



## DECREE OF 14TH NOVEMBER 1958 APPROVING THE REGULATIONS OF CIVIL REGISTRATION ACT

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**DECREE OF 14TH NOVEMBER 1958  
APPROVING THE REGULATIONS OF  
CIVIL REGISTRATION ACT**

**DECRETO DE 14 DE NOVIEMBRE DE 1958  
POR EL QUE SE APRUEBA EL REGLAMENTO  
DE LA LEY DEL REGISTRO CIVIL**

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## **DECREE OF 14TH NOVEMBER 1958 APPROVING THE REGULATIONS OF CIVIL REGISTRATION ACT**

The second additional provision in the Civil Registration Act of 8 July 1957 establishes that regulations must be passed before the Act enters into force.

In compliance with the above mentioned legal mandate, these regulations are enacted upon introduction of the substantial reform of the Civil Code promoted by Law of 28 April of the present year, which must be imperiously taken into account. The first decree constitutes the *sedes materiae* of the substantive regulation of individuals and their civil status, the official registration of which is the responsibility of the Registry. Therefore, any alteration made to substantive civil rules may be reflected in the rule of the above mentioned body, as it has been proven by recent modifications as far as marriage and adoption are concerned.

The new regulations have been inspired by several sources and elements. Firstly, the precepts of the former Civil Registration Act that coordinated with the new system and that were not covered in the Act that is about to enter into force have been considered due to their case-based or interpretative nature.

The enforcement regulations of the former act have also been taken into consideration. Said regulations were elaborated without full knowledge of what the Civil Registry really is as an active institution, being therefore clearly insufficient.

And finally, the administrative provisions of different status and period as well as the resolutions by the Directorate-General for Registers and Notaries have been crucial to assess what has been an almost age-old Civil Registry and to find a solution to the ongoing register issues related to very different situations.

The present legislative work has tried to provide certainty, simplicity and organic unity to many former case-based, supplementary or interpretative rules that sometimes were not consistent between them or that were clearly insufficient considering the requirements of the old system.

In addition, the new act has structured the Civil Registry in its full complexity and has provided the institution with more technicalities. It has turned the body into a more practical, simple, flexible, complete, accurate, and fair institution, which has led to the coherent alteration of former regulatory standards and to establish new ones regarding matters for which the Act required new foundations.

The first articles in the regulations include the general provisions, which provide the Registry with the flexibly demanded by public interest and by individuals and also deal with certain matters requiring the same solution and measures regardless of their nature (entries, files or certificates). Worth mentioning is the provision the aim of which is to offer a better service to individuals by giving them the opportunity to check any record through their local register office.

Particularly remarkable is the provision regarding the jurisdiction of the Registry. Its competence is determined by criteria imposed by practical requirements and according to the solution that the Contentious-Administrative Jurisdiction Act and, more recently, the Administrative Proceedings Act offers to issues of similar nature.

The rules regarding voluntary jurisdiction are also applied by extension to register-related matters lacking a regulatory solution as a result of an excessive casuistry or lack of foresight. Such implementation is in harmony with the special nature of the public register activity, very different to the typical State administration – governed by administrative law and subject to contentious-administrative jurisdiction. The public register activity – in close contact with common law – has the aim of: creating legitimate records regarding the civil status; sometimes constituting the status itself together with other requirements; and always providing private individuals with reliable information on the civil status of people according to the corresponding legal guarantees. Therefore, they are all civil matters typical of the so-called Administration of Justice and, therefore, they have been subject to the authorities of ordinary jurisdiction from the very beginning. If at some point a formally administrative body participates in matters related to Civil Registry files (that is, the Directorate-General for Registers and Notaries), its functions as well as other records that fall under its responsibility do not differ substantially from other functions and records that are subject to judicial authorities and their resolutions - against which no appeal may be brought - therefore leaving the way open for an ordinary legal proceeding.

According to the Act, the Registry is public and can be accessed by those wishing to consult its entries. According to the former legislation, register certificates had to be provided to anyone requesting them. Even though this criterion has not been modified in a radical way, the principle to be followed has now been laid down in order to avoid misuse and also to demand a special proof of interest for the cases listed in the regulations. Specifically, the publicity limitations imposed by Article 51 of the Act have been regulated. To that end, the issuance of extract birth certificates has also been regulated in order to be able to apply the principle “outside the family, no distinction by filiation type among Spanish nationals is possible” without prejudice to the newborn’s identity. The Family Record Book is complemented by the Filiation Book, being the latter issued with the same purpose as the former for children who are not born in a legitimately formed family.

According to the guidelines set out by the Act, the organisation and operation of the Registry has been improved, the registration mechanism now benefits from more simplicity and the highest level of efficiency has been reached by implementing the corresponding actions and sanctions to individuals who don’t comply with their responsibilities.

According to the legal criteria, the participation of Justices of Peace acting as delegates of the Registrar has been intensified in the case of register offices that fall under their responsibility. Their participation is mandatory for matters that are easy to solve through the corresponding forms. New foundations have also been laid so that, in large cities/towns, register offices can organise according to the population density and the specific needs of the public service.

The duplicate book system, a copy of which had to be kept at the Office of the Court Clerk, was never put into practice. This measure would have clearly made the registration system more difficult by making the entire process more formal and bureaucratic: the current regulations also aim to create a provincial archive for the registration of files; this guarantees the reconstruction of entries in case of destruction, making the process significantly easier.

The Daily Book will provide assurance of the correctness of the date of marginal entries for which, by definition, the assurance cannot always be given due to the obligation to number the records in sequential order or without leaving any gap or blank space in-between.

The Staff and Office Book will keep track of the alterations made in each area, facilitating the search of entries the responsibility of which is determined by the place in which the event took place. The system regarding files and coordination marginal notes shall ease the informative role of the Registry, which must not only be used so that those who already know the details can obtain the certificates they need, but also so that those who still don't know the details can access them via the Registry.

Notations are regulated with the precautionary measures deemed necessary in order to avoid confusion regarding registration and to provide them with titles that are coherent with their informative purpose. Additionally, they are subject to the registration regime, which will always have a prevalent value.

As for the entries in the margin of birth certificates, it is important to explain the criterion used regarding parental authority-related facts. The Act prescribes the marginal registration of such facts (except the death of the parents). However, it rejects the existence of repeated entries for the same fact in different register sections. Therefore, the facts that can be recorded individually and that somehow modify the parental authority details must only be registered as a reference marginal note. According to the legal criterion, the death of the parents must not be included in the margin of the birth certificate.

Biological maternal filiation will not only be registered in the Registry by virtue of acknowledgement. According to the provisions of the new Act, filiation may also be verified by the doctor present at the time of delivery and by declaration of anyone who knows about the event. Nevertheless, according to the Act, the father is the person subject to declaration in the first place.

Pursuant to the provisions of the new Act, the regulations consider that Article 132 of the Civil Code has been modified in such a way that it is no longer mandatory to delete the details regarding the biological mother and that have been obtained from the father's declaration. Therefore, the not uncommon entries regarding biological mothers

made upon declaration by non-married fathers will give more assurance to the records. Nevertheless, the Act still considers the defence of victims of false filiation declarations. In this respect, according to the regulations, it will be sufficient for the Registrar to be aware of the mother's opposition in order to omit any motherhood reference in the record. This will avoid disgraceful entries, which shall become immediately void following the subsequent note of lack of awareness.

In terms of legitimate filiation, the new regulations have rigorously followed the legal principles of the Civil Code, whereby the presumption of legitimation is subject to two different sorts of circumstances: some of them are to be recorded in the birth certificate while others are to be recorded in Section 2 of the Registry.

With regard to the public documents required for the recognition of biological filiation, the traditional practical doctrine has been applied.

Lastly, considering the special effectiveness of registration, no acknowledgement entry will be allowed without proving compatibility with the Law based on a minimum set of guarantees.

In order to facilitate the identification of individuals and also to avoid any annoyance to persons with no known parents, Registrars shall assign common names in the birth description or by way of a marginal note. Such names must be used in all identification references.

Some of the points provided for by the Act have been completed and improved, such as: the imposition of given names, who imposes them and how; surnames in general; determination of legitimate names by sovereign concession and names of people acquiring Spanish nationality: rules regarding reversion of surnames given to biological children who have only been recognised by their mother; adoptive surnames and files on names and surnames. With regard to the surnames of adoptive children, the provisions of the Civil Code after its last reform have been maintained, although the substantive standards have been expanded in order to ensure a greater protection to the adopted child's interests.

The new regulations put special emphasis on nationality records. Additional rules inspired by the substantive standards have been introduced, as well as rules regarding the choice and nationality of married women.

In general, it is not possible for register offices to offer a direct proof of someone's nationality: however, in order to be able to determine the nationality more easily, the new regulations promote the record of a great number of nationality-related facts, either by registration or notation (as the case may be).

The facility to record certain nationality declarations is attenuated by the limited scope granted to the Registry.

With regard to marriage, the regulations adapt to the current Concordat concluded by Spain with the Vatican, the doctrines of which are substantially reflected in the Code and the Civil Registration Act. The registration of canonical marriage is subject to the mere regulatory enforcement. Civil marriage rules are in line with the Code, which was recently reformed, with the new Registration Act, with Decree of 26 October 1956 and

with the Memorandum of the Directorate-General for Registers and Notaries of 2 April 1957. The regulations specify the consultation regime, government procedures and legal challenges and also determine the functions of Justices of Peace with regard to such delicate legal act.

In terms of death registrations, it is important to mention the rules regarding death under exceptional circumstances, which are subject to a regime of a more common and ordinary nature and replace the numerous case-based provisions dictated for emergency situations. Worth mentioning is also the flexible regulation of the burial permit in order to avoid the difficulties stemming from the former ordinance.

As for Section 4, the new regulations have considered the provisions regarding the Register of Guardianship Affairs and Absent Residents. The regulations are superficial and restrictive with regard to legal representation forms other than guardianship and absent residents, since the Act is clearly an experiment in that respect: good judgment advises to collect data based on experience before embarking on a broader, more detailed and accurate law. However, the representations mentioned in legal documents have not been excluded due to the existing need to modify them as required by Law; their formal publicity is easier through the Civil Registry than through legal files.

The regulations also consider the cases for which an official report is required. It also considers the brevity of the legal text and provides special rules for certain files and for the registration of resolutions.

Special attention has been given to the files regarding the registration of births not complying with the deadline in order to dispel the confusion that existed so far about the determination of filiation in birth certificates.

The reconstruction of the Registry is the subject matter of a detailed legal system that incorporates practical measures and flexible formulas without prejudice to the corresponding sureties.

Declarations made as a mere presumption may be used, among other purposes, to obtain real nationality certificates similar to those issued in comparative law and the existence of which was lacking in our legal system.

The processing of files is governed by the principles of thrift, speed and efficiency that the State always tries to impose in all its actions. Furthermore, as far as jurisdiction is concerned, it is assumed that they fall under the responsibility of the Judge of First Instance due to its importance in civil status affairs. However, powers may also be granted (even in cases where it is possible considering the nature or minor importance of the matter being discussed, the decision) to the Registrars in order to speed up the process and to alleviate the excessive accumulation of matters at Courts of First Instance.

The reality demands a simple proof verifying the existence, single state or widowhood of individuals. To that end, both the Administration and individuals are given the opportunity to benefit from simple means of proof, the appearance of the interested party and joint declaration, respectively. Therefore, considering the latest trends, the new regulations also contribute to the simplification of the bureaucratic burden.

However, it requires certificates proving the existence, single state or widowhood still to be issued, so a procedure offering a minimum set of guarantees has been established for that purpose.

Without prejudice to the principle of cost-free status with regard to the entries or other specific concepts, the regulations have respected the traditional tariff regime and, at the same time, they also regulate the registration benefit of poverty with great generosity, which considerably facilitates the means of proof according to practical requirements. The regulations also envisage additional cost-free cases for the issuance of certificates and eliminate the confusion that currently surrounds such cases.

The fact that the organic ordinance of the Body of Doctors of the Civil Registry has been included in the regulations contributes to the simplification of current legal texts without this being detrimental to the requirements of a proper legislative systematisation, as public doctors are subject to the exclusive service of the Registry. Without prejudice to the rights acquired, the regulations have endeavoured to meet the criteria that inspired the general ordinance of public doctors as long as the specialty of their function does not require otherwise. The ordinance regarding their benefit society created by Order of 17 July 1951 has been simplified and included in the regulations. Furthermore, a special committee representing the body has been formed. The economic regime for public doctors is still subject to the direct collection of tariffs. Considering the requirements of this service and a possible ongoing increase in the number of public doctors, this service has been limited to provincial capitals and to cities/towns with more than 50,000 inhabitants.

The complexity and innovative nature of the new legislation poses a large number of questions of inter-temporal law, such as: the removal of the former Section 4; the incorporation of the Register of Guardianship Affairs into the Civil Registry; formal publicity; new books and forms; names and surnames; and naturalisation certificates. Transitional provisions seek to address these issues and also to find a solution to the complex problem raised by the liberalisation war regarding entries recorded in territories that don't fall under the jurisdiction of legitimate authorities and that was already tackled in previous provisions. To that end, and in order to maintain the efficiency of entries as much as possible, in principle the ordinary regime regarding mistakes and correction procedures will also cover entries recorded in the above mentioned territories.

The final provisions establish the legal regime of the Registry in African provinces, which cannot be other than the general regime, except for the exceptions imposed by the current specialties in terms of authorities and registrable facts regarding natives. The last provision leaves the current tariff system unaltered, because even if some of its features have to be adjusted according to the new Act, the modifications to be made can be added to the current provisions.

By virtue thereof and considering the proposal drawn up by the Ministry of Justice, the verdict of the State Council and the previous consideration by the Cabinet,



I HEREBY DECLARE:

Sole article.

That the annexed final regulations of the Civil Registry are passed and shall enter into force on 1 January 1959.

By signing below I hereby certify the present Decree, which is enacted in Madrid on 14 November 1958.

FRANCISCO FRANCO

Minister of Justice

ANTONIO ITURMENDI BAÑALES

## REGULATIONS OF THE CIVIL REGISTRY

### TITLE 1

#### General Provisions

##### CHAPTER 1

##### Common and Supplementary Rules

###### **Art. 1.**

The bodies of the Civil Registry shall communicate directly with one another *ex officio*. The same will apply to the communication between consular register offices and Spain based offices.

###### **Art. 2.**

The authorities, civil servants or private individuals shall make requests before the register office in their place of residence or their customary place of abode when the competent office to which the request has to be forwarded is situated in another district or area.

Notifications and, in general, any communication sent to applicants or parties concerned must be made *ex officio* via the office situated in the customary place of abode stated by them.

The Registrar – if required assisted by the Secretary – shall go to the place where a declaration subject to registration has to be made in case the deponent cannot go to the register office due to sickness or any other cause.

###### **Art. 3.**

All those enjoying sufficient capacity to participate in civil status-related events, also enjoy sufficient capacity to deal with all registration actions related to such events.

###### **Art. 4.**

The death of the party concerned does not preclude the previously initiated registration or processing of a file.

###### **Art. 5.**

Except on reasonable grounds of urgency, matters shall be dealt with during opening hours of the service, which will be displayed in a place visible to the public.

The registration of deaths is always considered as an urgent matter.

**Art. 6.**

With regard to the obligations imposed by this Act that are not subject to immediate compliance or a special deadline, this time limit will be three days.

The day when the initial event occurs will not be taken into account.

**Art. 7.**

The identity of the applicant must be noted by the Registrar, the Secretary or Officer in requests promoting registration or requiring a special legitimization, unless the signature of the applicant has been previously authenticated or he is represented by a barrister.

The identity of the witnesses must always be noted.

Unknown private individuals or witnesses may be identified either by two identifying witnesses or through their official identification documents.

When identification is required for registration, this will be noted either in a separate record or in the actual body of the entry.

**Art. 8.**

If so required by the applicant, the filing office will give to the former a written or oral proof of the application submitted, a proof of the request or declaration, or a proof of the documents received, as the case may be.

Photocopies or uncertified copies of the document will be admitted as a proof, and must be duly dated, signed and stamped by the civil servant to whom it is submitted.

**Art. 9.**

A copy of the Act and the regulations as well as of all official forms must be made available to the public at all register offices.

**Art. 10.**

Register offices shall use the official books and forms or, alternatively, they shall use similar official forms, always stating why the actual official form has not been used.

The blank space of the forms used for the registration of unprovable circumstances must be completed with the sentence "no record".

**Art. 11.**

The entries, certificates and records must state that the authorising party is acting as a substitute. However, they shall not include any reference to Justices of Peace acting as delegates or any mention to the Judge in charge.

**Art. 12.**

Identity details include – if possible – names and surnames, parents' names, national identification document number, nationality, age, civil status and domicile.

**Art. 13.**

Two witnesses shall sign the entry or record upon request of the individual who should sign it and doesn't know or can't actually sign it.

The same witnesses are not allowed to replace more than one person with regard to an entry or record.

**Art. 14.**

Entries and certificates must be signed by the employee issuing them.

**Art. 15.**

Records must be dated and signed by the Registrar and the Secretary (if applicable).

**Art. 16.**

Actions and files are subject to the supplementary application of voluntary jurisdiction rules.

**CHAPTER 2****Publicity of the Civil Registry****Section 1. Certificates.****Art. 17.**

The Registrar and, upon delegation, the Secretary are the only civil servants who are allowed to certify the entries of the register office. In addition, they are obliged to inform the parties concerned in order to provide them with registral publicity.

The person requesting the certificate will be presumed to be the person willing to find out about the entry.

**Art. 18.**

The consultation and examination of the books will be carried out when it is more convenient for the service and under the supervision of the person in charge.

**Art. 19.**

Without prejudice to Article 21, the authorities and civil servants are allowed to consult the content of any entry or document of the office either by direct examination, certification or non-certified extract where required by the matters that fall under their responsibility (and provided they indicate the corresponding matter), except for the content of the Book of Secret Marriages.

In cases of more than one register page, the Registrar may choose to consult the books by examination, certification or non-certified extract, unless otherwise imposed by the Act or Decree or by the Directorate-General. In this case, the content of different pages may be compiled in one single certificate.

**Art. 20.**

The Registrars shall notify the information required by Law, Royal Decree or the Directorate-General to the official bodies without prior special request.

Likewise, they shall forward bulletins of birth, miscarriage, marriage, death or any other registrable fact to the National Statistics Institute through its local offices as well as to the Municipal Statistics Offices.

Before the facts are recorded in the Registry, the competent bodies shall supply the bulletin forms, which must be elaborated according to the Directorate-General. The applicant or holder of the certificate, the Doctor, Health Worker or Registrar shall issue the bulletins as prescribed by the corresponding form. In addition, the Registrar shall provide the bulletins with the stamp of the Registry and indicate the volume, page and date of registration. As far as bulletins of miscarriage are concerned, they shall include the reference number of the corresponding file. Bulletins must not include identity details of private individuals affected by the facts and for the publicity of which a special authorisation is required.

#### **Art. 21.**

The following information may not be made public without a previous special authorisation:

1. Adoptive or unknown filiation or circumstances revealing any filiation information, change of the surname “Expósito” (or similar) or objections.
2. Change of gender.
3. Reasons why the parental authority has been deprived or suspended.
4. Filed documents with regard to the cases mentioned in the preceding points, to dishonourable circumstances or to cases recorded in a confidential file.
5. Miscarriage files.
6. Changes of surnames that have been authorised according to Paragraph 3 of Article 208 of these regulations.

The authorisation shall be granted by the Judge in charge and only to those justifying a legitimate interest and a serious reason to request it. The permit must include the name of the applicant, the reasons why it is being issued and the express authorisation of the Registrar, who shall issue the permit at the register office he is directly in charge of.

#### **Art. 22.**

Nevertheless, the following persons don't require any special authorisation for obtaining certificates:

1. In the cases referred to in point 1 of the previous article, the registered person himself or his ancestors, descendants or heirs. The adopting person or the adopted person legally of age in the case of full adoption, and also the heirs, ancestors and descendants of both of them in the case of simple adoption.
2. In the case of change of gender, the registered person himself.
3. In cases where parental authority has been deprived or suspended, the person subject to parental authority or his ancestors, descendants or heirs.
4. In the case of filed documents, the above listed people for each different scenario. In the case of a notified resolution, the addressee of such notification.



5. In the case of miscarriage files, the parents.

6. In the case of a change of surname authorised according to Paragraph 3 of Article 208, only the registered person.

Likewise, the individuals who have the persons listed above in their care and the persons especially authorised by them may obtain certificates without any previous authorisation. The Registrar may confirm the written power of attorney or the guardianship at his own discretion even though no reliable evidence of it exists.

Certificates must include the name of the applicant for the cases referred to in this article.

#### **Art. 23.**

No written application is required to obtain a certificate, except:

1. If the search will take longer than two years.
2. If a previous authorisation is required.
3. In the case of negative certificates, which must necessarily refer to the time expressly indicated by the applicant.
4. Where it is intended to effect a resolution of denial.
5. If submitted at an office different to that responsible for the issuance of the certificate.

The application must contain the data required for the search.

#### **Art. 24.**

Certificates requested on the grounds of urgency will be issued or denied within 24 hours.

#### **Art. 25.**

If the certificate is denied, an extract will be issued or, if requested, a resolution of denial will be effected. Both documents must include a reference to the application, the date when it was submitted and the name of the applicant. The extract or resolution may be issued provided that it doesn't reveal that it is not subject to certification. If applicable, it will also indicate on general terms that only the persons referred to in the current provisions are allowed to request the certificate. If an appeal is lodged against the resolution, the Registrar shall elaborate a confidential report stating the reasons for rejection.

#### **Art. 26.**

Certificates must be issued without leaving any blank space for marginal notes. Marginal entries must be added at the end of the text, before date and signature.

The copies of entries obtained from photographs or similar procedures must be certified by using the method authorised by the Directorate-General.

**Art. 27.**

Certificates must feature:

1. The register office of the municipal district and area (in the case of municipal register offices) or of the town/city and country (in the case of consular register offices).
2. References to the registered person's identity that appear on the main record.
3. The page and volume of the entry, or the corresponding page and file.
4. Other circumstances required by Law.
5. The date, name and signature of the certifying Registrar or Secretary, and a stamp of the office.

The faults or gaps contained in the entry must be either underlined or marked in a different colour or font.

**Art. 28.**

Certificates may be either positive or negative and refer to entries or filed documents.

Positive certificates regarding files may have the form of complete copies or extracts.

Complete copies cover the full entries they refer to (signatures included).

Extracts or ordinary certificates contain the data specially attested by the corresponding record in accordance with subsequent amending registrations (the latter not being included). They also include the marginal notes referring to the registration of marriage, guardianship, representation or death of the newborn or the registration of birth.

**Art. 29.**

Ordinary birth extracts do not attest filiation: they indicate the date and place of birth, without specifying the time and location of the delivery. With regard to identification details, they must include the parents' names (real or figurative) featured in the certificate. In the case of adopted children, the extract must only include a reference to the father and mother's name whose surnames come first.

This certificate must indicate that it only certifies the fact, date and place of birth as well as the gender of the registered person.

**Art. 30.**

Complete birth certificates must state that they are being issued for matters where filiation must be demonstrated, meaning that they are not admissible for other purposes.

**Art. 31.**

Certificates are not subject to authentication in order to be valid before the authorities, without prejudice to the verification proceedings that the corresponding body deems appropriate in case of a reasonable doubt.

**Art. 32.**

According to their nature, certificates (either in the form of complete copy or extract) must include the notes contained in the same page as long as they relate to the fact being attested.

**Art. 33.**

Positive certificates of documents may be general or individual, both options being complete copies of related or mixed certificates. They must state that “the omissions made do not expand, limit or alter the facts indicated”; otherwise, a note must be included in the certificate.

The certificates of documents may include a reference to specific facts contained in a file that has been closed or is still being processed.

**Art. 34.**

Negative certificates regarding entries or filed documents must include a reference (depending on what has actually been requested) to a specific time frame or to the time that has elapsed since the corresponding registration took place.

**Art. 35.**

A non-certified extract shall also be given to the applicant – yet with no guarantee - for attestable facts.

**Section 2. Family Record Book.****Art. 36.**

The Family Record Book is opened with the non-secret marriage record. The successive pages have the aim of certifying the registry details on the economic system of the marriage partnership, the birth of joint children and those jointly adopted by both spouses, the death of the spouses and nullity, divorce or separation of the marriage.

The Family Record Book must also be handed to the parent or parents of a non-marital child and to the person or persons adopting a minor. Where applicable, the marriage entered into subsequently between the holders of the Book must be placed on record.

The Book must place on record, with certification value, any facts concerning parental authority and the death of children, when such death occurred prior to emancipation.

The entries-certificates are in abridged form, not including the transcription of notes, while birth entries will not contain details on the type of filiation. Entries can be amended by virtue of a subsequent entry-certificate.

**Art. 37.**

The Family Record Book shall be handed to its holders or the persons authorised by the above, immediately following the registration of the marriage in the ordinary Registry or, where such relationship was not in force at that time, when a non-marital filiation or adoption was registered.

When the Book was furnished due to the registration of an adoption, the record of birth in the former Family Record Book issued for the natural parent or parents must be cancelled, as applicable. Where the former Book contained solely this birth entry, the Book must be cancelled.

**Art. 38.**

The handover of the Book, regardless of the time at which it took place, must always be certified in the margin of the relevant record of marriage or, failing the above, on each record of birth.

The spouses or the holder or holders of parental authority shall always have a copy of the corresponding Book. In the case of loss or damage, they can be given a duplicate copy from the same register office, including the appropriate certificates. The duplicate must state that it is a replacement of the former book and a note on its issue must be placed on record in the relevant entries of the register office.

**Art. 39.**

The holder of the Book shall request the recording of any appropriate certificates in such Book immediately following the registration of these details. The Registrar shall take special care to ensure the compliance with this obligation.

**Art. 40.**

The Registrar shall provide the holders of the Book with free copies of the additional pages of the forms required, of the same size and on ordinary paper. Additional pages must be signed by the Registrar and stamped with the stamp of his office, and the number must be entered in a record issued at the end of the last page.

## **TITLE 2**

### **Bodies of the Registry**

#### **CHAPTER 1**

##### **Directorate-General for Registers and Notaries**

###### **Art. 41.**

Within the Ministry of Justice, the Directorate-General for Registers and Notaries is responsible for managing and supervising the services offered by the Civil Registry. In general, its duties include to obey and to help to enforce the Act (the regulations), to prepare proposals with regard to provisions in the form of Orders or Royal Decrees and to inform about Civil Registry matters.

The Foreign Office shall be heard with regard to the peculiarities of the service of books and forms of register offices located abroad.

###### **Art. 42.**

The Directorate-General shall inform the bodies of the Registry of the resolutions or instructions either directly or via the Presidents of the High Courts of Justice or the Foreign Office.

The Registrars or Inspectors of the Civil Registry are not obliged by the orders or instructions given by institutions different from those appointed for this service by Law. Therefore, all orders received from other hierarchical superiors by these civil servants are subject to being forwarded.

###### **Art. 43.**

The Registrars may submit proposals to the Directorate upon report from the Public Prosecution Service in order to improve the service being offered or solve any issues of a general nature.

#### **CHAPTER II**

##### **Register Offices**

##### **Section 1. Municipal Register Offices**

###### **Art. 44.**

In cities/towns with more than one Court of First Instance, the service of the Civil Registry is subject to the following rules:

1. There can be one or more register offices, which will be the responsibility of Judges of First Instance assisted by the corresponding legal Secretaries.

2. Depending on the circumstances of each city/town, the Ministry of Justice shall take or promote the necessary measures, and in particular:

a) Determine whether a municipal district requires one or several register offices as well as the competences of each one of them.

b) Appoint the Judge or Judges of First Instance in charge of the Civil Registry and, if applicable, the respective roles of each one of them.

c) Decide whether the Judge or Judges must devote themselves exclusively to the service of the Registry.

In any case, the decisions as far as these aspects are concerned and the filling of vacancies for Judges, Secretaries or Assistants will follow the organic provisions of the Administration of Justice.

Upon request of the Directorate-General, it is the responsibility of the Ministry of Justice to determine the number of Doctors of the Civil Registry and to distribute the roles among them.

3. Upon delegation by the Registrar, the Secretary may: certify, carry out all register-related activities referred to in Paragraph 2 of Article 46 as well as to undertake all tasks related to proof of identity and civil status. Upon approval by the Registrar, the Secretary may also delegate the same tasks to an authorised Officer of the Administration of Justice.

4. With regard to the duties referred to in Paragraph 2 of Article 46, registrations subject to declaration may also be performed on the basis of a report drawn up by the Officer or the Secretary following the statement, provided that the entry is made within 20 days after the registrable fact took place.

In order for the Judge to be able to issue a burial permit, a report must be previously made, and the death must be attested and verified according to the corresponding registration requirements.

#### **Art. 45.**

When needed by the service, the Directorate-General may authorise the opening of several volumes of the Daily Book as well as volumes that may be open simultaneously in each section of the register office.

#### **Art. 46.**

As far as municipal register offices are concerned, the Justice of Peace may act upon delegation of the Registrar and carry out the same duties, except for file related matters.

The Justice of Peace may issue birth certificates for children born within wedlock, ordinary death certificates, marriage certificates for religious weddings, marriage certificates for civil weddings after proceedings have been instituted, as well as marginal notes the aim of which is not to correct or cancel an entry.



However, he shall not issue any other entry - except in the event of urgent need - without written instructions from the Registrar. The instructions shall be requested and processed immediately, and be filed together with the rest of records related to the corresponding entry, being the Registrar in charge of the draft copy.

In any case, he shall fulfil any task conferred on him by the Registrar.

All certificates must always be issued and signed jointly by the Judge and the Secretary.

**Art. 47.**

It is the responsibility of the Judges of First Instance to instruct and guide the Justices of Peace by clearing up their doubts, correcting their mistakes, giving them the necessary instructions on how to carry out their tasks, demanding their utmost diligence and urging them to ask questions in doubtful cases.

Whenever imposed by the service, they shall visit at least once a year the register office under their jurisdiction in order to thoroughly examine the entries, filed documents and records processed since the last visit as well as to provide the necessary resources to ensure a proper functioning. Should these visits have not taken place in the previous year(s), they shall report it to the President of the High Court of Justice.

The results obtained during the visits will be compiled in duplicate in a thorough report, being a copy thereof handed to the Justice of Peace. The visits must be noted in the Staff and Office Book as well as in all other open registration books.

**Art. 48.**

The Judges of First Instance acting as Registrars will be replaced as established by Law with regard to such offices.

**Art. 49.**

The Judge and the Secretary are jointly liable for the register-related acts they jointly authorise.

The Secretary shall follow the Judge's orders. However, should he suspect an infringement has taken place; he may be relieved of his responsibility by reporting it to the immediate superior authority.

## **Section 2. Consular and Central Register Offices**

**Art. 50.**

There is one register office for each consular jurisdiction. The Foreign Office shall inform the Ministry of Justice of Spanish consulates abroad as well as of their territorial jurisdiction.

**Art. 51.**

Consular register offices are managed by Spanish Consuls or, when applicable, by the diplomatic officers responsible for the consular sections of the Diplomatic Mission.

They may be replaced by the corresponding civil servant or, alternatively, by the Chancellor or person replacing him according to their regulations.

In the event there is no replacement, the facts will be recorded in the central register office.

**Art. 52.**

Central register offices are managed by two Magistrates assisted by Legal Secretaries. The Magistrates can be substitutes for each other or, alternatively, be replaced by the officers of Madrid's Civil Registry. The Directorate-General for Registers and Notaries shall determine the role assigned to each Officer.

**Art. 53.**

Consular register offices have no Secretary. Therefore, the Registrar is the only person entitled to authorise the entries, certificates and records.

**Art. 54.**

The President of Madrid's Civil Registry (in the case of central register offices) and the Registrar or legal substitute (in the case of consular register offices) shall assume the duties assigned to the corresponding President of the High Court of Justice with regard to each register office.

As far as the central register files are concerned, the Public Prosecution Service will be represented by the corresponding party depending on the register to which the files are made public. However, for everything else related to the register, it will be represented by the Public Prosecutor assigned to it among those available in Madrid. As far as consular register files are concerned, the Public Prosecution Service will be represented by the Chancellor and, when there is no legal substitute, by two qualified Spanish nationals appointed by the Head of the Consular Office or the Diplomatic Mission. The representative shall obey the rules of the Public Prosecution Service and act independently of Consuls.

Nobody shall act both as Registrar and as representative of the Public Prosecution Service with regard to the same matter.

### **Section 3. Segregation, Extinction and Division of Records**

**Art. 55.**

In order to close a record, the Registrar shall issue a note at 00:00 o'clock on the first blank page of each book (and also indicating the provision). The remaining blank pages will be made useless by crossing the entire page and adding the word "void" at the bottom of each page. They must also include the signature of the Secretary or the Registrar and the stamp of the office. The last page must include a note referring to the closing note.

When segregation, extinction or division of a record is ordered, the register keeping the file shall be indicated.



### CHAPTER III

#### Inspection & Penalties

##### Art. 56.

The Directorate-General is responsible for the superior inspection by means of its civil servants of Group A (Law graduates with the category of Deputy Directors or Heads of Service), who shall act and have the function of central Inspectors without prejudice to the superior rank of the Director General.

##### Art. 57.

Inspectors shall follow the instructions given by the Directorate-General in order to correct the faults disrupting the service.

##### Art. 58.

The ordinary inspection of municipal register offices will be carried out by the corresponding President of the High Court of Justice or by the corresponding Magistrate of each province.

The inspection must be carried out in person once a year, without prejudice to the additional visits that he or the Directorate may deem appropriate. In addition, he shall report the absence of inspections in the previous year(s) to the Directorate-General.

Inspections shall apply to:

1. The register office that falls directly under the jurisdiction of the Judge of First Instance, examining the reports on the visits by the Registrar to the registers for which he is responsible, as well as particular instructions he might have given to the Justices of Peace.
2. The register office, at least for every Judge of First Instance responsible for the registers to which the Justice of Peace has been delegated, checking compliance with the duties of the Registrar.

##### Art. 59.

The ordinary inspection of consular register offices must be carried out by the Head of the Diplomatic Mission and is not subject to specific terms. The Head of the Diplomatic Mission is entitled to delegate his tasks to other diplomatic or consular officers assigned to the mission upon authorisation from the Foreign Office.

The inspection of the register that falls under the jurisdiction of the Head of the Mission will be the responsibility of the officer that has been appointed by the Foreign Office.

##### Art. 60.

The inspection must refer to the time following the last inspection according to the Staff and Office Book.

The Inspector shall examine the books, records and files and, particularly, civil marriage files and documents on tariff accounts. Open registration books as well as the Staff and Office Book must include a reference to the inspection being carried out.

The results obtained after the inspection will be compiled in duplicate in a thorough report, being a copy thereof handed to the Registrar.

**Art. 61.**

In January, the ordinary Inspectors shall submit a detailed inspection report to the Directorate-General, indicating the name of the Registrars responsible for the registers in which they did not detect any fault. They shall also mention the faults identified, the measures they took to correct them (in case they were corrected), and the penalties imposed.

**Art. 62.**

In years ending in 0 or 5, the ordinary Inspectors shall send, together with the report forwarded to the Directorate-General, a report listing the measures recommended for the service. A Registrar will be appointed for writing the before mentioned report one year in advance. This Registrar shall use the reports and proposals submitted by other officers who were subject to the same Inspector.

The Directorate may indicate the matter or matters to be included in the report in due course.

The summary of the reports must be approved by the Directorate-General and included in the Annual of the office.

**Art. 63.**

Private individuals, as well as the Public Prosecution Service or any civil servant may report any infringement, default or negligence committed by the register office either to the ordinary Inspector or to the Directorate-General.

**Art. 64.**

Inspectors learning of an infringement in relation to a register office shall:

1. Ascertain that an infringement has been committed.
2. Promote the measures and files required to correct it.
3. Impose or propose fines.
4. Report it to the authorities responsible for taking the administrative corrective measures or for demanding other liabilities.

**Art. 65.**

The bodies of the Registry shall inform their superiors of violations subject to a greater penalty than the one they are entitled to impose on infringements committed by civil servants who are not placed under their authority.

As Delegates of the Register, the Justices of Peace may levy fines of up to 250 pesetas.

In no case should fines be smaller than 50 pesetas. Fines may be levied even after the offenders' duties have ceased, provided that 5 years have not elapsed since the violation.



Fines will be levied upon notification to the offender. The grounds justifying, mitigating or aggravating the infringement as well as the offender's financial situation shall be examined. Fines must be issued on State-issued stamped paper and, in its absence, by legal proceedings.

## TITLE 3

### General Jurisdiction Rules

#### Section 1. Jurisdiction of Register Offices

**Art. 66.**

Register offices shall keep record of the facts affecting Spanish nationals, even though they determine the loss of their nationality or they took place before acquiring it. Register offices shall also keep record of the facts related to their civil status.

In cases where the nationality of an individual is in doubt, this will not constitute any obstacle to the registration of the fact. This also applies in cases where the individual is not duly registered in a Consulate.

Facts regarding events occurred onboard a Spanish ship or aircraft must also be kept at register offices.

In the case of birth certificates, even if the Spanish nationality of the newborn has not been proven according to Spanish law, certificates registered in consular or central register offices must include an explicit reference to that circumstance.

**Art. 67.**

The register office located in *La Línea* also covers Gibraltar for matters affecting Spanish nationals. Therefore, separate books, records and files must be kept with regard to that territory.

(Deleted)

**Art. 68.**

Births, marriages and deaths must be recorded in the municipal or consular register office where they took place, regardless of the domicile, parish membership or burial place of the affected parties.

If the applicant is domiciled in Spain, these events must be recorded in the central register office and then in the corresponding consular register office.

Timely birth registrations in the register office of the domicile of the legally known parent's o parents' are subject to the terms laid down in Article 16.2 of the Act. A proof of address is required by showing either the corresponding national identification documents or, alternatively, the municipal registration certificate.



The person or persons requesting registration shall state on their own responsibility that they have not previously registered the event in the register office of the place of birth. In addition, they shall submit a certificate proving that the event has not either been registered by the Management of the hospital where the baby was born.

The space for remarks provided on these certificates must be used to state expressly that, for all legal purposes, the place of birth of the registered newborn is the municipal district where the record was made.

#### **Art. 69.**

Births or marriages that have taken place while travelling by car shall be registered in the register office of the place where the individuals abandoned the vehicle. If the newborn or one of the spouses dies before abandoning the car, the event must be recorded in the register office where the death is registered. If both spouses die, the event must be recorded in the office where the first death is registered.

#### **Art. 70.**

In the case of a shipwreck, if the Spanish authorities fail to initiate the proceedings required, the jurisdiction will be determined by virtue of the place where the accident occurred.

Air disasters are subject to the same rules applied to shipwrecks.

### **Section 2. Births, Marriages and Deaths occurred under special circumstances**

#### **Art. 71.**

The certificate by virtue of which a birth, marriage or death is registered, regardless how much time has elapsed, must be authorised:

1. By the Purser of the warship or by the Commander, the Captain or the Skipper in the case of other ships, if the facts have occurred while travelling by sea or air.
2. By the Commander of the unit or any other Officer in charge, if the facts have occurred on the field.
3. By the Registrar, the special Delegate appointed by the Directorate-General and, in the absence of both, by the local government authority, in the case of any circumstance hindering the proper functioning of the corresponding register office.
- 4.º By the officer in charge of the management or leadership or any other person formally appointed by him, if the facts have occurred in a lazar house, prison, barrack, hospice or any other similar public establishment, regardless whether they have taken place within the premises, in the ambulance or in other means of transport.
5. By the local government authority, if the facts have occurred in a place from which it is not possible to go to the register office after more than one day has elapsed.

6. By the Delegate of the Civil Registry appointed by the Judge of First Instance, if the events have occurred in population centres determined by the Directorate-General and located far away from the register office.

7. By honorary consular Agents of Spain, if the events have occurred in places where only such officers are available, even if they are not Spanish nationals.

#### **Art. 72.**

The authorities or officers referred to in the previous article have the same powers and duties as the Registrar with regard to the verification of the birth, filiation, death or miscarriage and, except in the cases listed between points 4-7, the issuance of the burial permit, which they only shall issue provided the ordinary permit cannot be obtained within 24 hours.

#### **Art. 73.**

The persons who are obliged to make the declaration are also obliged to request the certificate and the registration.

Once the record has been issued, it will be noted in the Logbook or any other similar book that the authorising party carries according to the rules: in the event there is no such book, the authorising party shall carry a book special for these records in accordance with the terms applied to the Book of the register office. In any case, the entry must be signed by the authorising party.

The record, as well as corresponding documents (if applicable), must be forwarded to the competent register office by the safest and quickest means possible. The Registrar in charge of the office shall communicate to the sender that the entry has been recorded (indicating the volume and page) or the decision rendered. The Daily Book must include a note referring to the dispatch to the register office as well as to the communication and its particulars.

If 30 days have elapsed since the day of the event, registration can only be made by virtue of issuance of a record upon initiation of the corresponding proceedings.

As for deaths on the field, several deaths may be included in the same record.

#### **Art. 74.**

Birth records issued 24 hours before the event actually takes place - either because the journey is ending earlier or because some circumstances don't allow delaying the delivery - must include the age of the newborn (in hours) as well as the emergency situations.

If the newborn's survives beyond this time, this must be verified by a separate record in order to be able identify the baby for registration purposes. This record must be processed by the Registrar in charge of the corresponding register office or the office of the place of abode in the presence of the Public Prosecution Service. In the event that no record exists, the birth record must be processed upon initiation of the corresponding government proceedings.



If the newborn dies before the first 24 hours, this must also be included in the record and incorporated into the miscarriage file together with other additional documents required. Should the newborn die due to circumstances other than birth, this must be proven by the corresponding declaration and report, which shall be added to the before mentioned filed together with the birth record.

**Art. 75.**

With regard to the special cases referred to in Article 71, records issued by the corresponding authorities or officers of a foreign country do not exclude the need for a previous proceeding. If they are sufficient in order to register the fact in a foreign register office, they will equally recognised as the certificates issued by this Registry.

**Section 3. Transfer of Records****Art. 76.**

The transfer of birth records may be requested by the newborn himself or by his legal representatives. Marriage records may be transferred upon request of the spouses by mutual consent, while death records may be transferred upon petition of the deceased's heirs.

Once the birth or marriage record has been transferred to the register office of the place of abode, 25 years must have elapsed before the record can be transferred again to the register office of the new place of abode.

**Art. 77.**

Records will be transferred by way of a full certificate sent via the official channels (and without separation of the documents filed). A reference to the volume and page of the new record must be added to the index of the volume that was open on the day of the registered event. In addition to these details, the entry must include a reference to the register office where the entry is made upon communication of the corresponding transfer.

With regard to adoptions, if so required by the persons requesting the transfer, apart from the information on the birth and the newborn, the birth record must only include the personal details of the adoptive parents and, if applicable, a reference to their marital status.

The new records referred to in this article shall include a reference to the former ones.

**Art. 78.**

Entries made in consular and central register offices are subject to being transferred to the register office of the place of abode. Only subsequent marginal entries may be made in the event that the register office of the place of abode is a municipal register office.

#### **Section 4. Incompatibility.**

##### **Art. 79.**

The officers of the Civil Registry may act as such regarding matters in which they have taken part as a Judge or Certifying Officer. However, they shall not interfere in matters in which the officers or relatives with whom they are incompatible have acted as a Lawyer. They shall also not participate in actions arising from infringements committed by either of them.

## **TITLE 4**

### **Entries in General and How They Are Issued**

#### **CHAPTER 1**

##### **Registration Proofs**

##### **Section 1. Kinds of Proofs and Requirements**

###### **Art. 80.**

Registration may be made as soon as the fact being attested is legally proven according to its type, even in the case that all details required cannot be recorded, without prejudice to the proceedings due for registrations purposes.

###### **Art. 81.**

Authentic documents, no matter if they are originals or copies or of judicial, administrative or notarial nature, are sufficient proof to register the fact to which they bear witness. The same applies to foreign authentic documents valid in Spain according to international law or conventions.

###### **Art. 82.**

Final judgements and decisions are sufficient proof to register the fact to which they refer. Should the judgment and decisions be contrary to the registered facts, the corresponding correction must be made for them to be subject to registration.

###### **Art. 83.**

No registration may be entered by virtue of a foreign judgement or decision that is not valid in Spain. If an *exequatur* is required for registration, the authorisation must be obtained in advance.

With regard to civil effects, canonical judgements or decisions may be registered provided that their implementation has been ordered by the corresponding Judge or Court.

###### **Art. 84.**

Judgments and decisions are not required to be directly valid in Spain, except where restricted by public order.

1. Foreign judgements or decisions determining or completing the jurisdiction with regard to the registrable act.

2. Authorisations, consents or verifications of foreign authority as long as they imply formalities or procedures in the country where they are being granted.

**Art. 85.**

To register a fact without proceedings and by virtue of a certificate issued by a foreign register office, the corresponding register office must be regular and real in order to be able to ensure that the entry being certified offers similar guarantees as the ones required for registration according to Spanish law with regard to the facts being attested.

The details and circumstances that cannot be obtained through the foreign certificate or report – either because they don't contain the necessary details and circumstances, because they are not deemed as authentic or because they cast doubts on their existence – must be completed by the corresponding legal means.

The non-registration of a fact in a foreign register office does not prevent the fact from being registered in a Spanish register office by means of sufficient proof.

**Section 2. Additional Document Requirements**

**Art. 86.**

Documents that are not written in Spanish or in any other languages regarded as official in their respective Autonomous Regions, or documents drafted in an old or rather unintelligible font must be submitted together with a translation or copy thereof issued by a Notary, Consul, Translator or any other competent body or officer.

No translation will be required provided that the Registrar is aware of its content.

**Art. 87.**

Authentic documents issued by a competent Spanish authority or officer are not subject to authentication in order to take effect in Spanish register offices.

**Art. 88.**

Except as provided by international conventions, documents issued by a foreign officer and documents issued on the field or while travelling by sea or air are subject to authentication.

**Art. 89.**

Even if authentication applies, this will not be required upon verification of the authenticity by the Registrar either directly or after having received a document by official means or by the corresponding procedure. No further authentication will be required if the previous authenticity has already been proven.

If the Registrar has serious doubts about the authenticity of a document, he shall carry out the appropriate verifications without exceeding the time established for such purpose.

**Art. 90.**

For the purpose of registration, foreign documents may be authenticated either by the Spanish Consul based in the place of issuance or by the foreign Consul in Spain.

For documents issued on the field or while travelling by sea or air, the authentication will be the responsibility of the Vice Secretary of the corresponding Ministry, without prejudice to the jurisdiction conferred on the Military Intervention Corp.

**Art. 91.**

Compliance of a fact or document with a foreign law that is not known to the Registrar must be justified by testimony of the Consul in Spain, the Spanish Consul in the corresponding country or a Spanish Notary Public who is familiar with such foreign law.

**CHAPTER 2****People Entitled to Request Registration  
& Assistance in Registration****Art. 92.**

Anyone showing sufficient proof is entitled to request registration.

The obligation to request registration refers to its details and circumstances in their entirety.

**Art. 93.**

The legal representatives of those who are legally bound to request registration – whenever they are unable – are particularly obliged to request registration without delay.

**Art. 94.**

The Registrar shall:

1. Issue an entry as soon as he has been provided with sufficient proof. If the entry has to be returned or forwarded to another body, he shall issue a copy thereof and include it in the file.
2. Notify the Public Prosecuting Service of the complaints regarding non-registered facts or details, of faults in the register office, of the lack of determining proofs for registration (and a reference thereof) and, in case they have to be returned, of sufficient evidence also issued by him.
3. Inform the interested parties and prompt or require them to act where applicable.

**Art. 95.**

The authorities, officers and private individual shall render the assistance required in order to ensure consistency between registration and reality.

To that end, the authorities and the officers shall notify the Public Prosecution Service of non-registered facts (indicating all possible circumstances) and provide it with all

documents that may be used as proof. Should both the central register office and the consular register office hold jurisdiction, the former will have precedence over the latter.

Duplicates, decisions, files or original copies must include the before mention communication and, upon issuance of the entry, also the communication to be send by the Registrar, indicating the volume and page or the decision rendered.

**Art. 96.**

The bodies of the Registry shall render assistance to foreign register offices according to the principle of reciprocity.

**Art. 97.**

Consuls shall obtain the reports for records affecting Spanish nationals and issued in a register office abroad.

## CHAPTER 3

### Books of the Registry & Filing

#### Section 1. General Provisions.

**Art. 98.**

Each register office shall have:

1. The books corresponding to the sections contained in it: the Daily Book – which may be replaced by the General Register Book in the case of consular register offices – and the Staff and Office Book.
2. A file set per section: Registrations, Indications, Cancellations and Marginal Notations, Marginal Notes, Staff and Office, Records, Other Documents and Miscarriages.
3. In addition, a file for each section, another file for documents verifying the single state or widowhood of individuals, as well as the additional notebooks or files that the Registrar or the person appointed by the Directorate-General deems appropriate.

**Art. 99.**

The Registrations Books of central register offices include:

1. Books consisting of sections, with the duplicates of the consular records.
2. Ordinary books used for other registration purposes for which they are used.
3. The Special Book of Secret Marriages.

**Art. 100.**

The books, items and documents must be kept safely under the surveillance of the Registrar, who shall report any special risk of fire, flood or any other danger that he cannot prevent from happening by his own means.



The files that are not sent to the Provincial Archive must be kept, if possible, in another room than that used for Registration Books.

**Art. 101.**

Legal proceedings requiring the direct examination of books must be carried out at the register office.

By legal mandate, the remaining documents must be broken down by periods and submitted against receipt.

**Art. 102.**

On a yearly basis, the municipal register office shall forward to the Provincial Archive in the month indicated by the Registrar:

1. The files corresponding to records after 5 years have elapsed since registration.
2. The Registrations Books in the event that 50 years (in the case of death) or 25 years (in all other cases) have elapsed since the main registration.

Under the same terms, the central register office shall forward to Madrid's Archive the registration files contained in ordinary books, these same books and duplicate records books.

The Officer in charge of the Archive shall ensure compliance with the service.

**Art. 103.**

The Registrar of the municipal register office appointed by the Directorate-General shall also act as the officer of the Provincial Archive, even with regard to entries and certificates.

The Archive must be located in a building different to that of the Civil Registry. It must be organised by judicial districts, *comarcas* (administrative divisions comprising a number of municipalities), municipal districts, registers, book or file typology and, lastly, by chronological order (applicable to each typology).

**Art. 104.**

Registrations Books as well as the Staff and Office Book must be kept permanently.

Following documents must be made useless in order to prevent their content from being released; files and Daily Books older than 50 years; files on deaths and files proving the single state and widowhood of an individual older than 100 years; files on marriages older than 150 years and any other file older than 200 years.

## **Section 2. Books in Particular**

**Art. 105.**

The books must consist of fixed or movable sheets (numbered and sealed) indicating the section and volume of the register office. They must start with an opening note stating the register office, section and type of book, the sequential number allocated to them according to the section or type and the number of the pages used for entries.

After issuance of the main record in the last valid register page, a closing note indicating the reason for closing must be added, as well the total amount of main entries and pages used.

Opening and closing notes must be authorised by the Registrar and the Secretary, if applicable.

The special nature of books that, always by separate sections, are opened due to correction, reconstruction or modification must be indicated in the opening and closing notes.

The Ministry of Justice may provide that books may be formed upon the subsequent binding of declarations that are recorded through official forms and open a register page. In this case, the declarations (numbered and stamped) must be kept by chronological order and bound once the volume reaches 300 pages, after which the appropriate opening and closing notes as well as the indexes will be added to the book.

Without prejudice to the preservation of books, the Ministry of Justice may also determine to computerise registers and the issuance of certificates.

#### **Art. 106.**

In the case that no official book has been officially edited, without prejudice to his responsibility, the Registrar shall authorise new books, which must be formed either as the official books or according to the formats established by Law.

The Registrar shall number the pages used for entries and stamp each page with the stamp of his office. In addition, he shall sign at the top of each page. A reference thereof must be included in the opening note.

#### **Art. 107.**

Registrations Books must include an index of the register pages classified by the surnames of the registered individuals, while Marriage Books must be classified by the surnames of both spouses and contain their given name and page.

The index of Section 4 must be classified by individuals subject to guardianship or holders of the assets subject to representation before it actually takes effect.

The main records entered in a volume different to that in which they shall be timely entered must also be included in the index of the latter (indicating the volume and page).

Once the pages corresponding to a letter are full, the last line must include a reference to the place where the index continues; in general, such reference has the aim of making the search easier, avoiding mistakes and allowing for additional notes or writing between lines to be included.



### Section 3. Additional Books.

#### Art. 108.

The Daily Book must indicate:

1. The entry date of any document, indicating the origin and file in which the document is being recorded. This does not apply to certificates of birth, marriage or death issued in due time and, otherwise requested by the applicant, to documents required for the issuance of hand delivered proofs of existence, single state and widowhood.
2. Declarations that don't immediately lead to registration, even though a record is issued; a reference must be added with regard to the content and deponent, who shall sign the entry provided that he has still not signed any record or document kept at the register office.
3. The date, volume and page of the entries and marginal notes, including the names and surnames of the registered person.
4. Any document dispatched, stating the matter (but not the delivery of certificates by hand).

#### Art. 109.

As for the Daily Book, an entry for each matter will be opened by sequential order. The book must indicate the incoming and dispatched documents with regard to the entry.

To that effect, each entry must have the space required. Therefore, an additional entry must be opened with reciprocal references as soon as an entry is full.

Entries do not require any signature or stamp. Additions, comments, writing between lines, erasures or amendments must be added to the first empty line in the corresponding entry or in the additional entry, using brackets and making the corresponding cross-references.

The book must contain an alphabetical index.

#### Art. 110.

It may be required that, upon submission of the corresponding proof or separately, a filing entry is certified free of charge.

Entry and exit stamps, with the corresponding date, must be stamped on the documents that are subject to being entered in the Daily Book; no decision or communication may be dispatched where the stamp is missing in the draft copies, and whenever it is transferred.

#### Art. 111.

The Staff and Office Book must contain the following parts: 1. Inventory; 2. Staff; 3. Inspections; and 4. Territorial Jurisdiction & Amendments.

#### Art. 112.

The inventory must specify the books, files, official stamp and further items filed.

A record regarding entries and exits must be immediately included in the inventory, stating the origin or destination; exits require a receipt.

In the event of destruction, a record regarding its impact must be included in each volume and, eventually, a record regarding transfer or reconstruction.

With regards to the taking of an office, replacement or return, the new employee shall express his agreement with the inventory or the faults he might detect in it. The person being replaced shall sign the faults detected and also include a reference thereof in the same record or in any additional record.

**Art. 113.**

As for the staff, different pages will be allocated to every single position in order to note:

1. The date of taking office, including the signature of the officer or employee.
2. The pages used for the Registrar and the Secretary must include a replacement table, even in the case of incompatibility, and indicate the reason for replacement and term.
3. Date of termination of office.
4. Declarations proving that actions have been carried out by a person who was not legitimately in charge.

The replacement of the Judge in charge will only be noted in the book of the register office falling directly under his jurisdiction.

**Art. 114.**

The inspection record must include the nature, time and date, the name of the inspector and a proof that a duplicate of the report has been delivered.

The record regarding visits by the Registrar to the corresponding register office where he acts as a Justice of Peace must contain the same circumstances.

**Art. 115.**

The Territorial Jurisdiction section must feature:

1. A reference to the territorial jurisdiction of the register office and to the municipal districts that fall under the jurisdiction of the Judge in charge.
2. Segregations and aggregations.
3. The background of the territory according to demarcation prior to the creation or modification, and destination of the segregated territory. The register offices affected must be indicated, specifying which of them are keeping the files, the date of entry into force of the modifications as well as the provisions ordering such modifications.
4. How much time has elapsed since the register office stopped running due to exceptional circumstances.



## Section 4. Files

### Art. 116.

Files must be created in chronological order. A sequential number must be given to each document regardless of their number featured on them.

Entry files must include all records in each document as well as a reference to the volume and page signed by the Secretary or Registrar: even in the case that the file is kept at the register office, a certified true copy of the decision prompting the entry must be included in the corresponding file.

Records of birth, residence or similar that don't lead to an entry being recorded in the same register office as well as any other non-expected document must be added to the "Other Documents" special file.

The files of records, other documents and miscarriages must feature an index of the items filed.

The petitioner may obtain a breakdown of a public document upon termination of the corresponding proceedings and provided that a receipt and sufficient proof is included in the file.

### Art. 117.

Files will be ordered in alphabetical order by the surnames of the registered individuals. The file for marriages will be classified by the surnames of both spouses. Each file must include the corresponding references to the alphabetical index, date of the event and volume.

The files of duplicates of the central register office must also indicate the Consulate.

## Section 5. Special Books of the Central Register Office

### Art. 118.

Within the first ten days of each month, consular and central register offices shall forward the duplicates of the previous month and literal reports of marginal entries issued in that period as well as acknowledge receipt of the dispatches.

Regardless of the faults contained in the entries, duplicates will be subject to incorporation and marginal entries will be subject to registration provided that there are no well-founded doubts that they coincide with the ones kept at the submitting register office.

Duplicates may be issued through photographs or similar methods. However, the sender must make sure that the copy is printed in indelible ink and in a clearly legible font and that its size coincides with that of the pages of the Registrations Books. In any case, duplicates are required to include original signatures and, should they have more than one page, the Registrar shall sign each one of them.

**Art. 119.**

The incorporation of duplicates in their corresponding section must be carried out by notation. A sequential number must be assigned to duplicates. Once the amount of numbered pages required is achieved, they must be bound together with their additional pages and indexes.

Each volume must contain an opening note without indication of the number of pages as well as a closing note indicating the number of pages. Both notes must be authorised by the Registrar. The Registrar shall stamp and sign the top middle part of all additional pages before the closing note, as well as number these pages. All this must be added by notation.

**Art. 120.**

Duplicate records are subject to cancellation in the event of a conflict between them.

**Art. 121.**

The Special Book of Secret Marriages must be formed in the same manner as the ordinary book. It must be dealt with great discretion and contain two different kinds of files: registration records (to be dealt with the same precaution) and those related to publications.

## **CHAPTER 4**

### **Assessment**

**Art. 122.**

The Registrar of the register office is not entitled to discuss matters subject to assessment.

The Justices of Peace may suspend for the time strictly necessary the issuance or denial of an entry provided that discussion with the Registrar is mandatory or convenient.

Once discussion has been initiated, the deadlines set will be deemed as suspended.

**Art. 123.**

No record may be made if the event that such record is incompatible with a previous record and the obstacle has not been legally removed.

**Art. 124.**

The denial or suspensory decision must be elaborated indicating all faults in an organised and accurate manner, how they can be corrected (if possible) and a specific reference to the applicable provisions.

If a registration is denied or suspended, the person who requested it by declaration is entitled to the issuance of a record thereof as well as of the decision taken.

Denial or suspension must be notified to those requesting registration and, if applicable, to the Public Prosecution Service. This applies without prejudice to the



mandatory communication to the Authority or officer who issued the document, who likewise shall notify the denial or suspension to the parties involved in the proceedings or to the persons applying for the document within the following 10 working days from receipt.

**Art. 125.**

Without prejudice to the rights of the parties concerned, the Notary Public authorising the proof and, in any event, the Public Prosecution Authority, have sufficient powers to lodge an appeal.

**Art. 126.**

Even though the record is entered, an appeal may still be lodged if the terms are not consistent with the proof.

The same page must include a marginal note regarding the appeal lodged as well as its scope. It must also state that the entry entered is pending a final decision, which must be registered by adding a reference to the confirmation or cancelation of the record or of the modified content.

**Art. 127.**

The deadline for the appeal is counted from registration and, if no registration has been made, from notification.

The notice of appeal must be submitted together with all assessed documents and, if applicable, the record regarding the written declaration and agreement reached.

**Art. 128.**

Even if registration is agreed by way of an administrative appeal, it is possible to indicate faults preventing it from being made and that have not been detected in previous assessments, being this without prejudice to the liability of the Registrar who didn't detect such faults as a result of an inexcusable negligence.

**Art. 129.**

The legal proceeding initiated during the period established for lodging an appeal through government channels does preclude neither the registration nor any administrative appeal.

Once the entry is made, a marginal note regarding the proceeding and its scope must be added to it. It must also state that the entry entered is awaiting a judgment, which must be registered by adding a reference to the confirmation or cancelation of the record or of the modified content.

Should it be rejected by the bodies of the Registry, the deadlines established for complying with the terms of the judgement will be regarded as void by virtue of the proceeding initiated.

## CHAPTER 5

### Issuance of Records

#### **Art. 130.**

Entries of birth, marriage, death and the first entry of each guardianship or legal representation are to be regarded as main entries, while the rest are to be regarded as marginal.

#### **Art. 131.**

Main entries or entries opening a register page shall be recorded in sequential order in the spaces reserved for that purpose. By register page is meant the part of a book reserved for a main entry and its corresponding marginal entries, no matter how many pages it has.

If a main entry does not fit in the space given, it must continue in the space reserved for marginal entries, adding the corresponding references. The line following that last written line in the continued part as well as the section of that line without any word must be covered with an ink line. Those signing the main entry shall also sign the continued part.

#### **Art. 132.**

Marginal entries must start at the beginning of the space given and follow a chronological order without leaving any gaps in-between. They must continue in the additional pages of the volume and indicate in a highlighted print the page and column assigned to them, in which, likewise, a reference to the register page must be made.

#### **Art. 133.**

Pages containing gaps will be made useless by crossing them out with two ink lines. In this case, a note indicating the reason must be added.

The same applies to blank spaces between marginal entries.

The lines and parts of lines that are not entirely full will be made useless by adding an ink line next to them.

#### **Art. 134.**

The entry may be blocked as soon as the Registrar detects a mistake in the book or page where the entry is being recorded.

In the event that an entry is blocked (for whatever reason), the line or part of the line yet to be started as well as the line that comes after the last line that is partially or fully written must be covered with an ink line.

If an entry cannot be entered or a previous proceeding is required, the blocked entry must be cancelled. Once the proper entry is recorded, a reference to both of them must be noted.

**Art. 135.**

Entries must be entered in clear print or type and in indelible ink. Marginal entries must use tiny print and only contain indispensable information.

Amounts must be entered in figures, except for the hour and date of the event and registration.

The entries must indicate the nobility or honourable titles the holder of which is registered or duly justified at registration.

**Art. 136.**

Main entries and notes issued in books that have not been officially edited must be numbered in sequential order and always feature the identity details of the registered person.

Marginal entries must always be identified by letters in alphabetical order and refer to the individual by name and surnames.

**Art. 137.**

Identity details are subject to the following rules:

1. The commonly used names must be featured next to the name and surnames, provided they are different.
2. Any married woman is to be called by her own surnames, even if she uses her husband's surnames. Any foreign married woman who according to her personal law holds her husband's surname must be called by the latter, although a reference to her maiden surname must also be added.
3. Age is to be provided if the date of birth is missing. Age must be calculated based on the birthdays that have already been celebrated.
4. Nationality must correspond to the municipal district in which the individual was born and, alternatively, to the province (in the case it is not the main city) or to the country (in the case the individual is born abroad).
5. The place of abode shall correspond to the nationality and indicate the street name and number or place, provided it is not the capital of the municipal area.

In the event that registration is made by virtue of declaration, the Registrar shall compare the details with those kept at his register office or by checking the birth certificate, the Family Record Book or any other sort of official document.

**Art. 138.**

The time is expressed from 0 to 24.

The place where the facts have occurred must be indicated in birth, marriage and death registrations together with the details required for domicile identification. If applicable, a reference to the location or name of the church must be added. Circumstances that are deemed as dishonourable must not be indicated. With regard to the remaining entries, it is enough to simply indicate the place, the reference included in the note of the officer authorising the proof or any other generic information.

**Art. 139.**

The declaration by virtue of which an entry is made must be noted by indicating the name, surnames, domicile and capacity of the deponent.

Entries signed by witnesses must contain their name, surnames, domicile and capacity.

**Art. 140.**

The date and name of the officer authorising an authentic document that must be included in the entry must coincide with those shown in the original.

The authorising officer must be designated by his name, surnames, capacity and place where he exercises his office.

Authorities must only be designated by their capacity or by their location in the case of international authorities.

Entries made by virtue of a testament must also include the date thereof, the date in which the record is made and the name of the authorising Notary Public.

**Art. 141.**

Officers authorising registrations will be designated by their name, surnames and capacity.

**Art. 142.**

Entries and certificates must not contain any addition, comment, writing between lines, erasure or amendment. However, inaccurate or unnecessary words will be crossed out in a manner that they can still be read.

Crossing-outs and deletion shall be noted at the bottom (before the date and signature) by the person issuing the entry or certificate. In this case, the place reserved for the date will be covered with an ink line and replaced by a handwritten date. Once the crossing-out or deletion is made, a reference to the place where they have been noted must be made (in sequential order and in brackets).

Unnecessary boxes must be covered with an ink line and are not subject to notation.

**Art. 143.**

No entry may be closed if the signing party is not familiar with its content. Should this person be unable to read the content, the Registrar will assume that duty.

**Art. 144.**

The entries and notes contained in register books must not be stamped with the stamp of the office.



## CHAPTER 6

### Annotations

#### **Art. 145.**

Annotations must include the fact they are informing about. In addition, both in the entry and in the certificate, they must also highlight the nature of the fact, the purely informative value thereof and that under no circumstance the fact is to be regarded as the evidence needed for registration.

#### **Art. 146.**

Once a fact has been noted, it might be registered marginally by simply including a reference to the content of the annotation.

Upon registration of the fact, the corresponding annotation must be deleted and a reference to the registration must be made.

#### **Art. 147.**

Annotations may be corrected or cancelled by virtue of a government proceeding certifying the inaccuracy or by virtue of sufficient proof in order to correct or cancel the corresponding registration.

#### **Art. 148.**

Those who requested the annotation are obliged to request its cancellation, where applicable.

#### **Art. 149.**

In addition, annotations are subject to registration rules.

#### **Art. 150.**

Annotations regarding proceedings must include a reference to the action filed provided that this affects the content of the register. The annotation must be added to the margin of the affected page; however, if a main entry is required by the proceeding, the annotation will open the register page.

The judicial mandate is to be regarded as a proof. The mandate may be given upon court's decision or at the request of the interested party, by virtue of the principle of sufficient proof.

Annotations will expire and be cancelled upon court's decision after four years. Successive extensions of the expiry date for the same term are possible. Such extensions may be requested via the same procedures as the annotations and be recorded in the register office.

Annotations may also be cancelled upon justification of the termination of the proceeding.

**Art. 151.**

Facts that cannot be registered because they cannot be legally proven according to some of the requirements may be noted with regard to the circumstances that have been duly proven. However, annotation does not apply if its absolute and irreparable ineffectiveness becomes apparent: verified annotations will be cancelled upon demonstration of its ineffectiveness.

**Art. 152.**

For the annotation of the civil status according to foreign law or the existence or inexistence of a fact or decision affecting it, the following will be sufficient:

1. The corresponding public proof.
2. The official certificate or report from the foreign register office.
3. The official foreign declaration in the case that the fact or situation cannot be proven by the Spanish register office.

**Art. 153.**

Foreign judgments or solutions regarding registrable facts are subject to annotation, even if they are not valid in Spain.

**Art. 154.**

Annotation will also be required in the following cases:

1. As a replacement for a main entry that cannot be immediately be recorded due to impossible access to the register office and for the sole purpose of serving as a support for marginal records; the annotation must include a reference to this special situation and be entered upon declaration of the interested party: once the situation prompting annotation disappears, it may be cancelled, and the corresponding marginal entries will be transferred.
2. A Spanish judicial decision denying the implementation of a registrable decision.
3. Adoption or foster care by virtue of a certificate issued by the Provincial Welfare Board.
4. Disappearance of the fact by virtue of a final decision, government proceedings or declaration by the judicial authority instituting the proceedings determined as a result of an accident or act of violence against human life resulting in the possible imminent death of the missing person, or by virtue of the order granting the defence. The annotation must include the date of the accident or act of violence as well as all circumstances that may have an impact on the declaration of death. In the absence of special rules, the rules regarding the registration of declarations of absence or death will apply.



## CHAPTER 7

### Marginal Notes

#### **Art. 155.**

Facts - such as the subsequent marriage of parents - affecting an individual must be included in a marginal note referring to the registration made.

#### **Art. 156.**

A reference note to the guardianship or representation must be added to the margin of the birth record of individuals subject to guardianship or of holders of assets subject to representation.

#### **Art. 157.**

The annotation must feature the reference note or mention prompting the corresponding registration.

#### **Art. 158.**

The Directorate-General may order reference notes to entries related to the issuance of specific certificates and to the compliance with or warning on obligations imposed to the Registrars.

#### **Art. 159.**

The Registrar responsible for the recording of a fact prompting a marginal note shall immediately record the note or forward a duplicate report to the corresponding person indicating all necessary circumstances. Upon registration of the note, a copy thereof indicating compliance must be returned; if 30 days have elapsed without the copy having been received, the copy must be newly sent, and after a further 30 days, this must be reported to the superiors.

If in a city/town there is more than one registered office and the competent office cannot be determined, it must be sent to the Registrar of the Provincial Archive so that he can include the note.

#### **Art. 160.**

Marginal notes must include:

1. Their nature.
2. The entry or fact they refer to.
3. The date and signature of the authorising officer(s).

References to an entry or register page must indicate the page, volume and register office as well as the name of the holder(s) by their name and surnames; references not made in the page where the entry was not recorded must also include the date and place of the fact. References to facts must also specify the name and surnames of the individuals.

**Art. 161.**

The details contained in the proof prompting registration will be enough for the reference that has to be made to other registrations, or to a separately registrable fact; however, the Registrar shall compare the details obtained by declaration with those kept at his register office or by checking the official certificate or document shown by the interested party.

Likewise, the necessary measures will be taken to send the reports to the register offices responsible for the issuance of notes related to the fact.

**Art. 162.**

References shown in notes or in the body of the registration will be extended, completed or corrected by virtue of an examination by the Registrar himself or of a certificate or report regarding the corresponding registration. If applicable, they will be deleted upon elaboration of a file proving its inaccuracy.

In the event of a modification or deletion, the proof that prompted it must be indicated.

**CHAPTER 8****Cancellations****Art. 163.**

The total or partial cancellation of an entry due to the ineffectiveness of the action, inaccuracy of the content or any other reason must be noted in the margin by virtue of the appropriate proof and according to the formalities affecting the cancelled entry. A special reference to the cause and scope of cancellation must be added.

If applicable, the record must indicate the fact prompting cancellation. If different, a reference note must be added to the page reserved for cancellation remarks.

**Art. 164.**

Entries that are entirely cancelled must be crossed out with ink of a different colour. As for partially cancelled entries, the cancelled parts must be underlined and placed in brackets, including a marginal reference note to the cancellation entry.

## **TITLE 5**

### **Sections of the Registry**

#### **CHAPTER 1**

#### **Section for Births & General Affairs**

##### **Section 1. Registration of Birth.**

**Art. 165.**

Upon declaration, the registration of birth may be recorded before the first 24 hours of life of the newborn outside the mother's womb provided that the baby's survival beyond that time has been proven and put on record.

**Art. 166.**

The declaration deadline is 30 days in the case that a just cause is justified. The just cause must be included in the registration.

The declaration obligation affects blood relatives up to the fourth degree and relatives by marriage up to the second degree.

**Art. 167.**

The birth report shall include, in addition to the name, surnames, capacity and professional registration number of the person signing it: the date, hour and place of birth, the gender of the newborn and identification details of the mother, indicating whether she is known or not based on personal knowledge or credible information supplied, and in the latter case, the official documents consulted or the identification particulars of the informant. It shall bear the signature of said person, together with the signature of the mother, unless she is unable or unwilling to sign, the circumstances of which shall also be recorded.

The report or declaration of professionals and staff members of healthcare facilities subject to professional secrecy must not mention the mother against her will.

**Art. 168.**

The Registrar shall ask for the corresponding report prior to registration. In the event that he is not provided with the report or the report is not consistent with the information given by the deponent, the Registrar shall check the fact by asking the Doctor of the Civil Register or his substitute, who shall confirm or replace the mandatory report.

The Doctor of the Civil Registry or his closest substitute residing in a place located more than 2 kilometres away may excuse his absence. In this case, the verification of

the report must be carried out in a separate record based on the information provided by to persons who are legally qualified and who were present at the time of delivery or are aware of the event.

In the absence of a report from the family doctor, consular register offices shall make use of the additional information referred to in the previous paragraph.

**Art. 169.**

Where the municipal district and date of birth are not known, the registration may only be recorded by virtue of a file that, if further evidence is missing, must contain the day, month and year of delivery considering the apparent age according to the medical report, as well as the municipal area where the newborn resides first. In the case of newborns housed in children's homes, the information provided by the Head of the institution will be sufficient; registration will then be notified to him, indicating the volume and page.

With regard to abandoned minors, apart from the registrable circumstances, the decision must also include the following information:

1. The time, date and place where the child was found as well as the identity details of the person who found the child.
2. Distinguishing features.
3. List of the documents, clothes and other times found.
4. Any other circumstance that might help identify the child in the future.

The documents mentioned above must be filed upon decision; all other items - provided that they are easy to store – must be marked in order to be able to recognise them whenever is needed. Those that are not kept at the children's home must be duly put away.

Entries must not contain any reference to the abandonment.

**Art. 170.**

Birth records must particularly include:

1. The time, date and place of birth. In the case of multiple births, if the exact time of delivery of each baby cannot be determined, the order in which they were delivered will be noted, or that no order could be established.
2. If the newborn is a male or a female and the name given to the baby.
3. The parents, provided that their filiation has been duly proven.
4. The number assigned to the report by the file or verification.
5. The time of registration.

**Section 2. Declaration of Miscarriage.**

**Art. 171.**

By miscarried child is meant a child who does not meet the requirements for a foetus to be deemed as "born" in order to take full civil effect.

**Art. 172.**

If the baby is born dead, the jurisdiction of the register office is determined in the same manner as for births and deaths.

**Art. 173.**

Both the declaration and the report must include a description of the miscarriage or, if applicable, to the delivery and death; if practicable, they must include the circumstances required for the registration of the birth and death and, particularly, the approximate time of life of the foetus and if the baby died before or after delivery. In the latter case, they must accurately indicate how many hours elapsed between delivery and death.

**Art. 174.**

According to the registration requirements, the Registrar shall issue a record for the declaration in a separate page and include a clear reference to the report or to the additional information provided. He shall immediately incorporate the documents regarding the deceased to the miscarriage files containing the record. The registration thereof must be added to the Daily Book along with the declaration. Once the documents have been duly incorporated, he shall issue the burial permit.

**Section 3. Marginal Entries in Section 1****Art. 175.**

Filiation entries must include the identity details of the father or mother as well as a reference to the type of adoption (full or simple adoption).

**Art. 176.**

If emancipation is granted by those exercising parental authority, this must be recorded by virtue of proof or appearance before the Registrar.

Emancipations granted by legal proceedings and subject to the benefits of “majority of age” must be registered by virtue of the corresponding testimony.

**Art. 177.**

The registration of disability must include a description of the extent and limits thereof, as well as state if the disabled individual is subject to guardianship by court decision.

The registration of the declaration of prodigality must indicate the activities that the prodigal individual cannot carry out without the previous consent of his guardian.

**Art. 178.**

The court decision requiring a declaration of suspension of payments must be registered together with the order declaring such condition.

The registration of the declaration must specify if the state of bankruptcy is provisional or final, as well as the limits established by the Judge with regard to the suspension.

If an agreement has been legally approved regarding the suspension of payments, this will also constitute a registrable fact. Another registrable fact is the discharge of the debtor or bankrupt, expressing if the discharge is general or limited.

**Art. 179.**

The registration of the declaration of death must include the date from which the death is deemed to have occurred, unless otherwise proven.

Court decisions rendering the declarations of absence or death ineffective are also subject to registration.

If an officer or private individual is aware of the existence of a person declared as “absent” or “dead” or whose disappearance has been recorded, he is obliged to report it either to the Public Prosecution Service or to the Registrar of the register office.

**Art. 180.**

The registration of facts affecting parental authority must state:

1. The fact, specifying the circumstances influencing parental authority.
2. If the parental authority is full or limited, if it has expired, been regained, restricted, extended or restored, if the minor is subject to guardianship, which faculties are transferred to the other parent, and if there is an administrator.

If the modification of parental authority is caused by a fact subject to a separate registration, a note referring to the registration of the fact must be added to the margin of the birth record indicating the circumstances described above.

Notes referring to the registration of the father’s or mother’s death are not subject to being entered.

**Section 4. Filiation.**

***Subsection 1. Maternal Filiation.***

**Art. 181.**

The father requesting the timely registration of the birth may indicate, upon declaration and in order to record material filiation in the register office, the person with whom he had the child as long as the mother’s identity can be proven through the report or verification required for registration.

**Art. 182.**

Notifications regarding delays to the addressee must be directly made in person by the Registrar or be sent to the corresponding domicile according to the rules applicable to legal notifications as long as they are compatible with the appropriate reservations.

The person recognised as mother will be expressly warned that, after 15 days without indicating the non-acknowledgment of filiation before the Registrar, filiation may only be cancelled by ruling. In the event that the mother being reported is not able to sign, without prejudice to the actions taken by a witness upon her request, she shall stamp the thumb, index finger and middle finger of her right hand on the notification.



The notification of the material filiation entry will be recorded by marginal note, indicating the personal nature, the time, date and place of the notification as well as the addressee.

The notification of the non-acknowledgement entry will be recorded in a marginal note and include the same details.

### ***Subsection 2. Paternal Marital Filiation.***

#### **Art. 183.**

If upon declaration or submission of the proof for registration it is assumed that the child is the husband's child, according to the Civil Code, the birth record and, alternatively, the corresponding marginal note must include a reference to the parents' marriage record. In the event that not all reference details are known, the birth and marginal record must indicate at least the date in which the wedding was celebrated.

In this case, the record must feature the father's identity details.

#### **Art. 184.**

If the child is born within the first 180 days following the wedding ceremony, the husband's parenthood will be recorded, unless an authentic contrary declaration is made by him (as provided for in Article 117 of the Civil Code).

Upon registration, parenthood may be cancelled by legal proceedings provided that the husband's authentic declaration has been made within the deadline and under the terms established in the Civil Code in order to override the presumption of parenthood.

### ***Subsection 3. Registration of Non-Marital Filiation.***

#### **Art. 185.**

By virtue of a declaration made in due time, the non-marital filiation of a child delivered by a married woman as well as the recognition of the paternal filiation by a father other than the woman's husband may be registered only if prior to registration it is verified that there is no legal presumption of paternity of the latter.

#### **Art. 186.**

For the recognition of the public proof, the following documents will be accepted: the marriage certificate of the parents, the file regarding the late registration of the birth, the pre-nuptial agreement and the settlement proceeding.

The declaration of acknowledgement made before the Registrar whenever it cannot be registered immediately must be recorded in duplicate indicating the circumstances contained in the entry, the child's identity details and the signature of the deponent. One of the copies as well as the corresponding application (if applicable) will be submitted to court approval in the first place. Upon receipt of approval and recording such approval in the duplicate copy, it must be submitted to the competent register office in order to proceed with registration.

**Art. 187.**

The acknowledgment of an adult child cannot be registered without his express or implied consent. The existence of the latter may be verified by government proceedings.

**Art. 188.**

The acknowledgment of a minor or a legally incompetent person may be registered without the previous consent from his legal representative or a court approval provided that a will has been elaborated and the death of the recognising party has been verified. The acknowledgement of a minor or a legally incompetent person may also be registered without the above mentioned consent or approval provided that the recognition has been made by virtue of another public document within the deadline set for the registration of birth; in this case, the registration of paternity may be suspended or confirmed in accordance with the regulations established by the Civil Code.

Acknowledgements registered according to the terms established in the previous paragraph must be notified to the other parent and, if applicable, to the newborn's legal representative. In the event that the latter is not known, acknowledgements must be notified to the Public Prosecution Service. Should the interested party die, they must be notified to his heirs. Said notifications must be sent in accordance with Paragraph 1 and 3 of Article 182.

**Art. 189.**

No matter how much time has elapsed and even in the case of death of the father and child, a file for the registration of non-marital filiation may be started upon request of whoever has legitimate interest or his legal representative.

The initiation of the proceedings must be notified in person to the parties concerned, who may take civil action and lodge an opposition.

In order for the opposition lodged by the parties or by the Public Prosecution Service to be deemed as duly filed for the purpose of preventing the approval of the file, the opposition must be expressed in due time and state the reasons why it is considered that the specific basis for the complaint are missing in their application.

**Art. 190.**

Any final criminal judgment determining filiation is subject to registration.

***Subsection 4. Unknown Filiation.*****Art. 191.**

If filiation is unknown, the Registrar shall assign commonly used names to the birth record or to the marginal note in substitution of the mother's or father's names. The Registrar shall indicate that such names have been allocated for the purpose of identifying the individual. Said names will be used as identity details.

Upon request of an adult interested party or of the legal representative of the minor, the mother's or father's names registered for identification purposes may be deleted



from the register records. Likewise, the legal representative of the minor may at any time decide not to register the mother's or father's names as the individual's identification details.

The rules regarding the imposition and modification of surnames that don't correspond by filiation (contained in Section 5 Chapter 1 of this Title) also apply – with the corresponding variations – to the imposition and modification of the mother's or father's names for identification purposes.

## **Section 5. Names & Surnames.**

### ***Subsection 1. Given Name.***

#### **Art. 192.**

Newborns cannot receive more than two single given names or more than one compound given name. When two single given names are given, they must both be capitalised and hyphenated.

Given names that alone or in combination of surnames are contrary to decorum are considered to objectively damage the individual.

If not obvious, the substitution of a given name by its equivalent onomastic name in any Spanish language requires the previous verification of such equivalence through the appropriate means as well as the correct spelling of the name requested.

#### **Art. 193.**

The Registrar shall record in the registration of birth the name imposed by the parents or the guardianships according to the deponent's statement.

In the event that no name is given or the name is deemed as inadmissible, the Registrar shall ask the persons mentioned in the preceding paragraph to name the newborn, warning them that if they fail to do so within 3 days, the registration of the birth using the name assigned by the Registrar will be effected.

### ***Subsection 2. Surnames In General.***

#### **Art. 194.**

If filiation is determined by both lines and without prejudice to the option provided for in Article 109 of the Civil Code, the first surname of a Spanish national corresponds to the father's first surname and the second surname corresponds to the mother's first surname, even if she is a foreigner.

#### **Art. 195.**

Upon request of the interested party to the Registrar, the prepositional particle “de” (“of”) will be placed in front of the father's surname in the event that the latter is usually used as a given name or starts with said surname.

#### **Art. 196.**

“Expósito”, other surnames of unknown origin and given names may not be imposed by court decision as the newborn's surname.

Once paternal, maternal or two-line filiation is determined, the surnames imposed as a result of unknown filiation will no longer be valid.

**Art. 197.**

Registrations of acknowledgment, adoption, acquisition of Spanish nationality, decisions affecting such facts or any other fact leading to the change of surname must clearly determine the surname order.

**Art. 198.**

The order of the surnames of individuals of legal age may be modified by simple declaration before the Registrar of the register office located in their domicile, not taking effect until modification is registered.

The same system applies to the spelling correction of surnames in order to adapt them to the corresponding Spanish grammar and phonetics rules. In the event of an unknown fact, it must be proven by the appropriate means that the surname derives from a vernacular language and that its spelling is the same in that language.

**Art. 199.**

Individuals acquiring Spanish nationality may keep their surnames provided that they declare their intention to keep them at the time of acquisition, or within two months following acquisition or attaining majority of age.

Such declaration is subject to the rules referred to in the previous article.

**Art. 200.**

The birth record must include the male or female nature of foreign surnames in the event that such variation is accepted in the country of origin. If not known to the Registrar, the variation must be proven upon testimony of the Consul to Spain, the Spanish Consul abroad or a Spanish Notary Public aware of the variation. The children of Spanish citizens shall establish such surnames according to prevalent use.

The different versions of foreign surnames may be noted in the margin provided that it is also verified that they are commonly used.

***Subsection 3. Surnames of Adoptive Children.***

**Art. 201.**

Children who are fully adopted by one single parent will acquire the surnames of the adopting party in the same order. An exception is made in the event that one of the spouses adopts the partner's child (even if the latter has died) and in the event that the sole adopting party is a woman. In that latter case, the order of surnames may be changed with the consent of the adoptive mother and the adopted child (if of legal age) without prejudice to Article 207.

**Art. 202.**

Upon formation and registration of a simple adoption, by public document and as long as the adopting parent(s) are still alive, the surnames of the adopted child may at any



time be replaced by the surnames of the parent(s), being the use of one surname from each parent also possible, in which case the order thereof must be determined.

**Art. 203.**

If the simple adopting parent or parents die, their surnames may be given to the adopted child subject to the previous authorisation of the Ministry of Justice and upon request of the adopted child, and with the consent of the heirs, descendants and spouse of the deceased adopting party or his/her legal representatives.

**Art. 204.**

Adopted individuals will transfer their first surname to their descendants.

The change of surname by adoption is applicable to persons subject to paternal authority and also to the rest of descendants who expressly authorise the change by virtue of a document or within the next two months. Declaration is subject to the rules provided for in Article 198.

***Subsection 4. Name and Surname Files under Jurisdiction of the  
Ministry or the Government.***

**Art. 205.**

The Ministry of Justice may authorise the change of name and surname after proceedings have been initiated in accordance with regulations:

These are the requirements for requesting the change of surnames:

1. That the form proposed for the surnames really constitutes a *de facto* situation not created by the interested party.
2. That the surname or surnames trying to be linked or modified legitimately belong to the applicant.
3. That the two surnames resulting after the change don't come from the same line.

Justified opposition may be only filed if the requirements are not met.

**Art. 206.**

The changes could take the form of segregation of words, aggregation, transposition or deletion of words or accents, suppression of articles or particles, translation or adaptation to Spanish grammar and phonetic rules, as well as replacement, prefixation or aggregation of other names or surnames or parts of surnames or similar surnames provided it is allowed by law.

Composite names cannot contain more than two words (articles and particles not included).

The change of given name requires a just cause and must not be detrimental to any third party.

**Art. 207.**

In the following cases, only the requirement included in Point 1 of Article 206 must be met in order for the authorisation of change of surname to take effect:

- a) In the case that a surname or surnames are bestowed on individuals by nature and that the proposed surname is common or belongs to the known surname line.
- b) In the case that the surname or surnames requested correspond to the person who adopted or fostered the interested party, provided that the latter or his heirs (if the former dies) agree to the change. In any case, the spouse and descendants of the holder of the surname must previously give their consent to the change through their legal representatives.

**Art. 208.**

The first requirement listed in Article 205 will not be necessary if the petitioner wishes to change or modify a surname that is incompatible with common propriety or that causes serious difficulties, and also to prevent a Spanish surname from becoming extinguished. A surname is deemed to cause serious difficulties where, for whatever reason, it leads to disgrace.

In the event of exceptional circumstances and despite the non-compliance with the requirements determined in said article, the surname may be changed by Royal Decree on hearing of the Council of State on recommendation of the Ministry of Justice.

In the event that the person requesting the authorisation to change his surname is a victim of gender-based violence, the change may be made by order of the Ministry of Justice. To that end, it must be previously demonstrated that the person claiming that he a victim of gender-based violence has sought legal protection relief with regard to the before mentioned problem. The change of surname may also be requested following the same procedure in any other circumstance prompting such change due to the urgency of the situation.

The ministerial Order referred to in the previous paragraph is not subject to publication in the Official State Journal or through any other channel.

In all these cases, any notice of opposition may be filed based on any reasonable ground.

The provisions contained in this article are without prejudice to the exercise of any action that may be deemed appropriate once the authorisation of change has been granted and, in particular, in the event that after approval the existence of the applicant's mis-statement or fraud is detected.

### **Subsection 5. Other Cases of Change or Preservation of Names and Surnames**

#### **Art. 209.**

Upon institution of the corresponding proceedings, the Judge of First Instance – Registrar of the register office – may authorise:

1. The change of the surname “Expósito” and similar surnames that are of unknown origin by any other surname that belongs to the petitioner or, alternatively, by a common usage surname.
2. Names and surnames imposed as a result of an infringement of the established rules.
3. The preservation of surnames that the biological children or their descendants have been using so far, as long as they initiate the proceedings within the next two months upon registration of filiation or upon attaining the age of majority, if applicable.
4. Change of given name by the most frequently used name.
5. The translation of a foreign name into Spanish or the adaptation of a foreign surname to Spanish phonetics.

In all cases listed above, the Ministry of Justice may directly and at any time authorise the change or preservation of names and surnames.

#### **Art. 210.**

The change of name and surnames mentioned in the previous article is subject to justification and must not be detrimental to any third party.

#### **Art. 211.**

The surname “Expósito” or other similar surnames may be replaced:

1. By a surname giving rise to the *de facto* situation and proving the legitimate relationship and line origin required for the ordinary change.
2. Alternatively, by the following surname of the same line to the one being replaced.
3. In the absence of line surnames, by any other surname chosen by the petitioner or his legal representative among those of the other line (except the paternal or maternal surname he already bears) and, alternatively, by a common usage surname.

#### **Art. 212.**

The name imposed as a result of an infringement of the rules will be translated, where appropriate, and, in all other cases, replaced by a name frequently used by the petitioner, by a name chosen by him or his legal representative and, ultimately, by a name imposed upon court decision.

The surname imposed as a result of an infringement of the rules will be replaced by the surname determined by such rules; alternatively, it will be replaced by the surname

frequently born by the petitioner, by a surname of common usage chosen by him or his legal representative and, ultimately, by a surname imposed upon court decision.

**Art. 213.**

For individuals acquiring the Spanish nationality, newborns who are not registered in due time or individuals with no name or surnames, the following rules apply:

1. The name and surnames (in the event that they are not determined by filiation) that they have been using so far, even if they are not commonly used names.
2. They will be completed or changed if they breach the remaining stipulated rules.

The change or imposition will be carried out in accordance with the rules described in the previous article and, in the case of abandoned children and as long as permitted by the rules, the names and surnames of common usage indicated in the document found next to them will be respected.

**Art. 214.**

The change or imposition of names and surnames will be recorded through the procedures prior to the registration of birth or through additional procedures regarding the circumstances, or in the nationality file of the individual.

**Art. 215.**

The provisions contained in the three preceding articles are without prejudice to the interested parties being able to request, wherever appropriate, the change of names and surnames that are not widely used.

Even if the previous name and surnames are not registered, they must always be indicated together with the change made.

***Subsection 6. Common Rules on Change Files***

**Art. 216.**

The applicant requesting the change must clearly prove his genealogy provided that it is necessary to justify the origin of some of his surnames. The applicant must prove that he meets all the necessary requirements for a change.

**Art. 217.**

Changes of surnames affect individuals subject to parental authority and also to any other descendant who expressly agreed to the change.

In order for changes to be applied to descendants, their consent must be previously registered either in the file or within the two months after the change has been registered, and subject to the formal acknowledgement rules as far as the Registrar is concerned.

The competent Registrar will notify the registration of any act involving a change of name or surnames to the Police Directorate-General of the Home Office as well as to the Central Registry of Criminal Records, provided that such change affects citizens over 16 years of age. If applicable, he may also notify it to the law enforcement



authorities of the country in which the persons affected by the change reside. The Directorate-General for Registers and Notaries has the right to order further communications.

**Art. 218.**

In the authorisations of change of name or surnames it must be stated that such authorisations don't take full effect as long as the change is not added to the margin of the petitioner's birth record.

Registration is only possible if requested within the first 180 days from notification.

Upon registration of the change, a marginal note referring to all register pages containing former name or surnames must be added (including the pages where the births of children are noted), which requires the interested party to provide the unknown data.

***Subsection 7. Name and Surnames of Foreigners***

**Art. 219.**

The name and surnames of foreigners are subject to their personal law.

**Section 6. Nationality and Residence**

***Subsection 1. Special Rules for Nationality Files***

Please note that Royal Decree 1004/2015 of 6th November governing the procedure for the acquisition of Spanish nationality by residence prevails over the provisions contained in articles 220-240 of the regulations of the Civil Registration Act, which, nonetheless, will remain in force inasmuch as they are applicable to other procedures as established in the 2nd final disposition of the above mentioned Royal Decree. Ref. BOE-A-2015-12047.

**Art. 220.**

In the application of a naturalisation certificate, an authorisation certificate by the Government to recover Spanish nationality or to grant nationality by residence, the following information must be necessarily provided:

1. Identity details, place and date of birth of the applicant, if the petitioner is legally able for this purpose according to Spanish law, current and previous nationalities and nationality of the applicant's parents.
2. The applicant's civil status; identity details, place and date of birth of the petitioner's spouse and children subject to parental authority. In the case the applicant has married several times, a reference to the previous marriages must be noted.
3. If the applicant is on trial or has criminal records. If the applicant has done military service or an equivalent service required by law in his country of origin, or any situation in that respect.

4. The applicant's residence in Spain, specifying the date and place and exceptional circumstances invoked for obtaining the naturalisation or authorisation certificate.

5. Any circumstances reducing the period required; if the applicant speaks Spanish or any other Spanish language; any circumstances regarding the petitioner's adaptation to Spanish culture and lifestyle (e.g.: courses, charity or social activities), as well as any other circumstance he deems appropriate.

6. If the applicant intends to live in Spain permanently and his means of subsistence.

7. When applicable, the petitioner's commitment to give up his previous nationality, and to swear allegiance to the King, to the Spanish Constitution and to Spanish laws.

#### **Art. 221.**

The petitioner must prove the facts listed in the first five points contained in the previous article.

The facts described in points 1 and 2 must be proven through a certificate issued by a Spanish register office or, alternatively, through a certificate issued by the Consul or officer responsible in the applicant's home country and, failing that, by any other appropriate means.

If possible, the consular certificate must also include a reference to the circumstances mentioned in point 3 and to the applicant's behaviour. This must also be proven through a certificate issued by the local government authority and by the Central Registry of Criminal Records.

To grant nationality by residence, residence must be certified if possible through the information kept by the Civil Government or by the Police Directorate-General of the Home Office.

The remaining facts and circumstances will be proven by any other appropriate means offered by law.

For the registration of the granting of nationality by residency, the Registrar shall personally listen to the petitioner, particularly to check his level of adaptation to Spanish culture and lifestyle. In addition, the Registrar shall also listen - in a separate and confidential way - to the spouse in order to find out about the reasons behind the change of nationality and the circumstances prompting it.

#### **Art. 222.**

The Directorate shall ask for the official reports it deems necessary and always for that of the Home Office.

The report elaborated by this Department must pass judgment on the behaviour and situation of the foreigner with regard to the conditions of entry and residence in Spain.

**Art. 223.**

The granting of the naturalisation certificate will take the form of a Royal Decree, which will be issued upon recommendation of the Ministry of Justice. The authorisation certificate required to recover Spanish nationality will be issued upon the same recommendation and by agreement of the Cabinet.

For information purposes only, a six-month list including the cases in which nationality was granted by residence will be published in the Official State Journal.

Refusals to grant nationality on grounds of public policy or national interest are not subject to justification.

**Art. 224.**

Within the 180 days after notification, after which granting will expire, the applicant shall appear before the competent officer in order to give up his previous nationality, take oath and register as a Spanish citizen in the register office.

The Registrar witnessing all declarations shall ensure that all entries required for the change to take effect are entered.

***Subsection 2. Modification of Nationality & Residence*****Art. 225.**

The change of residence entails the modification *ipso iure* of the usual residence for 10 consecutive years, in a province or territory subject to different civil laws, unless the applicant makes an express statement to the contrary before the end of this period.

The 10-year term does not take the time in which the interested part can't live independently into account.

Any foreigner acquiring Spanish nationality by nature or choice and who wishes to also apply for the residence corresponding to the territory subject to special or regional law in which he has resided for at least two years, may also express his desire to do so before the Registrar at the same time he makes the declarations stipulated in Paragraph 2 of Article 20 of the Civil Code. This is without prejudice to the provisions contained in the Statutes of Autonomy, where appropriate.

**Art. 226.**

Declarations made with regard to the nationality or residence, renunciation of citizenship and the oath required will be admitted by the Registrar - even if no document is supplied – provided that the necessary requirements are met upon declaration. However, registration is only possible if the requirements for acquisition, modification or preservation of nationality are previously justified.

**Art. 227.**

In the event that, while making the declarations stated in the previous article, the necessary requirements are not justified, the deponent, without prejudice to the appropriate means, will be obliged to provide the remaining proof within the reasonable period of time established by the Registrar. The Registrar will only momentarily issue a

record of the declaration and, eventually, when registration is performed upon proving compliance with the requirements, the time and date in which it was made will be added, after which the declaration will take full effect. The Registrar shall also indicate the time and date of issuance of the record, which must be noted in the corresponding entry.

**Art. 228.**

Registrations of nationality or residence made by virtue of declaration must include a special reference to the nature thereof as well as the time when it is made. In addition, in the cases required by law, they must also include a reference to the renunciation of the previous citizenship and to the oath of allegiance.

Registrations of acquisition of nationality by concession or of recovery of the previous citizenship upon authorisation by the Government will be made by virtue of the corresponding Royal Decree or Order and by virtue of the interested party's declaration.

**Art. 229.**

In the event that the competent register office is located in another municipal district or other factual obstacles prevent the facts from being immediately registered, the Registrar - before whom the declaration of preservation or modification of nationality or residence is duly made - shall issue a duplicate record of the circumstances of the registration and of the individual's identification. One of the copies thereof will be forwarded together with the corresponding proofs (if applicable) to the competent register office so that the latter can proceed with registration.

**Art. 230.**

If in a foreign country there is no Spanish Diplomatic or Consular Agent, the declaration of nationality by choice may be made through a duly authenticated document, which must be sent to the Spanish Foreign Office. Then, the Foreign Office will forward the document - upon elaboration of a report on the dispatch date - through the Ministry of Justice to the register officer responsible for effecting registration.

The registration date will be the dispatch date when the document is sent to the Foreign Office, after which the choice made will take full effect, and will be included in the before mentioned entry.

**Art. 231.**

The same system established in the previous article is applicable to any other declaration made with regard to nationality or domicile.

**Art. 232.**

The loss of nationality may only be registered upon submission of an authentic document that fully demonstrates the loss and after giving notice to the interested party or his legal representative and, if applicable, to his heirs.

In the absence of an authentic document, government proceedings will apply subject to the aforementioned notice.

**Art. 233.**

In order to register the loss of Spanish nationality of an individual who has also had a foreign nationality as a minor, the foreign nationality that was attributed to the interested party while holding an underage status as well as his express renunciation to Spanish nationality must be duly proven according to the terms provided for in the previous article.

**Art. 234.**

If in a foreign country there is no Spanish diplomatic or consular official, the applications for granting of nationality or authorisation may be sent to the Ministry of Justice through a duly authenticated document.

**Art. 235.**

When transferring the granting of nationality by residence or by naturalisation certificate, or when the choice or recovery of citizenship is registered, express notice must be given indicating that the interested party's children subject to parental authority are entitled to opt for Spanish nationality in accordance with articles 19 and 20 of the Civil Code.

**Art. 236.**

Residence records must include - either in the body of the text or in a side marginal note - a reference to the birth of the individuals affected by the modification of residence (names and surnames included).

**Art. 237.**

Birth records of affected individuals must include a reference note to their residence records, including the registered fact and the nature of the holder.

**CHAPTER 2****Section of Marriages****Section 1. Wedding Ceremonies before the Judge or Officer Acting as Such****Art. 238.**

The Judge in charge or the Justice of Peace, or the Registrar of the consular register office of the place of abode of either spouse, is responsible for the institution of the corresponding proceedings required prior to the wedding ceremony.

**Art. 239.**

Under the direction and by delegation of the Registrar, the Justice of Peace is responsible for the institution of the proceedings prior to the wedding ceremony as well as for the authorisation or objection to the celebration.

Upon a favourable order by the Justice of Peace and provided that the interested parties have asked the Mayor to authorise the wedding, the ceremony will take place in

his presence. He shall issue a record according to all requirements laid down in the Civil Code and in this Act, and immediately forward it to the register office of the city/town for its subsequent registration.

**Art. 240.**

The proceeding will be initiated upon submission of a document including:

1. The spouses' identity details (occupation included).
2. If applicable, the name and surnames of the previous spouse or spouses and the date in which their marriage was dissolved.
3. A declaration confirming there is no impediment preventing the wedding from taking place.
4. The Judge or, if appropriate, the officer chosen for the ceremony.
5. Villages where they lived or resided in the last two years.

The document must be signed by a witness upon request of the spouse who is unable to do so.

**Art. 241.**

Along with the document, the spouses must provide their birth certificates and, if applicable, a proof demonstrating the marriage dissolution of previous relationships, emancipation or dispensation; the latter does not prejudice the inexistence of other impediments or obstacles.

**Art. 242.**

At the time of ratification or as soon as they are detected, the spouses will be informed about the faults in the declaration and proofs that need to be rectified. The ratification of a spouse who is not domiciled in the district of the register office where the proceeding was initiated is subject either to appearance before another Spanish register office or to a special power of attorney.

**Art. 243.**

Edicts or announcements will be published within 15 days only in the cities/towns where the interested parties have lived or resided in the last two years and that have less than 25,000 inhabitants according to the last official census or that correspond to the district of a Spanish Consulate with less than 25,000 registered people.

Edicts will inform about the wedding and all the details listed in Article 240 in order to enable anyone to raise any legal impediment to the marriage. Registrars receiving the communication from the judge appointed to look into the case shall send the edicts back at him after they have been on the notice board during the period set. They shall send a certificate proving that said requirement was met and that no impediment was raised.

**Art. 244.**

In the event that the interested parties have resided in cities/towns that don't meet the conditions mentioned in the preceding articles for the last two years, the edict or



announcement procedure will be replaced by hearing of at least one relative or close friend of either spouse chosen by the judge appointed to look into the case. The relative or friend chosen shall express on oath his firm belief that the marriage planned does not fall within any legal prohibition.

**Art. 245.**

While the edicts or replacement proceedings are being processed, the proposed or agreed upon verifications the aim of which is to certify the status, capacity or domicile of the bride and groom or any other necessary information will apply.

If the judge appointed to look into the case deems that either the bride or the groom is affected by some physical impairment, he shall first obtain the appropriate medical report from the Doctor of the Civil Registry or his substitute.

**Art. 246.**

The judge, assisted by the Secretary, shall listen to the bride and groom in private and separately in order to make certain that there is no hindrance to marriage or any other legal obstacle preventing the ceremony from taking place. The hearing of either party not domiciled in the district that falls under the jurisdiction of the judge may take place at the register office of his place of abode.

**Art. 247.**

The Public Prosecution Service and the private individuals to whom the marriage intention comes to the notice are obliged to report any impediment or obstacles they are aware of. Should the judge be aware of a legal obstacle, he shall deny the wedding application.

An appeal against the approval and rejection of a wedding application may be lodged through the corresponding government channels according to the rules established for proceedings in general.

**Art. 248.**

In the event that one year has passed since publication of the edicts, the dispensation thereof or the replacement proceedings, and that the wedding has still not taken place, the ceremony may not be celebrated without new announcements, dispensation or proceedings.

**Art. 249.**

Once the ceremony has been approved, the wedding may be celebrated – provided that the requirements of the service are met - on the day and time chosen by the bride and groom, of which they will be informed at least one month in advance. If requested by the bride and groom, the wedding may take place within the first three days after the proceedings have been finally settled and on the day and time established by the Registrar.

**Art. 250.**

If in their initial document or during the proceedings the bride and groom requested the authorisation to be granted by delegation of the judge to another Registrar of the register office, the proceedings, once settled by the judge, must be sent to the Registrar chosen in order for the ceremony to take place. The Registrar shall simply authorise the marriage and make the corresponding record in his register office.

**Art. 251.**

In cities/towns with more than one Judge of First Instance, either of them – designed by the Chief Judge – may replace the judge appointed to look into the case upon signature of a favourable ruling from the latter in order to be able to grant his consent and make the corresponding record in the register office.

**Art. 252.**

In the event that the bride and groom have expressed their wish to marry abroad according to the law applied in the place where the ceremony is taking place and such law requires the submission of a “Certificate of legal capacity to marry”, upon settlement of the proceedings with a favourable ruling, the judge shall deliver such certificate to the interested parties. This certificate will only be valid for six months after the date of issuance.

**Art. 253.**

The authority or officer responsible for authorising the wedding of someone facing possible death shall issue the corresponding record, which must contain the necessary circumstances in order to be able to proceed with registration.

The Civil Registry Delegate appointed pursuant to Point 6 of Article 71 of these regulations has the power to authorise the wedding and make the corresponding record thereof.

The Justice of Peace is excused from asking for instructions from the Registrar in urgent cases. However, he is obliged to immediately notify the authorised wedding to the latter.

**Art. 254.**

In the event that the bride and groom recognise the children born before the wedding in their marriage certificate, they shall indicate the details contained in the birth records in order to promote the corresponding marginal notes.

**Section 2. Registration of Marriage in the Civil Registry****Art. 255.**

If the wedding has been celebrated at the register office, as a result of the previous proceeding, the marriage certificate will coincide with the record thereof, which will be issued indicating all circumstances established by the Civil Registration Act and its regulations without mentioning compliance with the proceedings stipulated for its celebration.

**Art. 256.**

Without prejudice to Article 63 of the Civil Code and articles 239, 252 and 255 of these regulations, marriages certified by any of the following documents may be registered provided that there is no doubt about the reality of the fact and of its legality according to Spanish law:

1. Record issued by the Registrar or officer in charge of authorising the marriage of someone facing possible death.
2. Certificate issued by the Church or faith, the celebration form of which is regarded as legally sufficient according to Spanish law.
3. Certificate issued by the authority or officer of the country where the ceremony is taking place.
4. Certificate issued by the competent officer proving the marriage celebrated in Spain between two foreigners according to the rules established by the personal law of either of them.

In all the cases listed above, the proof required for registration is the document mentioned as well as any appropriate additional declaration.

**Art. 257.**

In all other cases, the marriage may only be registered by virtue of the corresponding proceeding, through which the proper celebration of the wedding and the inexistence of impediments must be proven.

**Art. 258.**

The marriage record must include the time, date and place of celebration, the identity details of the bride and groom, the name, surnames and capacity of the authorising party and, if applicable, the religious certificate or marriage certificate.

By proxy, the marriage record may indicate the name of the person granting power of attorney, the identity details of the proxy, the date, the person authorising the power of attorney in the case it has been signed in presence of an interpreter, the interpreter's identity details, language in which it was made and the marrying party for whom it was translated.

**Art. 259.**

All actions and documents required prior to the registration of the marriage will be recorded in the file of the corresponding section.

**Section 3. Matrimonial Dispensation****Art. 260.**

An impediment dispensation as well as the publication of banns or announcements may be requested in the event that just cause exists in both cases and this has been sufficiently proven.

The person requesting dispensation shall indicate the reasons of particular, familiar or social nature prompting the request and also provide, if applicable, a proof of the impediment.

**Art. 261.**

During the proceedings, the corresponding hearings required by law will be carried out. Its processing will be subject to the urgent nature of the proceeding and never to disproportionate measures.

The request of impediment dispensation with regard to third-degree kinship between collaterally related persons must include a clear family tree of both spouses.

**Art. 262.**

The proceedings regarding the waiving of banns must be dealt with by the Registrar responsible for initiating the proceedings required prior to the wedding.

#### **Section 4. Judgments & Decisions**

**Art. 263.**

The registration of court decisions must indicate their scope and the decisions made with regard to parental authority and the care of the children.

The registration of a declaration of nullity must state the cancellation of the marriage record.

**Art. 264.**

Registrations must be made by virtue of the proof of the court decision, which must be sent to the register office where the marriage was registered. The Registrar shall also record *ex officio* either in his office or in any other office the notes regarding the modification of parental authority referred to in Article 180.

**Art. 265.**

The registration of decisions on the nullity of canonical marriages or of papal decisions on marriages *ratum sed non consumatum* requires the previous authorisation from the competent Judge.

The registration of foreign decisions on the nullity, separation or divorce may be recognised in Spain according to the provisions contained in procedural law.

#### **Section 5. Information & References Regarding the Matrimonial Regime**

**Art. 266.**

In the case of absence of special rules, register information on the marital property system will be subject to registration rules.

Such register information may only be recorded upon request of the interested party.



No information about an already registered fact is necessary: the already recorded information will be cancelled *ex officio* including a reference to the new registration, which will have the value of a register note in addition to its own.

The information must state the nature of the fact, the type (if applicable) of the new matrimonial regime as well as the authentic document or decision by virtue of which the entry is made. Furthermore, it must also highlight its indicative nature.

The proof must be returned to the applicant along with a signed note indicating the register office, the volume and the page where the information has been recorded.

Registrations that, in any other register, refer to the marriage contract and other facts affecting the matrimonial regime must also indicate the register office, volume and page where the fact has been recorded. The details required must be proven through a certificate, the Family Record Book or through the note referred to in the previous paragraph. In the event that such details are not proven, the registration will be cancelled subject to a remediable defect.

Marriage contracts must always indicate the register office, the volume and the page where the marriage celebrated was registered. In the event that the wedding is still pending, the granting parties are obliged to prove (if applicable) such details to the Notary Public by virtue of their marriage certificate or by showing their Family Record Book. The Notary Public will then record them either through a footnote or a marginal note in the main original document; the Notary Public is obliged to warn the granting parties of such obligation.

Notaries Public shall issue copies of the conditions affecting the matrimonial regime in the cases permitted under the notarial legislation and, in particular, affecting any applicant submitting a proof proving he is the holder of a property right over any of the spouses.

## **Section 6. Secret Marriages.**

### **Art. 267.**

Secret marriages, regardless of the legal form in which they are celebrated, will be registered in the Special Book.

The authorisation referred to in Article 54 of the Civil Code may be granted at the proposal of the Directorate-General.

The original record, which will not be entered in any of the registration books, will be immediately and confidentially forwarded to the central register office.

### **Art. 268.**

Registration is secret. However, either spouse is entitled to check it subject to declaration and examination, either in person or by a proxy with the corresponding power of attorney.

The duty of confidentiality extends to the spouses – as long as they don't agree to its publication – and to those participating in the celebration or registration proceedings.

No reference to the spouses must be made in the mandatory communications sent to the ecclesiastic authority or sending Registrar or in the Daily Books.

**Art. 269.**

The application for publication may be submitted at any register office. When applicable, it must be submitted along with a document proving the death of the predeceased spouse.

**Art. 270.**

Secret marriages may be directly registered in the ordinary register office upon request of those entitled to the application for publication, provided that, in their application, the Registrar of the central register office states – after checking the certificate or record whereby it must be recorded – that the marriage has not been previously registered in the Special Book.

**Section 7. Marriage Annotations.**

**Art. 271.**

Any marriage that has been verified through a proceeding or any other of the documents referred to in Article 256 and that is not subject to registration - either because it does not meet the requirements established by the Civil Code or because compliance with the requirements has not been duly proven - is subject to annotation.

**Art. 272.**

Either party may request the annotation of the claim for nullity, separation or divorce by showing a proof of the admission thereof.

**CHAPTER 3**

**Section of Deaths**

**Art. 273.**

Declaration must be made immediately after the death.

The duty of declaration affects relatives by blood up to the fourth degree and relatives by marriage up to the second degree.

**Art. 274.**

The doctor who treated the deceased in his final illness or any other doctor examining the corpse shall immediately send a death certificate to the register office. In addition to the name, surnames, capacity and professional licence number of the signing party, the certificate must indicate the existence of clear signs of death, its cause and, with the accuracy required by registration, the date, time and place of death as well as the deceased's identity details, stating if his identity is known or if it has been proven. In the latter case, it must also include the official documents checked or the identity details of the person confirming the details, who shall also sign the certificate.



In the event that there are signs of a violent death, this must be immediately and especially communicated to the Registrar.

**Art. 275.**

With regard to the register office to which a Doctor of the Civil Registry has been assigned, the Doctor shall check the information contained in the certificate by examining the body and fill in all gaps within at least the next 4 hours.

In the event that a register office has no Doctor, the Registrar, prior to registration, shall require the corresponding Doctor to provide him with the certificate as soon as the urgent nature of the registration allows. If the Doctor fails to provide the Registrar with the certificate or if the certificate provided is not consistent with the information provided by the deponent, the Registrar shall verify the fact by asking the substitute of the Doctor of the Civil Registry, who shall ratify or replace the mandatory certificate.

The Doctor of the Civil Registry or his closest substitute residing in a place located more than 2 kilometres away may excuse his absence. The verification must be carried out as established by the Registrar or the Justice of Peace: either by himself, by anyone subject to the same duties and faculties or by delegating under his responsibility the task to two legally capable individuals. The results must be noted in a separate record.

In the absence of a certificate, consular register offices shall carry out the additional verification referred to in the previous paragraph.

In the event that the information provided is inaccurate or casts well-founded doubts, the Registrar (either by himself or assisted by an expert) shall carry out the appropriate verification before proceeding with registration.

**Art. 276.**

Verifications and other procedures required for the registration and issuance of the burial permit must be carried out within 24 hours from death.

**Art. 277.**

In all cases and without prejudice to the following article, registration may be made upon decision or order issued by a legal authority that unquestionably confirms the death.

**Art. 278.**

In the event that the body has disappeared or already been buried, the proof of death will not be sufficient for registration, since absolute certainty is required in order to avoid any rational doubt.

When applicable, upon issuance of the order of the legal authority that initiated the proceedings after death, a favourable report must be elaborated by the Public Prosecution Service, or by the Auditor in the case of a military legal authority. However, in the case of a foreign authority, the corresponding proceeding will be initiated to proceed with registration.

In order to be able to specify the circumstances during the proceedings, the proofs required for re-enactment will be taken into account.

**Art. 279.**

Pursuant to this Act, deaths occurring under the terms referred to in the previous article, and provided they occurred on the field or in captivity, must be registered - upon termination of the corresponding proceeding and without further administrative recourse - by the Military Legal Authority of the corresponding Region, Area or Department or, in its absence, by the Leading or Central legal authority, always after a favourable report has been elaborated by the Auditor.

**Art. 280.**

Death records must particularly include:

1. The deceased's identity details.
2. The time, date and place of death.
3. The number given to the report or certificate in the file.

**Art. 281.**

Unknown identity details will be replaced by names or nicknames, marks or physical flaws, apparent age or any other identifying feature; the clothes, documents or any other item found on the body will be recorded in a separate page according to the corresponding procedure.

In the event that the time, date and place of death cannot be included, the maximum and minimum time limit in which it might have occurred as well as the first known place where the body was located must be stated.

Registration will be completed and, when applicable, in the event that the place of death is known, forwarded to the competent register office by virtue of a ruling, administrative proceeding or order from the Legal Authority. The records will be transferred to the Public Prosecution Service so that the latter can initiate the appropriate proceedings as long as no sufficient proceeding for such purpose is already in place.

**Art. 282.**

Burial is subject to the laws and regulations with regard to time, place and further formalities.

The burial permit must be immediately issued upon registration either by the Registrar or by the Legal Authority that initiated the corresponding proceedings. The permit authorises burials to be celebrated, no matter where they take place. No reference to the burial place must be made.

Upon justification of the death, the permit may also be issued by the Registrar of the place where the burial is being celebrated, if different from that responsible for registration and either before or after registration takes place.



The registration or marginal note must include a reference to the burial place, provided it has been mentioned in the declaration of death or in the certificate issued by the Authority or officer in charge of the cemetery; the certificate is sufficient proof to modify or correct the reference made.

## **CHAPTER 4**

### **Section of Guardianship and Legal Representation**

#### **Section 1. Registration.**

##### **Art. 283.**

Guardianship or conservatorship, the modification thereof as well as the legal measures regarding guardianship or administration or regarding the monitoring and control of such roles are subject to registration.

The role of Executor, Holder, Administrator and Receiver, Trustee or any other representative that has been specially appointed and assumes the role of administrator and supervisor of assets is also subject to registration.

##### **Art. 284.**

The following aspects are not subject to registration:

1. Parental authority and the modifications thereof, without prejudice to the provisions referring to Section 1 of the Civil Registry and to the registration of Administrator appointed for minor individuals.
2. Representation of legal entities or of their assets in liquidation.
3. Voluntary powers of attorney.

##### **Art. 285.**

Both the domicile and the place where the largest part of the assets is located (where in Spain or abroad) must be verified in order to determine the competent register office either by declaration of the administrator or legal representative or through any other means.

##### **Art. 286.**

The roles must be registered by administrative statement or any other public document sufficiently proving the assumption of the role.

The registration of the administrator of the remnant estate requires the verification of the assumption of the role by virtue of a document featuring an authenticated signature; the assumption does not require any verification in the event that the appointed person himself requests registration, which must be then noted along with his signature.

**Art. 287.**

The register page of each guardianship, conservatorship or legal representation must be opened first with the mandatory record thereof; the rules applied to marginal records will apply to subsequent registrations.

Immediately after the main record has been entered, the Registrar shall determine the number of pages that the register page must contain at the bottom of the last page assigned through the corresponding proceedings. The last page assigned must include a reference to the main record.

The guardian of several siblings is subject to a single registration.

The registration of the legal representative of an absentee must be recorded in the page opened for the guardian *ad litem* in the event that the registration of the latter has taken precedence over the former.

**Art. 288.**

The first registration must include the identity details of the ward or of those persons who, prior to the formation of legal representation, acted as holders of the assets subject to representation. The marginal entries must only include the names and surnames thereof.

A reference to their birth and to their incapacity, to the declaration of absence, death or any other fact prompting legal representation must be included in the first record or in the margin thereof.

In addition, a reference to the registration of a fact leading to the termination of the guardianship, conservatorship or representation must be made through a marginal note provided that the fact was recorded in a different register page.

**Art. 289.**

The record must especially state:

1. The nature of the functions and whether representation affects several individuals and to what extent.
2. Relationship to the ward or to the party being represented.
3. Powers of representation granted through the deed of appointment and the limits thereof, equally imposed, in the case that they are not contained in the record of the fact prompting legal representation.
4. Date of assumption of role.

The record of modification must state the extent thereof.



## Section 2. Annotations.

### Art. 290.

The following aspects are subject to annotation:

1. The existence of an inventory or descriptions of the assets formed by the disappeared party's guardian or guardian *ad litem* as well as the existence of inventories, description of assets, deeds of transfers and encumbrances or deeds of distribution or adjudication and the notary deeds of incorporations referred to in Article 198 of the Civil Code.
2. Provision or modification of the guarantee or security required from the guardian.
3. When appropriate, a declaration proving that benefits have been compensated with food.
4. Accountability by the guardian.

The accounts must be recorded in the register office. They will be used to create special files ordered by guardianship agencies and that will be kept for 150 years.

### Art. 291.

The following persons are obliged to request annotation without delay:

1. The Judge.
2. The tutor or conservator.
3. The guardian *ad litem* of the disappeared individual or the absentee's legal representative.
4. The Public Prosecution Service.

The authorities and officers who, due to the nature of their office, are aware of the unnoted facts shall report such facts to the Public Prosecution Service.

### Art. 292.

These annotations may be made by virtue of proof of the corresponding legal decision or of a report sent by the authorising officer through the official channels.

Annotations must especially state:

1. When applicable, the identity details of the appearing and granting parties as well as the place, date and name of the authorising party.
2. In inventories and distributions, the total value assigned to each asset according to the deed.
3. In transfers and encumbrances, the granting decree of the legal permit.
4. In the provision of security, the type of assets for which it was created and, in the case of personal security, the identity details of the guarantors.

## **TITLE 6**

### **Correction & Other Procedures**

#### **CHAPTER 1**

##### **Correction**

##### **Section 1. Special Rules.**

##### **Art. 293.**

Records may not be corrected by virtue of a judgment delivered through a criminal proceeding; however, if the record is not consistent with the facts approved by the judgment, it must be corrected according to the corresponding administrative proceedings.

##### **Art. 294.**

In order to correct the gender in the birth certificate, the following aspects must be previously checked:

1. If the identity can be determined considering all other registration details.
2. If there is no or there was no other person with the same facts and indicated gender.
3. If the person affected by the correction is not duly registered in another entry; and
4. The gender of the registered person according to the Doctor of the Civil Registry or his substitute.

##### **Art. 295.**

Mistakes contained in national or foreign public or ecclesiastical documents may be corrected provided that the original or master copy has been also corrected via the corresponding legal proceeding.

Simple or duplicate records created according to the Registry regulations for registration purposes may be modified according to the procedures established for the corresponding entries.



## **Section 2. Proceedings Regarding Completion or Deletion of Facts and Entries.**

### **Art. 296.**

An administrative proceeding will be sufficient in order to complete the details and facts contained in signed records:

1. Provided that the registration of the fact is feasible by virtue of a proceeding.
2. With regard to omissions of inaccurate facts or entries that may be corrected via an administrative proceeding.

The rules applied to either proceeding are also applicable to proceedings the aim of which is to complete records.

No proceeding will be required in the event that the additional record can be entered either by virtue of declaration according to the cases, time and form provided for by law or by virtue of an authentic document.

### **Art. 297.**

Only the following facts and entries may be deleted by administrative proceedings:

1. Facts the existence of which is not provided by law.
2. Entries regarding facts that are not the subject of the Registry.
3. Entries or facts that have evidently been registered by means of a clearly illegal proof.
4. Void additions, comments, writing between lines, erasures or amendments; the entry will be regarded as partially destroyed provided that some of the details and facts contained in the file are illegible.

## **Section 3. Formal Faults and Correction Thereof**

### **Art. 298.**

The following entry defects are to be regarded as formal faults:

1. Their registration in the wrong register office, book or page. The jurisdiction with regard to the proceeding is determined by the register office in which the entries were made. The decision may order the transfer and cancellation of the entry or entries.
2. With regard to the entries or previous proceedings, the actions taken by an incompatible officer or by someone acting in public at the register despite not being legally in charge of such duties.
3. Entries made in the wrong book or without the mandatory caution or endorsement; or entries not issued in sequential order or in the spaces reserved for such purpose.
4. The omission due to the inaccurate declaration of the deponent and witnesses or due to inaccurate documents by virtue of which the declaration is made.
5. The omission of the date of registration, of the names of the individuals authorising registration or of the signatures required by law.

6. The use of invalid abbreviations or figures, the use of a language other than Spanish, hard-to-read fonts, as well as the inaccuracy of concepts the context of which is clear considering the context of the registration or any other aspect. These entries will be regarded as destroyed inasmuch as they are illegible.

**Art. 299.**

In order to duly confirm the facts to which the entries bear witness, registration requires sufficient proof or justification to be provided either through the defective entries, the documents filed or any other means used by virtue of the corresponding proof.

The following facts will be deemed as confirmed:

1. Facts recorded in the wrong book or register office.
2. In the event of illegitimate participation of an officer, provided that it can be demonstrated that he carried out his tasks with due diligence and applying his ordinary skills.
3. In all other faults as long as registration was at least signed, recorded in a book in sequential order and duly included the declaration or authentic document by virtue of which it took place.

Notice of the three above listed cases may be given to the interested parties on a general basis.

**Art. 300.**

The Directorate-General may order the exemption from translation into Spanish. Nevertheless, translation will be required if requested by the interested party; certificates must always be issued with the corresponding translation. In this case, documents may be translated without any previous proceeding required either by the Registrar or a qualified person, who shall give notice to the Public Prosecution Service.

Exemptions, as well as the decision rendered by way of the proceedings are subject to annotation.

**Art. 301.**

The cancellation of records that have been entered to certify an already registered fact is only subject to an administrative proceeding. The cancellation must include a reference to the old entry, to which the marginal entries of the cancelled entry will be transferred.

In the event that a record contradicts other records with regard to the facts to which they both bear witness, the correction of such inconsistency will only be possible by ordinary court action. The Public Prosecution Service shall request the annotation thereof in both pages.

**Art. 302.**

The decisions rendered through the proceedings must simply indicate the formal faults contained in the entries or the faults with regard to how the books are being managed.



When appropriate, for the sake of the effectiveness of the entries, they must also correct them without determining the scope of the infringement.

**Art. 303.**

Faults in how the books are managed and that don't directly affect records include:

1. Book format errors.
2. Errors in page numbering or in the alphabetical order of the entries or pages. In the event of numerous faults, entries or pages will be subject to a new reversed numbering featuring a different ink and without deleting the former numbers; the reverse numbering of records will not be carried out until the closing note is issued.

Proceedings initiated in order to correct numeration are only subject to a general notice to the interested parties.

**Art. 304.**

Corrections don't require any previous proceeding in the following cases:

1. Any infringement in how the books are managed - even with regard to the opening note - provided they still don't contain any record.
2. The omission of the closing note or indexes, or of any infringement committed in the former or the latter.

**Section 4. Registration of Decisions****Art. 305.**

The decisions denying a petition are not subject to registration. However, decisions confirming the existence of formal errors in the entries or errors in how the books are managed and that directly affect the signed records, as well as decisions regarding the correction or completion of a record, are subject to registration.

**Art. 306.**

The record must be entered in the register page to which the decision refers and must indicate the aspects or concepts being cancelled or replaced, the defect or fault, the impact thereof, the facts being added as well as a reference to the record that has been corrected, completed or affected.

**Art. 307.**

In order to provide further clarity in the entry and added certainty in the data kept, the decision may order the cancellation of the old entry provided that a reference to the new one is added. The new entry must cover and replace the old entry and state the facts referred to in the previous article. This requires the transfer of the entire register page as far as main records are concerned. Upon request of an adult interested party or the legal representative of a minor, the entire register page must also be transferred in the case of correction or change of gender or filiation. As for adoption, the transfer is not subject to a previous proceeding, although it must meet the requirements contained in Paragraph 2 of Article 77 with regard to the details in new birth certificates. The new

record allows for certified copies to be issued to any person interested in the information contained in the entry.

Likewise, the transfer of entries recorded without any guarantee of preservation or entries that are hardly legible or in danger of destruction or illegibility may also be decreed.

If the transfer affects several entries, the creation of special books may be ordered; the cancellation must be made in the margin of the opening note of the book that is no longer valid or, alternatively, in the margin of the first page affected; the pages must be crossed out in ink of different colour. A note referring to the cancellation and to the new record must be added to the margin of each register page.

All main records transferred must include a reference to the previous records.

#### **Art. 308.**

The books containing irreparable errors will be ordered closed; in the event that such books contain valid entries, the appropriate measures will be taken by binding them for preservation purposes.

#### **Art. 309.**

In the event that the same fault affects several entries of a register page, only an entry must be corrected or include a reference to the rest of them.

If the fault affects several pages, the body that issued the decision may order the registration of correction or declaration in the margin of the opening note, whereby a reference to all entries affected is required. In the case there is no opening note or new books are opened, the record must be entered in the margin of the note ordered to be added. A reference thereof must be added to all pages affected or to the pages where the transfers were recorded. The same procedure applies to faults in how the books are managed and that don't directly affect the records; however, if the entry is made in the margin of the opening note, no note will be required in every single page.

#### **Art. 310.**

Once a record has been corrected, all the entries that are based on that record and that are equally inaccurate or incomplete must also be corrected by way of notation.

## **CHAPTER 2**

### **Proceedings Regarding the Late Registration of Births**

#### **Art. 311.**

Applications for the late registration of births must indicate that, upon completion of the appropriate investigation, no birth record was found. Otherwise, the corresponding certificate of clearance will be required.

**Art. 312.**

The proceeding will investigate the following facts either by way of the evidence submitted or *ex officio*:

1. That no previous birth record exists.
2. The existence and identity of the newborn.
3. All facts that need to be included in the record.

**Art. 313.**

Whenever there are doubts about the newborn's gender or age, the Doctor of the Civil Registry or his substitute shall deliver their opinion.

In order to be able to determine the year and place of birth, only the information provided by two individuals fully aware of the event will be required. However, other proofs will be required in order to specify the date and place in which the birth is known to have occurred.

**Art. 314.**

Filiation will be handled as established by law.

**Art. 315.**

Provided that it does not exceed 30 days, the following documents are subject to being added to the proceeding:

1. Childbirth certificate signed by the Doctor, the Midwife or the Registered Nurse or, alternatively, baptismal certificate or similar document of the corresponding faith.
2. Marriage certificate of the parents and, if not possible, ecclesiastical certificate.
3. When applicable, certificate or official certificate of the registration of nullity, dissolution or legal separation of marriage (even if it is provisional) or of the registration of the death or declaration of absence or death of the husband.

This is without prejudice to the proceedings the aim of which is to furnish additional evidence, such as the inclusion of the municipal registration certificate, provision of further evidence or similar.

**Art. 316.**

Once the existence or identity of the non-registered individual has been checked and upon completion of the appropriate procedures, the record will be entered, including as many facts have been verified so far.

In the event of lack of jurisdiction, the actions shall be taken by the corresponding body.

## CHAPTER 3

### Reconstruction of Destroyed Records

#### Section 1. Measures in Case of Destruction or Damage

##### **Art. 317.**

In the event of a disaster, the Registrar shall do everything it his power to save the entries and documents. Therefore, he may request the support of the corresponding government authority. He shall immediately report the destruction or damage suffered to the President of the High Court of Justice.

If the records of more than one register page are affected, he shall also report the destruction or damage to the Director General. The President of the High Court of Justice, or the Magistrate to whom he may delegate, shall immediately order an extraordinary inspection. He may also delegate the order to the corresponding Judge of First Instance in the case of registers where the Justice of Peace is in charge. Whenever the Registrar's guilt remains questionable, he will be immediately replaced so that the rescue and reconstruction tasks can be carried out.

##### **Art. 318.**

The Registrar himself shall immediately issue a record clearly and neatly describing the disaster as well as the volumes and files damaged, specifying by order of pages, entries or documents their condition, the state of their ink and their legibility. The record must also indicate the state of the certified copy of the entries or documents in danger of destruction or of becoming illegible and that cannot be immediately transferred.

In the case of pages and books with no preservation guarantee or that are hardly legible or in danger of destruction or of becoming illegible, when applicable, the before mentioned Registrar shall transfer the entries according to the rules applied to the transfer for correction purposes. The transfer must be supervised by the Public Prosecution Service, which shall also sign the entries.

If, due to the urgency of the rescue, the transfer and the record literal transcription are not possible, pictures or phonographic copies will be officially taken, guarded and discretionally assessed during the proceedings.

##### **Art. 319.**

The books that have been saved must be bound by inserting a sheet replacing each missing set of correlative pages. The inserted page must mention that they have disappeared or become useless as well as include a reference to the record verifying that and, eventually, to the reconstruction of the volume and page.

The scope of the disaster caused to the damaged book must be specified in the margin of the opening note.

Pages that cannot be bound as well as saved filed documents must be kept in folders classified by volumes, books and files.

**Art. 320.**

The entries, even the ones in the Staff and Office Book, will be reconstructed by virtue of a proceeding.

However, no proceeding will be required for reconstruction in the following cases:

1. Indexes, records and files – except for marginal notes – resulting from the saved pages. The files must state the circumstances of the facts that each record especially attests.
2. Marginal notes.

**Section 2. Reconstruction Proceeding****Art. 321.**

Reconstruction proceedings will be initiated *ex officio* as soon as the exceptional circumstances hindering or disturbing the smooth operation of the register office allow. The processing deadline will be determined by the President of the High Court of Justice within 15 days from reopening. He shall notify the deadline to the Directorate-General immediately after. The proceeding may last 80 days. The term may be extended 10 more days for every 400 pages or part thereof that has been destroyed or damaged.

The Directorate-General may at its discretion extend the deadline for the time it deems appropriate upon receiving a well-founded request from the Registrar or a person with special interest in the extension. The postponement will also be subject to publication.

The President of the High Court of Justice shall ensure that the reconstruction finishes within the time set. To that end, he shall request the information it deems necessary on the status of the proceeding.

**Art. 322.**

Reconstruction of entries may also be requested on not working days. In the event that the procedure has been followed in a timely manner and the interested parties have been informed in that respect, the facts that upon registration are only legally effective against third parties will no longer be effective as long as reconstruction is not confirmed.

Even if the new record does not state the nature of the reconstruction, other means of proof may be used in order to demonstrate the existence of the previous record.

With regard to all or part of a record entered or not entered within the deadline established for reconstruction, its reconstruction nature may be included provided that the record is eventually demonstrated.

**Art. 323.**

For this proceeding only a general notice to the interested parties will be required. Notice must be given immediately after the deadline has been set and include a reference thereof. It must inform the interested parties of their right to make representations and start civil action within the next 30 days.

**Art. 324.**

Any means of proof will be accepted in order to confirm a destroyed record. The following documents will be preferably taken into account:

1. The certificates thereof or certificates of duplicate records as well as the Family Record Book and the Filiation Book.
2. Records cancelled due to transfer.
3. Parts of partially destroyed records that have been saved.
4. References to destroyed records made in other entries, marginal notes, files, indexes and records.
5. The copies, evidence, certificates or duplicates used as proof for registration, or the originals, master copies or journals of the officers referred to in Article 19 of this Act or other documents where the record was registered.
6. Copies or proofs of certificates and any document containing a real reference to the record or registration thereof.
7. Certificates of burial books.
8. Documents issued by illegitimate authorities or officers.

Preference will be given to documents that, at the time of destruction, were kept at the Provincial Archive of the Civil Registry, the Court, Register Offices, Notary's Offices or any other public office and that have become part of the proceeding via the official channels either by way of the originals or by transfer. To that end, they will be requested *ex officio*.

**Art. 325.**

For the specification of the circumstances surrounding facts that need to be re-entered, the following documents will be required (when applicable).

1. Authentic documents by virtue of which registration can take place.
2. Canonical certificates or certificates issued by foreign register offices, burial books and municipal registration certificates, foreign documents or documents issued by illegitimate authorities or offices as well as any other means deemed as appropriate or mandatory in order to be able to enter the corresponding record.

**Art. 326.**

Entries will be reconstructed with all their details and circumstances, even if they are irregular or imperfect. When corrections or other alterations apply by virtue of a proceeding, they will be noted in the replacement records.

Proceedings that add to the reconstruction proceeding are without prejudice to their individual special regime and, as the case may be, to the mandatory legal approval thereof.



### Section 3. Replacement Records

#### Art. 327.

Replacement records will be agreed at the same time former records are confirmed. Replacement records must include the circumstances and marginal entries that have been approved, as well as the volume and page. The agreement will be concisely mentioned by adding the date and signature either to the main document linked to the file or to a special document.

The agreement reached will be orally informed to the corresponding party. In the event that someone wishes to lodge an appeal, he will be entitled to request a decree to be issued and notified in due form.

Replacement records will be entered immediately after, when possible, following the chronological order of the facts they bear witness to. No space for records against which an appeal was lodged will be provided, as they are subject to being recorded upon delivery of the final decision.

#### Art. 328.

As appropriate, the decision may decree the following for the sake of clarity and preservation:

- a) The transfer of all entries contained in one register page to another page in the ordinary books according to the rules laid down in Article 318.
- b) The registration of a reconstructed entry in the previous page or, when applicable, in the page to which the other entries linked to it have been transferred.

In the event that reconstruction affects several entries, the creation of special books may be ordered. This circumstance must include both opening and closing notes.

#### Art. 329.

Each reconstructed entry or file must include:

1. The reproduction of the entries under the terms agreed.
2. The decision urging reconstruction.
3. The date of the new entries and the names of the officers authorising them.

#### Art. 330.

Former entries that have been partially destroyed will be cancelled and include a reference to the new ones.

Cancellations affecting several entries will be noted in the margin of the opening note or, alternatively, in the first page affected by it. All pages will be crossed out with ink of a different colour. In addition, a note referring to the cancellation and to the new record will be added to the margin of each main record.

#### Art. 331.

Main records that have been reconstructed in a volume different from that to which the original records correspond based on the date of the fact will also be included in the

index of former records. Furthermore, main records must state the page and volume unless the corresponding former records have been cancelled.

Entries made in a volume different from that created for reconstructed records based on the date of the fact will appear in the index of the latter, indicating the volume and page where they were entered.

**Art. 332.**

Documents used for reconstruction, except for books, indexes and other documents that have to be returned, will be refiled as proof for each new entry.

Documents used for more than one entry will be filed according to either of them. The appropriate references will be made in the file, in the place reserved for that purpose.

Documents that have to be returned must include sufficient reference to the file.

**Art. 333.**

Facts or circumstances that cannot be registered although they have been attested by sufficient proof are subject to reconstruction rules regarding the register page in which the record is to be entered and reference in indexes; ordinary rules will apply in all other cases.

The outcome of investigations that cannot be entered due to insufficient evidence is subject to annotation.

**Art. 334.**

Upon completion of the proceeding, the President of the High Court of Justice shall inform the Directorate-General about the number and type of reconstructed entries and the entries of other nature entered as well as explain to what extent the reconstruction that was decreed could not take place.

## **CHAPTER 4**

### **Proceedings Regarding Declarations with Simple Presumptive Value**

**Art. 335.**

The Registrar of the office allocated to the applicant's place of abode is responsible for the proceedings regarding declarations made as a simple presumption

The Registrar of the office corresponding to the wedding venue or to the petitioner's place of abode is responsible for the proceedings referred to in Article 339.

**Art. 336.**

The facts and the impossibility to access the register office – provided they are apparent – must be proven by the petitioners:

1. Through the means established for the reconstruction of records.
2. Through the authentic documents by virtue of which registration is feasible or through the proofs established for the proceeding required prior to registration.



3. Lastly, through any other means of proof, considering (when appropriate) the *de facto* possession of family status. If special means of proof are required by law, the terms established in it must be complied with.

The domicile of stateless individuals must be proven by a municipal registration certificate or a statement; an official report must be obtained from the Home Office in order to find out about their entry into Spanish territory and about their stateless status.

#### **Art. 337.**

Facts related to the civil status of foreigners residing or domiciled in Spain may also be declared with the value of a simple presumption provided that they are unable to obtain the usual certificates or proofs attesting such facts due to their refugee or asylee status or due to any other “force majeure” reason.

Unless requested by the interested party, the annotation to be made at the central register office will not be subject to a duplicate entry in the Spanish consular register office located in the refugee’s or asylee’s country of origin.

#### **Art. 338.**

Declarations regarding the nationality or domicile may refer to a specific age of the individual. The proceeding must verify the acquisition or possession of status. In the case that it is possible to access the register office, it must also confirm the inexistence of an entry contradicting declaration in the birth register page.

#### **Art. 339.**

Marriages the ceremony of which has been confirmed but that cannot be registered because the requirements for validity of the Civil Code have not been duly met may also be declared as a simple presumption.

#### **Art. 340.**

Proof of the entire or part of the declaration must always state its value of simple presumption. Its issuance is subject to the publication restriction applied to register certificates.

The annotation of declarations is mandatory and must indicate the date to which they refer; the annotation of proofs verifying the existence and status of single or widowed individuals is optional.

## **CHAPTER 5**

### **Rules on Proceedings in General**

Please note that Royal Decree 1004/2015 of 6th November approving the regulations regulating the procedure for the acquisition of Spanish nationality by residence prevails over the provisions contained in articles 341-362 of the regulations of the Civil Registration Act, which, nonetheless, will remain in force inasmuch as they are applicable to other procedures as established in the 2nd final disposition of the above mentioned Royal Decree. Ref. BOE-A-2015-12047.

## **Section 1. Procedural Requirements & Processing**

### **Art. 341.**

In the absence of special rules, the administrative proceedings referred to in this Act are subject to the provisions contained in this Chapter.

### **Art. 342.**

The competent authority will be the Judge of the register office where the invoked decision has to be registered. However, in the event that the record has to be entered in a consular and central register office, the jurisdiction will fall under the former - provided that the petitioner is domiciled abroad - and then under the latter - in all other cases.

### **Art. 343.**

The proceedings will be instituted by the Registrar himself, who, on the advice of the Public Prosecution Service, shall dictate the corresponding decision in the form of a decree.

### **Art. 344.**

The Public Prosecution Service shall be familiar with the proceedings and appeals from the moment they are initiated in order to be able to ensure their appropriate institution and processing. In addition, it shall issue a report as a final formality prior to the decision of the corresponding Judge.

Before its final report, the Public Prosecution Service may also propose the proceedings or proofs it deems appropriate. Likewise, it may also extend, modify or reject the claim filed, whereby the opinion of the interested parties shall be heard. Even if the Public Prosecution Service believes that there are sufficient grounds for rejection, it must also include all procedural or substantive objections hindering the requests from being approved.

The Justices of Peace of the Public Prosecution Service may only intervene in the proceedings entrusted to the Justices of Peace.

### **Art. 345.**

The proceedings that fall under the jurisdiction of legal bodies and the Central Registry must be processed in collaboration with the corresponding Secretary.

### **Art. 346.**

Legitimately interested parties are to be regarded as those whose assets or rights are subject to being directly affected by a proceeding. The confirmation of a current entry or its status will be sufficient in order for them to be able to initiate a proceeding.

### **Art. 347.**

The proceedings that fall under the jurisdiction of the same organ may be accumulated upon court's decision - if deemed appropriate - or motivated petition of the interested party.



The non-applying party may request the proceeding to be separately processed provided that the accumulation has not been duly justified through cause.

**Art. 348.**

The application for initiation of a proceeding must be sent to the body in charge of its processing. It must include the identity details of the petitioner and of legitimately interested parties. It must also briefly and neatly outline the corresponding facts, proofs and procedures as well as the legal grounds, and explain what the actual intention is in a clear and precise manner.

Applications the aim of which is to ensure consistency between the Registry and reality must be admitted, even if they are faulty. The interested parties will then be informed about how they can correct the faults.

Once the request has been submitted to the register office of the petitioner's domicile, the Registrar shall initiate the corresponding proceedings in collaboration with the Public Prosecution Service, which shall issue a report. Once both of them have elaborated their report, the Registrar shall institute the proceeding.

Both the Court Representatives and the Lawyers may act as proxies or as assistants of the interested parties whenever the latter decide to spontaneously use their services.

**Art. 349.**

The institution of proceedings will be notified to any legitimately interested party. It must be investigated whether there are more interested parties than those mentioned in the application as well the whereabouts of all of them.

As for matters not envisaged in this Act, all notifications must comply with the requirements of procedural law. However, except when a personal notification is required, notifications may also be sent by registered letter, telegram or any other means requiring acknowledgement of the receipt, the date and the identity of the matter being notified. Notifications must be sent to the domicile of the interested party or to the place designated by him for notification purposes. When applicable, the notification must be dated and signed by the Post Office officer before it is certified. The ticket of the certificate must be included in the proceeding.

In the event that the whereabouts of an interested party are unknown, the notification must be made by giving general notice of the institution of proceedings through announcements posted in the notice board of the register office and in the notice board of the offices deemed appropriate. As for proceedings related to several entries, it will be enough for the announcement to simply state the Section and the date of the facts attested by the affected main records.

If necessary due to the nature of the matter, apart from the notifications, general notice of the institution of proceedings must also be given through announcements or any other publication channel. Placing announcements in official newspapers or in any other general information means only applies on the basis of serious grounds or if so requested by the authority in charge of deciding upon the proceeding. Nevertheless, the announcement may be published at the request and expense of the party

concerned in the event that his proposal is not detrimental to any third party or causes further inconvenience.

**Art. 350.**

The reference to the offenders of Civil Registry related provisions in proceedings motivated by the infringement is subject to the rules contained in the previous article; procedures regarding the imposition of procedural requirements do not interrupt the course and decision on the proceeding.

**Art. 351.**

The certainty of the facts will be investigated *ex officio* without prejudice to the procedural requirements regarding the proof provided by the individuals; offenders shall meet these procedural requirements with regard to the proceeding motivated by their infringement.

The proof must be provided with the free and direct assistance of the competent body and, if they are present, of the Public Prosecution Service and the interested parties. Before statements are taken, the deponents must be warned about the special liability which they may incur.

**Art. 352.**

There are three working days:

1. For the persons that have been notified in the domicile corresponding to the city/town where the proceedings are taking place to appear or make the corresponding claims – without starting any civil action. For all other interested parties residing in the city/town, the time will be 10 days from the last publication date of the announcement.
2. For the persons starting civil action to make their corresponding claims with regard to the proceedings.
3. To request the Public Prosecution Service and the parties to provide the proof, to inform them about the proceedings initiated and to state everything they deem necessary according to their rights. The person designated by each party may also appear in order to speak on their behalf.
4. To initiate any proceeding in the city/town.
5. For the Public Prosecution Service to issue reports.
6. After obtaining the final report, to issue an order with regard to the decision on the proceeding and to subsequently notify the order to the Public Prosecution Service and to the parties.

In the first, second and fourth case, the time may be expanded up to 10 working days if the seriousness and circumstances of the cause so require. It may also be determined that, once the proof has been provided, up to 10 working days are granted to each party so that they can successively learn about the initiated proceeding and exercise their rights. Appropriate deadlines will be set so that persons not residing in the same city/town can appear and make their claims or so that proceedings outside that city/town can be initiated.

**Art. 353.**

Until a final decision with regard to a proceeding or appeal is passed, the petitioners or parties may desist from their claims either in writing or orally by a duly filed appearance.

The withdrawal of the claim by a party must be notified to the other parties and to the Public Prosecution Service, who may urge the proceeding to be reinitiated within the next 10 working days from notification.

**Art. 354.**

Proceedings cannot paralyse other compatible proceedings.

Any delay or superfluous or disproportionate procedure must be avoided. However, the parties are entitled to complain to the President of the High Court of Justice and, in the event that he does not make the corresponding corrections, to the Directorate-General. Likewise, this also applies to complaints made due to the omission of procedures and that are subject to being solved before the final decision.

The Public Prosecution Service or the authority *ex officio* shall make up for the passivity of the parties in the discharge of their duties, without prejudice to the fines that are applicable under the law. After three months have elapsed since a proceeding or an appeal was interrupted due to the petitioner's or petitioners' fault, the Public Prosecution Service and the other parties may unanimously ask for a declaration of revocation, the petitioner or petitioners having been given notice to attend.

While processing the proceedings, their institution must be registered on a "first-come-first-served" basis with regard to matters of the same nature, unless otherwise stated in writing by the immediate superior.

## Section 2. Appeals

**Art. 355.**

The decisions taken by the Registrar that don't admit the initial document or that put an end to the proceeding are appealable to the Directorate-General within 15 working days from notification.

No appeal, remedy or complaint may be brought to other authorities.

The notification of the decisions must state if they are final or the corresponding appeal, the body before which they must be filed as well as the deadline established to lodge the appeal. Inaccurate notifications will remain effective with regard to the part expressly authorising the decision or making the corresponding appeal. Furthermore, notifications delivered in person to the party will be valid for a period of 6 months provided that they contain the whole text of the decision, unless a formal complaint has been made within that time asking the fault to be corrected.

**Art. 356.**

The Registrar has 3 calendar days to decide upon requests not resulting in a proceeding.

An appeal for reconsideration and, subsequently, the appeal referred to in this Article may be lodged against any decision – whether *ex officio* or not – that is not contained in the preceding article.

These rules don't modify the rules applied to appeals lodged against the Registrar's report.

**Art. 357.**

Whenever a request or an appeal is made and no decision has been notified within 90 calendar days, the interested party reserves the right to report the delay. After 90 more days have elapsed from the date of the complaint, the request may be deemed as dismissed so that the party can either file the corresponding appeal against the alleged denial or wait until an express decision on his petition is provided.

The alleged denial does not exclude the obligation to provide a specific decision. In the event that the latter is rendered, the time to lodge the corresponding appeal will be computed from the date of notification of such decision.

**Art. 358.**

The notice of appeal must meet the petition requirements and state the facts representing the subject of the complaint in a clear and precise manner.

Only matters related either directly or indirectly to the decision provided are subject to being challenged. Documents submitted in due time as a proof may be rejected, unless the admission thereof is a matter of public interest.

Complaints regarding proofs that have not been submitted in due time and form cannot be based on appeals lodged against the Registrar's report.

The appeal may be brought to any body of the Civil Registry. The appeal will be immediately forwarded to the body the decision of which constitutes the subject of the appeal. The latter will then give notice to the Public Prosecution Service and, when applicable, to the other party. The matter will then be brought to the competent body along with its own report and all the complaints made by the notified parties. The latter may order the corresponding procedures for the purpose of gathering additional evidence, being the parties and the Public Prosecution Service heard and given notice to attend.

In the event that the decision appealed has simply declared the lack of procedural requirements and such lack has not been observed, the decision-making body may either solve the underlying question or forward it back. If the lack of procedural requirements is proven or an essential procedure has been omitted, the decision-making body may either reinitiate the proceeding or solve the underlying question once the fault in the processing of the appeal has been removed.

**Art. 359.**

The Directorate-General shall solve the appeal within 30 working days following receipt or, alternatively, upon settlement of all proceedings.

**Art. 360.**

The Director shall decide on the proposal submitted by the Deputy Director.

The decision must be provided in a similar manner as the decree and be published in the Information Journal of the Ministry of Justice, in the annual of the Directorate and, when appropriate, in the Official State Journal.

In the event that facts affecting marital matters and private honour are submitted or challenged, or facts cannot be freely attested, the Directorate-General shall implement the corresponding measures in order to prevent the identity of the interested parties from being revealed. If upon decision warning has been given to the officers, reference thereof will be omitted by stating "and further aspects agreed upon".

**Art. 361.**

The decision on the appeal will be notified to the Public Prosecution Service and to the parties through the body the decision of which was appealed against in the first place.

Once the final decision has been provided, the proceeding must be forwarded to the latter for filing purposes.

**Art. 362.**

No appeal may be lodged against the decisions issued by the Directorate, unless if the ordinary judicial process applies without prejudice to the provisions contained in Chapter 7.

**CHAPTER 6****Proof of Existence or Status****Art. 363.**

The existence and the status of single, widowed or divorced may be verified by way of the corresponding Registrar.

The existence may also be verified by the individual's appearance or by notarial record of attendance. The status of single, widowed or divorced may be verified by affidavit, solemn declaration of the individual or certificate of acknowledgement.

No official body before which the existence is proven by the individual's appearance or before which the status of single, widowed or divorced is verified may request other means of proof. This is without prejudice to the appropriate investigation *ex officio* required in case of reasonable doubt.

**Art. 364.**

Existence or status proceedings are subject to the following rules:

1. They are the responsibility of the Registrar and, upon delegation, the Justice of Peace of the place of abode of the corresponding individual.

2. No hearing by the Public Prosecution Committee or notice to the interested parties is required. However, either of them is entitled to bring civil action or make the declarations they deem appropriate.
3. Whenever possible, the individual will be requested to make a declaration on his identity or status.
4. Only the identification of the person is required in order to prove his existence.
5. In the case of declarations of status, a file will be opened for each person. The file must state the date and place of birth. The opening of the file must be communicated to the register responsible for birth certificates so that it can record it in the registration by way of a note as well as included it the marginal notes of registered marriage or death records or as records unfold. The declaration, which must be described in the file, cannot be delayed due to the inexistence of the birth record or the mandatory acknowledgement proving that the marginal note was entered.
6. For the verification of the status of single, widowed or divorced only a proof of the holder status will be required provided that the Registrar is certain about that. Only the affidavit of one person (preferably a relative) will be required to check the status.
7. The proceedings must be processed urgently and always within the maximum period of 5 working days.

## CHAPTER 7

### **Proceedings under the Competence of the Ministry or Superior Authority and Name & Surname Proceedings.**

Please note that Royal Decree 1004/2015 of 6th November approving the regulations regulating the procedure for the acquisition of Spanish nationality by residence prevails over the provisions contained in articles 365-369 of the regulations of the Civil Registration Act, which, nonetheless, will remain in force inasmuch as they are applicable to other procedures as established in the 2nd final disposition of the above mentioned Royal Decree. Ref. BOE-A-2015-12047.

#### **Art. 365.**

Nationality proceedings falling under the jurisdiction of the Ministry, proceedings regarding the change or preservation of name or surnames as well as matrimonial dispensation proceedings will be initiated according to the general rules by the Registrar of the municipal register office of the domicile of either petitioner. In the event that all petitioners are domiciled in a foreign country, the aforementioned proceedings will be initiated by the Consul of the domicile of either of them or, alternatively, by the Registrar of the central register office.

Once the Registrar has instituted the proceedings that fall within the area of his responsibility, he shall directly forward the other proceedings to the Directorate-General, which may order their extension by adding new procedures. In this case, a new hearing by the Public Prosecution Service will be required.



Nationality proceedings the decision of which is the responsibility of the Government must be initiated by the Directorate-General, which, to that end, may delegate on the Registrar of the register of the domicile, without any general notice or hearing by the Public Prosecution Service being required.

**Art. 366.**

Where the concession is granted on a discretionary basis or where it depends on exceptional circumstances or matters of public order or national interest, the Registrars or Deputy Directors that initiated the proceeding must restrict themselves to examining the requirements of form and substance and to highlighting the verified or known facts needed for the decision.

In these cases, negative decisions must be notified to the Directorate-General so that it can order the corresponding communications.

Decisions on requests for pardon are not imperative. The submission thereof is subject to the issuance of a receipt.

**Art. 367.**

The Ministry of Justice provides its decisions in the form of ordinances upon proposal of the Directorate-General and elaboration of the report of the corresponding Deputy Director.

**Art. 368.**

Granting and further decisions must be notified to the parties through the Registrar responsible for the institution of the proceeding.

**Art. 369.**

Changes of name and surnames authorised by the Minister at the time of granting nationality may not be recorded as long as the party concerned is not registered as a Spanish national. This information must be included in the decision.

## **TITLE 7**

### **Economic System**

#### **Art. 370.**

The following items are free of charge:

1. Declarations of birth and death.
2. Proceedings to prove someone's existence or both existence and status.
3. Procedures and certificates with regard to the Family Record Book, in which only the form fee set by the Ministry of Justice will be charge.
4. Certain actions established by law and, in general, all actions not accruing obligations, particularly those indicated as far as legally approved tariffs are concerned.

#### **Art. 371.**

Appeals will be free for proceedings that are not free of charge, provided that the decision is entirely or partly favourable. Appeals will also be free for proceedings that are free of charge, unless the appellant is defeated in all instances. In this case, the appellant shall bear the costs in the case that the final decision recklessness is determined.

The costs for proceedings regarding the change of name and surnames referred to in Point 2 of Article 209 must be paid by the offender, who will be given notice of such obligation.

#### **Art. 372.**

Individuals who earn less than more than twice the minimum wage are except from any obligation related to the Civil Registry, even in case of register urgency or assistance. Therefore, the correspondence related to their petitions will be sent by official post.

This circumstance will be stated in writing by the Mayor or the Deputy Mayor no sooner than one year from submission.

#### **Art. 373.**

All certificates or proofs demonstrating the existence and status of single or widowhood bearing obligations must include the total amount of the costs, stating the various items and the specific precepts authorising payment.

Decisions resulting in the termination of a proceeding must state if the proceeding carries a payment obligation as well as the person regarded as liable for payment.



All free certificates or proofs demonstrating the existence and status of single or widowhood must include a reference to their free-of-charge nature, the precept authorising exemption and their ineffectiveness with regard to cases or purposes that are not subject to exemption.

Registrars not complying with the provisions contained in this Article will be regarded as particularly liable.

**Art. 374.**

Certificates and proofs of existence or status bear no obligation if requested:

1. By the persons mentioned in Article 372.
2. For them to be valid with regard to proceedings related to large families.
3. By policyholders and rightful owners so that entitled to receive the mandatory Social Security and their wage.
4. By foreign Diplomatic or Consular Missions on a mutual basis.
5. By any official or ecclesiastical institution.
6. By the persons providing the official form in order for the certificates and proofs to be issued, stating the exemption provision. The form must be approved by the Directorate and stamped by the public office where the documents need to be valid.

**Art. 375.**

The person applying for the certificates shall pay their total amount in advance as well as the mail, transfer and register assistance expenses. When applicable, the payment will be made against receipt, which must obligatorily include the amount paid in advance.

The certificate requests that are directly received by mail will be processed provided that sufficient money has been paid in order to cover the total issuance costs.

**Art. 376.**

The fines and costs associated with infringements will be forgiven provided that the offender has spontaneously taken the corresponding measures in order to remedy the violation.

No costs may be imposed to register officers without a special liability investigation. Under any circumstances should costs be imposed to private individuals in the event that the infringement has been committed by the former.

Private individuals unnecessarily asking register officers to travel or bear other unnecessary expenses shall refund the money through certificates of payment without prejudice to the corresponding fine.

**Art. 377.**

The taxes and exactions deriving from the compensation for the services provided or that, as the case may be, correspond to institutions or officers of the Civil Registry must be administered and distributed according to the law.

## **TITLE 8**

### **Doctors of the Civil Registry**

#### **Art. 378.**

The functions that the Civil Registration Act attributes to the doctors of the Civil Registry must be carried out by officers of the Body of Forensic Doctors. As a general rule, these functions must be carried out together with the rest of duties associated with this Body; however, as an exception, there could be professionals that have been exclusively assigned to the functions of the Civil Registry.

Forensic doctors carrying out their role in the Civil Registry are also subject to the inspection and supervision by the corresponding bodies by the Civil Registry.

#### **Art. 379.**

As for deaths that have occurred in military medical centres, at the beach, at sea, in barracks, at aerodromes and, in general, any death in which by special provision the identification of the corpse is the responsibility of the army doctors, such doctors shall assume the functions of the doctors of the Civil Registry.

#### **Art. 380.**

Forensic doctors assigned to the Civil Registry with regard to register office in which such position exists, or forensic doctors to whom the roles related to the Civil Registry correspond, shall in appropriate cases be replaced by another doctor assigned to the same register office – provided there is one – or, alternatively, by the corresponding primary care doctor or equivalent doctor from the health institution.

#### **Art. 381.**

The doctor who issued the death certificate or treated the deceased in his final illness may to participate in the verdict regarding the cause of death referred to in Article 85 of the Civil Registration Act.

#### **Art. 382.**

(Repealed)

The Judge in charge is the immediate hierarchical superior of the Doctors assigned to the register office. The purpose of inspection is to ensure the smooth running of the service.

#### **Art. 383.**

(Repealed)



**Art. 384.**

(Repealed)

**Art. 385.**

(Repealed)

**Art. 386.**

(Repealed)

**Art. 387.**

(Repealed)

**Art. 388.**

(Repealed)

**Art. 389.**

(Repealed)

**Art. 390.**

(Repealed)

**Art. 391.**

(Repealed)

**Art. 392.**

(Repealed)

**Art. 393.**

(Repealed)

**Art. 394.**

(Repealed)

**Art. 395.**

(Repealed)

**Art. 396.**

(Repealed)

**Art. 397.**

(Repealed)

**Art. 398.**

(Repealed)



**Art. 399.**

(Repealed)

**Art. 400.**

(Repealed)

**Art. 401.**

(Repealed)

**Art. 402.**

(Repealed)

**Art. 403.**

(Repealed)

**Art. 404.**

(Repealed)

**Art. 405.**

(Repealed)

**Art. 406.**

(Repealed)

**Art. 407.**

(Repealed)

**Art. 408.**

(Repealed)

**First Transitional Provision.**

Facts acting as the basis for marginal entries must be recorded or noted, even if they are not subject to the register office according to the Act being repealed.

**Second Transitional Provision.**

Rules on the details contained in books and certificates apply, even if they refer to entries prior to their existence.

Certificates issued under the repealed Act will remain effective without prejudice to the restrictions imposed by the new Act with regard to their admissibility

**Third Transitional Provision.**

Pursuant to the legislation entering into force, official certificate forms or other forms may be used provided that the new ones are not provided and, in any event, the family record books that are open. Nevertheless, official forms for partial birth certificates may not be used thereafter, being this without prejudice to the preceding provision.

**Fourth Transitional Provision.**

The Ministry of Justice shall determine the opening of the Provincial Archive. As established in the provisions contained in Article 159, the duties of the Registrar in charge of the Archive must be assumed by the officers responsible for the register office of the capital and, in case there are several officers, by the Chief Judge .

Files must be completed with the details contained in entries existing prior to the Act at least on a two-year basis for each year that passes by, starting with the entries from 1957 and 1958.

**Fifth Transitional Provision.**

At 00:00 o'clock of 1st January 1959, the books of the former Section 4 will be closed by issuing a record in the page following the last page that has been used. The record must include a reference to this provision.

On the same day, files will be created pursuant to the new legislation.

The open books of all other sections will remain usable and, as long as new official books are not supplied, the books that have been prepared may be opened according to the legislation being repealed; however, in any case, the record of entries must comply with the new rules.

**Sixth Transitional Provision.**

Only upon request of the interest party and with regard to the birth records entered under the legislation applied before the Civil Registration Act of 8<sup>th</sup> June 1957, the Registrar shall comply with the provisions contained in Paragraph 1 of Article 191.

Extravagant names inappropriate for individuals as well as irreverent or subversive names will be always regarded as imposed upon infringement of the rules laid down herein.

In any event, the declarations with regard to surnames referred to in articles 198 and 199 may be made within one year after the Act has entered into force.

As for adoption certificates, if the adopted party was allowed to use the surname of the adoptive parent together with his family name without establishing the order, priority will be given to the surnames of the biological father and mother; surnames acquired by adoption will have priority over surnames imposed *ex officio*, and the surname of the male adopting party will precede that of the mother in case of biological filiation.

With regard to the records entered and referred to in Paragraph 2 of Article 197, the Registrar, before issuing the birth certificate or upon the interested party's request, shall clearly indicate in the margin the final order established.

#### **Seventh Transitional Provision.**

Upon the interested party's request and as a declaration of death, disappearance records entered under Decree of 8th November 1936 will lead to marginal records being added to the birth certificate. All original entries will be cancelled.

#### **Eighth Transitional Provision.**

At 00:00 o'clock of 1st January 1959, guardianship books of the Courts of First Instance will be closed upon issuance of a record.

Subsequent entries related to guardianships registered in such books will be made in the Civil Registry upon opening of the corresponding register page and transfer of the original entries, which will be cancelled.

#### **Ninth Transitional Provision.**

No proceeding will be required to correct purely formal mistakes and faults in how the books are managed provided that either of them is not considered as such by the new legislation.

Pursuant to the new legislation, entries made upon submission of sufficient proof will be deemed as valid even if they weren't according to the previous law.

#### **Tenth Transitional Provision.**

In the event that, upon entry into force of the Civil Registration Act, proceedings had been started under the previous legislation and those proceedings were subject to requirements or processes different from those established by the former, the interested parties involved therein may unanimously opt for the new procedure before a decision on the matter is made public.

In the absence of choice, the rules of the previous legislation will apply.

#### **Eleventh Transitional Provision.**

Subject to being cancelled *ex officio*, marginal nullity notes will become void. In addition, erasures ordered by the orders of 12<sup>th</sup> August and 22<sup>nd</sup> September 1938 and of 8<sup>th</sup> March 1939 regarding entries in the red zone will also become void provided that they affect facts and circumstances that are the subject matter of the register office. Entries in the red zone will be subject to the other laws, decrees or orders without



prejudice to the ninth transitional provision and the possible implementation of the procedures laid down in the new legislation.

This does not apply to validations made pursuant to the stated ministerial orders

The translation of entries that are not in Spanish are exempted from translation, without prejudice to the provisions contained in Paragraph 1 of Article 300 on translation required by the interested party or a certificate.

**Twelfth Transitional Provision.**

(Deleted)

**Thirteenth Transitional Provision.**

(Repealed)

**First Final Provision.**

Registrations referred to in the Government Decree of 29th December 1948 on the condition of Spanish national of specific Sephardic individuals may be carried out at any time.

The dispositions of Decree of 2nd April 1955 on nationality will be replaced by the dispositions contained in these regulations.

**Second Final Provision.**

African provinces are subject to the general legislation, without prejudice to special provisions on bodies of the Registry and registrable facts related to natives.

**Third Final Provisions.**

(Repealed)

**Table of fees to be paid in cash to the Doctors of the Civil Registry**

The Doctors of the Civil Registry are entitled to receive the following fees:

1. Verification of births: 50 pesetas.
2. Verdict on proceedings that are not free of charge: 200 pesetas.
3. Examination of corpses:
  - a) 50 pesetas if the burial costs are not higher than 1,000 pesetas.
  - b) 150 pesetas if the burial costs are higher than the before mentioned amount and smaller than 3,000 pesetas.
  - c) 250 pesetas if the burial costs are higher than the before mentioned amount and smaller than 6,000 pesetas.
  - d) 400 pesetas if the burial costs are higher than the before mentioned amount and smaller than 12,000 pesetas.
  - e) 600 pesetas if the burial costs are higher than the before mentioned amount and smaller than 24,000 pesetas.
  - f) 750 pesetas if the burial costs are higher than the before mentioned amount and smaller than 50,000 pesetas.
  - g) 1,000 pesetas if the burial costs are higher than 50,000 pesetas.

To that effect, only interment expenses will be considered. Therefore, funeral and burial expenses will not be taken into account.

**SPECIAL PROVISION**

(Repealed)

Madrid, 14th November 1958. –Approved by his Excellency. –Antonio Iturmendi.

