

**NORTHERN TERRITORY OF AUSTRALIA**

**BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1996**

As in force at 31 August 2022

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 31 August 2022

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## BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1996

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

### **Part 1 Preliminary matters**

#### **1 Short title**

This Act may be cited as the *Births, Deaths and Marriages Registration Act 1996*.

#### **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; and
- (b) the registration of changes of name and sex or gender; and
- (c) the keeping of registers for recording and preserving information about births, deaths, marriages and changes of name in perpetuity; and
- (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; and
- (e) the issue of certified information from the registers; and
- (f) the collection and dissemination of statistical information.

## 4 Definitions

In this Act:

**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* (Cth).

**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 any of the following:

- (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;
- (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 medical practitioner.

**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; or

- (b) could not practicably be established by repute or usage:
  - (i) because it is too long; or
  - (ii) because it consists of or includes symbols without phonetic significance; or
  - (iii) for some other reason; or
- (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, change of sex or gender, death or marriage.

**registrable information** means information that 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.

*Note for section 4*

*The Interpretation Act 1978 contains definitions and other provisions that may be relevant to this Act.*

#### **4A Application of Criminal Code**

Part IIAA of the Criminal Code applies to an offence against this Act.

*Note for section 4A*

*Part IIAA of the Criminal Code states the general principles of criminal responsibility, establishes general defences, and deals with burden of proof. It also defines, or elaborates on, certain concepts commonly used in the creation of offences.*

## **Part 2 Administration**

### **Division 1 Registrar**

#### **5 Registrar**

- (1) The Minister must 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 this Act; and
- (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**

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.

### **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 must 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; and
  - (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 must 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 must give notice of the birth to the Registrar including the particulars required by the Regulations.
- (2) Notice under subsection (1) must be given within 10 days after the birth.
- (3) When notice of a still-birth is given, the responsible person must also give the Registrar a doctor's certificate, in a form approved by the Registrar, certifying the cause of foetal death.
- (4) The certificate must 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 custodial correctional facility a notice under subsection (1) must not refer to the place of birth as the custodial correctional facility, other than by referring to the name of the city or town in which the custodial correctional facility is located or the city or town nearest to the custodial correctional facility.
- (5A) A responsible person commits an offence if the responsible person fails to comply with subsection (1) or (3).

Maximum penalty:        8 penalty units

- (5B) An offence against subsection (5A) is an offence of strict liability.

(5C) It is a defence to a prosecution for an offence against subsection (5A) constituted by a failure to comply with subsection (3) if the defendant has a reasonable excuse.

(6) In this section:

**custodial correctional facility**, see section 11(1)(a) of the *Correctional Services Act 2014*.

**responsible person** means:

- (a) for a child born in a hospital or brought to a hospital within 24 hours after birth – the chief executive officer of the hospital; or
- (b) for a child born in a mental institution – the chief executive officer of the mental institution; or
- (ba) for a child born in a custodial correctional facility – the Commissioner of Correctional Services; or
- (c) for any other child – the doctor, midwife or health worker responsible for the professional care of the mother at the birth.

## **Division 2 Registration of births**

### **13 When registration of birth is required or authorised**

- (1) If a child is born in the Territory, the birth must 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 must 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 the parent's 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 must lodge a birth registration statement with the Registrar within 60 days after the date of the birth.

Maximum penalty: 8 penalty units.

- (1A) An offence against subsection (1) is an offence of strict liability.
- (2) The Registrar must 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 as the particulars for the birth the information that is required to be in a birth registration statement.
- (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 parents of the child make a joint application for the addition of the information; or
  - (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 must:
  - (a) be made in writing; and
  - (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 must 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 this section, the Registrar must:
  - (a) issue a written policy setting out the principles to be followed in the naming of a child by the Registrar; and
  - (b) only exercise his or her powers for 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 Civil and Administrative Tribunal.
- (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 must 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**

Subject to this section, an adult person may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the person's name if:

- (a) the person:
  - (i) was born outside Australia; and
  - (ii) immediately before the time of the application, was domiciled or ordinarily resident in the Territory for a period of at least 12 consecutive months; or
- (b) the person's birth is registered in the Territory.

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

- (1) The parents of a child may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the child's name if:

- (a) the child:
  - (i) was born outside Australia; and
  - (ii) immediately before the time of the application, was domiciled or ordinarily resident in the Territory for a period of at least 12 consecutive months; or
- (b) the child's birth is registered in the Territory.

- (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; or
- (b) there is no other surviving parent of the child; or
- (c) the Court approves the proposed change of name.

- (3) The Registrar must not register the change of a child's name if the Registrar 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 must 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 this section, in the absence of evidence to the contrary, a child who has attained the age of 14 years is taken to be aware of the meaning and implication of his or her name.

## **25A Convictions of person to be included in application**

- (1) An application for registration of a change of name must include details of any conviction of the person whose name is to be changed.
- (2) Nothing in this section requires a person to disclose a spent record as defined in section 3 of the *Criminal Records (Spent Convictions) Act 1992*.
- (3) In this section:

**conviction** means, for an individual:

- (a) a conviction or finding of guilt for a relevant offence that is imposed by any court of the Territory, the Commonwealth, another State or a country other than Australia; or
- (b) a qualified finding of guilt for a relevant offence under section 43X(3) of the *Criminal Code* or a finding under a provision that corresponds to that section under the law of another State.



**relevant offence** means an offence against a law of the Territory, the Commonwealth, another State or a country other than Australia for which a term of imprisonment of 12 months or more may be imposed.

## **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; and
  - (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.
- (4) The Registrar may refuse to register a change of name if the applicant has a conviction, as defined in section 25A(3), for an offence related to fraud or any other deception regarding the identity of the applicant.
- (5) The Registrar may refuse to register a change of name if, following a request to provide evidence under subsection (1), the applicant fails to provide evidence to establish to the Registrar's satisfaction a matter specified in that subsection.

## **26A Limitation on number of changes of name**

The Registrar must not accept an application for registration of a change of a person's name under this Part if:

- (a) a change of the person's name was registered, whether in the Territory or in another State, in the 12 month period immediately before the time the application is made; or

- (b) 3 changes of the person's name were registered, whether in the Territory or in another State or both, in the period commencing on the day this section comes into operation.

## **26B Exceptions to certain requirements and limitation**

- (1) Despite a requirement or limitation specified in subsection (2), the Registrar may register a change of a person's name if the Registrar is satisfied that:

- (a) registering the change of name is required to protect any of the following from domestic violence as defined in section 5 of the *Domestic and Family Violence Act 2007*:

- (i) the person whose name is to be changed;
- (ii) any current or future children of the person whose name is to be changed; or

- (b) the change of name is because of the marriage or divorce of the person whose name is to be changed; or

- (c) the change of name is ordered by a court of the Territory, the Commonwealth or another State; or

- (d) the change of name is ordered by the Civil and Administrative Tribunal or a tribunal of another State that corresponds to the Civil and Administrative Tribunal.

- (2) For subsection (1) the following are specified:

- (a) a requirement under section 23(a) or 24(1)(a) that the person was born outside Australia and immediately before the time of the application, was domiciled or ordinarily resident in the Territory for a period of at least 12 consecutive months;

- (b) a requirement under section 23(b) or 24(1)(b) that the person's birth is registered in the Territory;

- (c) a limitation under section 26A(a) or (b) to the number of changes of a person's 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.

- (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 must:
  - (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 must show the person's name as changed under this Part.

#### **27A Change of name of serious sex offender**

- (1) This section applies if:
  - (a) a person makes an application under this Part to register a change of name; and
  - (b) the application is made in contravention of section 108(1) of the *Serious Sex Offenders Act 2013*.
- (2) The Commissioner of Correctional Services may direct the Registrar:
  - (a) to refuse to register the change of name; or
  - (b) if the change of name has been registered – to register a further change of name to reverse the change.
- (3) The Registrar must comply with a direction under subsection (2).

#### **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 must 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 or gender

### 28A Definitions

In this Part:

***intersex person*** means a person who is born with physical or biological sex characteristics that do not fit typical classifications of male or female bodies.

***psychologist*** means a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession (other than as a student).

***recognition certificate*** means a certificate issued under any law certifying that a person has a sex or gender that is different to the sex or gender specified for that person in the Register.

### 28B Application to register change of sex or gender

- (1) An adult may apply to the Registrar, in a form approved by the Registrar, to register a change of the adult's sex or gender if:
  - (a) the adult's birth is entered in the Register; and
  - (b) the adult believes the adult's sex or gender to be the sex or gender specified in the application; and
  - (c) the adult:
    - (i) has received appropriate clinical treatment in relation to the adult's sex or gender; or
    - (ii) is an intersex person.
- (2) The parents of a child may apply to the Registrar, in a form approved by the Registrar, to register a change of the child's sex or gender if:
  - (a) the child's birth is entered in the Register; and
  - (b) the applicants believe on reasonable grounds that alteration of the record of the child's sex or gender to the sex or gender specified in the application is in the best interest of the child; and
  - (c) the child:
    - (i) has received appropriate clinical treatment in relation to the child's sex or gender; or

- (ii) is an intersex person.
- (3) An application for registration of a change of a child's sex or gender may be made by one parent if:
- (a) the applicant is the sole parent named in the registration of the child's birth; or
  - (b) the applicant is the only surviving parent of the child.
- (4) 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 sex or gender.
- (5) The sex or gender specified in an application under this section must be of a kind recognised in the Regulations.

### **28C Information that must accompany application**

- (1) An application under section 28B(1) must be accompanied by the following:
- (a) a statement by a medical practitioner or a psychologist certifying that the adult:
    - (i) has received appropriate clinical treatment in relation to the adult's sex or gender; or
    - (ii) is an intersex person;
  - (b) any other documents or information prescribed for this subsection.
- (2) An application under section 28B(2) must be accompanied by the following:
- (a) if section 28CA applies – a statement from the child consenting to the change;
  - (b) a statement by a medical practitioner or a psychologist certifying that the child:
    - (i) has received appropriate clinical treatment in relation to the child's sex or gender; or
    - (ii) is an intersex person;
  - (c) any other documents or information prescribed for this subsection.

**28CA Child's consent to change of sex or gender**

- (1) The Registrar must not register a change of sex or gender of a child after the time when the child is aware of the meaning and implication of the child's sex or gender unless the child consents to the change.
- (2) For this section, in the absence of evidence to the contrary, a child who has attained the age of 14 years is taken to be aware of the meaning and implication of the child's sex or gender.

**28D Registration of change of sex or gender**

On receipt of an application under section 28B, the Registrar must:

- (a) make the requested change to the Register; or
- (b) refuse to make the requested change.

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

- (1) If the change of a person's sex or gender 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 or gender in accordance with the registered change.
- (2) A birth certificate mentioned in subsection (1) must not include a statement that the person has changed sex or gender.

**28F Issuing of old birth certificate**

The child of a person in respect of whom a change of the person's sex or gender is registered under this Part, or a person prescribed for 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 or gender before the person's change of sex or gender, and the Registrar must issue the birth certificate to the child or person.

**28G Use of old birth certificate**

A person commits an offence if:

- (a) the person intentionally produces a birth certificate of a person to another person (the **second person**); and
- (b) the birth certificate shows the sex or gender of a person before a change of that person's sex or gender was registered under section 28D and the person has knowledge of that circumstance; and

- (c) the conduct mentioned in paragraph (a) is likely to result in the second person being deceived by the person in relation to a person's sex or gender and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or 2 years imprisonment.

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

Where a person's change of sex or gender 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 or gender 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 or gender stated in the recognition certificate.

**Part 5 Registration of marriages**

**29 When registration of marriage is required**

If a marriage is solemnised in the Territory, the marriage must 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* (Cth) 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 When 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 must be registered under this Act.
- (2) If a court directs the registration of a death, the death must 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, must, 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.

Maximum penalty: 8 penalty units.

- (1A) An offence against subsection (1) is an offence of strict liability.
- (2) It is a defence to a prosecution for an offence against subsection (1) if the defendant believed on reasonable grounds that:
- (a) another doctor had given the required notice of the death of the person; or
  - (b) a coroner had been notified of the death under the *Coroners Act 1993*.
- (3) If a coroner is notified of a death under the *Coroners Act 1993*, the coroner must 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 must 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 must be endorsed with the words: "Incomplete registration – Cause of death subject to coronial inquiry".

### **36 Notification by funeral director**

- (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, must, 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; and
  - (b) if the death was reported to a coroner – a statement of that fact; and

- (c) the place and manner of disposal; and
- (d) the information required by the Regulations.

Maximum penalty: 8 penalty units.

- (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 must, 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.

Maximum penalty: 8 penalty units.

- (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 must provide to the Registrar, in a form approved by the Registrar:

- (a) the name and last residential address of the deceased; and
- (b) if the death was reported to a coroner – a statement of that fact; and
- (c) the information required by the Regulations.

Maximum penalty: 8 penalty units.

- (4) An offence against subsection (1), (2) or (3) is an offence of strict liability.

### **Division 3 Registration of death**

#### **37 Registration**

- (1) The Registrar registers a death by making an entry about the death in the Register including as the particulars for the death the information that is required to be in a notification of death provided under Division 2.
- (2) If the particulars available to the Registrar are incomplete the Registrar may register a death on the basis of incomplete particulars.

## **Part 7 Register**

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

#### **38 Register**

- (1) The Registrar must maintain a register or registers of registrable events.
- (2) The Register:
  - (a) must 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 must 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; or
  - (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 commits an offence if the person fails to comply with a notice under subsection (2).

Maximum penalty: 8 penalty units.
- (4) An offence against subsection (3) is an offence of strict liability.

- (5) It is a defence to a prosecution for an offence against subsection (3) if the defendant has a reasonable excuse.

### **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 must, 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 must have regard to:
- (a) the nature of the applicant's interest; and
  - (b) the sensitivity of the information; and
  - (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 must, 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 must 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 must have regard to:
  - (a) the relationship (if any) between the applicant and the person to whom the information relates; and
  - (b) the age of the entry; and
  - (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; or
  - (b) medical or epidemiological research; or
  - (c) the identification of persons; or
  - (d) the prevention of fraud.
- (6) For 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; or
  - (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 1994*; or
- (b) a notice, similar to a notice of prohibition mentioned 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 must, 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 must 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 must 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; or
  - (b) a search of the Register; or
  - (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**

A person who is aggrieved by a decision of the Registrar made in the performance or purported performance of functions under this Act may apply to the Civil and Administrative Tribunal for a review of the decision.

**Part 9                      Miscellaneous matters****49                      Misleading information**

- (1) A person commits an offence if:
- (a) the person intentionally gives information to the another person; and
  - (b) the other person is an authorised officer; and
  - (c) the information is misleading and the person has knowledge of that circumstance; and
  - (d) the authorised officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty:        200 penalty units or 2 years imprisonment.

- (2) A person commits an offence if:
- (a) the person intentionally gives a document to another person; and
  - (b) the other person is an authorised officer; and
  - (c) the document contains misleading information and the person has knowledge of that circumstance; and
  - (d) the authorised officer is acting in an official capacity and the person has knowledge of that circumstance.

Maximum penalty:        200 penalty units or 2 years imprisonment.

- (3) Strict liability applies to subsections (1)(b) and (2)(b).
- (4) It is a defence to a prosecution for an offence against subsection (1) or (2) if the defendant, when giving the information or document:
- (a) draws the misleading aspect of the information or document to the authorised officer's attention; and
  - (b) to the extent to which the defendant can reasonably do so – gives the authorised officer the information necessary to remedy the misleading aspect of the information or document.

*Note for subsection (4)*

*The defendant has an evidential burden in relation to the matters mentioned (see section 43BU of the Criminal Code).*



(5) In this section:

***acting in an official capacity***, in relation to an authorised officer, means the officer is exercising powers or performing functions under, or otherwise related to the administration of, this Act.

***authorised officer*** means any of the following:

- (a) the Registrar;
- (b) a Deputy Registrar;
- (c) a delegate of the Registrar;
- (d) a public sector employee assisting the Registrar;
- (e) an agent of the Registrar.

#### **50 Unauthorised access to Register**

A person commits an offence if:

- (a) the person intentionally accesses the Register or information contained in the Register; and
- (b) the person does not have the Registrar's authority to access the Register or information and the person has knowledge of, or is reckless in relation to, that circumstance.

Maximum penalty: 200 penalty units or 2 years imprisonment.

#### **51 Falsification of certificate**

(1) A person commits an offence if:

- (a) the person intentionally affixes an impression of the Registrar's signature or seal to a document; and
- (b) the person knows that the impression is an impression of the Registrar's signature or seal; and
- (c) the person does not have the Registrar's authority to engage in the conduct mentioned in paragraph (a) and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or 2 years imprisonment.

(2) A person commits an offence if:

- (a) the person intentionally creates a certificate or other document; and

- (b) the certificate or other document purports to be issued under this Act and the person has knowledge of that circumstance; and
- (c) the certificate or other document is not issued under this Act and the person has knowledge of that circumstance.

Maximum penalty: 200 penalty units or 2 years imprisonment.

(2A) A person commits an offence if:

- (a) the person intentionally amends or varies a certificate or other document; and
- (b) the certificate or other document is issued under this Act and the person has knowledge of that circumstance; and
- (c) the conduct mentioned in paragraph (a) results in the certificate or other document showing different information to the information that appeared in the certificate or other document when it was issued under this Act and the person has knowledge of that result.

Maximum penalty: 200 penalty units or 2 years imprisonment.

(3) The Registrar may impound:

- (a) a document which the Registrar has reason to believe bears an impression of the Registrar's signature or seal affixed without the Registrar's authority; or
- (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 not been issued under this Act; or
- (ba) 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 amended or varied after the certificate or other document was issued under this Act; 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 1994 not affected**

This act does not affect the operation of the *Adoption of Children Act 1994*.

**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 offences of strict or absolute liability, against the Regulations and the imposition of penalties, not exceeding 8 penalty units, for breaches of the Regulations.

**55 Repeal**

The Ordinances and Acts specified in the Schedule are repealed.

**Part 10 Transitional matters**

**Division 1 Births, Deaths and Marriages Registration Act 1962**

**56 Savings and transitional**

The registers kept under the *Registration of Births, Deaths and Marriages Act 1962*, as in force before the commencement of this Act, form part of the Register maintained under this Act.

**Division 2 Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) Act 2014**

**57 Definitions**

In this Division:

**commencement** means the day on which Part 2 of the *Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) Act 2014* commences.

**58 Review of Registrar's decision made before commencement**

Section 48, as in force immediately before the commencement, continues to apply in relation to a review of a decision of the Registrar if the decision was made before the commencement.

**59 Review of Registrar's decision made after commencement**

Section 48, as in force after the commencement, applies in relation to a review of a decision of the Registrar if:

- (a) an application for the decision was made before commencement; and
- (b) the decision was made after the commencement.

**Schedule Ordinances and Acts repealed**

section 55

|   |               |
|---|---------------|
| <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  
 app = appendix  
 bl = by-law  
 ch = Chapter  
 cl = clause  
 div = Division  
 exp = expires/expired  
 f = forms  
 Gaz = Gazette  
 hdg = heading  
 ins = inserted  
 lt = long title  
 nc = not commenced

od = order  
 om = omitted  
 pt = Part  
 r = regulation/rule  
 rem = remainder  
 renum = renumbered  
 rep = repealed  
 s = section  
 sch = Schedule  
 sdiv = Subdivision  
 SL = Subordinate Legislation  
 sub = substituted

**2****LIST OF LEGISLATION*****Births, Deaths and Marriages Registration Act 1996 (Act No. 26, 1996)***

Assent date 28 June 1996  
 Commenced 1 January 1997 (*Gaz* G49, 4 December 1996, p 5)

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

Assent date 11 April 1997  
 Commenced 1 June 1997 (*Gaz* S17, 30 May 1997)

***Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003 (Act No. 1, 2004)***

Assent date 7 January 2004  
 Commenced 17 March 2004 (*Gaz* G11, 17 March 2004, p 8)

***Statute Law Revision Act 2005 (Act No. 44, 2005)***

Assent date 14 December 2005  
 Commenced 14 December 2005

***Justice Legislation Amendment (Penalties) Act 2010 (Act No. 12, 2010)***

Assent date 20 May 2010  
 Commenced 1 July 2010 (*Gaz* G24, 16 June 2010, p 2)

***Health Practitioner (National Uniform Legislation) Implementation Act 2010 (Act No. 18, 2010)***

Assent date 20 May 2010  
 Commenced 1 July 2010 (s 2)

***Penalties Amendment (Justice and Treasury Legislation) Act 2010 (Act No. 38, 2010)***

Assent date 18 November 2010  
 Commenced 1 February 2011 (*Gaz* S6, 1 February 2011)

***Statute Law Revision Act 2011 (Act No. 30, 2011)***

Assent date 31 August 2011  
 Commenced 21 September 2011 (*Gaz* G38, 21 September 2011, p 5)

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***Serious Sex Offenders Act 2013 (Act No. 9, 2013)***

Assent date 3 May 2013  
 Commenced 1 July 2013 (*Gaz G24*, 12 June 2013, p 2)

***Correctional Services (Related and Consequential Amendments) Act 2014 (Act No. 27, 2014)***

Assent date 4 September 2014  
 Commenced 9 September 2014 (*Gaz S80*, 9 September 2014, p 2)

***Northern Territory Civil and Administrative Tribunal (Conferral of Jurisdiction Amendments) Act 2014 (Act No. 34, 2014)***

Assent date 13 November 2014  
 Commenced 1 January 2015 (*Gaz G51*, 24 December 2014, p 7)

***Births, Deaths and Marriages Registration and Other Legislation Amendment 2018 (Act No. 30, 2018)***

Assent date 5 December 2018  
 Commenced 6 December 2018 (s 2)

***Births, Deaths and Marriages Registration Amendment 2022 (Act No. 9, 2022)***

Assent date 26 May 2022  
 Commenced 31 August 2022 (*Gaz G33*, 17 August 2022, p 1)

### 3 GENERAL AMENDMENTS

General amendments of a formal nature (which are not referred to in the table of amendments to this reprint) are made by the *Interpretation Legislation Amendment Act 2018* (Act No. 22, 2018) to: ss 1, 12, 27A, 34, 42 and 53.

### 4 LIST OF AMENDMENTS

|            |   |
|------------|---|
| pt 1 hdg   | amd No. 30, 2011, s 3   |
| s 3        | amd No. 12, 1997, s 4; No. 30, 2011, s 3; No. 30, 2018, s 4                                       |
| s 4        | amd No. 12, 1997, s 5; No. 44, 2005, s 22; No. 30, 2011, s 3; No. 30, 2018, s 7; No. 9, 2022, s 4 |
| s 4A       | ins No. 9, 2022, s 5  |
| ss 5 – 6   | amd No. 30, 2011, s 3   |
| s 8        | amd No. 30, 2011, s 3   |
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| div 2 hdg  | amd No. 30, 2011, s 3   |
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| div 1 hdg  | amd No. 30, 2011, s 3   |
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| s 24       | amd No. 30, 2011, s 3; No. 9, 2022, s 11  |
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