



Australian Capital Territory

# **Births, Deaths and Marriages Registration Act 1997**

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## **About this republication**

### **The republished law**

This is a republication of the *Births, Deaths and Marriages Registration Act 1997* effective from 31 July 1999 to 16 November 2000.

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As in force on  
31 July 1999



Australian Capital Territory

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## **Births, Deaths and Marriages Registration Act 1997**

An Act relating to the registration of births, deaths, marriages and changes of name and sex and for related purposes

### **PART 1—PRELIMINARY**

#### **1 Short title**

This Act may be cited as the *Births, Deaths and Marriages Registration Act 1997*.

#### **2 Commencement**

(1) Section 1 and this section commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

#### **3 Repeals**

The Acts specified in the Schedule are repealed.

#### **4 Interpretation**

(1) In this Act, unless the contrary intention appears—

**adult** means a person who—

- (a) has attained the age of 18 years; or
- (b) is or has been married.

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

**birth** includes stillbirth.

**change**, in relation to a person's name, includes an alteration by way of addition, omission or substitution.

**child** means a person other than an adult and includes a stillborn child.

**commencement of this Act** means the commencement of the provisions of this Act, other than sections 1 and 2.

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

**death** does not include a stillbirth.

**determined fee** means the fee—

- (a) determined by the Minister; or
- (b) calculated in accordance with a manner determined by the Minister;

under subsection 67 (1) for the purposes of the provision in which the expression occurs.

**disposal**, in relation to human remains, means—

- (a) cremation; or
- (b) burial, including burial at sea; or
- (c) placing the remains in a mausoleum or other permanent resting place; or
- (d) placing the remains in the custody of an educational or scientific institution for the purpose of medical education or research; or
- (e) removal from the Territory, other than where the remains have been cremated.

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**doctor** means a registered medical practitioner under the *Medical Practitioners Act 1930*.

**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 practically be established by repute or usage—
  - (i) because it is too long; or
  - (ii) because it consists of or includes symbols without phonetic significance in the English language; or
  - (iii) for any other reason; or
- (c) includes or resembles an official title or rank; or
- (d) is misleading because of similarity with the name of a body or organisation; or
- (e) is, in the opinion of the registrar-general, undesirable; or
- (f) is, or is a name of a kind that is, prohibited by the regulations.

**register** means a register maintained under subsection 39 (1) and includes the registers that, by virtue of subsection 39 (5), are incorporated with the register.

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

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

**registrable information** means information that is to be or may be included in the register.

**registrar-general** means the Registrar-General under the *Registrar-General Act 1993*.

**repealed Act** means the *Registration of Births, Deaths and Marriages Act 1963*.

**stillbirth** means the birth of a stillborn child.

**stillborn child** means a child of at least 20 weeks gestation or, if it cannot be established reliably whether the period of gestation is more or less than 20 weeks, with a body mass of no less than 400 grams at birth,

who exhibits no sign of respiration or heart beat, or other sign of life, immediately after birth.

(2) In this Act a reference to the *parents* of a child shall be read as a reference to the parents jointly.

## **PART 2—REGISTRATION OF BIRTHS**

### *Division 1—Notification of births*

#### **5 Notification of births**

(1) 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; or
- (b) in any other case—the doctor or midwife responsible for the professional care of the mother at birth.

(2) Where a child is born in the Territory, the responsible person shall give to the registrar-general written notice of the birth in accordance with this section.

Penalty: 5 penalty units.

(3) A notice under subsection (2) shall include the prescribed particulars and shall be given—

- (a) in the case of a child born alive—within 7 days after the birth; or
- (b) in the case of a stillbirth—within 48 hours after the birth.

(4) Where a stillbirth has occurred, the doctor responsible for the professional care of the mother at the birth or a doctor who examined the body of the stillborn child after the birth shall give to the responsible person, within 48 hours after the birth, a certificate, in a form approved by the registrar-general, certifying the cause of foetal death.

Penalty: 5 penalty units.

(5) It is a defence to a prosecution for a breach of subsection (4) if the defendant satisfies the court that he or she believes on reasonable grounds that another doctor has given the required certificate.

- (6) A notice under subsection (2) shall be accompanied by any relevant certificate given under subsection (4).

### ***Division 2—Registration of births***

#### **6 Interpretation**

In this Division—

***birth registration statement*** means a statement in a form approved by the registrar-general for the purposes of this Division.

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

- (1) If a child is born in the Territory, the birth is to be registered under this Act.
- (2) If a child—
- (a) is born outside the Commonwealth; and
  - (b) is to become a resident of the Territory;

the birth may be registered under this Act.

- (3) If a child is born in an aircraft during a flight to an airport in the Territory, the birth may be registered under this Act.
- (4) The birth of a child who is born outside the Commonwealth may not be registered under this Act if it is registered under a corresponding law.

#### **8 Responsibility to have birth registered**

- (1) The parents of a child are responsible for having the child's birth registered under this Act.
- (2) If a child is a foundling, the person who has custody of the child is responsible for having the child's birth registered under this Act.

#### **9 How to have the birth of a child registered**

- (1) A person has the birth of a child registered under this Act by signing and lodging with the registrar-general a birth registration statement that sets out such particulars as the registrar-general requires for the purpose of registering the birth.
- (2) The registrar-general may accept a birth registration statement that—
- (a) is signed by only 1 of the parents if satisfied that it is not practicable to obtain the signature of the other parent; or

- (b) does not set out the particulars referred to in subsection (1) if satisfied that it is not practicable to obtain the missing particulars;

and, where he or she does so, a person's obligation to have a child registered under this Act shall be deemed to have been discharged.

(3) The registrar-general shall not accept a birth registration statement from a person who is not responsible for having a child's birth registered under this Act unless the registrar-general is satisfied that—

- (a) the person lodging the statement has knowledge of the particulars set out in the statement; and
- (b) neither of the child's parents is able or likely to lodge a birth registration statement.

## **10 Obligation to have birth registered**

(1) A person responsible for having the birth of a child registered shall not fail, without reasonable cause, to ensure that a birth registration statement acceptable to the registrar-general is lodged with the registrar-general within 60 days after the date of the birth.

Penalty: 5 penalty units.

(2) The registrar-general shall not refuse to accept a birth registration statement solely on the ground that it is lodged after the end of the 60 day period.

## **11 Registration**

(1) The registrar-general shall register a birth by making in the register an entry relating to the birth that includes the name of the child and, subject to subsection (2) and section 14, the prescribed particulars.

(2) Where not all the prescribed particulars are available to the registrar-general, he or she may register a birth by including in the entry such particulars as are available to him or her.

## **12 Name of child**

The registrar-general shall assign a name to a 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-general that they are unable to agree on the child's name.

**13 Dispute about child's name**

(1) If there is a dispute between the parents of a child about the child's name, either parent may apply to the Magistrates Court for a resolution of the dispute.

(2) On an application under subsection (1), the Magistrates Court may—

- (a) resolve the dispute about the child's name as the court considers appropriate; and
- (b) order the registrar-general to register the child's name in a form specified in the order.

**14 Registration of parentage details**

On registration of a child's birth, the registrar-general shall not include information about the identity of a child's parent in the register unless—

- (a) the information is contained in a document lodged under section 5 in respect of the child; or
- (b) the parents of the child apply for the inclusion of the information; or
- (c) 1 parent of the child applies for the inclusion of the information and the registrar-general is satisfied that the other parent is dead or cannot join in the application because he or she cannot be found or for any other reason; or
- (d) 1 parent of the child applies for the inclusion of the information and the registrar-general is satisfied that the other parent does not dispute the correctness of the information; or
- (e) the registrar-general is entitled under an Act or a law of a State, the Commonwealth or another Territory to make a presumption as to the identity of a parent of the child; or
- (f) the inclusion of the information is authorised by the regulations.

**15 Jurisdiction of Supreme Court to order registration of birth**

The Supreme Court may, on the application of an interested person or on its own initiative, order—

- (a) the registration of a birth; or
- (b) the inclusion of information relating to a birth or a child's parent in the register.

***Division 3—Alteration of details of birth registration***

**16 Addition of details of parentage after registration of birth**

**(1)** The registrar-general shall include information about a child's parent in the register after registration of the child's birth if—

- (a) the parents of the child apply for the inclusion of the information; or
- (b) 1 parent of the child applies for the inclusion of the information and the registrar-general is satisfied that the other parent is dead or cannot join in the application because he or she cannot be found or for any other reason; or
- (c) 1 parent of the child applies for the inclusion of the information and the registrar-general is satisfied that the other parent does not dispute the correctness of the information; or
- (d) the Supreme Court orders the inclusion of the information; or
- (e) a court makes a finding that a particular person is a parent of the child; or
- (f) the registrar-general is entitled under an Act or a law of a State, the Commonwealth or another Territory to make a presumption as to the identity of a parent of the child; or
- (g) the inclusion of the information is authorised by the regulations.

**(2)** An application to the registrar-general for the addition of registrable information in the register—

- (a) shall be made in writing;
- (b) shall include the information required by the registrar-general; and
- (c) shall, if the registrar-general requires verification of the information contained in the application, be accompanied by a statutory declaration verifying the information and such other evidence as the registrar-general may require.

**(3)** On application by an interested person, the Supreme Court may order that the register be amended—

- (a) by omitting or adding specified information concerning a child's parentage; or
- (b) by adding information that relates to the marriage of the child's parents.

**(4)** In this section—

**information** does not include information relating to a change of sex by a parent of the child.

### **PART 3—CHANGE OF NAME**

#### **17 Change of name by registration**

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

#### **18 Application to register change of adult's name**

- (1) An adult—
- (a) who is domiciled or resident in the Territory; or
  - (b) whose birth is registered in the Territory;

may apply to the registrar-general, in a form approved by the registrar-general, for registration of a change of the person's name.

- (2) An application under this section shall be accompanied by the determined fee.

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

- (1) The parents of a child—
- (a) who is domiciled or resident in the Territory; or
  - (b) whose birth is registered in the Territory;

may apply to the registrar-general, in a form approved by the registrar-general, for registration of a change of the child's name.

- (2) An application for registration of a change in a child's name may be made by 1 parent if—
- (a) the applicant is the sole parent named in the register or in a register kept under a corresponding law or the law of any place outside Australia; or
  - (b) there is no other surviving parent of the child; or
  - (c) the Supreme Court has approved under subsection (3) the proposed change of name.

- (3) The Supreme 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.

(4) The Supreme Court shall not dispose of an application under subsection (3) unless satisfied that the registrar-general has been notified of the application.

(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.

(6) An application under subsection (1), (2) or (5) shall be accompanied by the determined fee.

## **20 Registration of change of name**

(1) Subject to this section, the registrar-general shall register a change of name.

(2) The registrar-general shall not register a change of name unless he or she is satisfied—

- (a) of the identity and age of the person whose name is to be changed;
- (b) that the change is not sought for a fraudulent or other improper purpose; and
- (c) where the application is under section 19 and relates to a child who has attained the age of 14 years—that the child consents to the change of name or is unable to understand the meaning or implications of the change of name.

(3) The registrar-general may require the applicant to provide such evidence as is necessary to satisfy the registrar-general—

- (a) that any particular or information set out in the application is correct; or
- (b) of any matter referred to in subsection (2).

(4) The registrar-general shall register a change of name if satisfied that the name of a person whose birth is registered in the Territory has been changed under a law of the Commonwealth or a corresponding law or by order of any court in Australia.

(5) Subject to subsection (4) and 19 (3), the registrar-general shall not register a change of name if, as a result of the change, the name would become a prohibited name.

## **21 Entries to be made in the register**

(1) If the applicant for registration of a change of name asks the registrar-general in writing to arrange for noting the change of name in the particulars of

the person's birth, and the person's birth is registered in the register or under a corresponding law, the registrar-general shall, on payment of the determined fee—

- (a) if the birth is registered in the register—alter the register by changing the person's name in the entry relating to the birth and including in the register the particulars prescribed for the purposes of this paragraph; or
  - (b) if the birth is registered under a corresponding law—notify the relevant registering authority of the change of name.
- (2) Where a change of name is noted in the register under subsection (1), any birth certificate issued by the registrar-general for the person shall show the person's name as changed.

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

This Part does not prevent a change of name by repute or usage.

**PART 4—CHANGE OF SEX**

**23 Interpretation**

In this Part—

*birth certificate* means a certificate issued under subsection 27 (2) or section 45 certifying particulars contained in an entry in the register of a person's birth.

*doctor* includes a medical practitioner registered under a law of a State or another Territory relating to the registration of medical practitioners.

*sexual reassignment surgery* means a surgical procedure involving the alteration of a person's reproductive organs that is 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 an ambiguity relating to the sex of the person.

*transsexual person* means a person whose record of registration of birth has been altered under section 26.

**24 Application to alter register to record change of sex**

- (1) A person who has attained the age of 18 years—

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

may apply to the registrar-general, in a form approved by the registrar-general, for alteration of the record of the person's sex in the registration of the person's birth.

- (2) Subject to subsection (3), the parents or guardian of a child—
- (a) whose birth is registered in the Territory; and
  - (b) who has undergone sexual reassignment surgery;

may apply to the registrar-general, in a form approved by the registrar-general, for alteration of the record of the child's sex in the registration of the child's birth.

- (3) An application for alteration of the record of a child's sex in the registration of the child's birth may be made by 1 parent if—
- (a) the applicant is the sole parent named in the register; or
  - (b) there is no other surviving parent of the child.
- (4) An application under this section shall—
- (a) set out, or be accompanied by, the prescribed particulars; and
  - (b) be accompanied by the determined fee.

**25 Evidence in support of application**

An application under section 24 shall be accompanied by—

- (a) a statutory declaration by each of 2 doctors verifying that the person in respect of whom the application is made has undergone sexual reassignment surgery; and
- (b) such other documents and information as are prescribed.

**26 Alteration of register**

On receipt of an application under section 24 the registrar-general shall—

- (a) make the required alteration to the register; or
- (b) refuse to make the required alteration.

**27 Issue of birth certificates**

(1) Subject to subsection (2), a birth certificate issued by the registrar-general in respect of a transsexual person shall show the person's sex in accordance with the record as altered.

(2) The registrar-general may issue a birth certificate showing a transsexual person's sex before the alteration of the record if application for such certificate is made—

- (a) by the person; or
- (b) by a child of the person; or
- (c) by a person specified in the regulations.

(3) A birth certificate referred to in this section shall not include any word or statement to the effect that the person to whom the certificate relates has changed sex.

**28 Use of old birth certificate**

(1) A person shall not, with intention to deceive, produce to another person—

- (a) a birth certificate; or
- (b) a copy of such a certificate; or
- (c) an extract from such a certificate;

issued in respect of the birth of a transsexual person that shows his or her sex before the record was altered.

Penalty: 50 penalty units or imprisonment for 6 months, or both.

(2) It is not a defence to a prosecution for a breach of subsection (1) that the document in respect of which the prosecution is brought refers to the defendant.

**29 Effect of certificates issued in respect of transsexual persons**

(1) A birth certificate issued in respect of a transsexual person is, for the purposes of any law of the Territory, conclusive evidence of the person's sex as stated in the certificate.

(2) An interstate recognition certificate is, for the purposes of any law of the Territory, evidence that the person referred to therein is of the sex as stated in the certificate.

**(3)** In this section—

***interstate recognition certificate*** means a certificate issued under the law of a State or another Territory in respect of a person who has undergone sexual reassignment surgery, being a law that is prescribed for the purposes of this section.

## **PART 5—REGISTRATION OF MARRIAGES**

### **30 Cases in which registration of marriages is required**

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

### **31 How to have a marriage registered**

A person may have a marriage registered by lodging with the registrar-general a certificate of marriage under the *Marriage Act 1961* of the Commonwealth or, if the marriage was solemnised before the commencement of that Act, such evidence of the marriage as the registrar-general may require.

### **32 Manner of registration of marriage**

The registrar-general shall register a marriage by—

- (a) including the marriage certificate as part of the register; or
- (b) including in the register such particulars of the marriage as are prescribed.

## **PART 6—REGISTRATION OF DEATHS**

### ***Division 1—Cases where registration of deaths is required or authorised***

### **33 When registration to occur**

- (1) This section has effect subject to section 34.
- (2) If a person dies in the Territory, the death is to be registered under this Act.
- (3) If a person dies in an aircraft during a flight to an airport in the Territory, the death may be registered under this Act.
- (4) If—
  - (a) a person who is domiciled or ordinarily resident in the Territory dies outside the Commonwealth; or

- (b) a person dies outside the Commonwealth leaving property in the Territory;

the death may be registered under this Act.

(5) The registrar-general is not required to register a death under subsection (3) or (4) if the death is registered under a corresponding law.

(6) If a child is stillborn, the child's death is not to be registered under this Part.

### **34 Circumstances in which deaths are not to be registered**

(1) Subject to subsection (2), the registrar-general shall not register a death unless he or she has been given—

- (a) a notice under section 35; or
- (b) a notice under section 56 of the *Coroners Act 1997*; or
- (c) a document issued, made or given under the law of a State, the Commonwealth, another Territory or any other place, being a document that the registrar-general is satisfied is equivalent to a document referred to in paragraph (a) or (b).

(2) The registrar-general shall register a death if he or she is satisfied—

- (a) that a court of the Territory, a State, the Commonwealth or another Territory has found that a person whose death is not registered in the register died in the Territory; or
- (b) that, having regard to the circumstances of the case, it is proper that the death be registered.

### ***Division 2—Notification and registration of deaths***

### **35 Notification of deaths by doctors**

(1) A doctor who was responsible for a deceased 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, notify the registrar-general of the death and of the cause of death in a form approved by the registrar-general.

Penalty: 5 penalty units.

(2) It is a defence to a prosecution for breach of subsection (1) if the defendant satisfies the court that he or she believes on reasonable grounds that—

- (a) another doctor has given the required notice; or

(b) the death had been reported to a coroner under the *Coroners Act 1956*.

(3) In this section, a reference to a *death* shall be read as including a reference to a death that occurred before the commencement of this Act in respect of which no certificate under section 34 of the repealed Act had been signed before that commencement.

### **36 Certificates of deaths subject to inquests**

(1) Where a death that is subject to a coronial inquest has been registered before a finding about the cause of death has been made, a death certificate issued before the coronial inquest is completed shall be endorsed in such a manner as the registrar-general considers appropriate to indicate that fact.

(2) In this section—

*death* includes a death that occurred before the commencement of this Act.

### **37 Notification by funeral directors etc**

(1) A funeral director or other person who arranges for the disposal of human remains shall, within 7 days after disposal of the remains, give to the registrar-general a written statement containing such of the following information as is known to him or her or can with reasonable diligence be ascertained:

- (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;
- (d) any other information required by the regulations.

Penalty:

- (a) if the offender is a natural person—5 penalty units;
- (b) if the offender is a body corporate—25 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 shall, within 28 days after the remains are disposed of outside the Territory, give to the registrar-general a written statement of where and how the remains were disposed of, and of any other particulars required by the regulations.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 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 shall give to the registrar-general a written statement containing such of the following information as is known to him or her or can with reasonable diligence be ascertained:

- (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) any other information required by the regulations.

Penalty:

- (a) if the offender is a natural person—10 penalty units;
- (b) if the offender is a body corporate—50 penalty units.

(4) In this section—

*human remains* includes the remains of a stillborn child.

### **38 Manner of registration**

(1) Subject to subsection (2), the registrar-general shall register a death by making in the register an entry about the death that includes the prescribed particulars.

(2) If not all the particulars referred to in subsection (1) are available to the registrar-general, he or she may register a death on the basis of such particulars as are available to him or her.

## **PART 7—THE REGISTER AND OTHER RECORDS**

### *Division 1—Keeping the register*

### **39 The register**

(1) The registrar-general shall maintain a register or registers of registrable events.

(2) The register—

- (a) shall contain the particulars of each registrable event required by or under this or any other Act to be included in the register; and
- (b) may contain such further information as is authorised by this Act or the regulations.

(3) The register may be wholly or partly in the form of a computer data base, in documentary form or in such other form as the registrar-general considers appropriate.

(4) The registrar-general shall maintain the indexes to the register that are necessary to make the information in the register reasonably accessible.

(5) The registers under the repealed Act are incorporated with, and form part of, the register.

#### **40 Correction of register**

(1) The registrar-general may correct the register—

- (a) to reflect a finding made on an 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-general of the registrable event.

(2) The registrar-general shall, if satisfied that, in view of a finding of a court, an entry in the register is incorrect, correct the register in accordance with the finding.

(3) A correction of the register is effected by adding or cancelling an entry or by adding, altering or deleting a particular contained in an entry.

(4) In this section—

*court* means a court of the Territory, the Commonwealth, a State or another Territory.

### ***Division 2—Inquiries***

#### **41 Registrar-general's powers of inquiry**

(1) The registrar-general may conduct such inquiries as he or she deems fit 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-general may, by notice given to a person who, in the registrar-general's opinion, may be able to provide information relevant to an inquiry under this section, require the person to answer a specified question or to provide other information within a time and in a way specified in the notice.

(3) A person who fails, without reasonable cause, to comply with a notice under subsection (2) is guilty of an offence.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

***Division 3—Access to, and certification of, register entries***

**42 Access to register**

(1) A person may, on payment of the determined fee, apply to the registrar-general for—

- (a) access to the register; or
- (b) the provision from the register of information specified in the application.

(2) The registrar-general may, if satisfied that—

- (a) the applicant has an adequate reason for wanting access or the information; and
- (b) the policies set out in the statement under section 46 are satisfied;

allow to the applicant access to the register or provide the applicant with such of the required information as is available, as the case requires, subject to—

- (c) such conditions as are specified in the statement under section 46; and
- (d) such further conditions as may be reasonably required in order to protect the privacy of any person to whom an entry in the register relates.

(3) In deciding, for the purposes of paragraph (2) (a), whether an applicant has an adequate reason, the registrar-general shall have regard to—

- (a) the nature of the applicant's interest; and
- (b) the sensitivity of the information to be accessed or provided; and
- (c) the use to be made of that information; and
- (d) any other relevant factor.

(4) In this section, a reference to ***information*** shall be read as not including such information as may be applied for under section 43.

#### **43 Search of register**

(1) A person may, on payment of the determined fee, apply to the registrar-general for a search of the register for an entry about a particular registrable event.

(2) The registrar-general may, if satisfied that—

- (a) the applicant has an adequate reason for seeking the information; and
- (b) the policies and any conditions set out in the statement under section 46 are satisfied;

search the register for the entry.

(3) In deciding whether an applicant has an adequate reason for wanting information about a particular registrable event, the registrar-general shall have regard to the matters set out in paragraphs 42 (3) (a), (b), (c) and (d) and 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) any other relevant factor.

#### **44 Protection of privacy**

In providing information extracted from the register, the registrar-general shall, as far as practicable, protect a person to whom the entry in the register relates from unreasonable intrusion into his or her privacy.

#### **45 Issue of certificates**

(1) On completing a search of the register under subsection 43 (2), the registrar-general shall issue a certificate—

- (a) certifying such particulars contained in an entry as, having regard to subsection (2) and section 44, may be provided; or
- (b) certifying that no entry was located in the register about the relevant registrable event.

(2) For the purposes of paragraph (1) (a), an entry in the register that includes—

- (a) the word ‘illegitimate’; or
- (b) any other word or expression indicating that a child was born outside marriage;

shall be taken to not include that word or expression.

**46 Access policies**

- (1) The registrar-general shall maintain a written statement of the policies on which, and of any conditions subject to which—
- (a) access to the register is to be given or denied under section 42; or
  - (b) information from the register is to be provided or refused under section 42 or 43.
- (2) The registrar-general shall give a copy of a statement under subsection (1) to a person who requests it—
- (a) in person or by telephone during normal business hours; or
  - (b) by mail or electronic means.

***Division 4—Additional information and services***

**47 Registrar-general may collect other information**

- (1) The registrar-general may establish and maintain records of information, other than registrable information, relating to registrable events.
- (2) Records maintained under this section shall be kept separately from the register.
- (3) The registrar-general may include information in the records maintained under this section at the request of a person interested in the registrable event to which the information relates or on the registrar-general's own initiative.

**48 Additional services**

- (1) The registrar-general may enter into an agreement or arrangement with a person for the provision of services in connection with the discharge of a function under this Act.
- (2) The services that may be provided under subsection (1) include, but are not limited to, the provision of—
- (a) information in the form of a decorative certificate or other document; or
  - (b) information from records maintained under section 47; or
  - (c) information, whether from the register or from records maintained under section 47, prepared in a form that facilitates historical or genealogical research.

- (3) The registrar-general may charge, for the provision of a service under this section, such fee as is agreed upon between him or her and the recipient of the service.
- (4) A fee under subsection (3) is not required to bear any relationship to—
- (a) the cost of providing the relevant service; or
  - (b) any determined fee.
- (5) An agreement or arrangement under subsection (1) shall be taken, by virtue of this subsection, to include provisions to the effect that—
- (a) the registrar-general shall not provide any service unless satisfied that the person to whom it is to be provided has an adequate reason for wanting it; and
  - (b) for the purpose of deciding whether a reason is adequate for the purposes of paragraph (a), the registrar-general is to have regard to the matters set out in paragraphs 42 (3) (a), (b), (c) and (d); and
  - (c) section 44 is to apply to the provision of a service that relates to the records maintained under section 47.

### ***Division 5—Offences***

#### **49 False representations**

A person shall not, in an application or document under this Act, knowingly make a representation that is false or misleading in a material particular.

Penalty:

- (a) if the offender is a natural person—50 penalty units;
- (b) if the offender is a body corporate—250 penalty units.

#### **50 Unauthorised access to, or interference with, register**

A person shall not, without the authority of the registrar-general or other lawful authority—

- (a) obtain access to the register or to records maintained under section 47, or to information contained in the register or those records;
- (b) make, alter or delete an entry in the register or those records; or
- (c) interfere with the register or those records in any other way.

Penalty:

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

**51 Falsification of certificates**

**(1)** A person shall not forge the registrar-general's signature or seal on a document or an instrument that purports to have been made or issued under, or for the purposes of, this Act or the repealed Act.

Penalty:

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

**(2)** A person shall not forge or falsify a certificate or other document or instrument under this Act or the repealed Act.

Penalty:

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

**(3)** The registrar-general may confiscate—

- (a) a document or instrument that the registrar-general believes on reasonable grounds to bear a forged impression of the registrar-general's signature or seal, being a document or instrument that purports to have been made for the purposes of this Act or the repealed Act; or
- (b) a certificate or other document or instrument purporting to be under this Act or the repealed Act that the registrar-general believes on reasonable grounds to be forged or falsified; or
- (c) a certificate under this Act or the repealed 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.

**(4)** Where the registrar-general believes on reasonable grounds that a person has in his or her possession a certificate or other document referred to in subsection (3), the registrar-general may—

- (a) require the person to surrender the certificate or document immediately to the registrar-general; or

- (b) by notice in writing sent to the person, require him or her to surrender the certificate or document to the registrar-general within 14 days of the date of the notice.

(5) A person who, without reasonable excuse, fails to comply with a requirement or a notice under subsection (4) is guilty of an offence.

Penalty:

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

## **52 Confiscation of erroneous or false documents**

(1) The registrar-general may confiscate a certificate or other document issued under this Act or the repealed Act in error or as a result of fraud.

(2) Where the registrar-general believes on reasonable grounds that a certificate or other document issued under this Act or the repealed Act was issued in error or as a result of fraud, the registrar-general may—

- (a) require the person who appears to have possession of the certificate or document to surrender it immediately to the registrar-general; or
- (b) by notice in writing sent to the person who appears to have possession of the certificate or document, require him or her to surrender it to the registrar-general within 14 days of the date of the notice.

(3) A person who, without reasonable excuse, fails to comply with a requirement or a notice under subsection (2) is guilty of an offence.

Penalty:

- (a) if the offender is a natural person—50 penalty units or imprisonment for 6 months, or both;
- (b) if the offender is a body corporate—250 penalty units.

## **PART 8—ADMINISTRATIVE REVIEW**

### **53 Review of decisions**

(1) Application may be made to the Administrative Appeals Tribunal for review of a decision of the registrar-general—

- (a) assigning to a child a name under paragraph 12 (a); or
- (b) refusing to register a change of name under subsection 20 (2); or
- (c) refusing to register a change of name under subsection 20 (5); or

- (d) refusing to alter the register to record a change of sex under paragraph 26 (b); or
- (e) refusing to refund or remit the payment of a fee or part of a fee under section 68.

(2) Where a decision referred to in subsection (1) is made, the registrar-general shall give notice in writing of the decision to the person affected by the decision.

(3) A notice under subsection (2) shall be in accordance with the requirements of the code of practice in force under subsection 25B (1) of the *Administrative Appeals Tribunal Act 1989*.

## **PART 9—TRANSITIONAL PROVISIONS**

### ***Division 1—Preliminary***

#### **54 Interpretation**

In this Part—

*unregistered*, in relation to a registrable event that occurred before the commencement of this Act, means not registered under the repealed Act.

#### **55 Application of Act to unregistered events**

Subject to this Act, this Act applies in respect of a registrable event that is unregistered in like manner as it applies in respect of a registrable event that occurs after the commencement of this Act.

### ***Division 2—Births***

#### **56 Notifications of births**

A notice received by the registrar-general under section 12 or 14 of the repealed Act in respect of an unregistered birth shall be deemed to be a notice under section 5.

#### **57 Notification of registrable particulars**

A notice received by the registrar-general under section 13 of the repealed Act in respect of an unregistered birth shall be deemed to be a birth registration statement.

**58 Medical certificates of causes of stillbirths**

For the purposes of the application of section 5 in respect of an unregistered stillbirth, a medical certificate that complies with section 24 of the repealed Act and had been prepared before the commencement of this Act shall be deemed to be a certificate under subsection 5 (4).

*Division 3—Changes of name*

**59 Applications**

- (1) An application lodged under section 20 of the repealed Act and not finally disposed of before the commencement of this Act shall be dealt with as if it were an application under section 19.
- (2) An application lodged under section 21 of the repealed Act and not finally disposed of before the commencement of this Act shall be dealt with as if it were an application under section 18.
- (3) A request for registration of a change of name made under section 22 of the repealed Act before the commencement of this Act and not dealt with before that commencement shall be dealt with under section 20.

**60 Orders of Magistrates Court**

The registrar-general shall give effect to an order made by the Magistrates Court after the commencement of this Act in respect of an application to that court made under section 20A of the repealed Act before that commencement as if this Act had not been enacted.

*Division 4—Deaths*

**61 Notifications of deaths by doctors**

A medical certificate under section 34 of the repealed Act that was signed before the commencement of this Act and delivered to the registrar-general after that commencement shall be deemed to be a notification under section 35.

**62 Notifications by coroners**

On the commencement of this Act subsection 29 (2) and sections 30 and 31 of the repealed Act cease to apply in relation to an unregistered death.

**63 Notifications of disposal of remains**

Section 37 applies in respect of—

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- (a) the disposal before the commencement of this Act of the body of a stillborn child where subsection 25 (3) of the repealed Act had not been complied with before that commencement; and
- (b) the burial of a body before the commencement of this Act where section 37 of the repealed Act had not been complied with before that commencement; and
- (c) the removal of a body from the Territory before the commencement of this Act where subsection 39 (3) of the repealed Act had not been complied with before that commencement.

***Division 5—Offences***

**64 Avoidance of double jeopardy**

(1) Where an act or omission of a person that is an offence against this Act is also an offence against the repealed Act, the person may be prosecuted in respect of either offence, but is not liable to a greater penalty than that provided for the offence under the repealed Act.

(2) Nothing in this section shall render a person liable to be convicted twice in respect of the same act or omission.

**PART 10—MISCELLANEOUS**

**65 Certificate evidence**

Subject to section 29, a certificate or other document that purports to state information obtained by the registrar-general under this Act, the regulations or the repealed Act and purports—

- (a) to be signed and sealed by the registrar-general; or
- (b) to have affixed to it, or be otherwise authenticated by, a facsimile of the registrar-general's signature and seal produced by a stamp, machine imprint or any other method authorised by the regulations;

is evidence of the matters stated in it.

**66 Arrangements with States and other Territories**

(1) 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-general of powers and functions of the registering authority under the corresponding law; or

- (b) the exercise by the registering authority under the corresponding law of powers and functions of the registrar-general under this Act; or
  - (c) a matter referred to in subsection (3).
- (2) Where an arrangement is in force under this section—
- (a) the registrar-general may exercise, to the extent authorised by the arrangement, but subject to any 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 any conditions of the arrangement, the powers and functions of the registrar-general under this Act.
- (3) An arrangement under this section may—
- (a) provide for the establishment of a data base in which information is recorded for the benefit of all the participants in the arrangement; or
  - (b) provide for access to information contained in the data base; or
  - (c) provide for payments by or to participants in the arrangement for services provided under the arrangement.

#### **67 Power of Minister to determine fees**

- (1) The Minister may, by notice in writing published in the *Gazette*, determine fees, or a manner for calculating fees, for the purposes of this Act.
- (2) An agreement or arrangement under subsection 48 (1) may deal with the amount or calculation of fees to be paid for the provision of a service to which the agreement or arrangement relates and, where it so deals, the fees under subsection (1) are not payable in relation to that service.

#### **68 Power to remit fees**

The registrar-general may, if satisfied that it is appropriate to do so, refund, or remit the payment of, any fee or part of a fee.

#### **69 Regulations**

- (1) The Executive may make regulations for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may prescribe penalties not exceeding—
- (a) if the offender is a natural person—10 penalty units; or
  - (b) if the offender is a body corporate—50 penalty units;

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for offences against the regulations.

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**SCHEDULE**

(See s 3)

**ACTS REPEALED**

*Registration of Births, Deaths and Marriages Act 1963*

*Registration of Births, Deaths and Marriages Act 1975*

*Registration of Births, Deaths and Marriages (Amendment) Act 1977*

*Registration of Births, Deaths and Marriages (Amendment) Act (No. 2) 1977*

*Registration of Births, Deaths and Marriages (Amendment) Act 1979*

*Registration of Births, Deaths and Marriages (Amendment) Act 1980*

*Registration of Births, Deaths and Marriages (Amendment) Act (No. 2) 1980*

*Registration of Births, Deaths and Marriages (Amendment) Act 1981*

*Registration of Births, Deaths and Marriages (Amendment) Act 1982*

*Registration of Births, Deaths and Marriages (Amendment) Act (No. 2) 1982*

*Registration of Births, Deaths and Marriages (Amendment) Act 1983*

*Registration of Births, Deaths and Marriages (Amendment) Act 1986*

*Registration of Births, Deaths and Marriages (Amendment) Act 1987*

*Registration of Births, Deaths and Marriages (Amendment) Act 1988*

*Registration of Births, Deaths and Marriages (Amendment) Act 1989*

*Registration of Births, Deaths and Marriages (Amendment) Act 1991*

## *Births, Deaths and Marriages Registration Act 1997*

### ENDNOTES

#### 1 About this republication

This is a republication of the *Births, Deaths and Marriages Registration Act 1997* as in force on 31 July 1999. It includes all amendments made to the Act up to Act 1998 No 12.

Amending laws are annotated in the table of legislation and table of amendments.

The Parliamentary Counsel's Office currently prepares 2 kinds of republications of ACT laws: authorised printed republications to which the *Legislation (Republication) Act 1996* applies and unauthorised electronic republications. The status of this republication appears on the cover.

Section 13 of the *Legislation (Republication) Act 1996* authorises the Parliamentary Counsel, in preparing a law for republication, to make textual amendments of a formal nature which the Parliamentary Counsel considers desirable in accordance with current legislative drafting practice. The amendments do not effect a substantive change in the law.

In preparing this republication, amendments have been made under section 13.

Not all amendments made under section 13 are annotated in the table of amendments. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

#### 2 Abbreviation key

##### Key to abbreviations in tables

am = amended	pres = present
amdt = amendment	prev = previous
ch = chapter	(prev...) = previously
cl = clause	prov = provision
def = definition	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
ins = inserted/added	R[X] = Republication No
LR = Legislation (Republication) Act 1996	s = section/subsection
mod = modified	sch = schedule
No = number	sdiv = subdivision
notfd = notified	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	sp = spent
orig = original	* = SL unless otherwise stated
p = page	† = Act or Ordinance unless otherwise stated
par = paragraph	

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**3 Table of legislation**

Act†	Year and number†	Gazette notification	Commencement	Transitional provisions
<i>Births, Deaths and Marriages Registration Act 1997</i>	1997 No 112	24 Dec 1997	ss 1 and 2: 24 Dec 1997 remainder: 24 June 1998	
<i>Births, Deaths and Marriages Registration (Amendment) Act 1998</i>	1998 No 12	25 June 1998	ss 1 and 2: 25 June 1998 remainder: 24 June 1998 (see s 2 (2))	—

**4 Table of amendments**

Provision	How affected†
ss 18, 19 .....	am 1998 No 12
s 21 .....	am 1998 No 12
s 24 .....	am 1998 No 12

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