



Australian Capital Territory

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

**A1997-112**

**Republication No 20 (RI)**

**Effective: 7 November 2013 – 27 March 2014**

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in relation to [A2013-39](#)

Last amendment made by [A2013-39](#) (never effective)

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Births, Deaths and Marriages Registration Act 1997* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 7 November 2013. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 7 November 2013.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$140 for an individual and \$700 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Births, Deaths and Marriages Registration Act 1997

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Australian Capital Territory

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

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

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Births, Deaths and Marriages Registration Act 1997*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition ‘*sexual reassignment surgery*—see section 23.’ means that the term ‘sexual reassignment surgery’ is defined in that section.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

### 3 Notes

A note included in this Act is explanatory and is not part of this Act.

*Note* See the [Legislation Act](#), s 127 (1), (4) and (5) for the legal status of notes.



#### 4 **Meaning of *adult* and *child***

In this Act:

***adult*** means a person who—

- (a) is at least 18 years old; or
- (b) is under 18 years old, but is or has been married or in a civil union.

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

#### 4A **Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1* ***Criminal Code***

The [Criminal Code](#), ch 2 applies to all offences against this Act (see Code, pt 2.1).

The chapter sets out the general principles of criminal responsibility (including burdens of proof and general defences), and defines terms used for offences to which the Code applies (eg ***conduct***, ***intention***, ***recklessness*** and ***strict liability***).

*Note 2* ***Penalty units***

The [Legislation Act](#), s 133 deals with the meaning of offence penalties that are expressed in penalty units.

## Part 2 Registration of births

### Division 2.1 Notification of births

#### 5 Notification of births

- (1) If a child is born in the ACT, the responsible person must give the registrar-general written notice of the birth in accordance with subsection (2).

Maximum penalty: 5 penalty units.

- (2) The notice must—
- (a) include the particulars prescribed by regulation and be accompanied by any certificate required to be given to or by the relevant doctor under subsection (4); and
  - (b) be given to the registrar-general within—
    - (i) for a child born alive—7 days after the day of the birth; or
    - (ii) for a stillbirth—48 hours after the birth.

- (3) In subsection (1):

*responsible person* means—

- (a) if the child was born in a hospital or brought to a hospital within 24 hours after the 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 the birth.
- (4) If the birth is a stillbirth, a relevant doctor must, within 48 hours after the birth, give a certificate of the cause of foetal death to—
- (a) if the stillbirth was in a hospital or the body of the stillborn child was brought to a hospital within 24 hours after the 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 the birth.

Maximum penalty: 5 penalty units.

*Note* If a form is approved under s 69 for a certificate, the form must be used.

- (5) In subsection (4):

*relevant doctor* means—

- (a) the doctor responsible for the professional care of the mother at the birth; or
- (b) a doctor who examined the body of the stillborn child after the birth.
- (6) An offence against this section is a strict liability offence.
- (7) Subsection (4) does not apply if the relevant doctor believed, on reasonable grounds, that another doctor had given the required certificate.

## **Division 2.2 Registration of births**

### **6 Meaning of *birth registration statement* for div 2.2**

In this division:

*birth registration statement* means a statement for this division.

*Note* If a form is approved under s 69 for a statement, the form must be used.

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

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

- (3) If a child is born in an aircraft during a flight to an airport in the ACT, the birth may be registered under this Act.
- (4) The birth of a child who is born outside Australia 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 the particulars that the registrar-general requires for the purpose of registering the birth.
- (2) However, the registrar-general may accept a birth registration statement—
  - (a) that 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) that does not set out particulars required under subsection (1), if satisfied that it is not practicable to obtain the missing particulars.
- (3) If the registrar-general accepts a birth registration statement for a child under subsection (2), a person's obligation to have the child's birth registered under this Act is taken to be discharged.
- (4) The registrar-general must 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.
- (5) The registrar-general must not refuse to accept a birth registration statement only because it is not lodged within 60 days after the day of the birth.

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

- (1) A person responsible for having the birth of a child registered must lodge a birth registration statement acceptable to the registrar-general with the registrar-general within 60 days after the day of the birth.

Maximum penalty: 5 penalty units.

- (2) An offence against this section is a strict liability offence.

## **11 How births are registered**

- (1) The registrar-general must register a birth by making in the register an entry relating to the birth that includes the name of the child and, subject to section 14, the prescribed particulars.
- (2) However, if not all the prescribed particulars are available to the registrar-general, the registrar-general may register a birth by including in the entry the prescribed particulars that are available to the registrar-general.

## **12 Name of child**

The registrar-general must 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 must 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 relation to the child; or
- (b) the parents of the child apply for the inclusion of the information; or
- (c) a 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 the other parent cannot be found or for any other reason; or
- (d) a 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 about the identity of a parent of the child; or
- (f) the inclusion of the information is authorised by regulation.

**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 2.3 Alteration of details of birth registration**

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

- (1) The registrar-general must 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) a 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 the other parent cannot be found or for any other reason; or
  - (c) a 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 about the identity of a parent of the child; or
  - (g) the inclusion of the information is authorised by regulation.
- (2) An application to the registrar-general for the addition of registrable information in the register must—
- (a) be made in writing; and
  - (b) include the information required by the registrar-general; and
  - (c) if the registrar-general requires verification of the information in the application—be accompanied by a statutory declaration verifying the information and any other evidence that the registrar-general requires.

*Note* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of statutory declarations under ACT laws.

- (3) On application by an interested person, the Supreme Court may order that the register be amended—
- (a) by omitting or adding specified information about a child's parentage; or
  - (b) by adding information that relates to the marriage, civil union or civil partnership of the child's parents.
- (4) This section does not limit section 40 (Correction of register).
- (5) In this section:
- information*** does not include information relating to a change of sex by a parent of the child.



## **Division 2.4                      Substitute parent information**

### **16A                      Registration of parentage order**

- (1) If the registrar-general receives a sealed copy of a parentage order made under the *Parentage Act 2004*, section 26, the registrar-general must register the order.
- (2) The registrar-general must keep an index of registered parentage orders.
- (3) The registrar-general must bring this division to the notice of anyone providing information to the registrar-general about the birth of a child about whom a parentage order has been made.

### **16B                      Re-registration of birth if parentage order made**

- (1) If the registrar-general receives a sealed copy of a parentage order mentioned in section 16A (1) for a child whose birth is registered under this Act, the registrar-general must re-register the birth of the child by entering in the register—
  - (a) particulars, from the copy of the parentage order, of—
    - (i) the child's name after the order was made; and
    - (ii) the child's sex, date and place of birth; and
    - (iii) the substitute parent or substitute parents of the child in whose favour the order was made; and
  - (b) a notation to the entry, signed and dated by the registrar-general, to the effect that the birth of the child is registered under this subsection.
- (2) On re-registering the birth of a child under subsection (1), the registrar-general must sign and date a notation, written on the page of the register that contains the original entry of the birth, to the effect that the birth of the child has been re-registered under subsection (1) on a stated page of the register.

- (3) If a parentage order relates to a child who has previously been adopted, the registrar-general must re-register the birth of the child as if the entry relating to the adoption were the original entry of the child's birth.

## 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

A person who is an adult may apply to the registrar-general for registration of a change of the person's name if—

- (a) the person is domiciled or resident in the ACT; or
- (b) the person's birth is registered in the ACT.

*Note 1* If a form is approved under s 69 for an application, the form must be used.

*Note 2* A fee may be determined under s 67 for this section.

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

- (1) The parents of a child may apply to the registrar-general for registration of a change of the child's name if—

- (a) the child is domiciled or resident in the ACT; or
- (b) the child's birth is registered in the ACT.

*Note 1* If a form is approved under s 69 for an application, the form must be used.

*Note 2* A fee may be determined under s 67 for this section.

- (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) for a child whose birth is registered in the ACT, the child's name—
  - (i) has been changed under a law of the Commonwealth or a corresponding law; or
  - (ii) should be changed having regard to an order or finding of any court in Australia; or
- (d) 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 must 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.

*Note* A fee may be determined under s 67 for this section.

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

- (1) The registrar-general must register a change of name.
- (2) However, the registrar-general must not register a change of name unless satisfied—
  - (a) of the identity and age of the person whose name is to be changed; and
  - (b) that the change is not sought for a fraudulent or other improper purpose; and

- (c) if the application is under section 19 and relates to a child who is at least 14 years old—that the child consents to the change of name or cannot understand the meaning or implications of the change of name.
- (3) Also, the registrar-general may require the applicant to provide any evidence that 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 mentioned in subsection (2).
- (4) The registrar-general must register a change of name if satisfied that the name of a person whose birth is registered in the ACT—
  - (a) has been changed under a law of the Commonwealth or a corresponding law; or
  - (b) should be changed having regard to an order or finding of any court in Australia.
- (5) Subject to subsection (4) and section 19 (3), the registrar-general must not register a change of name if, as a result of the change, the name would become a prohibited name.

## **21 Change of name entries in register**

- (1) This section applies if the registrar-general registers a change of name for a person whose birth is registered in the ACT or under a corresponding law.
- (2) The registrar-general must—
  - (a) either—
    - (i) if the person's birth is registered in the ACT—alter the register by changing the person's name in the entry relating to the person's birth; or

(ii) if the person's birth is registered under a corresponding law—notify the relevant registering authority of the change of name; and

(b) include in the register any particulars prescribed by regulation.

*Note* A fee may be determined under s 67 for this section.

(3) Any birth certificate issued by the registrar-general for the person must 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 Definitions for pt 4

In this part:

*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 may apply to the registrar-general for alteration of the record of the person's sex in the registration of the person's birth if—
  - (a) the person is at least 18 years old; and
  - (b) the person's birth is registered in the ACT; and
  - (c) the person has undergone sexual reassignment surgery.

*Note 1* If a form is approved under s 69 for this provision, the form must be used.

*Note 2* A fee may be determined under s 67 for this provision.

- (2) The parents or guardian of a child may apply to the registrar-general for alteration of the record of the child's sex in the registration of the child's birth if—
  - (a) the child's birth is registered in the ACT; and
  - (b) the child has undergone sexual reassignment surgery.

- (3) However, an application under subsection (2) may be made by 1 parent if—
  - (a) the applicant is the only parent named in the register; or
  - (b) there is no other surviving parent of the child.
- (4) An application under this section must set out, or be accompanied by, the particulars prescribed by regulation.

**25 Evidence in support of application**

An application under section 24 must be accompanied by—

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

**26 Alteration of register**

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

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

**27 Issue of birth certificates**

- (1) A birth certificate issued by the registrar-general in relation to a transsexual person must 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 the certificate is made—
  - (a) by the person; or
  - (b) by a child of the person; or



(c) by a person specified by regulation.

- (3) A birth certificate mentioned in this section must 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 to deceive**

- (1) A person commits an offence if—
- (a) the person produces a birth certificate to someone else that shows a transsexual person's sex before the record was altered; and
  - (b) the person produces the certificate with intent to deceive.

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

- (2) It is not a defence to a prosecution for an offence against this section that the document in relation to which the prosecution is brought refers to the defendant.
- (3) In this section:

*birth certificate* includes—

- (a) a copy of a birth certificate; and
- (b) an extract from a birth certificate.

## **29 Effect of certificates issued in relation to transsexual people**

- (1) A birth certificate issued in relation to a transsexual person is, for the purposes of any territory law, conclusive evidence of the person's sex as stated in the certificate.
- (2) An interstate recognition certificate is, for the purposes of any territory law, evidence that the person mentioned in it 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 prescribed for this section, in relation to a person who has undergone sexual reassignment surgery.

## Part 5 Registration of marriages

### 30 When registration of marriages is required

If a marriage is solemnised in the ACT, 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* (Cwlth) or, if the marriage was solemnised before the commencement of that Act, any evidence of the marriage that the registrar-general may require.

### 32 How marriages are registered

The registrar-general must register a marriage by—

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

## Part 5A Civil unions

### 32A Registration of civil union

If a civil union is entered into under the *Civil Unions Act 2012*, section 9 (How civil union is entered into), the civil union must be registered under this Act.

### 32B How civil union is registered

- (1) If a civil union is entered into before the registrar-general, the registrar must register the civil union by including in the register the particulars of the civil union prescribed by regulation.
- (2) If a civil union is entered into before another civil union celebrant under the *Civil Unions Act 2012*, the celebrant must give the following to the registrar-general not later than 2 weeks after the day the civil union is entered into:
  - (a) written notice of the civil union;
  - (b) the notice given to the celebrant under the *Civil Unions Act 2012*, section 8 (Notice of intention to enter into civil union) for the civil union.

Maximum penalty: 5 penalty units.

*Note* If a form is approved under s 69 for this provision, the form must be used.

- (3) If a notice is given to the registrar-general under subsection (2), the registrar must register the civil union by including in the register the particulars of the civil union prescribed by regulation.
- (4) An offence against this section is a strict liability offence.

### 32C Particulars of end of civil union

- (1) This section applies if a civil union ends under the *Civil Unions Act 2012*, section 12 (Ending civil union by parties) or section 14 (Ending civil union by court order).

- (2) The registrar-general must include in the register the particulars of the termination prescribed by regulation.
- (3) Also, for a civil union that ends under the *Civil Unions Act 2012*, section 12, the registrar-general must give each party to the civil union written notice that the civil union ends on the date stated in the notice.

*Note* If a form is approved under s 69 for this provision, the form must be used.

- (4) For subsection (3), it is sufficient if the registrar-general sends the notice to the address for each party that is last known to the registrar.

## Part 5B Civil partnerships

### 32D Particulars of civil partnership

- (1) This section applies if the registrar-general registers a relationship as a civil partnership under the *Domestic Relationships Act 1994*, section 37F (Decision on application).
- (2) The registrar-general must include in the register the particulars of the civil partnership prescribed by regulation.

### 32E Particulars of end of civil partnership

- (1) This section applies if a civil partnership ends under the *Domestic Relationships Act 1994*, section 37I (Ending civil partnership by parties) or section 37K (Ending civil partnership by court order).
- (2) The registrar-general must include in the register the particulars of the end of the civil partnership prescribed by regulation.
- (3) Also, for a civil partnership that ends under the *Domestic Relationships Act 1994*, section 37I, the registrar-general must give each party to the civil partnership written notice that the civil partnership ends on the date stated in the notice.

*Note* If a form is approved under s 69 for this provision, the form must be used.

- (4) For subsection (3), it is sufficient if the registrar-general sends the notice to the address for each party that is last known to the registrar.

## **Part 6 Registration of deaths**

### **Division 6.1 When registration of deaths is required or authorised**

#### **33 When registration to happen**

- (1) This section has effect subject to section 34.
- (2) If a person dies in the ACT, 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 ACT, the death may be registered under this Act.
- (4) If—
  - (a) a person who is domiciled or ordinarily resident in the ACT dies outside Australia; or
  - (b) a person dies outside Australia leaving property in the ACT;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) The registrar-general must not register a death unless the registrar-general has been given—
  - (a) a notice under section 35; or
  - (b) a notice under the *Coroners Act 1997*, section 56; or

- (c) a document issued, made or given under the law of a State, the Commonwealth, another Territory or any other place that the registrar-general is satisfied is equivalent to a document mentioned in paragraph (a) or (b).
- (2) However, the registrar-general must register a death if 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 ACT; or
  - (b) that, having regard to the circumstances of the case, it is proper that the death be registered.

## Division 6.2 Notification and registration of deaths

### 35 Notification of deaths by doctors

- (1) A doctor must give the registrar-general written notice of the death and cause of death of a person within 48 hours after the death if the doctor—
  - (a) was responsible for the deceased person's medical care immediately before the death; or
  - (b) examined the body of the deceased person after the death.Maximum penalty: 5 penalty units.

*Note* If a form is approved under s 69 for a notice, the form must be used.
- (2) An offence against this section is a strict liability offence.
- (3) This section does not apply if the doctor believed, on reasonable grounds, that—
  - (a) another doctor had given the required notice; or
  - (b) the death had been reported to a coroner under the *Coroners Act 1997*.



**36 Certificates of deaths subject to inquests**

If 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 must be endorsed in the way that the registrar-general considers appropriate to indicate that fact.

**37 Notification by funeral directors etc**

- (1) If a funeral director or someone else arranges for the disposal of human remains in the ACT, the person must, within 7 days after the day the remains are disposed, give the registrar-general a written statement containing as much of the following information as the person knows or can reasonably find out:
- (a) the name and last home address of the deceased person;
  - (b) if the death was reported to a coroner—that fact;
  - (c) where and how the remains were disposed of;
  - (d) any other information required by regulation.

Maximum penalty: 5 penalty units.

- (2) If a funeral director or someone else arranges for human remains (other than cremated remains) to be removed from the ACT, the person must, within 28 days after the day the remains are disposed of outside the ACT, give the registrar-general a written statement containing as much of the following information as the person knows or can reasonably find out:
- (a) the name and last home address of the deceased person;
  - (b) if the death was reported to a coroner—that fact;
  - (c) where and how the remains were disposed of;
  - (d) any other information required by regulation.

Maximum penalty: 50 penalty units.

- (3) If a funeral director or someone else has the custody of human remains that have not been disposed of within 30 days after the day of the death, the person must give the registrar-general a written statement containing as much of the following information as the person knows or can reasonably find out:
- (a) the name and last home address of the deceased person;
  - (b) if the death was reported to a coroner—that fact;
  - (c) any other information required by regulation.

Maximum penalty: 10 penalty units

- (4) An offence against this section is a strict liability offence.

- (5) In this section:

***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 ACT, unless the remains have been cremated.

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

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

**38 How deaths are registered**

- (1) The registrar-general must register a death by making in the register an entry about the death that includes the particulars prescribed by regulation.
- (2) However, if not all the prescribed particulars are available for the registrar-general, the registrar-general may register the death by including in the entry the prescribed particulars that are available to the registrar-general.

## **Part 7 The register and other records**

### **Division 7.1 Keeping the register**

#### **39 The register**

- (1) The registrar-general must maintain a register or registers of registrable events.
- (2) The register—
  - (a) must contain the particulars of each registrable event required under this or any other Act to be included in the register; and
  - (b) may contain any further information that is authorised by this Act or a regulation.
- (3) The register may be completely or partly in the form of a computer database, in documentary form or in any other form that the registrar-general considers appropriate.
- (4) The registrar-general must maintain the indexes to the register that are necessary to make the information in the register reasonably accessible.

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

- (1) The registrar-general may correct the register—
  - (a) to reflect a finding made on an inquiry under division 7.2; 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 must, 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 7.2                      Inquiries**

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

(1) The registrar-general may conduct the inquiries that the registrar-general considers appropriate 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 commits an offence if the person fails to comply with a notice given to the person under subsection (2).

Maximum penalty: 50 penalty units.

*Note*        The [Legislation Act](#), s 170 and s 171 deals with the application of the privilege against self-incrimination and client legal privilege.

(4) An offence against this section is a strict liability offence.

## **Division 7.3 Access to, and certification of, register entries**

### **42 Access to register**

- (1) A person may apply to the registrar-general for—
  - (a) access to the register; or
  - (b) the provision from the register of the information stated in the application.

*Note* A fee may be determined under s 67 for this section.

- (2) The registrar-general may give the applicant access to the register, or give the applicant any of the stated information that is available, if satisfied that—
  - (a) the applicant has an adequate reason for wanting the access or the information; and
  - (b) the giving of the access or information is in accordance with the statement of policies under section 46.
- (3) The access or information—
  - (a) must be given subject to the conditions stated in the statement of policies under section 46; and
  - (b) may be given subject to any other conditions that are reasonable and necessary to protect the privacy of anyone to whom an entry in the register relates.
- (4) In deciding, for subsection (2) (a), whether an applicant has an adequate reason, the registrar-general must 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 the information.

- (5) The registrar-general may also have regard to any other relevant consideration.
- (6) In this section:  
*information* does not include information that may be applied for under section 43.

### **43 Search of register**

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

*Note* A fee may be determined under s 67 for this section.

- (2) The registrar-general may search the register for the entry if satisfied that—
- (a) the applicant has an adequate reason for wanting the information; and
  - (b) the giving of the information is in accordance with the statement of policies under section 46.
- (3) In deciding whether an applicant has an adequate reason, the registrar-general must have regard to—
- (a) the matters mentioned in section 42 (4); and
  - (b) the relationship (if any) between the applicant and the person to whom the information relates; and
  - (c) the age of the entry; and
  - (d) the contents of the entry.
- (4) The registrar-general may also have regard to any other relevant consideration.

**44 Protection of privacy**

In providing information extracted from the register, the registrar-general must, 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 section 43 (2), the registrar-general must issue a certificate—
  - (a) certifying the particulars contained in an entry that, 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 subsection (1) (a), if an entry in the register includes the word ‘illegitimate’, or any other term indicating that a child was born outside marriage, the entry is taken not to include the word or term.

**46 Access policies**

- (1) The registrar-general must 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 section 43.
- (2) The registrar-general must 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 7.4 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 must 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 relation to the discharge of a function under this Act.

*Note* A provision of a law that gives an entity (including a person) a function also gives the entity the powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 (1) and dict, pt 1, def *entity*).

- (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, the fee that is agreed with 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 fee determined under section 67 (Determination of fees).
- (5) An agreement or arrangement under subsection (1) is taken, because of this subsection, to include provisions to the effect that—
  - (a) the registrar-general must 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 paragraph (a), the registrar-general is to have regard to the matters set out in section 42 (3) (a) to (d); and
  - (c) section 44 is to apply to the provision of a service that relates to the records maintained under section 47.

## **Division 7.5                    Offences**

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

A person commits an offence if the person—

- (a) does any of the following:
  - (i) obtains access to the register, records maintained under section 47 or information contained in the register or those records;
  - (ii) makes, alters or deletes an entry in the register or those records;
  - (iii) interferes with the register or those records in any other way; and

(b) does so without the registrar-general's authority.

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

## **51 Confiscation of forged etc instruments**

- (1) The registrar-general may confiscate—
  - (a) an instrument that purports to have been made for this Act or the repealed Act if the registrar-general believes, on reasonable grounds, that the instrument has a forged impression of the registrar-general's signature or seal or is forged or falsified; or
  - (b) 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.
- (2) If the registrar-general believes on reasonable grounds that a person has in his or her possession a certificate or other instrument mentioned in subsection (1), the registrar-general may—
  - (a) require the person to surrender the certificate or document immediately to the registrar-general; or
  - (b) by written notice sent to the person, require the person to surrender the certificate or document to the registrar-general within 14 days of the date of the notice.
- (3) A person commits an offence if the person fails to comply with a requirement made of the person, or a notice given to the person, under subsection (2).

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

*Note* The [Legislation Act](#), s 170 and s 171 deals with the application of the privilege against self-incrimination and client legal privilege.

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

- (1) The registrar-general may confiscate a certificate or other instrument issued under this Act or the repealed Act in error or because of fraud.
- (2) If the registrar-general believes on reasonable grounds that a certificate or other instrument issued under this Act or the repealed Act was issued in error or because of fraud, the registrar-general may—
  - (a) require the person who appears to have possession of the certificate or instrument to surrender it immediately to the registrar-general; or
  - (b) by written notice sent to the person who appears to have possession of the certificate or instrument, require the person to surrender it to the registrar-general within 14 days of the date of the notice.
- (3) A person commits an offence if the person fails to comply with a notice given to the person under subsection (2).

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

*Note*            The [Legislation Act](#), s 170 and s 171 deals with the application of the privilege against self-incrimination and client legal privilege.

## Part 8 Notification and review of decisions

### 53 Meaning of *reviewable decision*—pt 8

In this part:

*reviewable decision* means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

### 54 Reviewable decision notices

If the registrar-general makes a reviewable decision, the registrar-general must give a reviewable decision notice to each person mentioned in schedule 1, column 4 in relation to the decision.

*Note 1* The registrar-general must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

### 55 Applications for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) a person mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

*Note* If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](#) for the application, the form must be used.

## Part 10 Miscellaneous

### 65 Certificate evidence

- (1) A certificate or other instrument that purports to state information obtained by the registrar-general under this Act or the repealed Act is evidence of the matters stated in it if it purports—
  - (a) to be signed and sealed by the registrar-general; or
  - (b) to have attached 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 regulation.
- (2) This section is subject to section 29 (Effect of certificates issued in relation to transsexual people).

### 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 functions of the registering authority under the corresponding law; or
  - (b) the exercise by the registering authority under the corresponding law of functions of the registrar-general under this Act; or
  - (c) a matter mentioned in subsection (3).
- (2) If 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 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 functions of the registrar-general under this Act.
- (3) An arrangement under this section may—
- (a) provide for the establishment of a database 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 database; or
- (c) provide for payments by or to participants in the arrangement for services provided under the arrangement.

*Note* A provision of a law that gives an entity (including a person) a function also gives the entity the powers necessary and convenient to exercise the function (see [Legislation Act](#), s 196 (1) and dict, pt 1, def *entity*).

## **67 Determination of fees**

- (1) The Minister may determine fees for this Act.

*Note* The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

## **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 Approved forms**

- (1) The registrar-general may approve forms for this Act.
- (2) If the registrar-general approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see the [Legislation Act](#), s 255.

- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

**70 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* A regulation must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

- (2) A regulation may make provision in relation to—
  - (a) the provision of copies of, or extracts from, entries in the register about relevant children; and
  - (b) the making, correction or cancellation of entries in the register about relevant children.
- (3) A regulation may also prescribe offences for contraventions of a regulation and prescribe maximum penalties of not more than 10 penalty units for offences against a regulation.

- (4) In this section:

***relevant children***—a child is a ***relevant child*** if a parentage order has been made about the child under the [Parentage Act 2004](#), section 26.



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## Schedule 1 Reviewable decisions

(see pt 8)

column 1 item	column 2 section	column 3 decision	column 4 person
1	12 (a)	assign name to child	parent
2	20 (2)	refuse to register change of name	applicant
3	20 (5)	refuse to register change of name	applicant
4	26 (b)	refuse to alter register to record change of sex	applicant
5	68	refuse to refund or remit payment of fee or part of fee	applicant

## Dictionary

(see s 2)

*Note 1* The [Legislation Act](#) contains definitions and other provisions relevant to this Act.

*Note 2* For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- ACAT
- ACT
- change
- civil partnership
- civil union
- civil union partner
- Commonwealth
- doctor
- exercise
- fail
- function
- instrument (see s 14)
- penalty unit (see s 133)
- registrar-general
- reviewable decision notice
- under.

***adult***—see section 4.

***birth*** includes a stillbirth.

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

***birth registration statement***, for division 2.2 (Registration of births)—see section 6.

***child***—see section 4.

***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.

**parents**, of a child, means the parents jointly.

**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 registrar-general's opinion, undesirable; or
- (f) is prohibited by regulation.

**register** means a register maintained under section 39.

**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, civil union, civil partnership, change of name or change of sex.

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

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

**reviewable decision**, for part 8 (Notification and review of decisions)—see section 53.

***sexual reassignment surgery***, for part 4 (Change of sex)—see section 23.

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

***stillborn child*** means—

- (a) a child of at least 20 weeks gestation; or
- (b) if it cannot be established reliably whether the period of gestation is more or less than 20 weeks—a child with a body mass of at least 400g at birth, who shows no sign of respiration or heart beat, or other sign of life, immediately after birth.

***transsexual person***, for part 4 (Change of sex)—see section 23.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Births, Deaths and Marriages Registration Act 1997 A1997-112**

notified 24 December 1997 (Gaz 1997 S420)  
s 1, s 2 commenced 24 December 1997 (s 2 (1))  
remainder commenced 24 June 1998 (s 2 (3))

as amended by

#### **Births, Deaths and Marriages Registration (Amendment) Act 1998 A1998-12**

notified 25 June 1998 (Gaz 1998 S170)  
s 1, s 2 commenced 25 June 1998 (s 2 (1))  
remainder commenced 24 June 1998 (s 2 (2))

#### **Artificial Conception Amendment Act 2000 A2000-51**

notified 28 September 2000 (Gaz 2000 No 39)  
s 1, s 2 commenced 28 September 2000 (IA s 10B)  
remainder commenced 17 November 2000 (s 2 and [Gaz 2000 No S65](#))

#### **Legislation (Consequential Amendments) Act 2001 A2001-44 pt 35**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 35 commenced 12 September 2001 (s 2 and see [Gaz 2001 No S65](#))

#### **Parentage Act 2004 A2004-1 sch 1 pt 1.4**

notified LR 18 February 2004  
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))  
sch 1 pt 1.4 commenced 22 March 2004 (s 2 and [CN2004-3](#))

#### **Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 2 pt 2.8**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 2 pt 2.8 commenced 9 April 2004 (s 2 (1))

#### **Health Professionals Legislation Amendment Act 2004 A2004-39 sch 5 pt 5.2**

notified LR 8 July 2004  
s 1, s 2 commenced 8 July 2004 (LA s 75 (1))  
sch 5 pt 5.2 commenced 7 July 2005 (s 2 and see [Health Professionals Act 2004 A2004-38, s 2 and CN2005-11](#))

**Statute Law Amendment Act 2005 A2005-20 sch 3 pt 3.5**

notified LR 12 May 2005

s 1, s 2 taken to have commenced 8 March 2005 (LA s 75 (2))

sch 3 pt 3.5 commenced 2 June 2005 (s 2 (1))

**Criminal Code Harmonisation Act 2005 A2005-54 sch 1 pt 1.8**

notified LR 27 October 2005

s 1, s 2 commenced 27 October 2005 (LA s 75 (1))

sch 1 pt 1.8 commenced 24 November 2005 (s 2)

**Civil Unions Act 2006 A2006-22 sch 1 pt 1.4**

notified LR 19 May 2006

s 1, s 2 commenced 19 May 2006 (LA s 75 (1))

sch 1 pt 1.4 never commenced

*Note* Act repealed by disallowance 14 June 2006 (see Cwlth Gaz 2006 No S93)

**Statute Law Amendment Act 2006 A2006-42 sch 3 pt 3.1**

notified LR 26 October 2006

s 1, s 2 taken to have commenced 12 November 2005 (LA s 75 (2))

sch 3 pt 3.1 commenced 16 November 2006 (s 2 (1))

**Regulatory Services Legislation Amendment Act 2008 A2008-5 pt 3**

notified LR 15 April 2008

s 1, s 2 commenced 15 April 2008 (LA s 75 (1))

pt 3 commenced 1 July 2008 (s 2 and [CN2008-7](#))

**Civil Partnerships Act 2008 A2008-14 sch 1 pt 1.3**

notified LR 15 May 2008

s 1, s 2 commenced 15 May 2008 (LA s 75 (1))

sch 1 pt 1.3 commenced 19 May 2008 (s 2 and [CN2008-8](#))

**ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.11**

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.11 commenced 2 February 2009 (s 2 (1) and see [ACT Civil and Administrative Tribunal Act 2008](#) A2008-35, s 2 (1) and [CN2009-2](#))

## Endnotes

3 Legislation history

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**Civil Partnerships Amendment Act 2009 A2009-41 sch 1 pt 1.1**

notified LR 18 November 2009

s 1, s 2 commenced 18 November 2009 (LA s 75 (1))

sch 1 pt 1.1 commenced 19 November 2009 (s 2)

**Civil Partnerships Amendment Act 2009 (No 2) A2009-57 sch 1**

notified LR 17 December 2009

s 1, s 2 commenced 17 December 2009 (LA s 75 (1))

sch 1 commenced 18 December 2009 (s 2)

**Justice and Community Safety Legislation Amendment Act 2011 (No 2) A2011-27 sch 1 pt 1.3**

notified LR 30 August 2011

s 1, s 2 taken to have commenced 29 July 2008 (LA s 75 (2))

sch 1 pt 1.3 commenced 13 September 2011 (s 2 (1))

**Statute Law Amendment Act 2011 (No 3) A2011-52 sch 3 pt 3.7**

notified LR 28 November 2011

s 1, s 2 commenced 28 November 2011 (LA s 75 (1))

sch 3 pt 3.7 commenced 12 December 2011 (s 2)

**Civil Unions Act 2012 A2012-40 sch 3 pt 3.4**

notified LR 4 September 2012

s 1, s 2 commenced 4 September 2012 (LA s 75 (1))

sch 3 pt 3.4 commenced 11 September 2012 (s 2)

**Marriage Equality (Same Sex) Act 2013 A2013-39 sch 2 pt 2.2**

notified LR 4 November 2013

s 1, s 2 commenced 4 November 2013 (LA s 75 (1))

sch 2 pt 2.2 commenced 7 November 2013 (s 2 and [CN2013-11](#))

*Note* The High Court held this Act to be of no effect (see *Commonwealth v Australian Capital Territory* [2013] HCA 55)



## 4 Amendment history

### Long title

long title am [A2006-22](#) amdt 1.13 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2008-14](#) amdt 1.4; [A2012-40](#) amdt 3.13; [A2013-39](#) amdt 2.2 ([A2013-39](#) never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55))

### Name of Act

s 1 sub [A2005-20](#) amdt 3.15

### Dictionary

s 2 om R2 LRA  
ins [A2005-20](#) amdt 3.16

### Notes

s 3 om R2 LRA  
ins [A2005-20](#) amdt 3.16

### Meaning of *adult* and *child*

s 4 sub [A2005-20](#) amdt 3.16  
am [A2006-22](#) amdt 1.14 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2012-40](#) amdt 3.14  
def **adult** om [A2005-20](#) amdt 3.16  
def **authorised celebrant** om [A2005-20](#) amdt 3.16  
def **birth** om [A2005-20](#) amdt 3.16  
def **change** om [A2005-20](#) amdt 3.16  
def **child** om [A2005-20](#) amdt 3.16  
def **commencement of this Act** om [A2005-20](#) amdt 3.16  
def **corresponding law** om [A2005-20](#) amdt 3.16  
def **death** om [A2005-20](#) amdt 3.16  
def **determined fee** om [A2001-44](#) amdt 1.339  
def **disposal** om [A2005-20](#) amdt 3.16  
def **doctor** om [A2005-20](#) amdt 3.16 (see also [A2004-39](#) amdt 5.3)  
def **funeral director** om [A2005-20](#) amdt 3.16  
def **prohibited name** om [A2005-20](#) amdt 3.16  
def **register** om [A2005-20](#) amdt 3.16  
def **registering authority** om [A2005-20](#) amdt 3.16  
def **registrable event** om [A2005-20](#) amdt 3.16  
def **registrable information** om [A2005-20](#) amdt 3.16  
def **registrar-general** om [A2005-20](#) amdt 3.16  
def **repealed Act** om [A2005-20](#) amdt 3.16  
def **stillbirth** om [A2005-20](#) amdt 3.16  
def **stillborn child** om [A2005-20](#) amdt 3.16

### Offences against Act—application of Criminal Code etc

s 4A ins [A2005-54](#) amdt 1.47

## Endnotes

### 4 Amendment history

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#### **Notifications of births**

div 2.1 hdg (prev pt 2 div 1 hdg) renum R3 LA

#### **Notification of births**

s 5 am [A2001-44](#) amdt 1.340, 1.341  
sub [A2005-54](#) amdt 1.48  
am [A2011-52](#) amdt 3.17

#### **Registration of births**

div 2.2 hdg (prev pt 2 div 2 hdg) renum R3 LA

#### **Meaning of *birth registration statement* for div 2.2**

s 6 def *birth registration statement* sub [A2001-44](#) amdt 1.342

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

s 7 am [A2005-20](#) amdt 3.17

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

s 9 am [A2005-20](#) amdt 3.18; ss renum R6 LA (see [A2005-20](#) amdt 3.19); [A2005-54](#) amdt 1.49

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

s 10 sub [A2005-54](#) amdt 1.50

#### **How births are registered**

s 11 am [A2005-20](#) amdt 3.20, amdt 3.21

#### **Alteration of details of birth registration**

div 2.3 hdg (prev pt 2 div 3 hdg) renum R3 LA

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

s 16 am [A2005-20](#) amdt 3.22; [A2006-22](#) amdt 1.15 ([A2006-22](#) rep before commenced by disallowance (see *Cwlth Gaz* 2006 No S93)); [A2008-14](#) amdt 1.5; [A2011-27](#) amdt 1.6; ss renum R16 LA; [A2012-40](#) amdt 3.15

#### **Substitute parent information**

div 2.4 hdg (prev pt 2 div 4 hdg) ins [A2000-51](#) s 10  
renum R3 LA

#### **Re-registration of parentage order**

s 16A ins [A2000-51](#) s 10  
am [A2004-1](#) amdt 1.16

#### **Registration of birth if parentage order made**

s 16B ins [A2000-51](#) s 10  
am [A2004-1](#) amdt 1.17

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

s 18 am [A1998-12](#) s 4; [A2001-44](#) amdts 1.343-1.346  
sub [A2005-20](#) amdt 3.23

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

s 19 am [A1998-12](#) s 5; [A2001-44](#) amdts 1.347-1.350; [A2005-20](#) amdt 3.24; [A2011-27](#) amdt 1.7; pars renum R16 LA

**Registration of change of name**

s 20 am [A2005-20](#) amdts 3.25-3.27; [A2011-27](#) amdt 1.8

**Change of name entries in register**

s 21 am [A1998-12](#) s 6; [A2001-44](#) amdt 1.351, amdt 1.352  
sub [A2008-5](#) s 19

**Definitions for pt 4**

s 23 def **birth certificate** om [A2005-20](#) amdt 3.28  
def **doctor** om [A2004-39](#) amdt 5.4

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

s 24 am [A1998-12](#) s 7; [A2001-44](#) amdts 1.353-1.356  
sub [A2005-20](#) amdt 3.29  
am [A2006-22](#) amdt 1.16 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2008-14](#) amdt 1.6

**Issue of birth certificates**

s 27 am [A2005-20](#) amdt 3.30

**Use of old birth certificate to deceive**

s 28 sub [A2005-54](#) amdt 1.51

**Effect of certificates issued in relation to transsexual people**

s 29 hdg sub [A2005-20](#) amdt 3.31

**How to have a marriage registered**

s 31 am [A2013-39](#) amdt 2.3 ([A2013-39](#) never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55))

**Civil unions**

pt 5A hdg ins [A2006-22](#) amdt 1.17 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))  
ins [A2008-14](#) amdt 1.7  
sub [A2012-40](#) amdt 3.16

**Particulars of end of civil union**

s 32A ins [A2006-22](#) amdt 1.17 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))  
ins [A2008-14](#) amdt 1.7  
sub [A2009-41](#) amdt 1.1  
am [A2009-57](#) amdt 1.1  
sub [A2012-40](#) amdt 3.16; [A2013-39](#) amdt 2.4 ([A2013-39](#) never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55))

## Endnotes

4 Amendment history

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### How civil partnerships are registered

s 32AA ins [A2009-41](#) amdt 1.1  
am [A2009-57](#) amdts 1.2-1.6; ss renum R15 LA  
om [A2012-40](#) amdt 3.16

### How civil union is registered

s 32B ins [A2006-22](#) amdt 1.17 ([A2006-22](#) rep before commenced by  
disallowance (see Cwlth Gaz 2006 No S93))  
ins [A2008-14](#) amdt 1.7  
sub [A2012-40](#) amdt 3.16  
om [A2013-39](#) amdt 2.4 ([A2013-39](#) never effective (see  
*Commonwealth v Australian Capital Territory* [2013]  
HCA 55))

### Particulars of end of civil union

s 32C ins [A2006-22](#) amdt 1.17 ([A2006-22](#) rep before commenced by  
disallowance (see Cwlth Gaz 2006 No S93))  
ins [A2012-40](#) amdt 3.16  
om [A2013-39](#) amdt 2.4 ([A2013-39](#) never effective (see  
*Commonwealth v Australian Capital Territory* [2013]  
HCA 55))

### Civil partnerships

pt 5B hdg ins [A2012-40](#) amdt 3.16

### Particulars of civil partnership

s 32D ins [A2012-40](#) amdt 3.16

### Particulars of end of civil partnership

s 32E ins [A2012-40](#) amdt 3.16

### Transitional—particulars of termination of civil partnership not included before commencement day

s 32F ins [A2012-40](#) amdt 3.16  
exp 11 September 2012 (s 32F (4))

### When registration of deaths is required or authorised

div 6.1 hdg (prev pt 6 div 1 hdg) renum R3 LA

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

s 34 sub [A2005-20](#) amdt 3.32

### Notification and registration of deaths

div 6.2 hdg (prev pt 6 div 2 hdg) renum R3 LA

### Notification of deaths by doctors

s 35 am [A2001-44](#) amdt 1.357, amdt 1.358; [A2005-20](#) amdt 3.33  
sub [A2005-54](#) amdt 1.52

### Certificates of deaths subject to inquests

s 36 am [A2005-20](#) amdt 3.34  
(2)-(4) exp 2 June 2005 (s 36 (4))

**Notification by funeral directors etc**

s 37 am [A2005-20](#) amdt 3.35  
sub [A2005-54](#) amdt 1.53

**How deaths are registered**

s 38 sub [A2005-20](#) amdt 3.36

**Keeping the register**

div 7.1 hdg (prev pt 7 div 1 hdg) renum R3 LA

**The register**

s 39 am [A2005-20](#) amdt 3.37  
(5)-(7) exp 2 June 2005 (s 39 (7))

**Inquiries**

div 7.2 hdg (prev pt 7 div 2 hdg) renum R3 LA

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

s 41 am [A2005-54](#) amdt 1.54

**Access to, and certification of, register entries**

div 7.3 hdg (prev pt 7 div 3 hdg) renum R3 LA

**Access to register**

s 42 am [A2001-44](#) amdt 1.359, amdt 1.360  
sub [A2005-20](#) amdt 3.38

**Search of register**

s 43 am [A2001-44](#) amdt 1.361, amdt 1.362  
sub [A2005-20](#) amdt 3.38

**Issue of certificates**

s 45 am [A2005-20](#) amdt 3.39

**Additional information and services**

div 7 4 hdg (prev pt 7 div 4 hdg) renum R3 LA

**Additional services**

s 48 am [A2001-44](#) amdt 1.363; [A2005-20](#) amdt 3.40

**Offences**

div 7.5 hdg (prev pt 7 div 5 hdg) renum R3 LA

**False representations**

s 49 om [A2004-15](#) amdt 2.18

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

s 50 sub [A2005-54](#) amdt 1.55

## Endnotes

4 Amendment history

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### **Confiscation of forged etc instruments**

s 51 hdg sub [A2004-15](#) amdt 2.19; [A2005-20](#) amdt 3.41  
s 51 am [A2004-15](#) amdt 2.20; ss renum R5 LA (see [A2004-15](#)  
amdt 2.21); [A2005-20](#) amdt 3.42, amdt 3.44; pars renum  
R6 LA (see [A2005-20](#) amdt 3.43); [A2005-54](#) amdt 1.56

### **Confiscation of erroneous or false instruments**

s 52 hdg sub [A2005-20](#) amdt 3.45  
s 52 am [A2005-20](#) amdts 3.46-3.48; [A2005-54](#) amdt 1.57

### **Notification and review of decisions**

pt 8 hdg sub [A2008-37](#) amdt 1.38

### **Meaning of *reviewable decision*—pt 8**

s 53 sub [A2008-37](#) amdt 1.38

### **Reviewable decision notices**

s 54 exp 2 June 2005 (s 64A (2))  
ins [A2008-37](#) amdt 1.38

### **Applications for review**

s 55 exp 2 June 2005 (s 64A (2))  
ins [A2008-37](#) amdt 1.38

### **Transitional provisions**

pt 9 hdg exp 2 June 2005 (s 64A (2))

### **Preliminary**

div 9.1 hdg (prev pt 9 div 1 hdg) renum R3 LA  
exp 2 June 2005 (s 64A (2))

### **Births**

div 9.2 hdg (prev pt 9 div 2 hdg) renum R3 LA  
exp 2 June 2005 (s 64A (2))

### **Notifications of births**

s 56 exp 2 June 2005 (s 64A (2))

### **Notification of registrable particulars**

s 57 exp 2 June 2005 (s 64A (2))

### **Medical certificates of causes of stillbirths**

s 58 exp 2 June 2005 (s 64A (2))

### **Changes of name**

div 9.3 hdg (prev pt 9 div 3 hdg) renum R3 LA  
exp 2 June 2005 (s 64A (2))

### **Applications**

s 59 exp 2 June 2005 (s 64A (2))

**Orders of Magistrates Court**

s 60 exp 2 June 2005 (s 64A (2))

**Deaths**

div 9.4 hdg (prev pt 9 div 4 hdg) renum R3 LA  
exp 2 June 2005 (s 64A (2))

**Notifications of deaths by doctors**

s 61 exp 2 June 2005 (s 64A (2))

**Notifications by coroners**

s 62 exp 2 June 2005 (s 64A (2))

**Notifications of disposal of remains**

s 63 exp 2 June 2005 (s 64A (2))

**Offences**

div 9.5 hdg (prev pt 9 div 5 hdg) renum R3 LA  
exp 2 June 2005 (s 64A (2))

**Avoidance of double jeopardy**

s 64 exp 2 June 2005 (s 64A (2))

**Expiry of part**

div 9.6 hdg ins [A2005-20](#) amdt 3.49  
exp 2 June 2005 (s 64A (2))

**Expiry etc**

s 64A ins [A2005-20](#) amdt 3.49  
exp 2 June 2005 (s 64A (2))

**Certificate evidence**

s 65 sub [A2005-20](#) amdt 3.50

**Arrangements with States and other Territories**

s 66 am [A2005-20](#) amdt 3.51, amdt 3.52

**Determination of fees**

s 67 sub [A2001-44](#) amdt 1.364  
am [A2006-42](#) amdt 3.1

**Approved forms**

s 69 sub [A2001-44](#) amdt 1.365  
am [A2005-20](#) amdt 3.53; [A2006-42](#) amdt 3.1

**Regulation-making power**

s 70 ins [A2001-44](#) amdt 1.365  
am [A2004-1](#) amdt 1.18

**Acts repealed**

sch om R2 LRA

## Endnotes

4 Amendment history

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### Reviewable decisions

sch 1 ins [A2008-37](#) amdt 1.39

### Dictionary

dict ins [A2005-20](#) amdt 3.54  
am [A2006-22](#) amdt 1.18 ([A2006-22](#) rep before commenced by disallowance (see Cwltz Gaz 2006 No S93)); [A2008-14](#) amdt 1.8; [A2008-37](#) amdt 1.40; [A2012-40](#) amdt 3.17; [A2013-39](#) amdt 2.5, amdt 2.6 ([A2013-39](#) never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55))  
def **adult** ins [A2005-20](#) amdt 3.54  
def **birth** ins [A2005-20](#) amdt 3.54  
def **birth certificate** ins [A2005-20](#) amdt 3.54  
def **birth registration statement** ins [A2005-20](#) amdt 3.54  
def **child** ins [A2005-20](#) amdt 3.54  
def **corresponding law** ins [A2005-20](#) amdt 3.54  
def **death** ins [A2005-20](#) amdt 3.54  
def **doctor** ins [A2005-20](#) amdt 3.54  
om [A2006-42](#) amdt 3.2  
def **parents** ins [A2005-20](#) amdt 3.54  
def **prohibited name** ins [A2005-20](#) amdt 3.54  
def **register** ins [A2005-20](#) amdt 3.54  
def **registering authority** ins [A2005-20](#) amdt 3.54  
def **registrable event** ins [A2005-20](#) amdt 3.54  
am [A2006-22](#) amdt 1.19 ([A2006-22](#) rep before commenced by disallowance (see Cwltz Gaz 2006 No S93)); [A2008-14](#) amdt 1.9; [A2012-40](#) amdt 3.18; [A2013-39](#) amdt 2.7 ([A2013-39](#) never effective (see *Commonwealth v Australian Capital Territory* [2013] HCA 55))  
def **registrable information** ins [A2005-20](#) amdt 3.54  
def **repealed Act** ins [A2005-20](#) amdt 3.54  
def **reviewable decision** ins [A2008-37](#) amdt 1.41  
def **sexual reassignment surgery** ins [A2005-20](#) amdt 3.54  
def **stillbirth** ins [A2005-20](#) amdt 3.54  
def **stillborn child** ins [A2005-20](#) amdt 3.54  
def **transsexual person** ins [A2005-20](#) amdt 3.54



## 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	<a href="#">A1998-12</a>	31 July 1999
2	<a href="#">A2000-51</a>	15 December 2000
3	<a href="#">A2001-44</a>	12 September 2001
4	<a href="#">A2004-1</a>	22 March 2004
5	<a href="#">A2004-15</a>	9 April 2004
6	<a href="#">A2005-20</a>	2 June 2005
7	<a href="#">A2005-20</a>	3 June 2005
8	<a href="#">A2005-20</a>	7 July 2005
9*	<a href="#">A2005-54</a>	24 November 2005
10	<a href="#">A2006-42</a>	16 November 2006
11	<a href="#">A2008-14</a>	19 May 2008
12	<a href="#">A2008-14</a>	1 July 2008
13	<a href="#">A2008-37</a>	2 February 2009
14	<a href="#">A2009-41</a>	19 November 2009
15	<a href="#">A2009-57</a>	18 December 2009
16	<a href="#">A2011-27</a>	13 September 2011
17	<a href="#">A2011-52</a>	12 December 2011
18	<a href="#">A2012-40</a>	11 September 2012
19	<a href="#">A2012-40</a>	12 September 2012
20	<a href="#">A2013-39</a> (never effective)	7 November 2013

## Endnotes

6 Expired transitional or validating provisions

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### 6 Expired transitional or validating provisions

This Act may be affected by transitional or validating provisions that have expired. The expiry does not affect any continuing operation of the provisions (see *Legislation Act 2001*, s 88 (1)).

Expired provisions are removed from the republished law when the expiry takes effect and are listed in the amendment history using the abbreviation ‘exp’ followed by the date of the expiry.

To find the expired provisions see the version of this Act before the expiry took effect. The ACT legislation register has point-in-time versions of this Act.

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