

# NORTHERN TERRITORY OF AUSTRALIA

## BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT

As in force at 1 June 1997

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 June 1997

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## BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT

An Act for the registration of births, deaths and marriages and related matters

### Part 1 Preliminary

#### 1 Short title

This Act may be cited as the *Births, Deaths and Marriages Registration Act*.

#### 2 Commencement

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

#### 3 Objects of Act

The objects of this Act are to provide for:

- (a) the registration of births, deaths and marriages in the Northern Territory of Australia;
- (b) the registration of changes of name and sex;
- (c) the keeping of registers for recording and preserving information about births, deaths, marriages and changes of name in perpetuity;
- (d) access to the information in the registers in appropriate cases by government or private agencies and members of the public, from within and outside the Territory;
- (e) the issue of certified information from the registers; and
- (f) the collection and dissemination of statistical information.

## 4 Definitions

In this Act, unless the contrary intention appears:

**adult** means a person who is 18 or above or, although under 18, is or has been married.

**authorised celebrant** means an authorised celebrant under the *Marriage Act 1961* of the Commonwealth.

**birth** includes still-birth.

**change** of name includes an addition, omission or substitution.

**child** includes a still-born child.

**corresponding law** means a law of a State that provides for the registration of births, deaths and marriages.

**Court** means the Supreme Court.

**death** does not include a still-birth.

**Deputy Registrar** means a Deputy Registrar of Births, Deaths and Marriages appointed under section 7.

**disposal** of human remains means:

- (a) cremation of the remains;
- (b) burial of the remains (including burial at sea);
- (c) placing the remains in a mausoleum or other permanent resting place;
- (d) placing the remains in the custody of an educational or scientific institution for the purpose of medical education or research; or
- (e) removal of the remains from the Territory (but not if the remains have been cremated or are taken from the Territory by sea and buried at sea in the course of the voyage).

**doctor** means a person entitled to practise medicine by, under or for the purposes of the *Medical Act*.

**funeral director** means a person who carries on the business of arranging for the disposal of human remains.

***prohibited name*** means a name that:

- (a) is obscene or offensive;
- (b) could not practicably be established by repute or usage:
  - (i) because it is too long;
  - (ii) because it consists of or includes symbols without phonetic significance; or
  - (iii) for some other reason;
- (c) includes or resembles an official title or rank; or
- (d) is contrary to the public interest for some other reason.

***registrable event*** means a birth, change of name or sex, death or marriage.

***registrable information*** means information that shall or may be included in the Register.

***Register*** means the Register maintained under section 38.

***registering authority*** means an authority responsible under a corresponding law for the registration of births, deaths and marriages.

***Registrar*** means the Registrar of Births, Deaths and Marriages appointed under section 5.

***State*** includes a Territory.

***still-birth*** means the birth of a still-born child.

***still-born child*** means a child of at least 20 weeks' gestation or with a body mass of at least 400 grams at birth that exhibits no sign of respiration or heartbeat, or other sign of life, after birth.

## **Part 2            Administration**

### **Division 1       Registrar**

#### **5            Registrar**

- (1) The Minister shall appoint a person to be the Registrar of Births, Deaths and Marriages.

- (2) The Registrar is responsible, subject to the Minister's control and direction, for the administration of this Act.

## **6 Registrar's general functions**

The Registrar's general functions are to:

- (a) establish and maintain the registers necessary for the purposes of this Act;
- (b) administer the registration system established by this Act and ensure that it operates efficiently, effectively and economically; and
- (c) ensure that this Act is administered in the way best calculated to achieve its objects.

## **7 Deputy Registrars**

- (1) The Minister may appoint such persons as he or she thinks fit to be Deputy Registrars of Births, Deaths and Marriages.
- (2) A Deputy Registrar has the powers and functions of the Registrar but is subject to direction by the Registrar.

## **8 Delegation**

- (1) The Registrar may, in writing, delegate to a person, including the person from time to time holding, acting in or performing the duties of an office, designation or position, any of his or her powers and functions under this Act, other than this power of delegation.
- (2) A power or function delegated under this section, when exercised or performed by the delegate shall, for the purpose of this Act, be deemed to have been exercised or performed by the Registrar.
- (3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Registrar.

## **Division 2                      Execution of documents**

### **9 Registrar's seal**

The Registrar has a seal.



## **10                      Execution of documents**

- (1) The Registrar or a Deputy Registrar may issue a certificate or other document under his or her signature and the seal, or a facsimile of his or her signature and the seal produced by stamp, machine imprint or some other method authorised by the Regulations.
- (2) If a document produced before a court or an administrative authority or official is apparently under:
  - (a) the signature of the Registrar or a Deputy Registrar and the seal; or
  - (b) a facsimile of the signature of the Registrar or a Deputy Registrar and the seal produced by stamp, machine imprint, or some other method authorised by the Regulations,

the court, authority or official shall presume, in the absence of evidence to the contrary, that the document was properly issued under the authority of the Registrar or the Deputy Registrar.

## **Division 3                      Reciprocal administrative arrangements**

### **11                      Reciprocal administrative arrangements**

- (1) Subject to subsection (4), the Minister may enter into an arrangement with the Minister responsible for the administration of a corresponding law providing for:
  - (a) the exercise by the Registrar of powers and functions of the registering authority under the corresponding law; and
  - (b) the exercise by the registering authority under the corresponding law of powers and functions of the Registrar under this Act.
- (2) When an arrangement is in force under this section:
  - (a) the Registrar may exercise, to the extent authorised by the arrangement (but subject to the conditions of the arrangement), the powers and functions of the registering authority under the corresponding law; and
  - (b) the registering authority under the corresponding law may exercise, to the extent authorised by the arrangement (but subject to the conditions of the arrangement), the powers and functions of the Registrar under this Act.

- (3) An arrangement under this section may:
- (a) establish a data base in which information is recorded for the benefit of all the participants in the arrangement;
  - (b) provide for access to information contained in the data base; and
  - (c) provide for payments by or to participants in the arrangement for services provided under the arrangement.
- (4) The Minister shall not enter into an arrangement under this section unless he or she is satisfied that the security arrangements and the access policies in place under the corresponding law are at least equal to those in place in the Territory.

## **Part 3                      Registration of births**

### **Division 1                Notification of births**

#### **12                      Notification of births**

- (1) When a child is born in the Territory, the responsible person shall give notice of the birth to the Registrar including the particulars required by the Regulations.
- Penalty:            \$1,000.
- (2) Notice under subsection (1) shall be given within 10 days after the birth.
- (3) When notice of a still-birth is given, the responsible person shall also give the Registrar a doctor's certificate, in a form approved by the Registrar, certifying the cause of foetal death.
- (4) The certificate shall be completed by the doctor responsible for the professional care of the mother at the birth or a doctor who examined the body of the still-born child after the birth.
- (5) Where a child is born in a prison or police prison, within the meaning of the *Prisons (Correctional Services) Act*, a notice under subsection (1) shall not refer to the place of birth as the prison or police prison, other than by referring to the name of the city or town in which the prison or police prison is located or the city or town nearest to the prison or police prison.

- (6) In this section, **responsible person** means:
- (a) in the case of a child born in a hospital or brought to a hospital within 24 hours after birth – the chief executive officer of the hospital;
  - (b) in the case of a child born in a prison or mental institution – the chief executive officer of the prison or mental institution; or
  - (c) in other cases – the doctor, midwife or health worker responsible for the professional care of the mother at the birth.

## **Division 2                      Registration of births**

### **13                      Cases in which registration of birth is required or authorised**

- (1) If a child is born in the Territory, the birth shall be registered under this Act.
- (2) Subject to subsection (3), if a child is born outside the Commonwealth, but the child is to become a resident of the Territory, the birth may be registered under this Act.
- (3) The birth of a child born outside the Commonwealth cannot be registered under this Act if the birth is registered under a corresponding law.

### **14                      How to have birth of child registered**

A person has the birth of a child registered under this Act by lodging a statement (**birth registration statement**) in a form approved by the Registrar containing the information required by the Regulations.

### **15                      Responsibility to have birth registered**

- (1) The parents of a child are jointly responsible for having the child's birth registered under this Act (and shall both sign the birth registration statement) but the Registrar may accept a birth registration statement from one of the parents if satisfied that it is impossible, impractical or inappropriate for the other parent to join, or be required to join in, the application whether because of his or her death, disappearance, ill health or unavailability or the need to avoid unwarranted distress or for some other reason.
- (2) If a child is a foundling, the person who has custody of the child is responsible for having the child's birth registered.

- (3) The Registrar may accept a birth registration statement from a person who is not responsible for having the child's birth registered if satisfied that:
- (a) the person lodging the statement has knowledge of the relevant facts; and
  - (b) the child's parents are unable or unlikely to lodge a birth registration statement.

**16                      Obligation to have birth registered**

- (1) A person responsible for having the birth of a child registered shall ensure that a birth registration statement is lodged with the Registrar within 60 days after the date of the birth.

Penalty:            \$1,000.

- (2) The Registrar shall accept a birth registration statement even though it is lodged after the end of the 60 day period referred to in subsection (1).

**17                      Registration**

- (1) The Registrar registers a birth by making an entry about the birth in the Register including the particulars required by the Regulations.
- (2) If the particulars available to the Registrar are incomplete the Registrar may register a birth on the basis of incomplete particulars.

**Division 3                      Court order for registration of birth**

**18                      Jurisdiction of Court to order registration of birth**

The Court may, on application by an interested person or on its own initiative, order:

- (a) the registration of a birth; or
- (b) the inclusion of registrable information about a birth or a child's parents in the Register.

## **Division 4                      Alteration of details of birth registration**

### **19                      Addition of details of parentage after registration of birth**

- (1) The Registrar may include registrable information about a child's parents in the Register after registration of the child's birth if:
  - (a) the father and mother of the child make a joint application for the addition of the information;
  - (b) one parent of the child makes an application for the addition of the information and the other parent cannot join in the application because he or she is dead or cannot be found, or for some other reason; or
  - (c) a court:
    - (i) orders the inclusion of the information in the Register; or
    - (ii) makes a finding that a particular person is a parent of the child.
- (2) An application to the Registrar for the addition of registrable information in the Register shall:
  - (a) be made in writing;
  - (b) include the information required by the Registrar; and
  - (c) if the Registrar requires verification of the information contained in the application, be accompanied by a statutory declaration verifying the information contained in the application and any other evidence the Registrar may require.
- (3) The Court may, on application by an interested person, order the addition of specified details of a child's parentage, or details of the marriage of a child's parents, in the Register.

## **Division 5                      Child's name**

### **20                      Name of child**

- (1) Subject to this section, the birth registration statement shall state the name of the child.

- (2) The name of a child is a matter of choice for the person or persons lodging the registration statement, but the Registrar may assign a name to the child if:
  - (a) the name stated in the birth registration statement is a prohibited name; or
  - (b) the birth registration statement is lodged by both parents of the child and they satisfy the Registrar that they are unable to agree on the child's name.
- (3) For the purposes of this section, the Registrar shall:
  - (a) issue a written policy setting out the principles to be followed in the naming of a child by the Registrar;
  - (b) only exercise his or her powers for the purposes of the identification of the child; and
  - (c) advise the parents of a child named by the Registrar that the decision of the Registrar may be reviewed by the Court.
- (4) A birth registration statement relating to a still-born child need not state the name of the child and, where it does not, the Registrar shall not assign a name under subsection (2).

## **21            Dispute about child's name**

- (1) If there is a dispute between parents about a child's name, either parent may apply to the Court for a resolution of the dispute.
- (2) On an application under subsection (1), the Court may:
  - (a) resolve the dispute about the child's name as the Court considers appropriate; and
  - (b) order the Registrar to register the child's name in a form specified in the order.

## **Part 4            Change of name**

### **22            Change of name by registration**

A person's name may be changed by registration of the change under this Part.

**23 Application to register change of adult's name**

- (1) Subject to this section, an adult person:
  - (a) who is domiciled or ordinarily resident in the Territory; or
  - (b) whose birth is registered in the Territory,may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the person's name.
- (2) Except with the consent of the Registrar, an application under this section shall not be made unless notice of the change of name is published by the applicant in a newspaper published and circulating in the Territory.
- (3) Except where the consent of the Registrar has been obtained under subsection (2), an application under this section shall be accompanied by a copy of the notice published in accordance with that subsection.

**24 Application to register change of child's name**

- (1) The parents of a child:
  - (a) who is domiciled or ordinarily resident in the Territory; or
  - (b) whose birth is registered in the Territory,may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the child's name.
- (2) An application for registration of a change of a child's name may be made by one parent if:
  - (a) the applicant is the sole parent named in the registration of the child's birth under this Act or any other law;
  - (b) there is no other surviving parent of the child; or
  - (c) the Court approves the proposed change of name.
- (3) The Registrar shall not register the change of a child's name if he or she has actual knowledge that some other person has full or partial guardianship or full or partial custody of the child and that other person objects to the registration of the change of name.
- (4) The Court may, on application by a child's parent, approve a proposed change of name for the child if satisfied that the change is in the child's best interests.

- (5) If the parents of a child are dead, cannot be found, or for some other reason cannot exercise their parental responsibilities to a child, the child's guardian may apply for registration of a change of the child's name.

## **25 Child's consent to change of name**

- (1) Subject to subsection (2), the Registrar shall not register a change of name of a child after the time when the child is aware of the meaning and implication of his or her name.
- (2) Subsection (1) does not apply where a child, being aware of the meaning and implication of his or her name, consents to the change of name.
- (3) For the purposes of this section, in the absence of evidence to the contrary, a child who has attained the age of 14 years shall be deemed to be aware of the meaning and implication of his or her name.

## **26 Registration of change of name**

- (1) Before registering a change of name under this Part, the Registrar may require the applicant to provide evidence to establish to the Registrar's satisfaction:
  - (a) the identity and age of the person whose name is to be changed;
  - (b) that the change of name is not sought for a fraudulent or other improper purpose; and
  - (c) if the person whose name is to be changed is a child – that the child consents to the change of name or is unable to understand the meaning and implications of the change of name.
- (2) If the Registrar is satisfied that the name of a person whose birth is registered in the Territory has been changed under another law or by order of a court the change of name may be registered under this Act.
- (3) The Registrar may refuse to register a change of name if, as a result of the change, the name would become a prohibited name.

## **27 Entries to be made in Register**

- (1) The Registrar registers a change of name by making an entry about the change of name in the Register including the particulars required by the Regulations.



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- (2) If the applicant for registration of the change of name asks the Registrar to arrange for noting the change of name in the particulars of the person's birth, and the person's birth is registered under this Act or a corresponding law, the Registrar shall:
- (a) if the birth is registered under this Act – note the change of name in the entry relating to the birth; or
  - (b) if the birth is registered under a corresponding law – notify the relevant registering authority of the change of name.
- (3) If the change of name is noted in the Register under subsection (2), a birth certificate issued by the Registrar for the person shall show the person's name as changed under this Part.

## **28 Change of name may still be established by repute or usage**

This Part does not prevent a change of name by repute or usage but, except as provided by this Part, the Registrar or the Registrar-General shall not register a change of name or accept for safe keeping or recording any document relating to a change of name.

## **Part 4A Registration of change of sex**

### **28A Definitions**

In this Part:

***recognition certificate*** means a certificate that:

- (a) is issued under a law that recognises that a person who has undergone sexual reassignment surgery may have changed sex;
- (b) is issued in respect of a person who, having undergone sexual reassignment surgery, has changed sex; and
- (c) states the sex of that person as so changed.

***sexual reassignment surgery*** means a surgical procedure involving the alteration of a person's reproductive organs carried out:

- (a) for the purpose of assisting a person to be considered to be a member of the opposite sex; or
- (b) to correct or eliminate ambiguities relating to the sex of the person.

**28B Application to Registrar change of sex**

(1) An adult:

- (a) whose birth is entered in the Register;
- (b) who has undergone sexual reassignment surgery; and
- (c) who is not married,

may apply to the Registrar, in a form approved by the Registrar, to register a change of the person's sex.

(2) The parents, parent (if a sole parent) or guardian of a child:

- (a) whose birth is registered in the Register; and
- (b) who has undergone sexual reassignment surgery,

may apply to the Registrar, in a form approved by the Registrar, to register a change of the child's sex.

**28C Information that must accompany certificate**

An application under section 28B must be accompanied by:

- (a) the prescribed evidence, if any, that verifies that the adult or child the subject of the certificate has undergone sexual reassignment surgery; and
- (b) other documents and information, if any, as the Registrar requires.

**28D Registration of change of sex**

- (1) If the Registrar is satisfied that the sex of a person whose birth is registered in the Register has been changed, the Registrar may note the particulars of the change of sex in the Register in the entry relating to the birth of the person.
- (2) In considering whether or not to note the particulars of a change of sex under subsection (1), the Registrar may:
  - (a) require the person or persons who signed the application under section 28B to provide further particulars as the Registrar requires; or
  - (b) make such inquiries, if any, as he or she thinks fit to inform himself or herself as to whether the person has changed his or her sex.

- (3) The Registrar must not note particulars of the change of a person's sex in the Register if the person is married.

**28E Issuing of birth certificate after noting change**

- (1) If the change of a person's sex is registered under this Part, a birth certificate issued by the Registrar for the person is, unless otherwise requested by the person, to show the person's sex in accordance with the registered change.
- (2) A birth certificate referred to in subsection (1) must not include a statement that the person has changed sex.

**28F Issuing of old birth certificate**

The child of a person in respect of whom a change of the person's sex is registered under this Part, or a person prescribed for the purpose of this section, may apply to the Registrar, in a form approved by the Registrar, for a birth certificate of the person that shows the person's sex before his or her change of sex, and the Registrar must issue the birth certificate to the child or person.

**28G Use of old birth certificate**

A person in respect of whom a change of the person's sex is registered under this Part shall not, with the intention to deceive, produce to another person a birth certificate of the person that shows the person's sex before his or her change of sex.

Penalty: \$10,000 or imprisonment for 2 years.

**28H Effect of registration of person's change of sex**

Where a person's change of sex is registered under this Part, the person is, for the purposes of (but subject to) any law in force in the Territory, a person of the sex as so changed.

**28J Recognition certificate**

A person in respect of whom there is a recognition certificate is, for the purposes of (but subject to) any law in force in the Territory, a person of the sex stated in the recognition certificate.

## **Part 5 Registration of marriages**

**29 Cases in which registration of marriage is required**

If a marriage is solemnised in the Territory, the marriage shall be registered under this Act.

**30                      How to have marriage registered**

A person may have a marriage registered by lodging with the Registrar a certificate of the marriage under the Marriage Act 1961 of the Commonwealth or, if the marriage was solemnised before the commencement of that Act, the evidence of the marriage required by the Registrar.

**31                      Registration of marriage**

A marriage may be registered by:

- (a) including the marriage certificate as part of the Register; or
- (b) including particulars of the marriage in the Register.

**Part 6                      Registration of deaths**

**Division 1                Cases where registration of death is required or authorised**

**32                      Deaths to be registered under this Act**

- (1) If a person dies in the Territory, the death shall be registered under this Act.
- (2) If a court directs the registration of a death, the death shall be registered under this Act.
- (3) If a person dies:
  - (a) in an aircraft during a flight to an airport in the Territory; or
  - (b) on a ship during a voyage to a port in the Territory,the death may be registered under this Act.
- (4) If a person who is domiciled or ordinarily resident in the Territory dies outside the Commonwealth, or a person dies outside the Commonwealth leaving property in the Territory, the death may be registered under this Act.
- (5) The Registrar is not obliged to register a death under subsection (3) or (4) if the death is registered under a corresponding law.
- (6) If a child is still-born, the child's death is not to be registered under this Part.

**33                      Power to direct registration of death**

- (1) If a court finds that a person whose death is not registered under this Act died in the Territory, the court may direct registration of the death.
- (2) The power to direct registration of death extends to courts of the States and the Commonwealth.

**Division 2                      Notification of deaths**

**34                      Notification of deaths by doctors**

- (1) A doctor who was responsible for a person's medical care immediately before death, or who examines the body of a deceased person after death, shall, within 48 hours after the death, give notice, in a form approved by the Registrar, of the death to the Registrar, including the particulars required by the Regulations.

Penalty:            \$1,000.

- (2) A doctor need not give a notice under this section if:
  - (a) another doctor has given the required notice; or
  - (b) a coroner has been notified of the death under the *Coroners Act*.
- (3) If a coroner is notified of a death under the *Coroners Act*, the coroner shall give a copy of the notification to the Registrar as soon as practicable after receiving it.
- (4) If a child is still-born, the child's death is not to be notified under this section.

**35                      Notification of cause of death by coroner**

- (1) If a coroner authorises the disposal of human remains, or makes a finding about the cause of a death, the coroner shall give a copy of the disposal authorisation or the finding to the Registrar.
- (2) The Registrar may register a death even though the death is subject to coronial inquiry and a finding has not been made about the cause of death.
- (3) A death certificate issued before a coronial inquiry into the cause of death is completed shall be endorsed with the words: "Incomplete registration – Cause of death subject to coronial inquiry".

**36                      Notification by funeral director, &c**

- (1) A funeral director or other person who arranges for the disposal of human remains or, where in the locality where human remains are there is no funeral director or person who arranges for the disposal of human remains, a health worker in the locality, shall, within 7 days after disposal of the remains, provide to the Registrar, in a form approved by the Registrar:
- (a) the name and last residential address of the deceased;
  - (b) if the death was reported to a coroner – a statement of that fact;
  - (c) the place and manner of disposal; and
  - (d) the information required by the Regulations.

Penalty:            \$1,000.

- (2) If human remains (other than cremated remains) are removed from the Territory, the funeral director or other person who arranges for the removal of the remains from the Territory shall, within 28 days after the remains are disposed of outside the Territory, provide to the Registrar, in a form approved by the Registrar, details of where and how the remains were disposed of, and the other information required by the Regulations.

Penalty:            \$1,000.

- (3) If human remains have not been disposed of within 30 days after the date of death, the funeral director or other person who has custody of the remains shall provide to the Registrar, in a form approved by the Registrar:
- (a) the name and last residential address of the deceased;
  - (b) if the death was reported to a coroner – a statement of that fact; and
  - (c) the information required by the Regulations.

Penalty:            \$1,000.

**Division 3                      Registration of death**

**37                      Registration**

- (1) The Registrar registers a death by making an entry about the death in the Register including the particulars required by the Regulations.

- (2) If the particulars available to the Registrar are incomplete the Registrar may register a death on the basis of incomplete particulars.
- (3) Where the Registrar registers the death of:
  - (a) a doctor, he or she shall, as soon as practicable, give notice of the death to the Registrar, within the meaning of the *Medical Act*; or
  - (b) a pharmacist, he or she shall, as soon as practicable, give notice of the death to the Chairman of the Board, within the meaning of the *Pharmacy Act*.

## **Part 7                Register**

### **Division 1          Keeping of Register**

#### **38                Register**

- (1) The Registrar shall maintain a register or registers of registrable events.
- (2) The Register:
  - (a) shall contain the particulars of each registrable event required under this Act, or another law, to be included in the Register; and
  - (b) may contain further information if its inclusion is authorised under the Regulations.
- (3) The Register may be wholly or partly in the form of a computer data base, in documentary form, or in another form the Registrar considers appropriate.
- (4) The Registrar shall maintain the Register so that the information contained in it may be searched by reference to a name or some other identifying information.

### **Division 2          Registrar's powers of inquiry**

#### **39                Registrar's powers of inquiry**

- (1) The Registrar may conduct an inquiry to find out:
  - (a) whether a registrable event has happened;
  - (b) particulars of a registrable event; or

- (c) whether particulars of a particular registrable event have been correctly recorded in the Register.
- (2) The Registrar may, by notice given to a person who may be able to provide information relevant to an inquiry under this section, require the person to answer specified questions or to provide other information within a time and in a way specified in the notice.
- (3) A person who fails, without reasonable excuse, to comply with a notice under subsection (2) is guilty of an offence.

Penalty:        \$1,000.

### **Division 3                Correction of Register**

#### **40                      Correction of Register**

- (1) The Registrar may correct the Register:
  - (a) to reflect a finding made on inquiry under Division 2; or
  - (b) to bring an entry about a particular registrable event into conformity with the most reliable information available to the Registrar of the registrable event.
- (2) The Registrar shall, if required by a court, correct the Register.
- (3) The Registrar corrects the Register by adding or cancelling an entry in the Register or by adding, altering or deleting particulars contained in an entry.

### **Division 4                Access to, and certification of, Register entries**

#### **41                      Access to Register**

- (1) The Registrar may, on conditions the Registrar considers appropriate:
  - (a) allow a person or organisation that has an adequate reason for wanting access to the Register, access to the Register; or
  - (b) provide a person or organisation that has an adequate reason for wanting information from the Register, with information extracted from the Register.
- (2) In deciding whether an applicant has an adequate reason for wanting access to the Register, or information extracted from the Register, the Registrar shall have regard to:
  - (a) the nature of the applicant's interest;



- (b) the sensitivity of the information;
  - (c) the use to be made of the information; and
  - (d) other relevant factors.
- (3) In deciding the conditions on which access to the Register, or information extracted from the Register, is to be given under this section, the Registrar shall, as far as practicable, protect the persons to whom the entries in the Register relate from unjustified intrusion on their privacy.

## **42            Search of Register**

- (1) The Registrar may, on application, search the Register for an entry about a particular registrable event.
- (2) The applicant shall state the reason for the applicant's interest in the subject-matter of the search.
- (3) The Registrar may reject the application if the applicant does not show an adequate reason for wanting the information to which the application relates.
- (4) In deciding whether an applicant has an adequate reason for wanting information, the Registrar shall have regard to:
  - (a) the relationship (if any) between the applicant and the person to whom the information relates;
  - (b) the age of the entry;
  - (c) the contents of the entry; and
  - (d) other relevant factors.
- (5) Subject to a direction of the Minister under section 5, nothing in this Act prevents the Registrar from providing a person, subject to such conditions as the Registrar thinks fit, with information contained in the Register for a purpose relating to:
  - (a) the keeping of statistics;
  - (b) medical or epidemiological research;
  - (c) the identification of persons; or
  - (d) the prevention of fraud.

(6) For the purposes of subsection (3), but subject to subsection (7), a person has an adequate reason for a search to be made of the Register if the person, in respect of whom information is sought to be obtained as a consequence of the search, is:

- (a) the adopted child;
- (b) the natural parent or grandparent; or
- (c) the adoptive parent,

of the person requiring the search.

(7) Subsection (6) does not apply where:

- (a) a notice of prohibition has been lodged under section 65(2) of the *Adoption of Children Act*, or
- (b) a notice, similar to a notice of prohibition referred to in paragraph (a), has been lodged under a law of a State or another Territory of the Commonwealth,

prohibiting the provision of information that would identify the person in respect of whom information is sought under subsection (6).

#### **43                      Protection of privacy**

In providing information extracted from the Register, the Registrar shall, as far as practicable, protect the persons to whom the entries in the Register relate from unjustified intrusion on their privacy.

#### **44                      Issue of certificate**

(1) On completing a search of the Register, the Registrar may issue a certificate:

- (a) certifying particulars contained in an entry; or
- (b) certifying that no entry was located in the Register about the relevant registrable event.

(2) A certificate under subsection (1)(a) is admissible in legal proceedings as evidence of:

- (a) the entry to which the certificate relates; and
- (b) the facts recorded in the entry.

- (3) If the word "illegitimate" or a word or expression referring to the fact that a child was born outside marriage appears on an entry in the Register, that word or expression is not to be included in a certificate issued by the Registrar.
- (4) If, in the opinion of the Registrar, a word or expression appearing on an entry in the Register is offensive, the Registrar may, as he or she thinks fit, issue a certificate under subsection (1)(a) without including the word or expression.
- (5) The Registrar may, subject to and in accordance with the Regulations, issue to a person intending to be married in a country outside Australia a certificate that the Registrar is not aware of any impediments to the solemnisation of the marriage.

#### **45            Access policies**

- (1) The Registrar shall maintain a written statement of the policies on which access to information contained in the Register is to be given or denied under this Division.
- (2) The Registrar shall give a copy of the statement, on request, to any person.

#### **46            Fees**

- (1) The Regulations may prescribe fees, or a basis for calculating fees, for:
  - (a) access to the Register;
  - (b) a search of the Register;
  - (c) the issue of a certificate following a search of the Register; or
  - (d) other services provided by the Registrar.
- (2) The Regulations may allow for fees to be fixed by negotiation between the Registrar and the person who asks for the relevant services.

#### **47            Power to remit fees**

The Registrar may, in appropriate cases, remit the whole or part of a fee under this Act or the whole or part of a fee payable to the Registrar under any other Act, including an Act of the Commonwealth, a State or another Territory of the Commonwealth.

## **Part 8                      General power of review**

### **48                      Review**

- (1) A person who is dissatisfied with a decision of the Registrar made in the performance or purported performance of functions under this Act may apply to the Court for a review of the decision.
- (2) On a review, the Court may:
  - (a) confirm, vary or reverse the Registrar's decision; and
  - (b) make consequential and ancillary orders and directions.

## **Part 9                      Miscellaneous**

### **49                      False representation**

A person who makes a false or misleading representation in an application or document under this Act, knowing it to be false or misleading, is guilty of an offence.

Penalty:            \$10,000 or imprisonment for 2 years.

### **50                      Unauthorised access to or interference with Register**

A person shall not, without the authority of the Registrar or other lawful authority:

- (a) obtain access to the Register or information contained in the Register;
- (b) make, alter or delete an entry in the Register; or
- (c) interfere with the Register in any other way.

Penalty:            \$10,000 or imprisonment for 2 years.

### **51                      Falsification of certificate, &c**

- (1) A person shall not forge the Registrar's signature or seal.

Penalty:            \$10,000 or imprisonment for 2 years.

- (2) A person shall not forge or falsify a certificate or other document under this Act.

Penalty:            \$10,000 or imprisonment for 2 years.

(3) The Registrar may impound:

- (a) a document which the Registrar has reason to believe bears a forged impression of the Registrar's signature or seal;
- (b) a certificate or other document purporting to be a certificate or other document under this Act which the Registrar has reason to believe has been forged or falsified; or
- (c) a certificate under this Act about a registrable event if the entry in the Register about the event has been cancelled or corrected since the issue of the certificate.

**52 Immunity from liability**

- (1) No liability attaches to the Registrar for an honest act or omission in the performance or purported performance of functions under this Act.
- (2) A liability that would, but for subsection (1), attach to the Registrar attaches instead to the Crown.

**53 *Adoption of Children Act not affected***

Nothing in this Act shall be taken to affect the operation of the *Adoption of Children Act*.

**54 Regulations**

- (1) The Administrator may make regulations not inconsistent with this Act, prescribing all matters:
  - (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) The Regulations may provide for offences, including regulatory offences, against the Regulations and the imposition of penalties, not exceeding \$1,000, for breaches of the Regulations.

**55 Repeal**

The Ordinances and Acts specified in the Schedule are repealed.

**56 Savings and transitional**

The registers kept under the *Registration of Births, Deaths and Marriages Act*, as in force before the commencement of this Act, form part of the Register maintained under this Act.

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**Schedule Ordinances and Acts repealed**

section 55

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<i>Registration of Births, Deaths and Marriages Ordinance 1962</i>	No. 42, 1963
<i>Registration of Births, Deaths and Marriages Ordinance 1972</i>	No. 29, 1972
<i>Registration of Births, Deaths and Marriages Ordinance 1973</i>	No. 34, 1973
<i>Registration of Births, Deaths and Marriages Ordinance 1976</i>	No. 29, 1976
<i>Registration of Births, Deaths and Marriages Act 1978</i>	No. 85, 1978
<i>Registration of Births, Deaths and Marriages Act (No. 2) 1978</i>	No. 104, 1978
<i>Registration of Births, Deaths and Marriages Act 1979</i>	No. 28, 1979
<i>Registration of Births, Deaths and Marriages Amendment Act 1986</i>	No. 65, 1986
<i>Registration of Births, Deaths and Marriages Amendment Act 1987</i>	No. 51, 1987
<i>Registration of Births, Deaths and Marriages Amendments Act 1994</i>	No. 22, 1994

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## ENDNOTES

### 1 KEY

Key to abbreviations

amd = amended	od = order
app = appendix	om = omitted
bl = by-law	pt = Part
ch = Chapter	r = regulation/rule
cl = clause	rem = remainder
div = Division	renum = renumbered
exp = expires/expired	rep = repealed
f = forms	s = section
Gaz = Gazette	sch = Schedule
hdg = heading	sdiv = Subdivision
ins = inserted	SL = Subordinate Legislation
lt = long title	sub = substituted
nc = not commenced	

### 2 LIST OF LEGISLATION

***Births, Deaths and Marriages Registration Act 1996 (Act No. 26, 1996)***

Assent date	28 June 1996
Commenced	1 January 1997 ( <i>Gaz</i> G49, 4 December 1996, p 5)

***Births, Deaths and Marriages Registration Amendment Act 1997 (Act No. 12, 1997)***

Assent date	11 April 1997
Commenced	1 June 1997 ( <i>Gaz</i> S17, 30 May 1997)

### 3 LIST OF AMENDMENTS

s 3	amd No. 12, 1997, s 4
s 4	amd No. 12, 1997, s 5
pt 4A hdg	ins No. 12, 1997, s 6
ss 28A – 28J	ins No. 12, 1997, s 6