

NORTHERN TERRITORY OF AUSTRALIA

BIRTHS, DEATHS AND MARRIAGES REGISTRATION AMENDMENT ACT 2022

Act No. 9 of 2022

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NORTHERN TERRITORY OF AUSTRALIA

Act No. 9 of 2022

An Act to amend the *Births, Deaths and Marriages Registration Act 1996*

[Assented to 26 May 2022]
[Introduced 17 March 2022]

The Legislative Assembly of the Northern Territory enacts as follows:

1 Short title

This Act may be cited as the *Births, Deaths and Marriages Registration Amendment Act 2022*.

2 Commencement

- (1) Subject to subsection (2), this Act commences on the day fixed by the Administrator by *Gazette* notice.
- (2) If a provision of this Act does not commence before 13 February 2024, it commences on that day.

3 Act amended

This Act amends the *Births, Deaths and Marriages Registration Act 1996*.

4 Section 4 amended (Definitions)

Section 4, at the end

insert

Note for section 4

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

5 Section 4A inserted

After section 4, in Part 1

insert

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.

6 Section 12 amended (Notification of births)

- (1) Section 12(1), penalty provision

omit

- (2) After section 12(5)

insert

- (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.

7 Section 15 amended (Responsibility to have birth registered)

- (1) Section 15(1)

omit

in appropriate

insert

inappropriate

(2) Section 15(1)

omit

his or her

insert

the parent's

8 Section 16 amended (Obligation to have birth registered)

(1) Section 16(1)

omit

ensure that a birth registration statement is lodged with the Registrar

insert

lodge a birth registration statement with the Registrar

(2) After section 16(1)

insert

(1A) An offence against subsection (1) is an offence of strict liability.

9 Section 17 amended (Registration)

Section 17(1)

omit

the particulars required by the Regulations.

insert

as the particulars for the birth the information that is required to be in a birth registration statement.

10 Section 23 amended (Application to register change of adult's name)

Section 23(a)

omit, insert

(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

11 Section 24 amended (Application to register change of child's name)

(1) Section 24(1)

omit, insert

- (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) Section 24(3)

omit

he or she

insert

the Registrar

12 Section 25A inserted

After section 25

insert

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.

13 Section 26 amended (Registration of change of name)

After section 26(3)

insert

- (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.

14 Sections 26A and 26B inserted

After section 26

insert

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.

15 Section 28G replaced

Section 28G

repeal, insert

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.

16 Section 34 amended (Notification of deaths by doctors)

Section 34(2)

omit, insert

- (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*.

17 Section 36 amended (Notification by funeral director)

After section 36(3)

insert

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

18 Section 37 amended (Registration)

(1) Section 37(1)

omit

the particulars required by the Regulations.

insert

as the particulars for the death the information that is required to be in a notification of death provided under Division 2.

(2) Section 37(3)

omit

19 Section 39 amended (Registrar's powers of inquiry)

Section 39(3)

omit, insert

- (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.

20 Section 49 replaced

Section 49

repeal, insert

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.

21 Section 50 replaced

Section 50

repeal, insert

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.

22 Section 51 amended (Falsification of certificate)

(1) Section 51(1) and (2)

omit, insert

(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.

(2) Section 51(3)(a)

omit

a forged impression of the Registrar's signature or seal

insert

an impression of the Registrar's signature or seal affixed without the Registrar's authority

(3) Section 51(3)(b)

omit

been forged or falsified

insert

not been issued under this Act

(4) After section 51(3)(b)

insert

- (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

23 Section 54 amended (Regulations)

Section 54(2)

omit

regulatory offences

insert

offences of strict or absolute liability

24 Repeal of Act

This Act is repealed on the day after it commences.