

1991

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES (AMENDMENT)

BILL 1991

EXPLANATORY MEMORANDUM

Circulated by Authority of the Attorney-General

Terence Connolly MLA

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES (AMENDMENT) BILL
1991

The Registration of Births, Deaths and Marriages Act 1963 (the Principal Act) provides for the reporting and recording of births, deaths, marriages. It deals with changes of name, the keeping of parentage and other details and the provision of certificates. It also places obligations and restrictions on medical practitioners as to when they must or must not sign certificates of cause of death and when events must be reported to other parties such as the Registrar or the Coroner.

One set of circumstances in which a medical practitioner must report an event to a third party is included in subsection 34(5). That provision details the circumstances in which a medical practitioner who forwards a certificate in relation to a death to the Registrar must also report the death to the Coroner. The subsection mirrors a provision in the Coroners Act 1956 (subsection 11(1)) which prescribes the circumstances in which the Coroner must hold an inquest into the manner and cause of a person's death.

The Coroners Act 1956 was amended in June 1990 (by Ordinance No.7 of 1990) shortly before responsibility for the Act was transferred to the Territory, as a result of a review of the operation of that Act by the Commonwealth Attorney General's Department. Subsection 11(1) was amended to reflect the impact of medical procedures now in use and to update the reference to a lock-up and to a hospital for the insane.

The Registration of Births, Deaths and Marriages (Amendment) Bill 1991 (the Bill) amends the Principal Act to ensure consistency with the Coroners Act 1956 as amended by Ordinance No.7 of 1990. It is intended that Ordinance No.7 of 1990 and the Bill will commence operation on a common date.

The Bill will have no effect on income or expenditure.

Details of the Bill are included in the Attachment.

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Clause 1 refers to the short title and provides that the Bill may be cited as the Registration of Births, Deaths and Marriages (Amendment) Bill 1991.

Clause 2 deals with commencement and provides that the Bill will commence on a day fixed by the Minister by notice in the *Gazette*.

Clause 3 defines the Principal Act to be the Registration of Births, Deaths and Marriages Act 1963.

Clause 4 amends section 34 of the Principal Act which prescribes the circumstances in which a medical practitioner must notify the Coroner of a death.

Paragraph 4(a) omits paragraph (5)(e) of the Act and substitutes a new paragraph which reflects the impact of modern technical procedures now performed in medical, surgical and dental operations or procedures, particularly in relation to the administration or non-administration of anaesthetic.

Paragraph 4(b) inserts the words "or her" after "his". This amendment takes into account modern drafting language.

Paragraph 4(c) omits paragraph (5)(h) and substitutes a new subsection which updates the references to "lock-up" and "hospital for the insane". It refers instead to "any death occurring in a prison, remand centre within the meaning of the Remand Centres Act 1976 or a lock-up, while a person is the subject of emergency procedures, or while subject to a treatment order, under the Mental Health Act 1983.

Paragraph 4(d) inserts a new subsection (5A). The proposed subsection provides that a reference to an operation of a medical, surgical, dental or like nature or an invasive medical or diagnostic procedure in paragraph (5)(e), shall be read as a reference to such an operation or procedure within the meaning of paragraph 11(1)(e) of the Coroners Act 1956, as construed in accordance with regulations (if any) made for the purposes of subsection

11(1A) of the Coroners Act 1956. This provision was necessary because of the amendment to the Coroners Act 1956 which allows the regulations to provide that a specified operation or procedure is or is not an operation of a medical, surgical, dental or like nature or diagnostic procedure for the purposes of paragraph 11(1)(e) of that Act.