrar to correct the errors or cancel the entry of any birth or death if the same is erroneous in the form of substance or has been fraudulently or improperly made. But, as will be seen, the provision contains many inbuilt safeguards. The section begins with the word "If it is proved to the satisfaction of the Registrar". It shows that not only the error or fraud in the entry had to be proved, but also it should be proved to the satisfaction of the Registrar. In this respect the Registrar will exercise quasi-judicial functions and will have to scan the evidence in order to be satisfied. It will have to be established that the entry is erroneous in form or in substance or has been fraudulently or improperly made. Thus there is no question or the Registrars being forced to correct the dates as suggested in the query. The

second safeguard is that the Registrar will have to act subject to the rules made by sate Government with respect to the conditions on which and the circumstances in which such entries may be corrected. The rules made by the state Government for this purpose may require strict proof to substantiate any claim and may also require that the procedure should be strictly followed. The third safeguard is that the Registrar shall not alter the original entry but shall make the correction in the margin and shall sign the same giving the date of correction. Consequently the original date as well as the corrected date will remain side by side on the register and any certified copy of the said entry will contain both the dates. The Act nowhere says that the entry in register is conclusive proof of the birth and death. Therefore such entry will be merely an evidence. When after correction, two dates, one original and the other corrected are there, the authority who has to take any action depending upon the date of birth of any person will not be bound to accept the corrected date or to change the date mentioned in their own office records. In view of position stated above chance of malpractices being committed appears to be very much limited, if not eliminated. Powers of the Registrar conferred by this provision can be restricted by making very strict rules requiring convincing proof and providing for elaborate procedure in case of an application for change of birth as stated above.

Q: It may be clarify whether correction in respect of events occurred and registered prior to the enforcement of the RBD Act, 1969 in a state/union territory can still be affected under the provisions of the Births, Deaths and Marriages Registration Act of 1886 if applicable there. It may be pointed out that in section 28(1) of the Births, Deaths and Marriages Registration Act, 1886 there was a similar provision for correction of entry in the register.

A: It would be competent for the Registrar to correct or cancel the entries in respect of births and deaths registered under the repealed law in a state under section 15 of the RBD Act, 1969. Where a birth or death has been registered under the provisions of the Births, Deaths and Marriages Registration Act, 1886 and the aforesaid Act is still in force in a state, the entries can be corrected under section 28 of the aforesaid Act. In case the Act of 1886 has also been repealed the entries made under the provisions of the Act can be corrected under section 15 of the 1969 Act.

Q: Whether entries in respect of births and deaths registered under different Acts (other than the Registration of Births, Deaths and Marriages Act, 1886) in various states prior to the enforcement of the RBD Act, 1969 can still be corrected or cancelled whenever such a correction or cancellation is sought by the public under the provisions of old acts/rules (other than the Registration of Birth, Deaths and Marriages Act of 1886 or even under the provisions of the present 1969 Act? In this connection it may be mentioned that prior to the enforcement of the 1969 Act, the states or any part of state had their own Acts for registration of births and deaths-.

A: Section 31(1) of the RBD Act, 1969 repeals the provisions of Law in force in the various states which relate to the matters covered by this Act. Sub-section (2) thereof provides that notwithstanding such repeal anything done or any action taken under the repealed Law shall be deemed to have been done or taken under the provisions of the Act of 1969 and shall continue in force accordingly until superseded by anything done or any action taken under this Act. Section 15 of the Act empowers the Registrar to correct or cancel any entry in the register of births and deaths kept by him under this Act. By virtue of provisions of section 31(2), the entries made in respect of births and deaths under the repealed Law would, therefore, be deemed to have been made under the provisions of this Act and continue in force until superseded by anything done or any action taken under the Act. Similarly the register of births and deaths in respect of the old entries will be deemed to have been kept by the Registrar under this Act. In view of the aforesaid, it would be competent for the Registrar to correct or cancel the entries in respect of births and deaths registered under the repealed Law in the various states under section 15 of the 1969 Act.

Q: Section 15 of the RBD Act, 1969 provides for correction or cancellation of entry in the register of births and deaths. The Registrar has been empowered to correct or cancel any entry in any register kept by him, if it is proved to his satisfaction, that the entry is erroneous in form or substance, or has been fraudulently or improperly made. Pursuant to a rule made by the state Government under section 30(2) (k) of the Act, the registers are transferred to the District Registrar or any other officer specified by the state Government. Whether the Registrar is competent to carry out the correction or cancellation after a period of 12 months when the registers are not kept by him or whether the officer who has possession of the register can correct or cancel entries made in the register?

A: Under section 16(1) of the RBD Act, 1969 every Registrar is required to keep the register of births and deaths for his registration area. Under section 15, Registrar has been empowered to correct or cancel an entry of a birth or death in any register kept by him. It appears that pursuant to a rule made by a state Government under section 30(2) (k) the said register is transferred to the District Registrar or an officer specified by the state Government after a period of 12 months. The view of the state Government is that after the registers are so transferred these cannot be said to have been kept by the Registrar with the result that there is difficulty in making corrections or cancellation in the said registers by him under section 15 of the Act. Section 15 clearly provides that the registers shall be kept by the Registrar. The rule made by the state Government pursuant to section 30(2) (k) will therefore, have to be interpreted in a harmonious manner. The proper view would therefore be that irrespective of the place of keeping the registers, the register shall be deemed to have been kept by the Registrar and the transfer of these registers to the office of District Registrar or any other officer specified by the state Government would be for the administrative convenience of keeping the records at a convenient and centralized place. Even though the registers are transferred and stored in the office of the District Registrar, the Registrar would be the proper custodian of these registers. It would, therefore, be competent for him to make the corrections etc. under section 15 of the Act and for that purpose he can either call for the records or can himself go at that place and attest the entries.

Q: Whether the correction or cancellation of entries in births/ deaths registers under section 15 of the Act also covers change of name? Whether Registrar is competent to effect correction involving change of name in respect of births/deaths occurred and registered prior to enforcement of the 1969 Act?

A: The question of change of name may be viewed from two angles. The first is that there may be some clerical error in writing the name in the register. For example, Ram might have been written by oversight as Ram Lal or the word Chandra might have been written as Chander. The correction of the name under such circumstances may be covered under section 15 of the Act. Similarly, the name might have been fraudulently or improperly entered in the register. This would also fall under section 15. The second aspect would cover such cases where a person changes his name and thereafter makes a request for the change of the name in the register also. Such a contingency is obviously not covered under section 15 of the Act. The name is one of the various entries prescribed in the register. So the change of name would be in fact, a correction of the entry relating to the name. Every case in regard to the request for change of name should therefore, be considered in the light of the aforesaid observations.

Q: The name and sex as recorded in the birth register may be corrected: A female birth was registered with date of birth as 26-11-44. Subsequently, an application is received stating that the female birth so registered was actually a male birth. The person whose birth was so registered has requested that the name and sex as recorded in the birth register may be corrected. In support of his claim the person has submitted an affidavit attested by two municipal commissioners and his matriculation certificate which shows the same date of birth as registered in the case female birth referred to above.

A: It is not a case of correction of name and sex but cancellation of the old entry relating to the birth in entirely and action as per rules relating to the same is suggested. The Local Registrar may be instructed to inform the party accordingly.

Q**: The medium of working in Cantonment office is English and therefore, it is not possible to maintain the registers and other forms under the Act in regional language. The population in the cantonment area consists of persons from different parts of the country who insist for birth and death certificates in English language only. Please clarify whether it is possible to adopt the prescribed registers and forms in English language by some of the registration units like Cantonment etc.**

A: Since the medium of working in the office of Cantonment Board is English, they may be allowed to maintain registers etc. in English language.

Q: Whether the full name of deceased, name of father/ husband and permanent address should be provided by Medical – Officer – In-charge in form no 4 in case of Medical Termination of Pregnancy or not. If not, how the death certificate can be issued in case the party applies for death certificate?

A: It is necessary that all the required particulars of the deceased in form no 2 are to be obtained from the hospital concerned before the entry is recorded in the death register. Without these particulars registration should not be effected. It is the requirement of the Act. The confidential nature of the case under reference relates to "Cause of Death". We may inform hospital authorities that cause of death revealed by them will be treated as confidential by the registration authorities and will not be disclosed while issuing a death certificate under section 17 of the Act.

Q: **Duplicate copy of registers of birth and death :** Some Registrars have reported that due to constant use the registers of birth and death in certain registration units have become very old and are in dilapidated condition. If they are not copied in time the old registers cannot be used further. They have therefore sought permission of state office for taking of duplicate copy of such registers.

A: It is true that registers of births and deaths become unfit for use after certain period of time. On this account we have been suggesting to the States that these records should be handled very carefully. Getting copies of these registers is not the real solution as there is always a possibility of human error in coping of these records, apart from possibility of some foul play. The best course would be Photostat copies or microfilming of such records. The birth/death certificate is to be issued from the original records of births/deaths. In view of this provision proposal of coping out the whole record of some specific year can be acceded to on the condition that such re-written record will be used for making search and preparation of birth and death certificate but while issuing the certificate entry is to be verified from the original old record which is to be preserved for this purpose after its renovation with tissue/transparent paper etc. By this way re-written record can be constantly used while original records will be referred to at the time of issuing of birth/death certificate.

Q: Whether the inspection of record by public is to be allowed or not.

A: The section 17(1) of RBD Act, 1969 provides that the public may cause a search to be made by the registrar for any entry in a register of births and deaths. In view of the above section, permission regarding inspection of the records by public is not possible. However, on payment of prescribed fee, the search will be made by the appropriate authority and certified extracts can be issued to the applicant.

Q: Please clarify whether the fee for extracts to be issued for events registered under old by-laws of Municipal Councils is chargeable according to the old by-laws or as per rates prescribed under the new rules framed under section 30 of the RBD Act, 1969.

A: After the enforcement of the RBD Act, 1969, all provisions of previous Acts/by-laws as relate to matter covered in 1969 at stand repealed as provided under section 31(1) of the Act. The question of issuing extracts in respect of old events under old by-laws does not arise now. Fees as prescribed under section 17 of 1969 Act and relevant state rules there under will be applicable in such cases also.

Q: Under the old system of registration of births and deaths, the extracts were given free of charge for Govt. work. Similar concession was also available to soldier's Board. But in new rules there is no such provision. Please advise, if the extracts can be supplied free of charge to Government offices for Government work and also to soldier's Board.

A: The section 17(1) of the RBD Act, 1969 empowers the state Government to make rules relating to payment of fees for issue of extracts. Hence if the state Government desires to grant any concession regarding payment of fee for giving extracts to the category of Government offices and soldier's Board, a proposal may be submitted for approval of the Central Government as provided in section 30(1) of the Act for amendment of the State rule.

Q: Fees have been prescribed separately for two purposes viz. for search and extract: Under the rules, fees have been prescribed separately for two purposes viz. for search and extract. Section 17 of the Act empowers any person to cause a search for any entry in the births and deaths register. This becomes necessary when the concerned person has no details of the said entry i.e. the date, month and year of birth/ death with him. If these details are available with him, it is not necessary for him to cause a search thereof and he can ask for extract of an entry giving the details of the same. Thus if a person gives the details of a birth or death and asks for extracts, presumably he does not cause a search to be made and search fee cannot be levied and only extract fee can be charged from him. Please verify.

A: If a person gives the details of the date of registration of birth and death (as different from date of

occurrence) and asks for extract, he does not cause a search to be made. In such cases search fee cannot be levied and only extract fee can be charged from him, as the two items are prescribed separately in the rules.

Q**: Section 17 of the RBD Act, 1969 and relevant state rules there under provide for search of birth and death registers and fees payable for such search and for extract from the register. Whether the state Government departments can seek details from the registers for official purposes without paying search fee as required under section 17 of the Act? It has been brought to notice that police authority has power to seize the register of births and deaths or a court of Law can call for the same in which case the registration work is hampered. Besides, a statutory responsibility of registrar gets infringed. What can be done under such circumstances**?

A: It may not be appropriate to be too legalistic in the matter when some information is required by a government department in respect of a death or a birth. There should not be any legal difficulty in furnishing such an information informally to the department. However, if the information is required for the purpose mentioned in sub-section (2) of section 17, it would be necessary to charge the prescribed fee from the department of giving extracts duly certified by the Registrar of the authorized person It is not possible to prevent the police or a court of Law to seize or requisition register containing entries of births and deaths maintained by a Registrar. However, such cases would be very few and would arise only when there may be suspicion of forgery etc. Such seizure of the records may not be necessary for the purpose of proving the age or death of a person as such purpose can be achieved by giving certified copies to the police. Similarly an authorized person from the office of the registrar can give evidence by producing the register in the court. The RBD Act, 1969 does not give any immunity to the registers, maintained by a Registrar from seizure etc. and it is also not necessary to have such a provision in the Act. It is not considered that the registration work would be hampered or the statutory responsibility of the Registrar would be affected by such seizure or requisition of the records.

Q: Extracts from the register of births & deaths under section17 contain both original & corrected item: According to the procedure laid down in section 15 for the Act and the State Rules, the extracts from the register of births and deaths under section 17 contain both original as well as corrected items of the errors. There are cases where the members of the public seeking extracts under section 17 are only interested in the corrected items. In this regard, question arises whether extracts in such cases could be issued for corrected entries only as demanded by the public.

A: Section 17 of the Act refers to the furnishing of extracts from the register of births and deaths. The ordinary meaning of the word 'extracts' being "true and accurate confirming to ……." As such, both the original entry and the corrected entry with the date of correction may be shown in the extracts of the corrected items as has been the current practice followed in this regard.

Q: Section 18 provides that the registration offices shall be inspected by the authority specified by the District Registrar. Can an officer above the District Registrar in the registration hierarchy by specified for purposes of section 18 by the District Registrar?

A: The District Registrar may for the purposes of inspection specify officers under section 18 of the RBD Act, 1969. Any such officer may perhaps be sending his inspection report to the District Registrar. Naturally, any such officer can only be an officer over whom he has jurisdiction or control. He cannot be an officer superior in rank to the District Registrar.

Q: Registrars of births and deaths for each registration unit send monthly extracts of births and deaths every month to the state directorate. These extracts are used for compilation of statistical data and are preserved for one year. These extracts are then destroyed when the statistical work is over. Whether copies of the extracts or any relevant information can be supplied by this directorate for other legal purposes whenever desired from taluka or unit level?

A: The extracts of births and deaths received in the directorate every month from the Registrar, are not certified copies of the original record, hence they have no legal value. They are meant only for compilation. Queries from any quarter may be directed to the officer keeping the original records or the officer empowered to issue such extracts.

Q: Whether the monthly returns received under the State Rules could be destroyed after three years from the date of their receipt or when the data from such returns are brought out in the Annual Vital Statistics Report of the State concerned.

A: There appear to be no objection if such monthly statistical returns are destroyed after three years of their utility. As the monthly statistical returns are of not much consequences after the data are tabulated, it is left to each state to destroy as and when they feel that the returns have lost their utility.

Q: Births which occurred to Indian Citizens abroad period : Whether births which occurred to Indian Citizens abroad period to 1-1-1971 and not registered with the Indian Consulate as required under section 20(1) of the Act, can be registered now under section 20(2) of the Act? If such births can be registered, whether section 13 continues to be applicable for cases when registration is sought beyond 60 days of arrival in India?

A: The answer is affirmative for both the queries referred to.

Q: Birth of a child to Indian citizen, outside India which has not been registered can be registered: As per section 20(2), the birth of a child to Indian citizen, outside India which has not been registered at Indian Consulates, can be registered in India if the parents of the child return to settle permanently in India. However, there are cases where the births were registered in the registration offices of the foreign countries where the parents were residing at the time of birth of the child concerned and not at the Indian Consulates of the said countries as provided under section 20(1). Birth certificates issued by such foreign registration authorities are also produced by the parents. Can these certificates be considered legally valid for the purpose of sub-section (2) of section 17 of the RBD Act, 1969?

A: Section 20 deals with special provisions as to registration of births and deaths of citizens outside India. Sub-section (1) provides that births and deaths of Indian citizens outside India registered at the Indian Consulate under the rules made under Citizenship Act, 1955 would deem to have been made under this Act and the information so received under these rules shall cause to be registered by the Registrar General. Where the births and deaths have not been so registered, no such information may be received by the Registrar General as provided in sub-section (1). For that purpose the procedure laid down in sub-section (2) would have to follow and if the parents of the child return to India with a view to settling therein, they may, at any time within 60 days from the date of the arrival of the child in India, get the birth of the child registered under this Act in the same manner as if the child was born in India. Registration of the birth of Indian citizen in the registration office of a foreign country where the parents were residing at the time of the birth of the child would not make the registration with the Registrar General under this Act automatic as the procedure is not provided under the Act. However, under section 32 of this Act in the event of any difficulty arising in giving effect to the provisions of this Act in any state, the state Government may, with the approval of the Central Government by order, make such provisions or give such directions not inconsistent with the provisions of this Act as appears to the state Government to be necessary or expedient for removing the difficulty.

Q: Whether birth of a child in Bangla Desh Could be registered in India ? The wife of an Armed Forces Personnel gave birth to a child in a hospital in Bangla Desh while her husband was posted in Bangla Desh. She has got the hospital documents to prove the occurrence of this birth. After coming back to her native place in India, she has sent a request for the birth to be registered there. Could the birth be registered?

A: As Bangla Desh has diplomatic relation with India, the birth in question should normally be registered with Indian Embassy in that country according to the citizens (Registration at Indian Consulates) Rules, 1956 under Citizenship Act, 1955. In this particular case, the husband of the applicant was posted in Bangla Desh on temporary duty. Therefore, the birth can as well be registered at the normal residence of the parent of the child i.e. her native place in India under section 20(2) of the RBD Act, 1969.

Q: Deaths occurring outside India can also be registered in India: Section 20(2) of the Act permits registration of the birth of any child born outside India and not registered with the Indian Consulate under section 20(1) when the parents of the child return to India with a view to settling therein. However, no such provision exists in regard to the registration of a death occurring outside the country and not registered under section 20(1). This causes a lot of difficulty to the relatives/heirs of the persons who die outside India. It may

be clarified whether on the same analogy as relevant to the registration of births, the deaths occurring outside India can also be registered in India. If so, what is the time limit for such registration?

A: Sub-section (2) of section 20 provides for the registration of birth of any child born outside India in respect of whom information has not been received as provided in sub-section (1). If the parents of the child return to India with a view to settling therein they may at any time within sixty days from the date of the arrival of the child in India get the birth of the child registered under this Act in the same manner as if the child was born in India and the provisions of section 13 shall apply to the birth of such child after the expiry of the period of sixty days aforesaid. The said sub-section does not provide for registration of death occurring outside India on the same analogy.

Q:Whether all cases of delayed registration call for payment of fine in addition to the late fee? Every case of delayed registration attracts the penal provision of section 23(1) which can be got over with a compounding fee under section 24 of the Act. If so, does it mean that all cases of delayed registration call for payment of fine (or compounding fee therefore) in addition to the late fee? However, section 13 of the Act does not make a specific mention of the same.

A: Section 23 provides that any person who fails without reasonable cause to give any information which is his duty to give under provisions of the sections 8 and 9 shall be punishable with a fine which may extend to fifty rupees. It is clear there from that any information given to the Registrar under section 13 would attract the penal provision of section 23 in addition to the payment of late fee as prescribed by the rules made there under. Section 13 relates to delayed registration of the events and provides for payment of late fee. The fee which is levied for compounding offences is to be charged under section 24 which deals with the power to compound offences. The compounding fee is therefore additional to the amount of late fee.

Q:Whether the Registrar can be penalized? For example, in urban areas, a person is required to furnish the birth information to the Registrar of Births and Deaths in writing within 7 days from the date of occurrence. The Registrar has registered the event after 7 days of receipt of the information from the party. As such the event has been registered within 14 days from the date of occurrence. Whether the Registrar can be penalized?

A: For any undue delay on the part of the Registrar he becomes liable to penalty under section 23(2) of the Act.

Q: Can the Registrar launch prosecution against the defaulting Medical Officer
(a) Can the Registrar launch prosecution against the defaulting Medical Officer in – charge (informant) for failure to get the institutional events registered?
(b) Can the events be registered during prosecution proceeding?
(c) If the Medical Officer requests the Chief Registrar to compound the offence before or after institution of the criminal proceeding, then will he be charged a sum of money not exceeding fifty rupees for each offence or for all the offences committed by him?
(d) Can the events be registered if the offences for not reporting births and deaths are compounded?
(e) Is the Medical Officer required to pay the late registration fees along with the fines imposed under section 23 or 24?
(f) Will the fines imposed by the law courts or the late fees payable for delayed registration be borne by the defaulting Medical Officer himself or by the institutions from the government / local Body funds?

A: (a) If the Medical Officer In-charge does not report an event in prescribed time limit, he becomes liable to pay late fee and even penalty as provided under section 13 and 23 of the Act. Prosecution if need be, can be done as provided under section 25 by an official authorized by the Chief Registrar.
(b) Irrespective of prosecution proceedings the Medical Officer In-charge is duty bound to get the event registered as per relevant provisions of the Act, depending on the delay etc.
(c) Compounding of an offence need not consider the number of events involved an instance that came to notice.
(d) Launching of prosecution or compounding of offences against a person does not hinder completing the process of compulsory registration as per provision of section 13(4) of the Act. Action under section 13 will be without prejudice to any action taken under section 23 or 24 of the Act.
(e) The person concerned is required to pay the late registration fees along with the penalty that may be

imposed under section 23 or 24.
(f) Fine will have to be borne by the concerned medical officer himself and not by the institutions as he is specified to be duty bound to report events occurring in the institution under section 8(1) (b) of the Act.

Q:A question has arisen as to the details of the procedure and machinery for instituting prosecution : Sections 23, 24 & 25 of the RBD Act, 1969 relates to penalties, power to compound offences and sanction for prosecution. A question has arisen as to the details of the procedure and machinery for instituting prosecution for offences referred to in section 23. Please advise.

A: Section 23 of the RBD Act, 1969 indicates the offences and the penalties thereof. Sub-section (5) thereof provides that notwithstanding anything contained in the Cr. P.C. an offence under that Act shall be tried summarily by a Magistrate, Chapter XXXI of the Cr. P.C. 1973 contains the provisions for the summary trial of offences. Section 262 provides that in trials under this chapter (Chapter XXXI) the procedure specified in the code for the trial of summons case shall be followed except hereafter mentioned. Chapter XX contains provisions for the trial of summons cases by Magistrates. In order to launch a prosecution under section 23 of the Act, proper complaints will have to be filed by an authorized officer before the Magistrate. Since the Chief Registrar of a state would be the chief executive authority in that state for carrying into execution the provisions of the Act and the rules and order made there under, the complaint should be filed by a person duly authorized by him in that regard. The prosecution thereafter shall be conducted by the Assistant Public Prosecutor under section 25 of the Code. The department should render full assistance to the Assistant Public Prosecutor for the successful prosecution of the case. Section 24 empowers any officer authorized by the Chief Registrar by a General or a special order subject to such conditions as may be prescribed in the rules to compound a case either before after the institutions of criminal proceedings under that Act. The rules made under this provision may provide for the conditions under which the various category of cases may be compounded. In case the criminal proceedings have not been instituted, after the case has been compounded, there would be no necessity to institute any criminal proceeding. However, in case the criminal proceedings has already been instituted before a Magistrate after the case has been compounded under this section, the Magistrate will be apprised of this position by way of an application made before him either by the concerned party or by Chief Registrar and thereafter the accused person shall be discharged and further criminal proceedings against him shall be drop by the Magistrate. Section 25 stipulates that no prosecution for an offence punishable under this Act shall be instituted except by an officer authorized by the Chief Registrar by general or special order in this behalf. The complaint should be filed by an officer authorized by the Chief Registrar by a General or a special order.

Dy. Director of Health Services (SBHI & VS)
And Dy. Chief Registrar of Births & Deaths,
Maharashtra State, Pune