

EXPLANATORY STATEMENT

AUSTRALIAN CAPITAL TERRITORY

REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES (AMENDMENT)
ORDINANCE 1989

ORDINANCE NO. 29 OF 1989

The Registration of Births, Deaths and Marriages Ordinance 1963 (the Principal Ordinance) regulates the requirements for the registration of births, deaths and marriages.

The Registration of Births, Deaths and Marriages (Amendment) Ordinance 1989 updates the definition of 'child' and also ensures the proper registration of home births. The amendments bring the Australian Capital Territory laws into line with legislation in the States.

The Ordinance defines 'child' to include a child not born alive if the child weighs at least 400 grams at birth or, where the child weighs less than 400 grams, if the period of gestation was at least 20 weeks.

A child is taken to be born alive if the child breathes or if a heartbeat or other visible (other than transient) signs of life are observable.

The new provisions clarify who will be responsible for notifying the Registrar of the birth and relieves the parents of such an obligation where the child is not born alive and there is another person present at the birth.

- . in the case of hospital births, the officer in charge; and
- . in the case of other births, the principal witness attending at the birth;

as well as the parents, to provide the requisite details.

Details of the Ordinance are included in the Attachment.

**ISSUED BY THE AUTHORITY OF
THE MINISTER OF STATE FOR THE
ARTS AND TERRITORIES**

Registration of Births, Deaths and Marriages (Amendment)
Ordinance 1989

Section 1 cites the Ordinance as the Registration of Births, Deaths and Marriages (Amendment) Ordinance 1989.

Section 2 cites the Principal Ordinance as the Registration of Births, Deaths and Marriages Ordinance 1963.

Section 3 amends subsection 5(1) of the Principal Ordinance by omitting the definition of 'child', correcting a reference to the Medical Practitioners Registration Ordinance 1930, and by inserting the following definitions.

The term 'child' means a child born alive and also includes a child not born alive if the child weighs at least 400 grams at birth or, if it weighs less than 400 grams, is of at least 20 weeks gestation.

The term 'hospital' includes both a public hospital conducted by the Australian Capital Territory Community and Health Service and a private hospital registered under the Public Health (Private Hospitals) Regulations.

The term 'midwifery nurse' means a person so registered under the Nurses Ordinance 1988.

The term 'principal witness' refers to one of three categories of persons who may be present at a birth that does not take place at a hospital. If a medical practitioner is present at a birth, the term means that practitioner. If a midwifery nurse is present, but no medical practitioner, then the term means that midwifery nurse. In any other case the term means the principal person (other than a parent) present at the birth in order to assist at the birth.

Section 3 also omits subsection 5(3) of the Principal Ordinance and substitutes new subsections 5(3) and 5(3A). The object of these provisions is to clarify the concept of a child having been born alive.

A child is taken to have been born alive if the child breathes, or if the heartbeat or other visible signs of life are observable in the child, after it is completely expelled or extracted from its mother. However, a child is not to be taken to have been born alive only because transient signs of life are observable in the child while attempts are being made to resuscitate it.

Section 4 repeals sections 12 and 13 of the Principal Ordinance and substitutes new provisions which specify the person who has an obligation to notify the Registrar of Births, Deaths and Marriages in writing of the details of a birth.

New subsection 12(1) provides that, in the case of a child born at a hospital, or admitted to a hospital shortly after birth, the obligation is imposed upon the officer in charge of the hospital.

New subsection 12(2) will provide that, where a child is not born at or so admitted to a hospital, the principal witness, as defined in subsection 5(1) of the Ordinance, is required to notify the Registrar.

New subsection 12(3) specifies the particulars to be notified to the Registrar.

New section 13 specifies the person who has an obligation to notify the Registrar, within 28 days of a birth, of the registrable particulars of that birth.

New subsection 13(1) provides that, in the case of a child born alive at a hospital, or admitted to a hospital shortly after birth, the obligation is imposed on a parent of the child; and, whether or not the child is born alive, the obligation is imposed on the officer in charge of the hospital.

New subsection 13(2) provides that where a child is not born in a hospital, but born alive, the obligation is imposed on a parent; and, whether or not the child is born alive, the obligation is imposed upon the principal witness at the birth.

New subsection 13(3) provides that where a child is born alive, an officer in charge of a hospital, or a principal witness, is not be guilty of an offence against subsection 13(1) or 13(2) if evidence is adduced that a parent of the child has complied with the relevant provision or that the child's parents were not prevented from complying with the relevant provision and that evidence is not rebutted.