

**REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES
(AMENDMENT) ACT 1992 No. 45**

NEW SOUTH WALES



TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Amendment of Registration of Births, Deaths and Marriages Act 1973 No. 87
4. Explanatory notes

SCHEDULE 1—AMENDMENTS

**REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES
(AMENDMENT) ACT 1992 No. 45**

NEW SOUTH WALES



Act No. 45, 1992

An Act to amend the Registration of Births, Deaths and Marriages Act 1973 in relation to the registration of stillbirths. [Assented to 16 June 1992]

Registration of Births, Deaths and Marriages (Amendment) Act 1992 No. 45

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Registration of Births, Deaths and Marriages (Amendment) Act 1992.

Commencement

2. This Act commences on the date of assent.

Amendment of Registration of Births, Deaths and Marriages Act 1973 No. 87

3. The Registration of Births, Deaths and Marriages Act 1973 is amended as set out in Schedule 1.

Explanatory Notes

4. Matter appearing under the heading "Explanatory note" in Schedule 1 does not form part of this Act.

SCHEDULE 1—AMENDMENTS

(Sec. 3)

(1) The whole Act:

Omit "still-birth", "still-births" and "still-born" wherever occurring, insert instead "stillbirth", "stillbirths" and "stillborn", respectively.

(2) Section 3:

Omit the section.

(3) Section 4 (Definitions):

From section 4 (1), omit the definition of "still-born child", insert instead:

"stillborn child" means a child:

- (a) who weighs at least 400 grams at delivery or, if weight at delivery is not known, is of at least 20 weeks gestation; and

SCHEDULE 1—AMENDMENTS—*continued*

- (b) who has not breathed since delivery; and
- (c) whose heart has not beaten since delivery;

Explanatory note

The amendment substitutes the definition of a stillborn child to achieve consistency with the definition used for the purposes of medical research.

- (4) **Section 9 (Registers and indexes to be kept by Principal Registrar):**
From section 9 (1) (b), omit “, other than the register of still-births”.
- (5) **Section 10 (Registers and records kept by local registrars):**
After “births,” in section 10 (1), insert “stillbirths,”.
- (6) **Part 3, Division 1, heading:**
Omit the heading, insert instead:

Division 1—Births and stillbirths

- (7) **Section 11 (Registration of births and stillbirths):**
 - (a) After “birth” where firstly occurring in section 11 (1), insert “and stillbirth”.
 - (b) After “birth” wherever occurring in section 11 (1) (a) and (b), (2) and (3), insert “or stillbirth”.
 - (c) After “births” in section 11 (3) (a), insert “or of stillbirths”.
 - (d) After “(if any)” in section 11 (3) (b), insert “or of stillbirths (if any)”.

Explanatory note

The amendments will require the Principal Registrar to keep a general register of stillbirths that will record certain information about the stillbirth that has been furnished by the parents of the stillborn child, the relevant medical practitioner and the person who buries, cremates or disposes of the body of the child.

- (8) **Sections 12 (Notification of births and stillbirths) and 13 (Supreme Court may order registration of birth or stillbirth):**
After “birth” wherever occurring, insert “or stillbirth”.

SCHEDULE 1—AMENDMENTS—*continued*

- (9) Section 14 (**Father of exnuptial child not obliged to furnish particulars of birth or stillbirth**):
- (a) From section 14 (1), omit “, or, if the child is still-born, the still-birth,”, insert “or stillbirth”.
 - (b) After “birth” in section 14 (2), insert “or stillbirth”.
- (10) Part 3, Division 2, heading:
Omit the heading, insert instead:
- Division 2—Special provisions relating to stillbirths**
- (11) Sections 16 (**Registration of still-births**), 17 (**Notification of still-births**) and 21 (**Destruction of certain records**):
Omit the sections.
- Explanatory note**
- The amendment omits several provisions that relate specifically to stillbirths. Sections 16 and 17 are obsolete because of the amendment to section 11. The omission of section 21 removes the Principal Registrar’s power to cancel and destroy, after two years, any record held relating to the stillbirth.
- (12) Section 33 (**Additional matter**):
From section 33 (2) (b) and (c), omit “a register of births or in” wherever occurring, insert “a register of births, a register of stillbirths or”.
- (13) Section 34 (**New name or change of name**):
- (a) After “birth” wherever occurring in section 34 (1) (a), insert “or stillbirth”.
 - (b) After “birth” wherever occurring in section 34 (1) (b), insert “, stillbirth”.
- (14) Section 35 (**General provisions**):
- (a) After “birth,” wherever occurring in section 35 (1) (d), (3) and (5) (a) (iii), insert “stillbirth,”.
 - (b) From 35 (1) (d) and (5) (a) (iii), omit “a register of births or in” wherever occurring, insert “a register of births, a register of stillbirths or”.

SCHEDULE 1—AMENDMENTS—*continued*(15) Section 40 (**Cancellation of registration**):

After “birth,” wherever occurring in section 40 (1), insert “stillbirth,”.

(16) Section 43 (**Certified copy or extract**):

From section 43 (1), omit “, other than a register of still-births,”.

Explanatory note

The amendment will require the Principal Registrar to provide a certified copy of, or certified extract from, a recording in a stillbirth register to any person who applies in writing, giving a reason for their request which the Principal Registrar considers to be sufficient.

(17) Section 47 (**References to certified copies or extracts**):

After “birth,” in section 47 (2), insert “stillbirth,”.

(18) Section 51 (**Error in or unauthorised alteration of certified copy etc.**):

After “birth,” wherever occurring in section 51 (1) (c), insert “stillbirth,”.

(19) Section 55 (**Disposal of certain registers**):

After “births,” insert “stillbirths,”.

(20) Section 61 (**Regulations**):

At the end of section 61 (1) (a), insert:

; or

- (a1) the circumstances in which the Principal Registrar can record legitimation and parentage information referred to in Part 4 in the register of stillbirths and the circumstances in which the Principal Registrar can cancel a recording of such information; or

(21) Schedule 3 (**Savings, transitional and other provisions**):

- (a) Before clause 1, insert:

Part 1—Provisions consequent on the enactment of this Act

Registration of Births, Deaths and Marriages (Amendment) Act 1992 No. 45

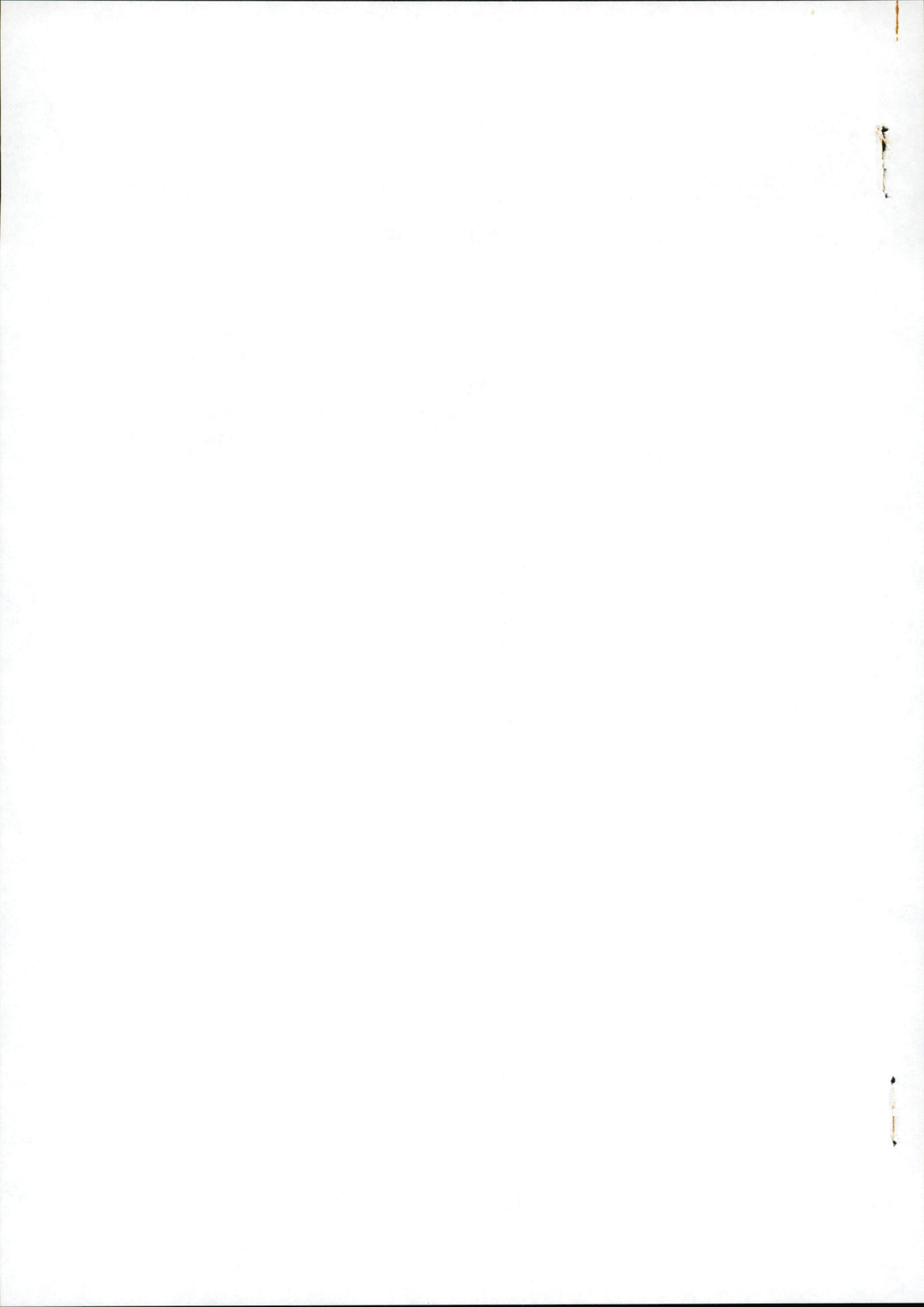
SCHEDULE 1—AMENDMENTS—*continued*

(b) At the end of the Schedule, insert:

**Part 2—Provisions consequent on the enactment of
the Registration of Births, Deaths and Marriages
(Amendment) Act 1992**

17. A stillbirth that was registered under Part 3 as in force immediately before the date of assent to the Registration of Births, Deaths and Marriages (Amendment) Act 1992 is taken to have been registered under Part 3 as amended by that Act.

[*Minister's second reading speech made in—
Legislative Assembly on 29 April 1992
Legislative Council on 6 May 1992*]



FIRST PRINT

**REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES
(AMENDMENT) BILL 1992**

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The object of this Bill is to amend the Registration of Births, Deaths and Marriages Act 1973:

- to create a permanent register of stillbirths; and
- to provide for the formal recognition of a child who is stillborn by providing for the issue of a certificate in relation to the child; and
- to amend the definition of a stillborn child to accord with the definition used for medical purposes.

The Bill includes the reforms relating to stillbirth recommended in the Law Reform Commission's 1988 report "Names: Registration and certification of births and deaths". The Commission recommended that the registration provisions of the Act be amended to meet the emotional needs of families by creating a permanent public record of the child's existence and by providing formal recognition of the child by way of certificate.

The amendments remove the distinction between the official recognition of a child who is stillborn and of a child born alive. The register of stillbirths will be kept in the same way as the register of births and will be permanent. The register will not be public, but a certified copy of, or an extract from, the information entered on the register will be available on request.

The registration of stillbirths is used as a means of collecting data for medical research into peri-natal death. However, there is an inconsistency between the legal definition of a stillborn child (which refers to a child who did not breathe after delivery) and the definition used for the purposes of medical research and statistics (which stresses the absence of a heart beat after delivery). The proposed substitution of the definition of a stillborn child adopts a recommendation of the Law Reform Commission regarding the definition, and facilitates the collection of accurate medical statistics, by removing the distinction.

Registration of Births, Deaths and Marriages (Amendment) 1992

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on the date of assent.

Clause 3 is a formal provision giving effect to the Schedule of amendments.

Clause 4 states that the explanatory matter contained in Schedule 1 does not form part of the Act.

Schedule 1 makes the amendments described above. The main amendments are explained in detail in the Bill in the explanatory note relating to the amendment. Other items of the Schedule make consequential amendments to certain provisions of the Act to achieve conformity between the registration of births and the registration of stillbirths. The amendments relate to the creation of an index, the recording of additional information, the alteration of the register and to errors in or alterations to certified copies of, or certified extracts from, the stillbirth register.

FIRST PRINT

**REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES
(AMENDMENT) BILL 1992**

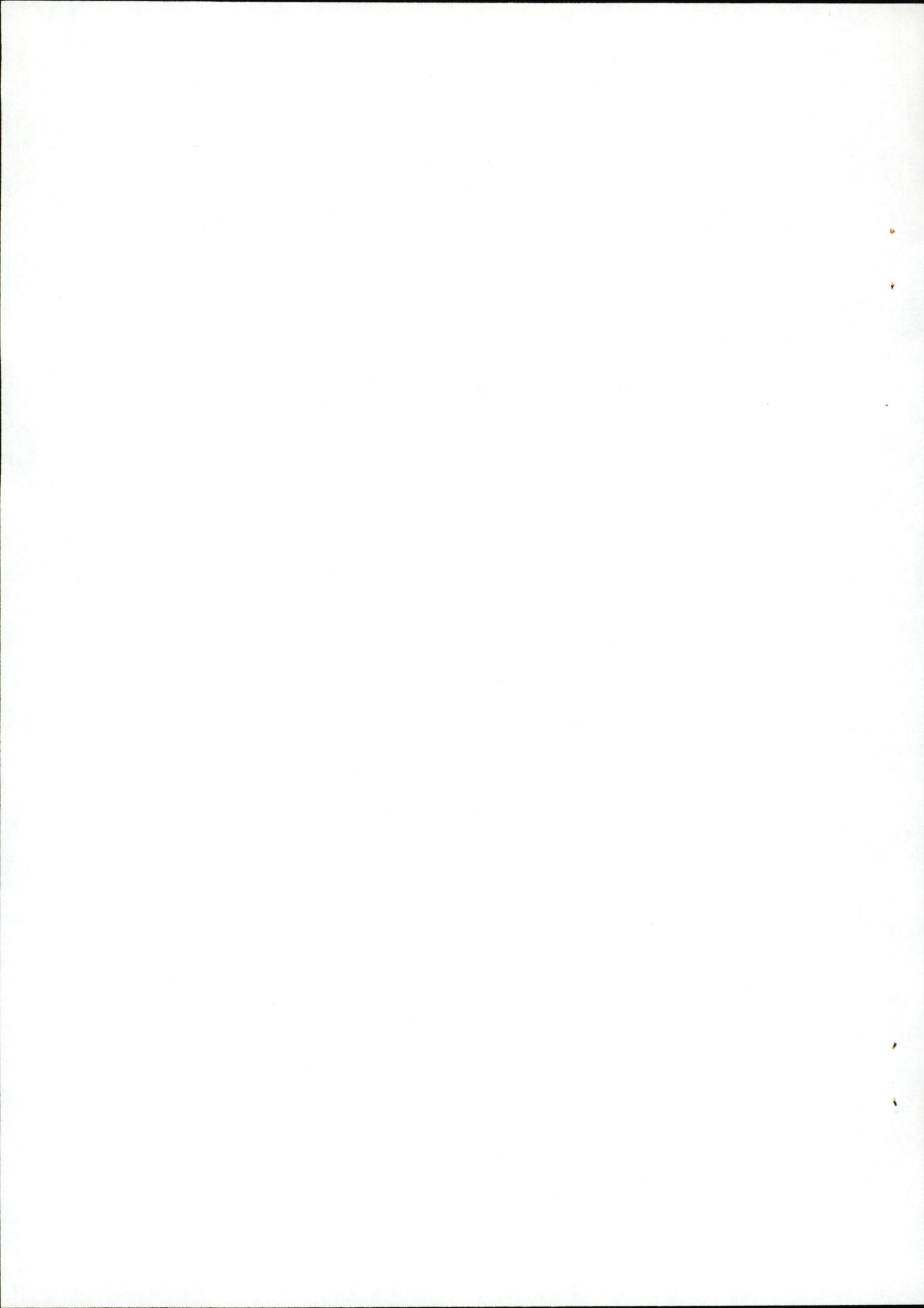
NEW SOUTH WALES



TABLE OF PROVISIONS

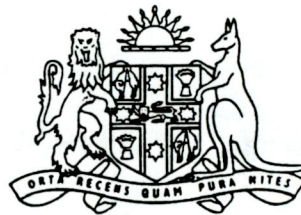
1. Short title
2. Commencement
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4. Explanatory notes

SCHEDULE 1—AMENDMENTS



**REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES
(AMENDMENT) BILL 1992**

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act to amend the Registration of Births, Deaths and Marriages Act 1973 in relation to the registration of stillbirths.

Registration of Births, Deaths and Marriages (Amendment) 1992

The Legislature of New South Wales enacts:

Short title

1. This Act may be cited as the Registration of Births, Deaths and Marriages (Amendment) Act 1992.

5 Commencement

2. This Act commences on the date of assent.

Amendment of Registration of Births, Deaths and Marriages Act 1973 No. 87

10 3. The Registration of Births, Deaths and Marriages Act 1973 is amended as set out in Schedule 1.

Explanatory Notes

4. Matter appearing under the heading "Explanatory note" in Schedule 1 does not form part of this Act.

SCHEDULE 1—AMENDMENTS

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(Sec. 3)

(1) The whole Act:

Omit "still-birth", "still-births" and "still-born" wherever occurring, insert instead "stillbirth", "stillbirths" and "stillborn", respectively.

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(2) Section 3:

Omit the section.

(3) Section 4 (Definitions):

From section 4 (1), omit the definition of "still-born child", insert instead:

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"stillborn child" means a child:

(a) who weighs at least 400 grams at delivery or, if weight at delivery is not known, is of at least 20 weeks gestation; and

(b) who has not breathed since delivery; and

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(c) whose heart has not beaten since delivery;

Registration of Births, Deaths and Marriages (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

Explanatory note

The amendment substitutes the definition of a stillborn child to achieve consistency with the definition used for the purposes of medical research.

- (4) Section 9 (**Registers and indexes to be kept by Principal Registrar**): 5
From section 9 (1) (b), omit “, other than the register of still-births”.
- (5) Section 10 (**Registers and records kept by local registrars**): 10
After “births,” in section 10 (1), insert “stillbirths,”.
- (6) Part 3, Division 1, heading:
Omit the heading, insert instead:

Division 1—Births and stillbirths

- (7) Section 11 (**Registration of births and stillbirths**): 15
(a) After “birth” where firstly occurring in section 11 (1), insert “and stillbirth”.
- (b) After “birth” wherever occurring in section 11 (1) (a) and (b), (2) and (3), insert “or stillbirth”.
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Explanatory note

The amendments will require the Principal Registrar to keep a general register of stillbirths that will record certain information about the stillbirth that has been furnished by the parents of the stillborn child, the relevant medical practitioner and the person who buries, cremates or disposes of the body of the child. 25

- (8) Sections 12 (**Notification of births and stillbirths**) and 13 (**Supreme Court may order registration of birth or stillbirth**): 30
After “birth” wherever occurring, insert “or stillbirth”.
- (9) Section 14 (**Father of exnuptial child not obliged to furnish particulars of birth or stillbirth**):
(a) From section 14 (1), omit “, or, if the child is still-born, the still-birth,”, insert “or stillbirth”.
- (b) After “birth” in section 14 (2), insert “or stillbirth”. 35

Registration of Births, Deaths and Marriages (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

(10) Part 3, Division 2, heading:

Omit the heading, insert instead:

Division 2—Special provisions relating to stillbirths

5 (11) Sections 16 (**Registration of still-births**), 17 (**Notification of still-births**) and 21 (**Destruction of certain records**):

Omit the sections.

Explanatory note

10 The amendment omits several provisions that relate specifically to stillbirths. Sections 16 and 17 are obsolete because of the amendment to section 11. The omission of section 21 removes the Principal Registrar's power to cancel and destroy, after two years, any record held relating to the stillbirth.

(12) Section 33 (**Additional matter**):

15 From section 33 (2) (b) and (c), omit "a register of births or in" wherever occurring, insert "a register of births, a register of stillbirths or".

(13) Section 34 (**New name or change of name**):

(a) After "birth" wherever occurring in section 34 (1) (a), insert "or stillbirth".

20 (b) After "birth" wherever occurring in section 34 (1) (b), insert ", stillbirth".

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25 (b) From 35 (1) (d) and (5) (a) (iii), omit "a register of births or in" wherever occurring, insert "a register of births, a register of stillbirths or".

(15) Section 40 (**Cancellation of registration**):

30 After "birth," wherever occurring in section 40 (1), insert "stillbirth,".

(16) Section 43 (**Certified copy or extract**):

From section 43 (1), omit ", other than a register of still-births,".

Registration of Births, Deaths and Marriages (Amendment) 1992

SCHEDULE 1—AMENDMENTS—*continued*

Explanatory note

The amendment will require the Principal Registrar to provide a certified copy of, or certified extract from, a recording in a stillbirth register to any person who applies in writing, giving a reason for their request which the Principal Registrar considers to be sufficient.

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|------|---|--------------------------|
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| (21) | Schedule 3 (Savings, transitional and other provisions):
(a) Before clause 1, insert:
Part 1—Provisions consequent on the enactment of this Act
(b) At the end of the Schedule, insert:
Part 2—Provisions consequent on the enactment of the Registration of Births, Deaths and Marriages (Amendment) Act 1992 | 25

30 |
| | 17. A stillbirth that was registered under Part 3 as in force immediately before the date of assent to the Registration of Births, Deaths and Marriages (Amendment) Act 1992 is taken to have been registered under Part 3 as amended by that Act. | 35 |
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LEGISLATIVE COUNCIL

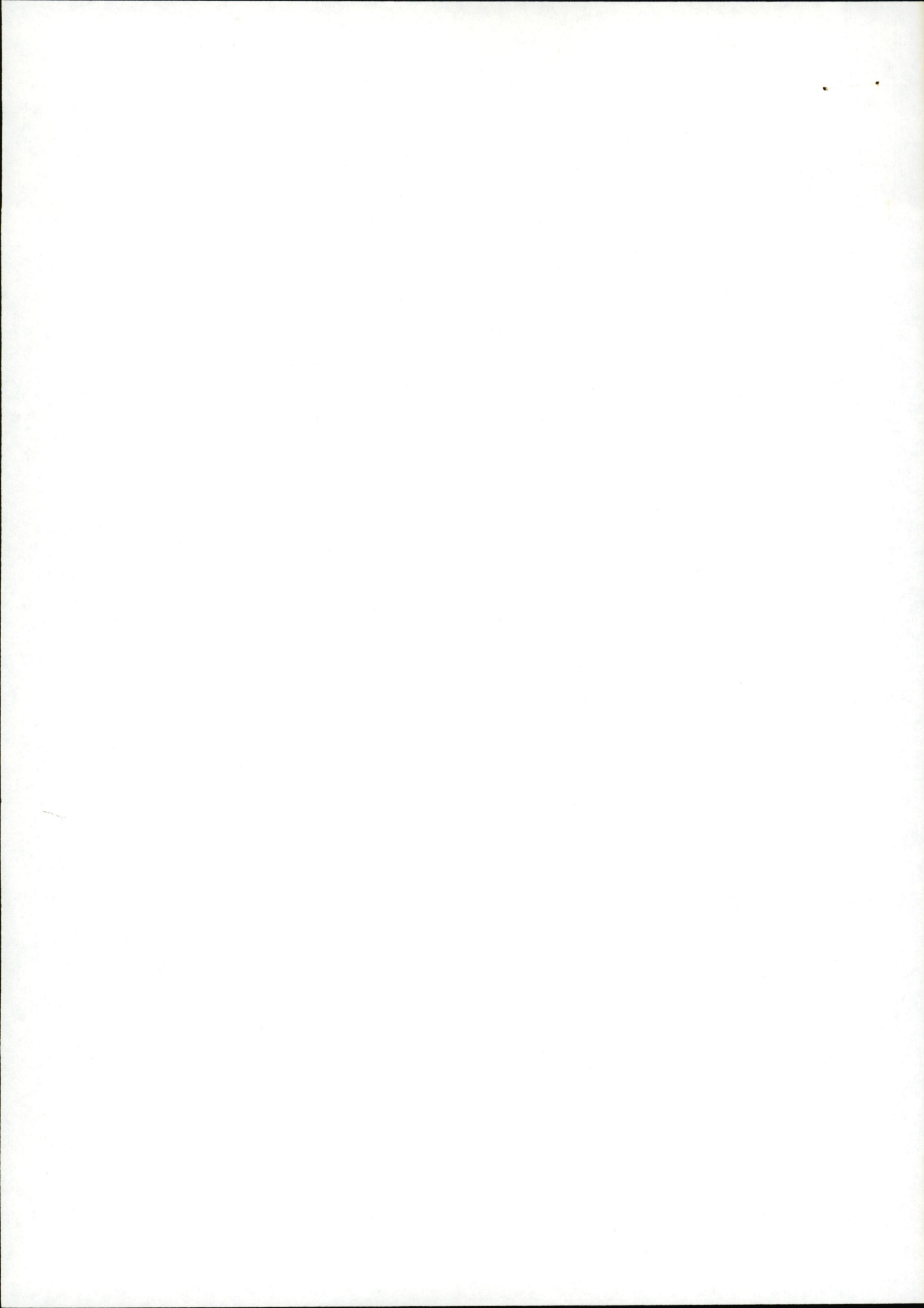
REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES
(AMENDMENT) BILL 1992

SECOND READING

MR PICKERING TO SAY:

MR PRESIDENT

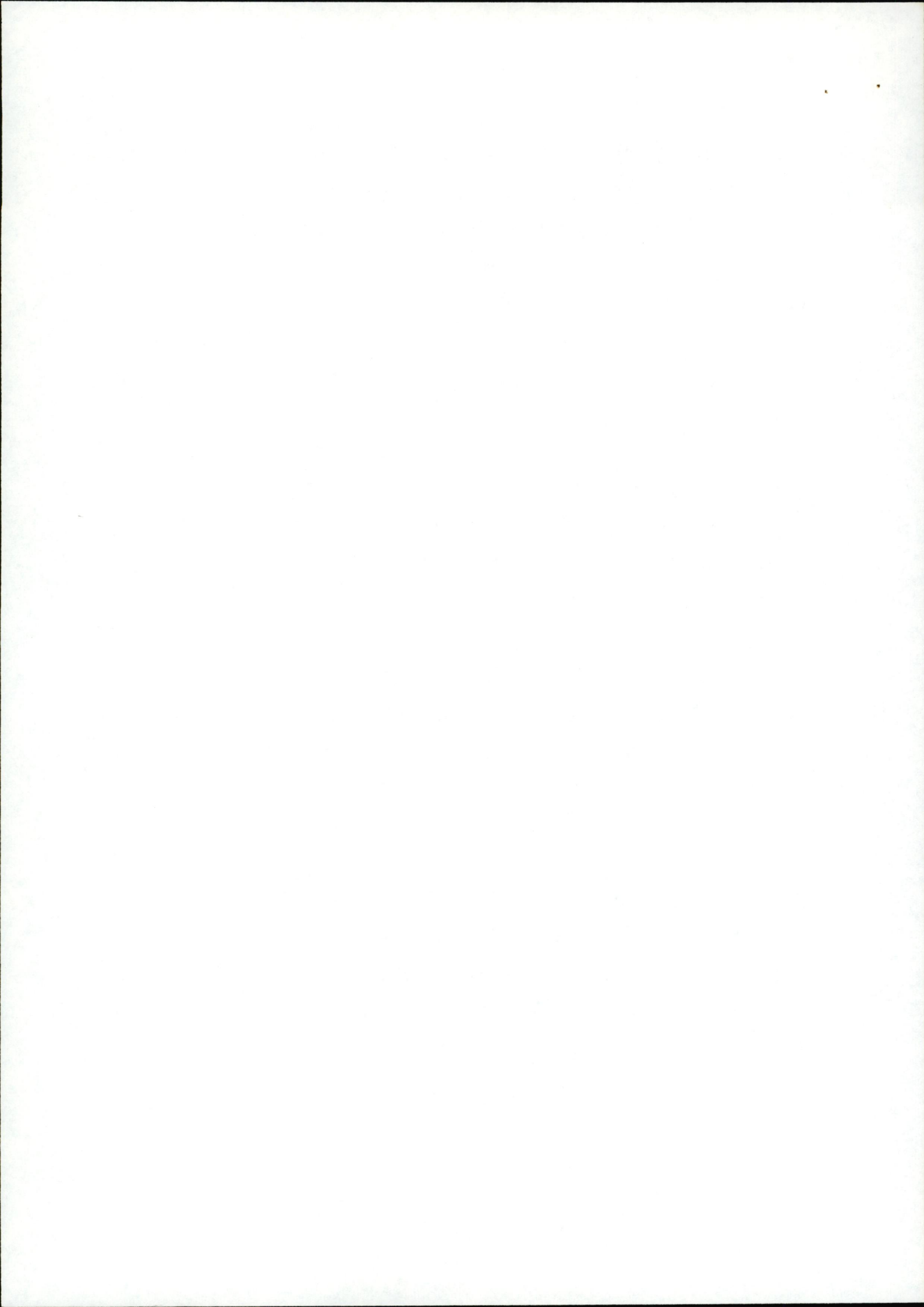
THIS BILL REPRESENTS AN IMPORTANT SOCIAL REFORM. ITS PURPOSE IS TO CREATE A PERMANENT REGISTER OF STILLBIRTHS; TO PROVIDE FOR THE FORMAL RECOGNITION OF A CHILD WHO IS STILLBORN BY PROVIDING FOR THE ISSUE OF A CERTIFICATE IN RELATION TO THE CHILD; AND TO AMEND THE DEFINITION OF A STILLBORN CHILD TO ACCORD WITH THE DEFINITION USED FOR MEDICAL PURPOSES.



THE SUBSTANCE OF THESE AMENDMENTS WAS CONTAINED IN RECOMMENDATIONS MADE BY THE NEW SOUTH WALES LAW REFORM COMMISSION IN ITS REPORT, "NAMES - REGISTRATION AND CERTIFICATION OF BIRTHS AND DEATHS", PUBLISHED IN DECEMBER 1988.

CURRENTLY THE ACT OBLIGES THE PRINCIPAL REGISTRAR TO REGISTER STILLBIRTHS BUT THE MANNER OF REGISTRATION IS DISCRETIONARY. EXISTING PRACTICE IS TO INCLUDE THE BIRTH IN THE BIRTH REGISTER INDEX, WITH A NOTATION OF STILLBIRTH. THIS SO-CALLED "STILLBIRTH REGISTER" IS NOT A PERMANENT PUBLIC RECORD: IT CONSISTS OF ALL RELEVANT DOCUMENTS LODGED (FORMS OF REGISTRATION OF BIRTH AND OF DEATH, MEDICAL CERTIFICATE OF CAUSE OF PERINATAL DEATH), WHICH ARE KEPT IN ALPHABETICAL ORDER AT THE SYDNEY REGISTRY, AND IN NOTEBOOK FORM IN LOCAL REGISTRIES.

NO BIRTH OR DEATH CERTIFICATE IS ISSUED, BUT AN ACKNOWLEDGEMENT OF NOTIFICATION OF A STILLBIRTH MAY BE SENT TO PARENTS ON REQUEST. THE ACT STATES THAT RECORDS MAY BE CANCELLED OR DESTROYED AFTER TWO YEARS BUT CURRENT REGISTRY PRACTICE IS TO RETAIN RECORDS FOR FIVE YEARS.



THE REASON FOR THIS POLICY LIES IN THE FACT THAT THE COMPULSORY REGISTRATION OF STILLBIRTHS COMMENCED IN THIS STATE IN 1934 TO ENABLE RELIABLE DATA TO BE COLLECTED FOR MEDICAL RESEARCH INTO PERINATAL DEATH. FOR THE PURPOSES OF THE ACT THE CHILD WAS DEEMED TO HAVE BEEN BORN ALIVE AND TO HAVE SUBSEQUENTLY DIED.

THE ADMINISTRATIVE PURPOSE OF REGISTRATION DOES NOT RECOGNISE ANY FUNCTION TO CATER FOR THE NEEDS OF THE PUBLIC. HOWEVER THERE IS NO REAL REASON WHY THE REGISTRATION SYSTEM SHOULD NOT SERVE A DUAL FUNCTION AS IT DOES IN ALL OTHER CASES.

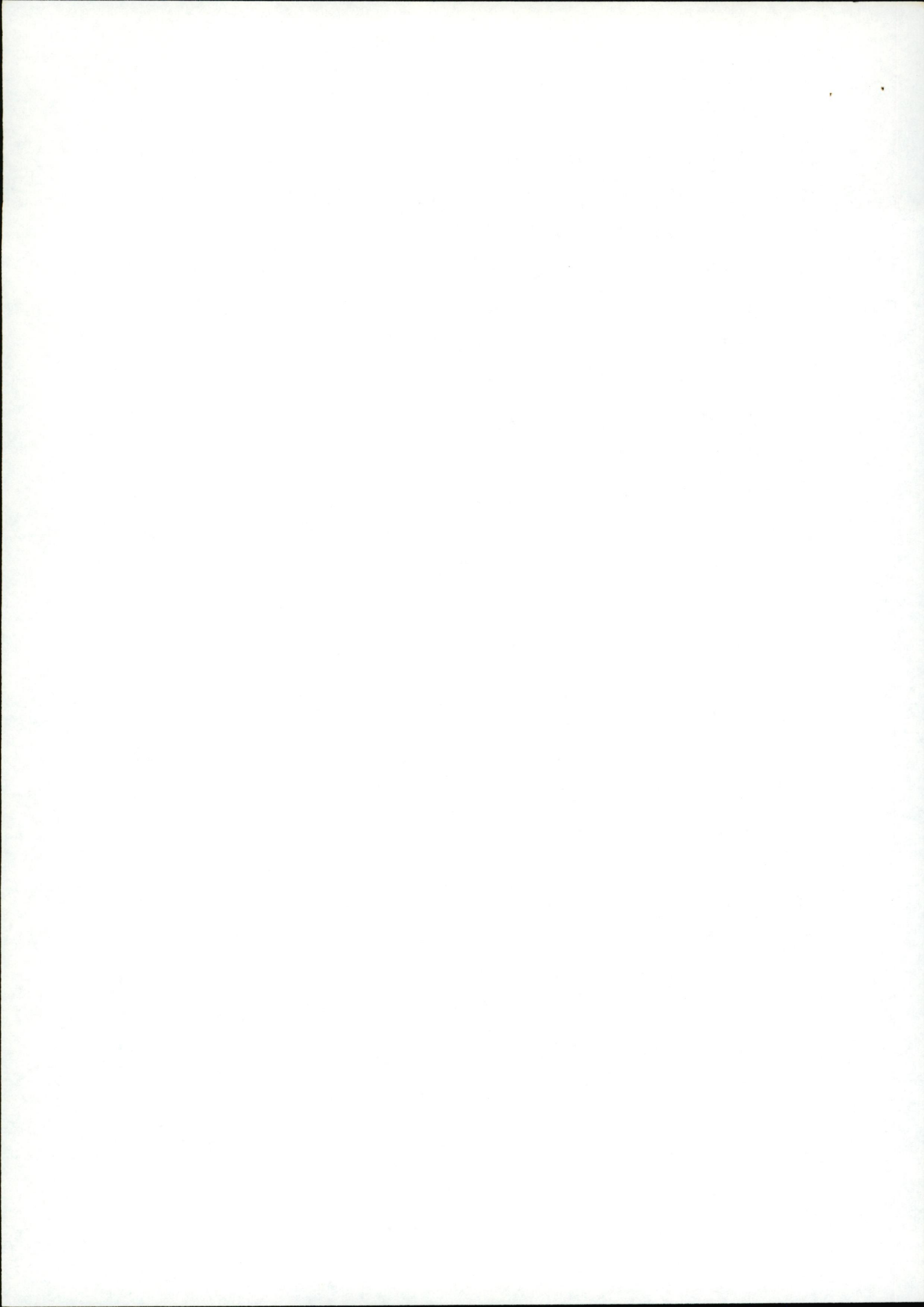
QUITE UNDERSTANDABLY A GREAT DEAL OF DISSATISFACTION ABOUT THE CURRENT PRACTICE HAS BEEN EXPRESSED BY THE PARENTS OF STILLBORN CHILDREN WHO HAVE AN IMPORTANT PERSONAL NEED AND A DESIRE FOR THE FORMAL RECOGNITION OF THE BIRTH OF THEIR CHILD. IN ITS REPORT THE LAW REFORM COMMISSION NOTED THAT IT HAD RECEIVED SUBMISSIONS FROM MEDICAL AND SOCIAL WORK PROFESSIONALS WHICH SUPPORTED THIS VIEW.

THE ARGUMENT THAT THE APPROPRIATE RECOGNITION OF THE LOSS OF AN EXPECTED CHILD HELPS PARENTS IN THE GRIEVING PROCESS WAS ALSO PUT TO THE LAW REFORM COMMISSION IN A SUBMISSION BY THE STILLBIRTH AND NEONATAL DEATH SUPPORT GROUP, KNOWN AS SANDS, WHOSE IMPORTANT WORK IN THIS AREA IS WELL-KNOWN.

I AM ADVISED THAT REPRESENTATIVES OF SANDS INTENDED TO BE IN THE GALLERY TODAY⁴ TO WITNESS THE INTRODUCTION OF THIS LEGISLATION WHICH IS OF SPECIAL SIGNIFICANCE TO THEM AND I PAY DUE ACKNOWLEDGEMENT TO THEIR EFFORTS.

THE AMENDMENTS CONTAINED IN SCHEDULE 1 OF THE BILL REMOVE THE DISTINCTION BETWEEN THE OFFICIAL RECOGNITION OF A CHILD WHO IS STILLBORN AND A CHILD BORN ALIVE. THE REGISTER OF STILLBIRTHS WILL BE KEPT IN THE SAME WAY AS THE REGISTER OF BIRTHS AND WILL BE PERMANENT.

THE REGISTER WILL NOT BE PUBLIC, BUT A CERTIFIED COPY OR EXTRACT OF THE INFORMATION ENTERED ON THE REGISTER WILL BE AVAILABLE ACCORDING TO THE SAME POLICIES AS ARE NOW APPLIED TO THE REGISTERS OF BIRTHS. THUS PARENTS AND SIBLINGS WILL BE ABLE TO REQUEST A CERTIFICATE OF STILLBIRTH REGISTRATION.



THE BILL ALSO AMENDS THE DEFINITION OF STILLBORN CHILD SO THAT IT IS CONSISTENT WITH THE MEDICAL DEFINITION, AS RECOMMENDED BY THE LAW REFORM COMMISSION.

THE PRESENT DEFINITION IN THE ACT REFERS TO A CHILD "WHO DID NOT BREATHE AFTER DELIVERY". THE MEDICAL STATISTICAL DEFINITION IS "WHOSE HEART DID NOT BEAT" AFTER DELIVERY. APART FROM THIS⁴, BOTH DEFINITIONS REFER TO A CHILD WHO IS OF A LEAST TWENTY WEEKS GESTATION OR AT LEAST 400 GRAMS WEIGHT AT DELIVERY.

IN ITS REPORT, THE LAW REFORM COMMISSION NOTED THAT THE DEFINITION FOR REGISTRATION PURPOSES HAS ALTERED, OVER TIME, TO REFLECT CHANGES IN THE MEDICAL VIEW OF VIABILITY OF CHILDREN AT BIRTH.

IT IS CLEAR THAT THE PURPOSES OF REGISTRATION RELATING TO THE COLLECTION OF MEDICAL STATISTICS AND MEDICAL RESEARCH WILL BE BETTER SERVED BY INCORPORATING THE MEDICAL CRITERION IN THE DEFINITION. AT THE SAME TIME, THE NEEDS OF PARENTS OF A STILLBORN CHILD WILL STILL BE MET.

CONSEQUENTIAL AMENDMENTS ARE MADE TO CERTAIN PROVISIONS OF THE ACT TO ACHIEVE CONFORMITY BETWEEN THE REGISTRATION OF STILLBIRTHS AND THE REGISTRATION OF BIRTHS.

IMPORTANTLY, THE BILL IS RETROSPECTIVE IN OPERATION SO THAT A PREVIOUSLY REGISTERED STILLBIRTH WILL BE TREATED AS HAVING BEEN REGISTERED UNDER THE REFORMED PROVISIONS, SO THAT "PARENTS WILL BE ENTITLED TO OBTAIN A CERTIFICATE OF REGISTRATION.

MR PRESIDENT, I COMMEND THE BILL TO THE HOUSE.

