



New South Wales

Births, Deaths and Marriages Registration Bill 1995

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to repeal the *Registration of Births, Deaths and Marriages Act 1973* and replace it with an Act that provides a simplified administrative procedure for the registration of births, deaths, marriages, adoption information and changes of name and for obtaining access to the Register. The Bill also transfers some provisions in the current Act to the *Coroners Act 1980* and makes consequential amendments to other Acts. The main features of the Bill are as follows:

- (a) The Bill simplifies the procedure for notification of registrable events. For instance, there will no longer be an obligation on relatives of a deceased person to notify the Registrar of Births, Deaths and Marriages of the death. Instead, the obligation will fall on a doctor and funeral director.
 - (b) The Bill provides a simplified procedure for change of name.
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- (c) A concept of prohibited name is introduced. This will prevent the registration of a name that is, for example, obscene or offensive.
- (d) The definition of "stillbirth" is changed, so that the weight at birth is relevant only if it cannot be established that the child is of at least 20 weeks gestation (rather than weight being the determining factor as at present).
- (e) The procedure for registering information relating to the parentage of a child is simplified.
- (f) The procedure for correcting the Register is simplified.
- (g) The Bill specifies the factors that are to be taken into account in determining whether a person should be granted access to the Register (such as privacy concerns and restrictions on access to adoption information contained in the *Adoption Information Act 1990*).
- (h) Penalties for offences relating to fraud and unauthorised access to, or interference with, the Register are increased.
- (i) Provisions in the current Act relating to the reporting of certain deaths to the coroner and the disposal of human remains without proper authority are transferred to the *Coroners Act 1980*.

The Bill is based on model provisions developed in consultation with the States and Territories.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act will commence on a day or days to be proclaimed.

Clause 3 sets out the objects of the proposed Act. The objects of the Act are to provide for the following:

- (a) the registration of births, deaths and marriages in New South Wales,
- (b) the registration of adoption information,
- (c) the registration of changes of name,

- (d) the keeping of registers for recording and preserving information about births, adoptions, deaths, marriages and changes of name in perpetuity,
- (e) access to the information in the registers in appropriate cases by government or private agencies and members of the public, from within and outside the State,
- (f) the issue of certified information from the registers,
- (g) the collection and dissemination of statistical information.

Clause 4 defines certain words and expressions used in the proposed Act. Important definitions include *prohibited name*, *registrable event* and *stillborn child*.

Part 2 Administration

Division 1 The Registrar

Clause 5 provides that the Registrar of Births, Deaths and Marriages is, in the exercise of functions under the Act, subject to the control and direction of the Minister.

Clause 6 sets out the general functions of the Registrar. These include establishing and maintaining the Register and administering the registration system established by the proposed Act.

Clause 7 provides for the staff of the Registrar.

Clause 8 allows the Registrar to delegate functions under the Act.

Division 2 Execution of documents

Clause 9 provides that the Registrar is to have a seal.

Clause 10 allows the Registrar to issue documents under seal and provides for judicial recognition of the execution of documents by the Registrar.

Division 3 Reciprocal administrative arrangements

Clause 11 allows the Minister to enter into an arrangement with any Minister administering a corresponding law (a law of another State or a Territory providing for the registration of births, deaths and marriages) providing for reciprocal powers of the registering authorities under the corresponding laws.

Part 3 Registration of births

Division 1 Notification of births

Clause 12 requires the birth of a child in the State to be notified to the Registrar. The person responsible for giving notice of the birth of a child is the chief executive officer of the hospital in which the child is born or to which the child is brought following birth or, in other circumstances, the doctor or midwife responsible for the professional care of the mother of the child at birth. If the child concerned was stillborn, the responsible person must also give the Registrar a doctor's certificate or notice with respect to the cause of foetal death.

Division 2 Registration of births

Clause 13 requires the birth of a child in the State to be registered under the proposed Act. It also provides for other circumstances in which the birth of a child may be registered under the proposed Act.

Clause 14 provides for the method of registration of the birth of a child.

Clause 15 makes the parents of a child jointly responsible for birth registration. If the child is a foundling, the person who has custody of the child is responsible for registration of birth.

Clause 16 requires the person responsible for registration of a child's birth to ensure that a birth registration statement is given to the Registrar within 60 days after the birth.

Clause 17 provides for the entry of the particulars regarding the birth of a child in the Register.

Clause 18 restricts the circumstances in which the Registrar can register the identity of the parent of a child. The Registrar may only register parentage information in the following cases:

- (a) if both parents apply for the inclusion of the information,
- (b) if only one parent applies for the inclusion of the information because the other parent cannot join in the application,
- (c) if only one parent applies for the inclusion of the information but the Registrar is satisfied the other parent does not dispute the correctness of the claim,

- (d) if a court makes a finding or order as to the parentage of a child,
- (e) if the Registrar is entitled by law to make a presumption as to the parentage of the child,
- (f) if the regulations authorise the inclusion of parentage information.

Division 3 Court powers

Clause 19 allows an application to be made to the District Court for an order directing the registration of a birth or the inclusion of certain information concerning a child in the Register. It also allows other courts to make such orders.

Division 4 Alteration of details of birth registration

Clause 20 allows the Registrar, on application, to enter further details in the Register after the initial registration of a child's birth.

Division 5 Child's name

Clause 21 requires a birth registration statement to state a name for the child. If the name is a prohibited name (such as a name that is offensive or obscene or contrary to the public interest), the Registrar may assign a name to the child.

Clause 22 allows either parent of a child to apply to the District Court for the resolution of a dispute concerning the name of the child.

Part 4 Registration of adoptions

Clause 23 requires adoption orders and orders for the discharge of an adoption to be registered.

Clause 24 sets out how the Registrar registers adoptions and discharges of adoption.

Clause 25 requires the Registrar to make an appropriate entry in or on a person's birth registration regarding an adoption or discharge of adoption. If the child's birth is not registered in the State, the Registrar is to cause the information to be sent to the relevant registering authority.

Part 5 Change of name

Clause 26 provides that a person's name may be changed by registration of the change under the proposed Part.

Clause 27 allows a person domiciled or ordinarily resident in the State or whose birth is registered in the State to apply to the Registrar for registration of a change of the person's name.

Clause 28 allows a parent or guardian to apply for registration of a change in the name of a child. Application may be made by one parent only if the applicant is the sole parent named in the child's birth registration, there is no other surviving parent of the child or a court approves the change of name. Any parent may apply to the District Court for approval of a change of name of a child.

Clause 29 provides that a change in the name of a child cannot be registered unless the child consents to the change of name or is unable to understand the meaning and implications of the change of name.

Clause 30 allows the Registrar to require additional information before registering a change of name and provides for circumstances in which a change of name cannot be registered (for example, where the change is being sought for a fraudulent purpose).

Clause 31 provides for the registration of a change of name by the making of an appropriate entry about the change in the Register including, if the applicant requests it, by appropriate notation on the person's birth registration.

Clause 32 makes it clear that the Part does not prevent a person changing his or her name by repute or usage.

Part 6 Registration of marriages

Clause 33 requires a marriage that is solemnised in the State to be registered under the proposed Act.

Clause 34 provides for the registration of a marriage by lodgement of the marriage certificate with the Registrar.

Clause 35 provides that a marriage is registered by inclusion of the marriage certificate or the particulars of the marriage in the Register.

Part 7 Registration of deaths

Division 1 Cases where registration of death is required or authorised

Clause 36 provides for the circumstances in which a death may be registered under the Act. These include where a person dies in the State, where a person ordinarily resident in the State dies outside the State or dies in a ship or aircraft which is proceeding to a place in the State. Stillbirths are not considered to be deaths and are not to be registered as deaths.

Clause 37 allows any court (including a court of the Commonwealth, another State or a Territory) to order the registration of the death of a person who died in the State.

Clause 38 prevents the Registrar from registering a death unless the Registrar has been given notice of the death by a doctor (see clause 39), a coroner has authorised disposal of the remains of the person, a coroner has given notice of the death to the Registrar for the purpose of effecting registration or a similar notice or order has been given under another Australian law. This does not prevent a court ordering registration of the death or the Registrar registering the death if the Registrar considers that in the circumstances it is appropriate.

Division 2 Notification of deaths

Clause 39 requires a doctor who was responsible for the care of a person immediately before the person's death, or who examines the body of the deceased person after death, to give notice to the Registrar of the death and the cause of death, unless another doctor has already given the required notice or a coroner has been notified of the death. The notice must not be given if the doctor is prevented from certifying the cause of death of a person by reason of the fact that the death is reportable to a coroner. The circumstances in which a death is reportable to a coroner are contained in the amendments to the *Coroners Act 1980* (see Schedule 1 [2]). If a death is reported to a coroner, the coroner must notify the Registrar of the death.

Clause 40 requires a coroner to give the Registrar copies of any order authorising the disposal of human remains or any finding about the cause of a person's death. A death certificate issued before completion of a coroner's inquest must be endorsed to indicate that fact.

Clause 41 requires a funeral director or other person who arranges for the disposal of human remains to give notice to the Registrar of certain information relating to the deceased person. Similar requirements apply if a funeral director or other person arranges for the removal of human remains from the State or if the remains have not been disposed of within 30 days after the person's death.

Division 3 Registration of death

Clause 42 provides for the registration of a person's death by the making of an appropriate entry in the Register.

Part 8 The Register

Division 1 Keeping the Register

Clause 43 requires the Registrar to keep a register or registers containing particulars of events that are registrable under the proposed Act. The Register may be maintained as a computer database or in documentary form. An index must be maintained to make the information contained in the Register accessible.

Division 2 Registrar's powers of inquiry

Clause 44 allows the Registrar to conduct an inquiry into a registrable event and, for the purposes of that inquiry, to require any person to provide relevant information.

Division 3 Correction of Register

Clause 45 provides for correction of the Register.

Division 4 Access to, and certification of, Register entries

Clause 46 allows the Registrar to give access to or provide information from the Register to a person or organisation that has an adequate reason for wanting access or information. Access or information may be given subject to conditions. The Registrar is required to take certain factors into account in determining whether to give such access or information.

Clause 47 allows the Registrar, on application, to search the Register for an entry about a particular event. The Registrar may reject an application if it does not show an adequate reason for wanting the information.

Clause 48 requires the Registrar, in providing information from the Register, to protect persons from unjustified intrusions on their privacy in so far as it is practicable to do so.

Clause 49 provides for the certification of entries in the Register.

Clause 50 gives the executor, administrator or trustee of an estate the right to apply for a certificate from the Registrar certifying, in respect of a deceased person, whether the person is recorded in the Register as being the parent of any children.

Clause 51 allows the Registrar to issue a certificate to enable the disposal of human remains. (The *Coroners Act 1980* is amended to make it an offence to dispose of human remains without appropriate authorisation. See Schedule 1 [6].)

Clause 52 makes it clear that access to information in the Register is subject to the provisions of the *Adoption Information Act 1990*.

Clause 53 requires the Registrar to maintain a written statement of the policies on which access to information contained in the Register is to be given or denied.

Clause 54 allows fees for the Registrar's services to be fixed by the regulations or by negotiation between the Registrar and the person who asks for the relevant services.

Clause 55 allows the Registrar to remit the whole or part of a fee under the proposed Act.

Part 9 General power of review

Clause 56 provides that a person who is dissatisfied with a decision of the Registrar may apply to the District Court for a review of the decision.

Part 10 Miscellaneous

Clause 57 makes it an offence to knowingly make a false or misleading representation in an application, notice or document under the proposed Act or in response to an inquiry by the Registrar.

Clause 58 makes it an offence to obtain access to the Register or interfere with the Register without the authority of the Registrar or other lawful authority.

Clause 59 makes it an offence to forge the Registrar's certificate or seal or to forge or falsify a certificate or other document under the Act. The Registrar may impound or require the return of a forged or falsified document or certificate or a document that was issued as a result of fraud or error.

Clause 60 makes it an offence to improperly disclose information obtained in connection with the administration of the proposed Act.

Clause 61 protects the Registrar from liability in respect of his or her exercise of functions under the Act.

Clause 62 contains a general regulation making power.

Clause 63 provides for proceedings for offences to be dealt with by a Local Court.

Clause 64 repeals the *Registration of Births, Deaths and Marriages Act 1973*.

Clause 65 gives effect to the amendments to the *Coroners Act 1980* contained in Schedule 1.

Clause 66 gives effect to the consequential amendments to other Acts contained in Schedule 2.

Clause 67 gives effect to the savings, transitional and other provisions contained in Schedule 3.

Clause 68 provides for review of the proposed Act by the Minister as soon as possible after the period of 5 years from the date of assent.

Schedules

Schedule 1 transfers to the *Coroners Act 1980* certain provisions that are currently contained in the *Registration of Births, Deaths and Marriages Act 1973*. These provisions can be summarised as follows:

- Proposed section 12A sets out the circumstances in which a doctor must not certify the cause of death of a person. These circumstances are circumstances in which a coroner has jurisdiction to hold an inquest into the death. If a doctor is of the opinion that a person has died in such circumstances, the doctor is required to notify a member of the police force, who is in turn required to notify a coroner of the death. (See Schedule 1 [1] and [2])

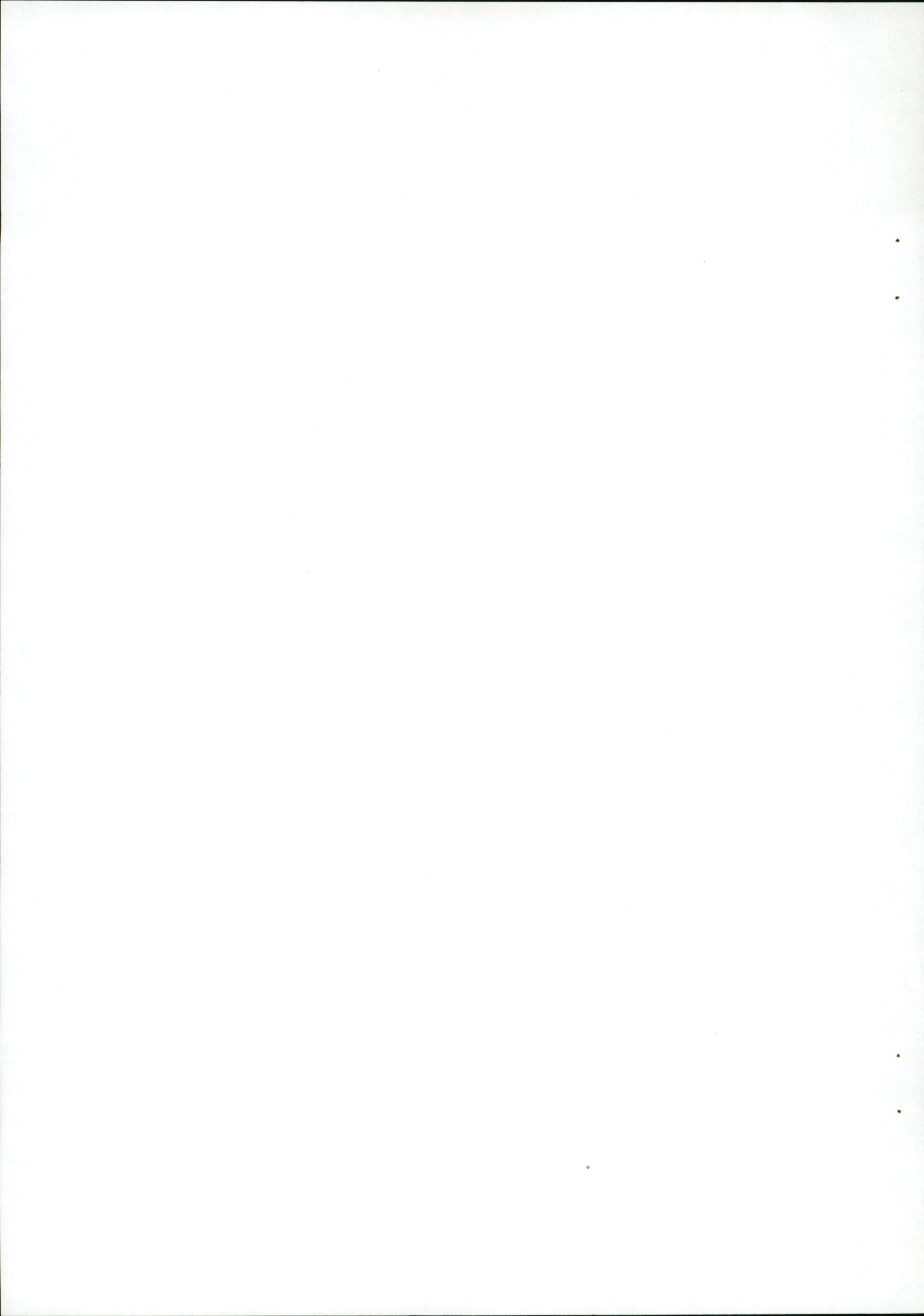
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- Proposed section 16A requires a coroner, in certain circumstances, to give the Registrar of Births, Deaths and Marriages particulars relating to the death of a person to enable registration of the death of the person to be effected or completed. (See Schedule 1 [3])
- Proposed Part 6A makes it an offence to dispose of human remains without proper authorisation. It also allows a coroner to make an order authorising the disposal of human remains (including the remains of a stillborn child) and to direct a doctor to examine human remains to determine whether they are the remains of a stillborn child. (See Schedule 1 [4], [5] and [6])

Schedule 2 makes consequential amendments to other Acts.

Schedule 3 contains savings, transitional and other provisions.



First print



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Births, Deaths and Marriages Registration Bill 1995

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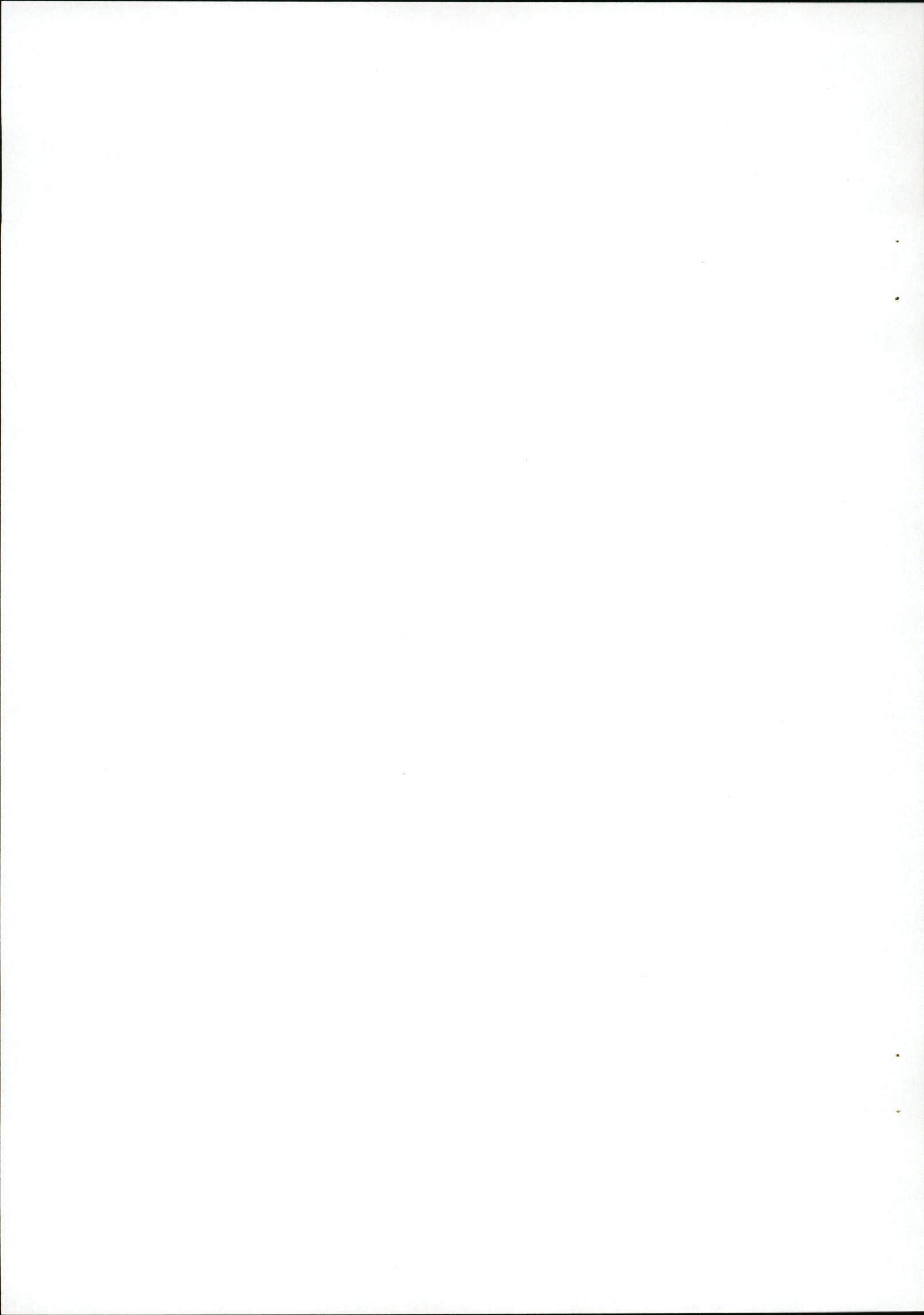
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New South Wales

Births, Deaths and Marriages Registration Bill 1995

No. , 1995

A Bill for

An Act to provide for the registration of births, deaths and marriages and for other purposes.

Clause 1 Births, Deaths and Marriages Registration Bill 1995

Part 1 Preliminary

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Births, Deaths and Marriages Registration Act 1995*.

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2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Objects of Act

The objects of this Act are to provide for:

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- (a) the registration of births, deaths and marriages in New South Wales, and
- (b) the registration of adoption information, and
- (c) the registration of changes of name, and
- (d) the keeping of registers for recording and preserving information about births, adoptions, deaths, marriages and changes of name in perpetuity, and
- (e) access to the information in the registers in appropriate cases by government or private agencies and members of the public, from within and outside the State, and
- (f) the issue of certified information from the registers, and
- (g) the collection and dissemination of statistical information.

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4 Definitions

(1) In this Act:

adult means a person who is 18 or above or, although under 18, is or has been married.

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birth includes a stillbirth.

birth registration statement see section 14.

change of name includes an addition, omission or substitution.

child includes a stillborn child.

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

death does not include a stillbirth. 5

disposal of human remains means:

- (a) cremation of the remains, or
- (b) burial of the remains (including burial at sea), or
- (c) placing the remains in a mausoleum or other permanent resting place, or 10
- (d) placing the remains in the custody of an educational or scientific institution for the purpose of medical education or research, or
- (e) removal of the remains from the State (but not if the remains have been cremated or are taken from the State by sea and buried at sea in the course of the voyage). 15

doctor means a person registered as a medical practitioner under the *Medical Practice Act 1992*.

exercise a function includes perform a duty.

function includes a power, authority or duty. 20

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

prohibited name means a name that:

- (a) is obscene or offensive, or
- (b) could not practicably be established by repute or usage: 25
 - (i) because it is too long, or
 - (ii) because it consists of or includes symbols without phonetic significance, or
 - (iii) for some other reason, or
- (c) includes or resembles an official title or rank, or 30
- (d) is contrary to the public interest for some other reason.

registrable event means a birth, adoption or discharge of adoption, change of name, death or marriage.

registrable information means information that must or may be included in the Register¹.

Register see section 43. 5

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

Registrar means the Registrar of Births, Deaths and Marriages holding office as such under Part 2 of the *Public Sector Management Act 1988*. 10

State includes a Territory.

stillbirth means the birth of a stillborn child.

stillborn child means a child that exhibits no sign of respiration or heartbeat, or other sign of life, after birth and that: 15

- (a) is of at least 20 weeks' gestation, or
- (b) if it cannot be reliably established whether the period of gestation is more or less than 20 weeks, has a body mass of at least 400 grams at birth.

(2) Notes in the text of this Act do not form part of this Act. 20

Note

¹ See section 43 (2).

Part 2 Administration

Division 1 The Registrar

5 Registrar

The Registrar is, in the exercise of functions under this Act, subject to the control and direction of the Minister.

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6 Registrar's general functions

The Registrar's general functions are:

- (a) to establish and maintain the registers¹ necessary for the purposes of this Act, and
- (b) to administer the registration system established by this Act and ensure that the system operates efficiently, effectively and economically, and
- (c) to ensure that this Act is administered in the way best calculated to achieve its objects.

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Note

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¹ The registers are collectively referred to as the "Register". See section 43.

7 Registrar's staff

Such staff as may be necessary for the proper administration of this Act are to be employed under Part 2 of the *Public Sector Management Act 1988*.

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8 Delegation

- (1) The Registrar may delegate to an authorised person any of the Registrar's functions under this Act, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Registrar if the delegate is authorised in writing to do so by the Registrar.

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- (3) In this section:

authorised person means an officer or temporary employee of the Public Service or a person otherwise employed in the public sector.

Division 2 Execution of documents

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9 The Registrar's seal

The Registrar is to have a seal.

10 Execution of documents

- (1) The Registrar may issue a certificate or other document under the Registrar's signature and seal, or under a facsimile of the Registrar's signature and seal produced by stamp or machine imprint or by some other method authorised by the regulations. 10
- (2) If a document produced before a court or an administrative authority or official is apparently under:
- (a) the Registrar's signature and seal, or 15
- (b) a facsimile of the Registrar's signature and seal produced by stamp or machine imprint or by some other method authorised by the regulations,
- the court, authority or official must presume, in the absence of evidence to the contrary, that the document was properly issued under the Registrar's authority. 20
- (3) Judicial notice is to be taken of the Registrar's seal.

Division 3 Reciprocal administrative arrangements

11 Reciprocal administrative arrangements

- (1) The Minister may enter into an arrangement with the Minister responsible for the administration of a corresponding law providing for: 25

-
- (a) the exercise by the Registrar of functions of the registering authority under the corresponding law, and
- (b) the exercise by the registering authority under the corresponding law of functions of the Registrar under this Act. 5
- (2) When an arrangement is in force under this section:
- (a) the Registrar may exercise, to the extent authorised by the arrangement (but subject to the conditions of the arrangement), the functions of the registering authority under the corresponding law, and 10
- (b) the registering authority under the corresponding law may exercise, to the extent authorised by the arrangement (but subject to the conditions of the arrangement), the functions of the Registrar under this Act and anything done by the registering authority under this paragraph is taken to have been done by the Registrar under this Act. 15
- (3) An arrangement under this section may:
- (a) establish a database in which information is recorded for the benefit of all the participants in the arrangement, and
- (b) provide for access to information contained in the database, and 20
- (c) provide for payments by or to participants in the arrangement for services provided under the arrangement.

Part 3 Registration of births

Division 1 Notification of births

12 Notification of births

- (1) When a child is born in the State, the responsible person must give notice of the birth to the Registrar in a form and manner required by the Registrar, specifying the particulars required by the regulations. 5
- Maximum penalty: 5 penalty units.
- (2) The notice must be given:
- (a) in the case of a child born alive—within 21 days after birth, or 10
- (b) in the case of a stillbirth—within 48 hours after stillbirth.
- (3) When notice of a stillbirth is given, the responsible person must also give the Registrar, in a form and manner required by the Registrar: 15
- (a) a doctor's certificate certifying the cause of foetal death, or
- (b) if a doctor is of the opinion that it is impracticable or undesirable to certify the cause of foetal death at the time the notice referred to in subsection (2) (b) is given, a notice signed by a doctor stating the doctor's intention to complete such a certificate. 20
- (4) The certificate or notice referred to in subsection (3) must be completed by the doctor responsible for the professional care of the mother at the birth or a doctor who examined the body of the stillborn child after the stillbirth. 25
- (5) In this section:
- responsible person** means:
- (a) in the case of a child born in a hospital or brought to a hospital within 24 hours after birth—the chief executive officer of the hospital, or 30

- (b) if the child was not born in a hospital or brought to a hospital within 24 hours after birth, and a doctor or midwife was responsible for the professional care of the mother at the birth—that doctor or midwife.

Division 2 Registration of births

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13 Cases in which registration of birth is required or authorised

- (1) If a child is born in the State, the birth must be registered under this Act.
- (2) If a court¹ orders the registration of a birth, the birth must be registered under this Act. 10
- (3) If a child is born:
- (a) in an aircraft during a flight to an airport in the State, or
- (b) on a ship during a voyage to a port in the State,
- the birth may be registered under this Act.
- (4) If a child is born outside the Commonwealth, but the child is to become (or in the case of a stillbirth, was to become) a resident of the State, the birth may be registered under this Act. 15
- (5) However, the birth of a child born outside the State is not to be registered under this Act if the birth is registered under a corresponding law. 20

Note

¹ The power to order registration of birth may be exercised by courts of this State and also by courts of other States and the Commonwealth (see section 19).

14 How to have the birth of a child registered

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A person has the birth of a child registered under this Act by giving notice of the birth to the Registrar (the *birth registration statement*) in a form and manner required by the Registrar, specifying the particulars required by the regulations.

15 Responsibility to have birth registered

- (1) The parents of a child are jointly responsible for having the child's birth registered under this Act (and must both sign the birth registration statement) but the Registrar may accept a birth registration statement from one of the parents if satisfied that it is not practicable to obtain the signatures of both parents on the birth registration statement. 5
- (2) If a child is a foundling, the person who has custody of the child is responsible for having the child's birth registered.
- (3) The Registrar may accept a birth registration statement from a person who is not responsible for having the child's birth registered if satisfied that: 10
- (a) the person lodging the statement has knowledge of the relevant facts, and
 - (b) the child's parents are unable or unlikely to lodge a birth registration statement. 15

16 Obligation to have birth registered

- (1) A person responsible for having the birth of a child registered must have the birth registered (as provided by section 14) within 60 days after the date of the birth. 20
- Maximum penalty: 10 penalty units.
- (2) However, the Registrar must accept a birth registration statement given for the purposes of having a birth registered even though it is given after the end of the 60 day period.

17 Registration 25

- (1) The Registrar registers a birth by making an entry about the birth in the Register including the particulars required by the regulations.
- (2) However, if the particulars available to the Registrar are incomplete the Registrar may register a birth on the basis of incomplete particulars. 30

18 Registration of parentage details

The Registrar must not include registrable information about the identity of a child's parent in the Register unless:

- (a) the father and mother of the child make a joint application for the inclusion of the information, or 5
- (b) one parent of the child makes an application for the inclusion of the information and the other parent cannot join in the application because he or she is dead or cannot be found, or for some other reason, or
- (c) one parent of the child makes an application for the inclusion of the information and the Registrar is satisfied that the other parent does not dispute the correctness of that information, or 10
- (d) a court orders the inclusion of the information in the Register, or 15
- (e) a court makes a finding that a particular person is a parent of the child, or
- (f) the Registrar is entitled under any law (including a law of another State or the Commonwealth) to make a presumption as to the identity of the child's parent, or 20
- (g) the regulations authorise the Registrar to include the information.

Division 3 Court powers**19 Orders for registration of birth or inclusion of registrable information** 25

- (1) The District Court may, on application by an interested person or on its own initiative, order:
 - (a) the registration of a birth, or
 - (b) the inclusion of registrable information about a birth or a child's parents (including details of the marriage of a child's parents) in the Register. 30

- (2) If any court (including any court of another State or the Commonwealth) makes a finding about a birth or a child's parents, the court may order registration of the birth or inclusion of registrable information about the birth or the parents in the Register. 5

Division 4 Alteration of details of birth registration

20 Addition of details after birth registration

- (1) An application to the Registrar for the addition of registrable information in a person's birth registration:
- (a) must be made in writing, and 10
 - (b) must include the information required by the Registrar, and
 - (c) must, if the Registrar requires verification of the information contained in the application, be accompanied by a statutory declaration verifying the information contained in the application and any other evidence that the Registrar may require. 15
- (2) This section is subject to section 18.

Division 5 Child's name

21 Name of child

- (1) The birth registration statement must state the name of the child. 20
- (2) However, the Registrar may assign a name to the 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 that they are unable to agree on the child's name. 25

22 Dispute about child's name

- (1) If there is a dispute between parents about a child's name, either parent may apply to the District Court for a resolution of the dispute.
- (2) On an application under subsection (1), the District Court may: 5
 - (a) resolve the dispute about the child's name as the Court considers appropriate, and
 - (b) order the Registrar to register the child's name in a form specified in the order.
- (3) If any court (including any court of another State or the Commonwealth) resolves a dispute about a child's name, the court may order the Registrar to register the child's name in a form specified in the order. 10

Part 4 Registration of adoptions

23 Duty to register adoptions

- (1) If a State adoption order is made or an order is made for the discharge of such an order, the adoption or discharge of adoption must be registered under this Act. 5
- (2) If an Interstate adoption order is made in relation to a person whose birth or previous adoption is registered under this Act or an order is made for the discharge of an Interstate adoption order in relation to such a person, the adoption or discharge of adoption must be registered under this Act. 10
- (3) In this section:

Interstate adoption order means an adoption order made (whether by a court or not) under the law in force in another State.

State adoption order means an adoption order made under the *Adoption of Children Act 1965* or an order made under section 47 of that Act. 15

24 How adoptions are registered

- (1) The Registrar is to register an adoption or discharge of an adoption by registering the memorandum sent to the Registrar under section 61 or 63 of the *Adoption of Children Act 1965*. 20
- (2) The Registrar registers the memorandum by making an entry about the memorandum in the Register including the particulars required by the regulations.
- (3) If the memorandum relates to a person in respect of whom such a memorandum has previously been registered under this Act, the Registrar is also to note a reference to the later memorandum in the entry in the Register relating to the previous memorandum. 25

25 Adoption memorandum to be noted in birth registration

- (1) If a memorandum registered under this Part relates to a person whose birth is registered under this Act, the Registrar is to note a reference to the memorandum in the entry relating to the birth of the person. 5
- (2) If a memorandum received by the Registrar under section 61 or 63 of the *Adoption of Children Act 1965* relates to a person whose birth is registered under a corresponding law, the Registrar is to cause a copy of the memorandum to be sent to the relevant registering authority. 10

Part 5 Change of name

26 Change of name by registration

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

27 Application to register change of adult's name 5

An adult person:

- (a) who is domiciled or ordinarily resident in the State, or
- (b) whose birth is registered in the State,

may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the person's name. 10

28 Application to register change of child's name

- (1) The parents of a child:

- (a) who is domiciled or ordinarily resident in the State, or
- (b) whose birth is registered in the State,

may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the child's name. 15

- (2) 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. 20

- (3) An application for registration of a change of a child's name may be made by one parent if:

- (a) the applicant is the sole parent named in the registration of the child's birth under this Act or any other law (including a corresponding law), or 25

(b) there is no other surviving parent of the child, or

(c) a court approves the proposed change of name.

- (4) The District 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. 30

-
- (5) If any court (including any court of another State or the Commonwealth) approves a proposed name for a child, the court may order the Registrar to register the child's name in a form specified in the order.

29 Child's consent to change of name 5

A change of a child's name must not be registered unless:

- (a) the child consents to the change of name, or
- (b) the child is unable to understand the meaning and implications of the change of name.

30 Registration of change of name 10

- (1) Before registering a change of name under this Part, the Registrar may require the applicant to provide evidence to establish to the Registrar's satisfaction:
- (a) the identity and age of the person whose name is to be changed, and 15
 - (b) that the change of name is not sought for a fraudulent or other improper purpose, and
 - (c) if the person whose name is to be changed is a child—that the child consents to the change of name or is unable to understand the meaning and implications of the change of name. 20
- (2) If the Registrar is satisfied that the name of a person whose birth is registered in the State has been changed under another law (including a law of another State or the Commonwealth) or by order of a court (including any court of another State or the Commonwealth) the change of name may be registered under this Act. 25
- (3) The Registrar may refuse to register a change of name if, as a result of the change, the name would become a prohibited name.

31 Entries to be made in the Register 30

- (1) The Registrar registers a change of name by making an entry about the change of name in the Register including the particulars required by the regulations.

- (2) If the applicant for registration of the change of name asks the Registrar to arrange for noting the change of name in the particulars of the person's birth, and the person's birth is registered under this Act or a corresponding law, the Registrar must: 5
- (a) if the birth is registered under this Act—note the change of name in the entry relating to the birth, or
 - (b) if the birth is registered under a corresponding law—give notice to the relevant registering authority of the change of name. 10
- (3) If the change of name is noted in the Register under subsection (2), a birth certificate issued by the Registrar for the person must show the person's name as changed under this Part.

32 Change of name may still be established by repute or usage

This Part does not prevent a change of name by repute or usage. 15

Part 6 Registration of marriages

33 Cases in which registration of marriage is required

If a marriage is solemnised in the State in accordance with law, the marriage must be registered under this Act.

34 How to have marriage registered

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A person has a marriage registered by lodging with the Registrar a certificate of the marriage under the *Marriage Act 1961* of the Commonwealth or, if the marriage was solemnised before the commencement of that Act, the evidence of the marriage required by the Registrar.¹

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Note

¹ Under section 50 (4) of the *Marriage Act 1961* of the Commonwealth the authorised celebrant (within the meaning of that Act) is responsible for lodging the certificate of marriage with the Registrar.

35 Registration of marriage

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A marriage may be registered by:

- (a) including the marriage certificate as part of the Register, or
- (b) including particulars of the marriage in the Register.

Part 7 Registration of deaths

Division 1 Cases where registration of death is required or authorised

36 Deaths to be registered under this Act

- (1) If a person dies in the State, the death must be registered under this Act. 5
- (2) If a court¹ orders the registration of a death, the death must be registered under this Act.
- (3) If a person dies:
 - (a) in an aircraft during a flight to an airport in the State, or 10
 - (b) on a ship during a voyage to a port in the State,the death may be registered under this Act.
- (4) If a person who is domiciled or ordinarily resident in the State dies outside the Commonwealth, or a person dies outside the Commonwealth leaving property in the State, the death may be registered under this Act. 15
- (5) However, the Registrar is not obliged 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 death² is not to be registered under this Part. 20
- (7) This section is subject to section 38.

Notes

¹ The power to order registration of death may be exercised by courts of this State and also by courts of other States and the Commonwealth (see section 37). 25

² ie the foetal death. A stillbirth is registered as a birth but not as a death.

37 Power to order registration of death

If a court (including any court of another State or the Commonwealth) finds that a person whose death is not registered under this Act died in the State, the court may order registration of the death.

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38 Circumstances in which death must not be registered

(1) The Registrar must not register the death of a person unless the Registrar has been given one of the following:

(a) a notice given by a doctor under section 39 in relation to the death of the person,

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(b) an order made by a coroner under section 53B of the *Coroners Act 1980* that authorises the disposal of the remains of the deceased person,

(c) a notice given by a coroner under section 16A (1) or (2) of the *Coroners Act 1980* for the purpose of effecting or completing registration of the death,

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(d) a document issued, made or given in relation to the death under the law of another State or the Commonwealth or any other place, being a document which the Registrar is satisfied is equivalent to a notice or order referred to in paragraph (a), (b) or (c).

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(2) Despite subsection (1), a death is to be registered if:

(a) a court orders the registration of the death, or

(b) the Registrar is of the opinion that, having regard to the circumstances of the case, it is proper that the death should be registered without any notice, order or document referred to in that subsection.

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Division 2 Notification of deaths**39 Notification of deaths by doctors**

(1) A doctor who was responsible for a person's medical care immediately before death, or who examines the body of a deceased person after death, must, within 48 hours after the death:

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- (a) give the Registrar notice of the death and of the cause of death in a form and manner required by the Registrar, or
- (b) if the doctor is of the opinion that it is impracticable or undesirable to give notice of the cause of death of the person within that time, give the Registrar notice of the death, and of the doctor's intention to give notice of the cause of death, in a form and manner required by the Registrar. 5

Maximum penalty: 5 penalty units.

- (2) However, a doctor need not give a notice under this section if: 10
 - (a) another doctor has given the required notice, or
 - (b) the death has been reported to a coroner under the *Coroners Act 1980*¹.
- (3) A doctor must not give a notice under this section if the doctor is prevented from giving a certificate as to the cause of death of the person by section 12B of the *Coroners Act 1980*. 15
- (4) If a death is reported to a coroner under the *Coroners Act 1980*, the coroner must give the Registrar notice of the death as soon as practicable.

Note 20

¹ See section 12A of the *Coroners Act 1980*.

40 Notification of cause of death by coroner

- (1) If a coroner authorises the disposal of human remains, or makes a finding about the cause of a death, the coroner must give a copy of the disposal authorisation or the finding to the Registrar. 25
- (2) The Registrar may register a death even though the death is subject to coronial inquest and a finding has not been made about the cause of death.

- (3) A death certificate issued before a coronial inquest into the cause of death is completed must be endorsed in such manner as the Registrar considers appropriate to indicate that fact.
- (4) This section is subject to section 38.

41 Notification by funeral director and others

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- (1) A funeral director or other person who arranges for the disposal of human remains must within 7 days after disposal of the remains give the Registrar a notice, in a form and manner required by the Registrar, specifying the following particulars together with such supporting documentation as may be required by the Registrar:
 - (a) the name and last residential address of the deceased,
 - (b) whether or not the death was reported to a coroner,
 - (c) the place and manner of disposal,
 - (d) the information required by the regulations.

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Maximum penalty: 5 penalty units.

- (2) If human remains (other than cremated remains) are removed from the State, the funeral director or other person who arranges for the removal of the remains from the State must, within 28 days after the remains are disposed of outside the State, give the Registrar a notice, in a form and manner required by the Registrar, specifying the following particulars together with such supporting documentation as may be required by the Registrar:
 - (a) the place and manner of disposal,
 - (b) the information required by the regulations.

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Maximum penalty: 5 penalty units.

- (3) If human remains have not been disposed of within 30 days after the date of death, the funeral director or other person who has custody of the remains must give the Registrar a notice, in a form

and manner required by the Registrar, specifying the following particulars together with such supporting documentation as may be required by the Registrar:

- (a) the name and last residential address of the deceased,
- (b) whether or not the death was reported to a coroner, 5
- (c) the information required by the regulations.

Maximum penalty: 5 penalty units.

- (4) This section applies in relation to the disposal of any human remains, including the remains of a stillborn child.

Division 3 Registration of death 10

42 Registration

- (1) The Registrar registers a death by making an entry about the death in the Register including the particulars required by the regulations.
- (2) However, if the particulars available to the Registrar are incomplete the Registrar may register a death on the basis of incomplete particulars. 15

Part 8 The Register

Division 1 Keeping the Register

43 The Register

- (1) The Registrar must maintain a register or registers of registrable events. 5
- (2) The Register:
 - (a) must contain the particulars of each registrable event required under this Act, or another law, to be included in the Register, and
 - (b) may contain such further information as the Registrar considers appropriate for inclusion. 10
- (3) The Register may be wholly or partly in the form of a computer data base, in documentary form, or in another form the Registrar considers appropriate.
- (4) The Registrar must maintain the indexes to the Register that are necessary to make the information contained in the Register reasonably accessible. 15
- (5) A reference in this Act to the *Register* is a reference to all the registers kept under subsection (1).
- (6) The Register may be referred to as the Births, Deaths and Marriages Register and a reference in any Act or any instrument made under any Act to the Births, Deaths and Marriages Register is taken to be a reference to the Register. 20

Division 2 Registrar's powers of inquiry

44 Registrar's powers of inquiry

- (1) The Registrar may conduct an inquiry to find out:
 - (a) whether a registrable event has happened, or
 - (b) particulars of a registrable event, or
 - (c) whether particulars of a specific registrable event have been correctly recorded in the Register. 30

(2) The Registrar may, by notice given to a person who may be able to provide information relevant to an inquiry under this section, require the person to answer specified questions or to provide other information within a time and manner specified in the notice. 5

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

Maximum penalty: 10 penalty units.

Division 3 Correction of Register

45 Correction of Register 10

(1) The Registrar may correct the Register:

- (a) to reflect a finding made on inquiry under Division 2, or
- (b) to bring an entry about a particular registrable event into conformity with the most reliable information available to the Registrar of the registrable event. 15

(2) The Registrar must, if required by a court, correct the Register.

(3) The Registrar corrects the Register by adding or cancelling an entry in the Register or by adding, altering or deleting particulars contained in an entry.

Division 4 Access to, and certification of, Register entries 20

46 General access to Register

(1) The Registrar may, on conditions the Registrar considers appropriate:

- (a) allow a person or organisation that has an adequate reason for wanting access to the Register, access to the Register, or 25
- (b) provide a person or organisation that has an adequate reason for wanting information from the Register, with information extracted from the Register.

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- (2) In deciding whether an applicant has an adequate reason for wanting access to the Register, or information extracted from the Register, the Registrar must have regard to:
- (a) the nature of the applicant's interest, and
 - (b) the sensitivity of the information, and 5
 - (c) the use to be made of the information, and
 - (d) other relevant factors.
- (3) In deciding the conditions on which access to the Register, or information extracted from the Register, is to be given under this section, the Registrar must, as far as practicable, protect the persons to whom the entries in the Register relate from unjustified intrusion on their privacy. 10

47 Search of Register

- (1) The Registrar may, on application, search the Register for an entry about a particular registrable event. 15
- (2) The applicant must state the reason for the applicant's interest in the subject-matter of the search.
- (3) The Registrar may reject the application if the applicant does not show an adequate reason for wanting the information to which the application relates. 20
- (4) In deciding whether an applicant has an adequate reason for wanting information, the Registrar must have regard to:
- (a) the relationship (if any) between the applicant and the person to whom the information relates, and
 - (b) the age of the entry, and 25
 - (c) the contents of the entry, and
 - (d) other relevant factors.

48 Protection of privacy

In providing information extracted from the Register, the Registrar must, as far as practicable, protect the persons to whom the entries in the Register relate from unjustified intrusion on their privacy. 30

49 Issue of certificate

- (1) On completing a search of the Register, the Registrar may issue a certificate:
 - (a) certifying particulars contained in an entry, or
 - (b) certifying that no entry was located in the Register about the relevant registrable event. 5
- (2) A certificate under subsection (1) (a) is admissible in legal proceedings as evidence of:
 - (a) the entry to which the certificate relates, and
 - (b) the facts recorded in the entry. 10
- (3) If the word "illegitimate", or any other word or expression referring to the fact that a child was born outside marriage, appears in an entry in the Register, that word or expression is not to be included in any certificate issued by the Registrar.

50 Issue of certificate relating to children of deceased person 15

- (1) The executor, administrator or trustee of the estate of a deceased person may apply to the Registrar for a certificate certifying whether or not the deceased person is recorded in the Register as being a parent of any children, and if so, the names of the children and such other particulars relating to the children as may be prescribed by the regulations. 20
- (2) On receipt of the application, together with any fee required by the regulations, the Registrar is to cause a search of the Register to be made and, on completion of that search, issue the certificate applied for. 25

51 Issue of certificate to enable disposal of human remains

If the death of a person has been registered before the remains of the person have been disposed of, the Registrar may, on application of a person who satisfies the Registrar that the person requires a certificate to enable the remains to be disposed of in accordance with the *Coroners Act 1980*, issue a certificate certifying that the death of the person has been recorded on the Register. 30

52 Access to adoption information to be given in accordance with Adoption Information Act 1990

This Act is subject to the *Adoption Information Act 1990*¹ and, to the extent of any inconsistency with this Act, that Act prevails.

Note

¹ The *Adoption Information Act 1990* sets out entitlements to and restrictions on access to adoption information held by the Registrar and other information sources. For instance, that Act sets out the circumstances in which the Registrar is entitled to give an adopted person access to his or her original birth certificate.

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53 Access policies

- (1) The Registrar must maintain a written statement of the policies on which access to information contained in the Register is to be given or denied under this Division.
- (2) The Registrar must give a copy of the statement, on request, to any person.

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54 Fees

- (1) The regulations may prescribe fees, or a basis for calculating fees, for:
 - (a) access to the Register, or
 - (b) a search of the Register, or
 - (c) the issue of a certificate following a search of the Register, or
 - (d) other services provided by the Registrar.
- (2) The regulations may allow for fees to be fixed by negotiation between the Registrar and the person who asks for the relevant services.

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55 Power to remit fees

The Registrar may, in appropriate cases, remit the whole or part of a fee under this Act.

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Clause 56 Births, Deaths and Marriages Registration Bill 1995

Part 9 General power of review

Part 9 General power of review

56 Review

- (1) A person who is dissatisfied with a decision of the Registrar made in the exercise or purported exercise of functions under this Act may apply to the District Court for a review of the decision. 5
- (2) On a review, the District Court may:
 - (a) confirm, vary or reverse the Registrar's decision, and
 - (b) make consequential and ancillary orders and directions.

Part 10 Miscellaneous

57 False representation

A person who makes a representation in an application, notice or document under this Act or in response to a notice under section 44 of this Act (Registrar's powers of inquiry), knowing the representation to be false or misleading in a material particular, is guilty of an offence. 5

Maximum penalty: 100 penalty units or 2 years imprisonment, or both.

58 Unauthorised access to or interference with Register 10

A person must not, without the authority of the Registrar or other lawful authority:

- (a) obtain access to the Register or information contained in the Register, or
- (b) make, alter or delete an entry in the Register, or 15
- (c) interfere with the Register in any other way.

Maximum penalty: 100 penalty units or 2 years imprisonment, or both.

59 Falsification of certificates and other documents

- (1) A person must not forge the Registrar's signature or seal. 20

Maximum penalty: 100 penalty units or 2 years imprisonment, or both.

- (2) A person must not forge or falsify a certificate or other document under this Act.

Maximum penalty: 100 penalty units or 2 years imprisonment, or both. 25

- (3) The Registrar may impound or require the return of:

- (a) a document which the Registrar has reason to believe bears a forged impression of the Registrar's signature or seal, or

- (b) a certificate or other document purporting to be a certificate or other document under this Act which the Registrar has reason to believe has been forged or falsified, or
 - (c) a certificate under this 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, or 5
 - (d) a certificate or document issued by the Registrar in error or as a result of fraud.
- (4) A person who fails, without reasonable excuse, to comply with a requirement under subsection (3) to return a document or certificate is guilty of an offence. 10
- Maximum penalty: 10 penalty units.

60 Unauthorised disclosure of information

A person must not disclose any information obtained in connection with the administration or execution of this Act, except: 15

- (a) in connection with the administration or execution of this Act, or
- (b) as authorised or required by law. 20

Maximum penalty: 50 penalty units or 1 year imprisonment, or both.

61 Immunity from liability

Any matter or thing done or omitted by the Registrar does not subject the Registrar personally to any action, liability, claim or demand, if the matter or thing was done or omitted in good faith for the purposes of executing this or any other Act. 25

62 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act. 30
- (2) A regulation may create an offence punishable by a penalty not exceeding 100 penalty units.

63 Proceedings for offences

Proceedings for an offence against this Act or the regulations are to be dealt with summarily by a Local Court constituted by a Magistrate sitting alone.

64 Repeal of Registration of Births, Deaths and Marriages Act 1973 No 87 5

The *Registration of Births, Deaths and Marriages Act 1973* is repealed.

65 Amendment of Coroners Act 1980 No 27

The *Coroners Act 1980* is amended as set out in Schedule 1. 10

66 Consequential amendment of other Acts

The Acts specified in Schedule 2 are amended as set out in that Schedule.

67 Savings, transitional and other provisions

Schedule 3 has effect. 15

68 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act. 20
- (3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Amendment of Coroners Act 1980 No 27

(Section 65)

[1] Section 12A Obligation to report death

Omit “, or by section 24 (8) of the *Registration of Births, Deaths and Marriages Act 1973*” from section 12A (2). 5
Insert instead “, or by section 12B (5),”.

[2] Section 12B

Insert after section 12A:

12B Medical practitioner must not certify cause of death if death is reportable to a coroner 10

- (1) A medical practitioner must not give a certificate as to the cause of death of a person for the purposes of notification of the cause of death under the *Births, Deaths and Marriages Registration Act 1995* if the medical practitioner is of the opinion that the person died in any of the following circumstances: 15
- (a) the person died a violent or unnatural death, 20
 - (b) the person died a sudden death the cause of which is unknown, 20
 - (c) the person died under suspicious or unusual circumstances, 25
 - (d) the person died having not been attended by a medical practitioner within the period of 3 months immediately preceding his or her death, 25
 - (e) the person died while under, or as a result of, or within 24 hours after the administration of, an anaesthetic administered in the course of a medical, surgical or dental operation or procedure or an operation or procedure of a like nature, other than a local anaesthetic administered solely for the purpose of facilitating a procedure of resuscitation from apparent or impending death, 30

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- (f) the person died within a year and a day after the date of any accident to which the cause of his or her death is or may be attributable,
- (g) the person died while in or temporarily absent from any of the following establishments and while the person was a resident at the establishment for the purpose of receiving care, treatment or assistance: 5
- a hospital within the meaning of the *Mental Health Act 1990* 10
 - a facility within the meaning of the *Community Welfare Act 1987*
 - a residential centre for handicapped persons licensed under the *Youth and Community Services Act 1973* 15
 - a residential child care centre licensed under the *Children (Care and Protection) Act 1987*,
- (h) the person died in circumstances that are examinable as referred to in section 13A (Deaths in custody etc examinable only by State Coroner or Deputy State Coroner). 20
- (2) Despite subsection (1), a medical practitioner may give a certificate as to the cause of death of a person if the medical practitioner is of the opinion that the person: 25
- (a) was 65 years of age or older, and
 - (b) died in circumstances other than those referred to in subsection (1) (b), (c), (d), (e), (g) or (h), and
 - (c) died after sustaining an injury from an accident, being an accident that was attributable to the age of that person, contributed substantially to the death of the person and was not caused by an act or omission by any other person. 30
- (3) Subsection (2) does not apply if the accident concerned occurred in a hospital or nursing home. 35
-

- (4) If a medical practitioner certifies the cause of death of a person in pursuance of subsection (2), the certificate must state that it is given in pursuance of that subsection.
- (5) A medical practitioner who is prevented from certifying the cause of death of a person because of this section must, as soon as practicable after the death, report that death to a member of the police force. 5

[3] Section 16A

Insert after section 16:

16A Notice of particulars of death to be given to Registrar of Births, Deaths and Marriages 10

- (1) If a coroner holds an inquest in respect of the death of a person, the coroner must, for the purpose of enabling registration of the death of the person to be effected or completed, give notice in writing to the Registrar of Births, Deaths and Marriages of such particulars as are known to the coroner relating to the death of the person. 15
- (2) If a coroner dispenses with the holding of an inquest under section 14 or terminates an inquest under section 19, the coroner must, for the purpose of enabling registration of the death of the person to be effected or completed, give notice in writing to the Registrar of Births, Deaths and Marriages of such particulars as are known to the coroner relating to the death of the person. 20
- (3) If a coroner is satisfied (whether before or during an inquest in respect of the death of a person) that there will be a delay in concluding the inquest and that he or she is able, on the basis of such evidence as the coroner considers sufficient, to determine the particulars relating to the death of the person, the coroner may, for the purpose of enabling registration of the death of the person to be completed or effected, make that determination and give notice of the determination in writing to the Registrar of Births, Deaths and Marriages. 25 30

-
- (4) A notice under this section must not include any matter incriminating any person.
- (5) In this section, a reference to the particulars relating to the death of a person is a reference to the identity of, and date, place and cause of death of, the deceased person. 5
- [4] Section 24 Coroner's right to possession of body**
- Omit "under section 49 (Order authorising the disposal of a body) of the *Registration of Births, Deaths and Marriages Act 1973*" from section 24 (3).
Insert instead "under section 53B". 10
- [5] Section 50 Medical witness neglecting to obey order**
- Omit "or 49". Insert instead ", 49 or 53B (4)".
- [6] Part 6A**
- Insert after Part 6:
- Part 6A Disposal of human remains** 15
- 53A Unauthorised disposal of human remains**
- (1) A person must not bury or cremate human remains, or place human remains in a mausoleum or other permanent resting place, or cause the remains to be so buried, cremated or placed, unless the person has been given or has in his or her possession a document that authorises the disposal of the remains or the disposal of the remains is otherwise authorised by the regulations. 20
Maximum penalty: 50 penalty units.
- (2) A person must not deliver or hand over human remains for anatomical or medical research, or remove human remains (other than cremated remains) from the State, or cause such remains to be so delivered, handed over or removed, unless a document authorising the disposal of the remains has been signed, issued or made or the disposal of the remains is otherwise authorised by the regulations. 25
Maximum penalty: 50 penalty units. 30

- (3) Only the following documents authorise the disposal of the remains of a deceased person (other than the remains of a stillborn child):
- (a) a notice given by a medical practitioner for the purpose of section 39 of the *Births, Deaths and Marriages Registration Act 1995* relating to the deceased person, 5
 - (b) an order made by a coroner under section 53B authorising the disposal of the remains,
 - (c) a certificate issued under section 51 of the *Births, Deaths and Marriages Registration Act 1995* that relates to the deceased person. 10
- (4) Only the following documents authorise the disposal of the remains of a stillborn child:
- (a) a certificate or notice given by a medical practitioner for the purpose of section 12 (3) of the *Births, Deaths and Marriages Registration Act 1995* relating to the stillborn child, 15
 - (b) an order made by a coroner under section 53B authorising the disposal of the remains. 20
- (5) In this section, *stillborn child* has the same meaning as in the *Births, Deaths and Marriages Registration Act 1995*.

53B Order authorising the disposal of human remains

- (1) A coroner may, by order in writing, authorise the disposal of human remains. 25
- (2) The order may be made by a coroner who:
- (a) is holding, has held or is intending to hold an inquest in respect of the death under this Act, or
 - (b) has dispensed with the holding of an inquest in respect of the death under this Act. 30

-
- (3) If the remains are that of a stillborn child and a medical practitioner has not certified the cause of death of the child, the order may be made by a coroner who has been informed by a member of the police force of the stillbirth and who is, after consideration of any information in the possession of the coroner, satisfied as to the occurrence of the stillbirth. 5
- (4) A coroner may, by order in writing, direct any medical practitioner to perform an examination of human remains for the purpose of determining whether the remains are that of a stillborn child. 10
- (5) If an order is made under subsection (2) authorising the disposal of human remains and it is established at an inquest that the remains were those of a stillborn child, the order is valid and is taken to have been made under subsection (3). 15
- (6) In this section, *stillborn child* and *stillbirth* have the same meanings as in the *Births, Deaths and Marriages Registration Act 1995*.

Schedule 2 Consequential amendment of other Acts

(Section 66)

2.1 Adoption Information Act 1990 No 63

- [1] **The whole Act (except Schedule 1)** 5
Omit "*Registration of Births, Deaths and Marriages Act 1973*" wherever occurring.
Insert instead "*Births, Deaths and Marriages Registration Act 1995*".
- [2] **The whole Act** 10
Omit "Office of the Principal Registrar" wherever occurring.
Insert instead "Office of the Registrar".
- [3] **Section 4 Definitions** 15
Omit "a certified copy of the recording relating to the birth of the person" from the definition of *amended birth certificate*.
Insert instead "a certificate certifying the particulars relating to the birth of the person".
- [4] **Section 4** 20
Omit "a certified copy of the recording relating to the birth of the person made under section 11 of that Act" from the definition of *original birth certificate*.
Insert instead "a certificate certifying the particulars relating to the birth of the person registered under section 17 of that Act".
- [5] **Section 4** 25
Omit the definition of *Principal Registrar*.

[6] Section 4

Insert in alphabetical order:

Registrar means the Registrar of Births, Deaths and Marriages.

[7] The whole Act (except section 4)

5

Omit "Principal Registrar" wherever occurring.
Insert instead "Registrar".

2.2 Adoption of Children Act 1965 No 23

[1] Section 31A Notice of consents to certain putative fathers

Omit "*Registration of Births, Deaths and Marriages Act 1973*" from section 31A (1) (e).
Insert instead "*Births, Deaths and Marriages Registration Act 1995*".

10

[2] Section 61 Functions of nominated officer in relation to orders under this Act

15

Omit "Principal Registrar". Insert instead "Registrar".

[3] Section 63 Particulars of orders received from other States or Territories

Omit "Principal Registrar". Insert instead "Registrar".

2.3 Anatomy Act 1977 No 126

20

Section 9 Conditions of taking possession of body

Omit "where section 19 or 27 of the *Registration of Births, Deaths and Marriages Act 1973* applies".
Insert instead "where section 53A of the *Coroners Act 1980* applies".

25

2.4 Children (Equality of Status) Act 1976 No 97

[1] Section 4 Definitions

Omit the definition of *Principal Registrar* from section 4 (1).

[2] Section 11 Paternity acknowledgments

Omit "recorded in a register of births, or in the register of parentage information, kept under the *Registration of Births, Deaths and Marriages Act 1973*" wherever occurring. 5

Insert instead "recorded in the Births, Deaths and Marriages Register".

[3] Section 11

10

Omit "to the Principal Registrar to be dealt with under the *Registration of Births, Deaths and Marriages Act 1973*" wherever occurring.

Insert instead "to the Registrar of Births, Deaths and Marriages to be dealt with under the *Births, Deaths and Marriages Registration Act 1995*". 15

[4] Section 11 (4) (d)

Omit "Principal Registrar".

Insert instead "Registrar of Births, Deaths and Marriages".

[5] Section 12 Effect of orders for maintenance etc relating to fathers of exnuptial children

20

Omit "to the Principal Registrar to be dealt with under the *Registration of Births, Deaths and Marriages Act 1973*" from section 12 (4).

Insert instead "to the Registrar of Births, Deaths and Marriages to be dealt with under the *Births, Deaths and Marriages Registration Act 1995*". 25

[6] Section 13 Declarations of paternity

Omit "Principal Registrar" from section 13 (1) (c).
Insert instead "Registrar of Births, Deaths and Marriages".

[7] Section 13

Omit "to the Principal Registrar to be dealt with under the *Registration of Births, Deaths and Marriages Act 1973*" wherever occurring. 5
Insert instead "to the Registrar of Births, Deaths and Marriages to be dealt with under the *Births, Deaths and Marriages Registration Act 1995*". 10

[8] Section 14 Effect of orders for maintenance etc relating to mothers of exnuptial children

Omit "to the Principal Registrar to be dealt with under the *Registration of Births, Deaths and Marriages Act 1973*" wherever occurring. 15
Insert instead "to the Registrar of Births, Deaths and Marriages to be dealt with under the *Births, Deaths and Marriages Registration Act 1995*".

[9] Section 15 Declarations of maternity

Omit "Principal Registrar" from section 15 (1) (c). 20
Insert instead "Registrar of Births, Deaths and Marriages".

[10] Section 15

Omit "to the Principal Registrar to be dealt with under the *Registration of Births, Deaths and Marriages Act 1973*" wherever occurring. 25
Insert instead "to the Registrar of Births, Deaths and Marriages to be dealt with under the *Births, Deaths and Marriages Registration Act 1995*".

Births, Deaths and Marriages Registration Bill 1995

Schedule 2 Consequential amendment of other Acts

2.5 Crimes Act 1900 No 40

[1] Section 296 Falsifying entries of births etc or giving false certificates

Omit "the Registrar-General or any local, district or other registrar".
Insert instead "the Registrar of Births, Deaths and Marriages". 5

[2] Section 547A False statement respecting births, deaths or marriages

Omit "any district registrar, or assistant district registrar, appointed under any Act providing for the registration of births or deaths,".
Insert instead "the Registrar of Births, Deaths and Marriages". 10

2.6 Parliamentary Electorates and Elections Act 1912 No 41

Section 41 Information as to deaths and convictions

Omit "Principal" from section 41 (1).

2.7 Public Health Act 1991 No 10

[1] Section 3 Definitions 15

Omit the definition of *still-birth* from section 3 (1).
Insert instead:

still-birth means the birth of a child that exhibits no sign of respiration or heartbeat, or other sign of life, after birth and that: 20

- (a) is of at least 20 weeks' gestation, or
- (b) if it cannot be reliably established whether the period of gestation is more or less than 20 weeks, has a body mass of at least 400 grams at birth.

[2] Section 20 Notification of certain deaths

Omit "Principal".

[3] Section 64 Inspection of, and extracts from, certain registers

Omit "*Registration of Births, Deaths and Marriages Act 1973*" from section 64 (1).

5

Insert instead "*Births, Deaths and Marriages Registration Act 1995*".

[4] Section 64 (3)

Omit "Principal".

2.8 Public Sector Management Act 1988 No 33

10

Schedule 3B Senior executive positions

Omit "Principal Registrar of Births, Deaths and Marriages" from the list of positions in the Attorney General's Department contained in Part 1.

Insert instead "Registrar of Births, Deaths and Marriages".

15

2.9 Trustee Act 1925 No 14

Section 60 Distribution after notice

Omit "a certificate under section 48A of the *Registration of Births, Deaths and Marriages Act 1973*" from section 60 (7).

Insert instead "a certificate under section 50 of the *Births, Deaths and Marriages Registration Act 1995*".

20

2.10 Wills, Probate and Administration Act 1898 No 13

Section 92 Distribution of assets after notice given by executor or administrator

Omit "a certificate under section 48A of the *Registration of Births, Deaths and Marriages Act 1973*" from section 92 (3).

5

Insert instead "a certificate under section 50 of the *Births, Deaths and Marriages Registration Act 1995*".

Schedule 3 Savings, transitional and other provisions

(Section 67)

Part 1 Regulations

- 1 Regulations** 5
- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such savings and transitional provisions may make provision for or with respect to the modification of any of the provisions of Part 2 of this Schedule in the event that the whole of the *Registration of Births, Deaths and Marriages Act 1973* is not repealed on the one day. 10
- (3) Savings or transitional provisions contained in regulations made under this Part may, if the regulations so provide, take effect on the date of assent to this Act or a later date. 15
- (4) To the extent to which any such savings or transitional provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
- (a) to affect, in a manner prejudicial to any person (other than the State or any authority of the State), the rights of that person existing before the date of its publication, or 20
- (b) to impose liabilities on any person (other than the State or any authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

 25

2 Definition

In this Part:

former Act means the *Registration of Births, Deaths and Marriages Act 1973*, as in force immediately before its repeal. 30

3 The Register

- (1) A register kept under the *Registration of Births, Deaths and Marriages Act 1973* forms part of the Register under this Act.
- (2) An index to a register kept under the *Registration of Births, Deaths and Marriages Act 1973* is taken to have been established under this Act. 5

4 General

Anything done under or for the purposes of a provision of the former Act and having effect immediately before the repeal of the former Act is taken to have been done under or for the purposes of the corresponding provision of this Act. 10

5 Act applies to registrable events whether occurring before or after repeal of former Act

This Act applies in respect of a registrable event that occurs on or after the repeal of the former Act and, subject to this Part and the regulations under Part 1, extends to apply in respect of a registrable event that occurred before the repeal of the former Act. 15

6 Obligation to give notice of registrable event occurring before repeal of former Act 20

The former Act continues to apply in respect of any obligation to give notice of a registrable event that occurred before the repeal of the former Act, as if this Act had not been enacted.

7 Applications made before the repeal of former Act

An application for a certificate, certified copy or extract relating to information on the Register or an application for the inclusion of information in the Register that was made under the former Act, and is pending on the repeal of that Act, is to be dealt with as if this Act had not been enacted. 25

8 Applications to Supreme Court pending on repeal of former Act

An application pending under section 13 of the former Act (Supreme Court may order registration of birth or stillbirth) immediately before the repeal of the former Act is to be dealt with as if this Act had not been enacted. 5

9 Orders made by coroner under former Act

(1) An order made by a coroner under section 49 of the former Act (Order authorising the disposal of a body) that has any effect immediately before the repeal of that Act is taken to have been made under section 53B (1) of the *Coroners Act 1980*. 10

(2) An order made by a coroner under section 50 of the former Act (Examination of body for purpose of section 49) that has any effect immediately before the repeal of that Act is taken to have been made under section 53B (4) of the *Coroners Act 1980*. 15

10 Notice given by coroner under former Act for purpose of effecting or completing death registration

(1) A notice given by a coroner under section 25 (1) of the former Act is taken to have been given under section 16A (1) of the *Coroners Act 1980*. 20

(2) A notice given by a coroner under section 25 (3) of the former Act is taken to have been given under section 16A (2) of the *Coroners Act 1980*.

11 Death certificate issued before repeal of former Act

A certificate issued under section 26 of the former Act (Certificate of registration of death) is taken to have been issued under section 51 of this Act (Issue of certificate to enable disposal of human remains). 25

12 Medical certificate given under former Act

- (1) A medical certificate or notice signed by a medical practitioner under section 24 (2) of the former Act in respect of a death that occurred before the repeal of the former Act is taken to be a notice under section 39 of this Act. 5
- (2) A medical certificate or notice signed by a medical practitioner under section 18 (2) of the former Act in respect of a stillbirth that occurred before the repeal of the former Act is taken to be a medical certificate or notice under section 12 (3) of this Act.

13 Reference to former Act, Registrars and Register

10

- (1) A reference in any other Act or any instrument made under an Act or in any instrument of any other kind to the *Registration of Births, Deaths and Marriages Act 1973* is taken to be a reference to this Act.
- (2) A reference in any other Act or any instrument made under an Act or in any instrument of any other kind to the Principal Registrar, a Deputy Principal Registrar or a local registrar (within the meaning of the former Act), is taken to be a reference to the Registrar. 15
- (3) A reference (however expressed) in any other Act or any instrument made under an Act or in any instrument of any other kind to a register under the former Act, is taken to be a reference to the Register under this Act. 20

14 Local registers kept under former legislation

- (1) If the Registrar corrects an entry about a particular registrable event in the Register and the Registrar considers it impracticable to correct an entry about the same event in a local register, the Registrar need not correct the local register. 25
- (2) In such a case the Registrar may cause a written notice to be attached to the local register, in such words as the Registrar considers appropriate, to indicate that the information contained in the Register may not be correct. 30

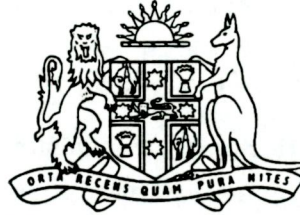
(3) The Registrar may assume custody of any local register and may, subject to the *Archives Act 1960*, destroy or otherwise dispose of such a register in such manner as the Registrar considers appropriate.

(4) In this clause, a reference to a *local register* is a reference to a local register within the meaning of the former Act. 5

15 Saving of regulations under former Act

(1) The regulations in force under the former Act immediately before its repeal are taken to have been made under this Act. This does not prevent the future amendment or repeal of those regulations. 10

(2) For the purposes of the *Subordinate Legislation Act 1989*, those regulations are taken to have been made when they were made under the former Act.



New South Wales

Births, Deaths and Marriages Registration Act 1995 No 62

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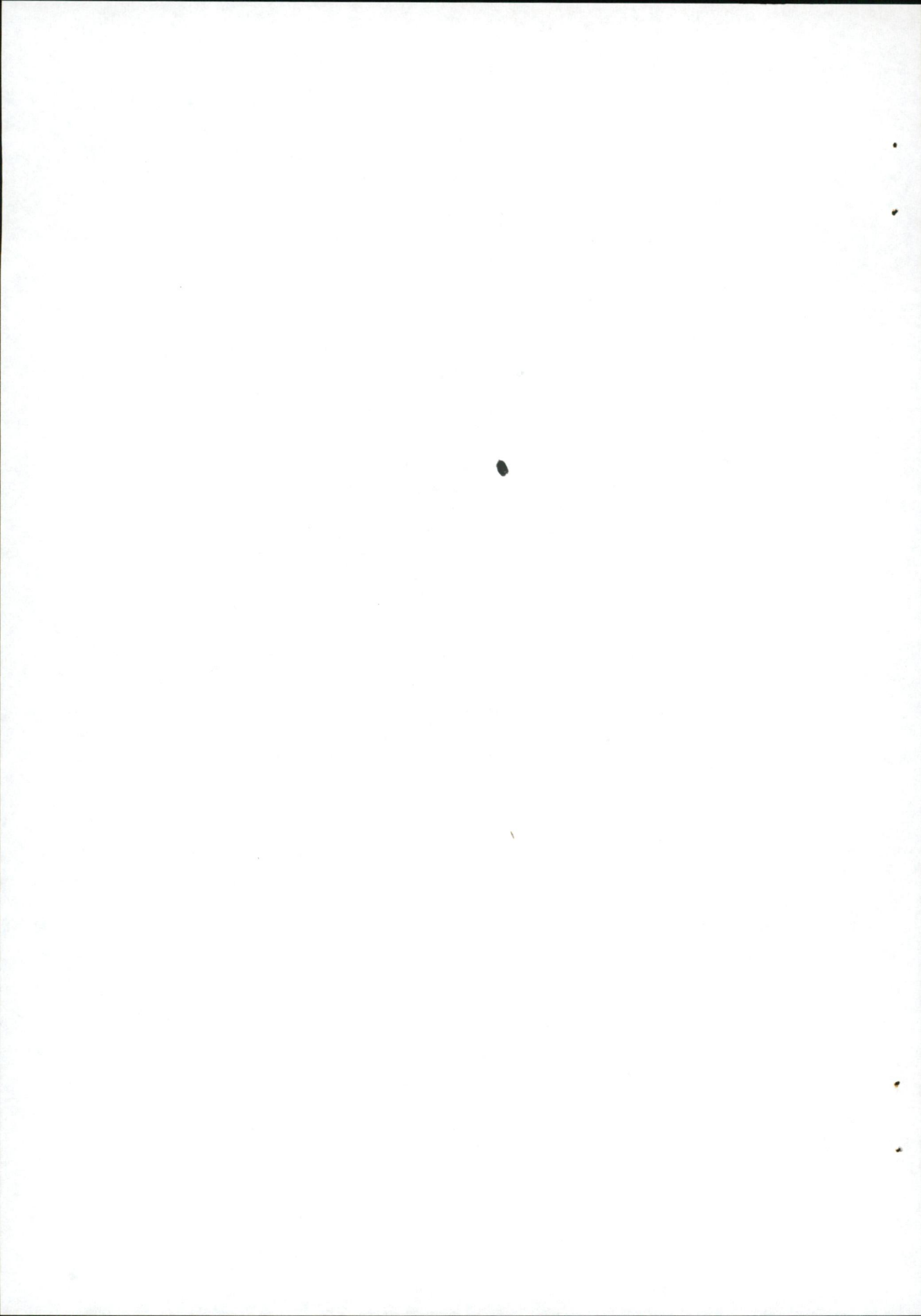
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New South Wales

Births, Deaths and Marriages Registration Act 1995 No 62

Act No 62, 1995

An Act to provide for the registration of births, deaths and marriages and for other purposes. [Assented to 12 December 1995]

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *Births, Deaths and Marriages Registration Act 1995*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Objects of Act

The objects of this Act are to provide for:

- (a) the registration of births, deaths and marriages in New South Wales, and
- (b) the registration of adoption information, and
- (c) the registration of changes of name, and
- (d) the keeping of registers for recording and preserving information about births, adoptions, deaths, marriages and changes of name in perpetuity, and
- (e) access to the information in the registers in appropriate cases by government or private agencies and members of the public, from within and outside the State, and
- (f) the issue of certified information from the registers, and
- (g) the collection and dissemination of statistical information.

4 Definitions

- (1) In this Act:

adult means a person who is 18 or above or, although under 18, is or has been married.

birth includes a stillbirth.

birth registration statement see section 14.

change of name includes an addition, omission or substitution.

child includes a stillborn child.

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

death does not include a stillbirth.

disposal of human remains means:

- (a) cremation of the remains, or
- (b) burial of the remains (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 of the remains from the State (but not if the remains have been cremated or are taken from the State by sea and buried at sea in the course of the voyage).

doctor means a person registered as a medical practitioner under the *Medical Practice Act 1992*.

exercise a function includes perform a duty.

function includes a power, authority or duty.

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

prohibited name means a name that:

- (a) is obscene or offensive, or
 - (b) could not practicably be established by repute or usage:
 - (i) because it is too long, or
 - (ii) because it consists of or includes symbols without phonetic significance, or
 - (iii) for some other reason, or
 - (c) includes or resembles an official title or rank, or
 - (d) is contrary to the public interest for some other reason.
-

registrable event means a birth, adoption or discharge of adoption, change of name, death or marriage.

registrable information means information that must or may be included in the Register¹.

Register see section 43.

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

Registrar means the Registrar of Births, Deaths and Marriages holding office as such under Part 2 of the *Public Sector Management Act 1988*.

State includes a Territory.

stillbirth means the birth of a stillborn child.

stillborn child means a child that exhibits no sign of respiration or heartbeat, or other sign of life, after birth and that:

- (a) is of at least 20 weeks' gestation, or
 - (b) if it cannot be reliably established whether the period of gestation is more or less than 20 weeks, has a body mass of at least 400 grams at birth.
- (2) Notes in the text of this Act do not form part of this Act.

Note

¹ See section 43 (2).

Part 2 Administration

Division 1 The Registrar

5 Registrar

The Registrar is, in the exercise of functions under this Act, subject to the control and direction of the Minister.

6 Registrar's general functions

The Registrar's general functions are:

- (a) to establish and maintain the registers¹ necessary for the purposes of this Act, and
- (b) to administer the registration system established by this Act and ensure that the system operates efficiently, effectively and economically, and
- (c) to ensure that this Act is administered in the way best calculated to achieve its objects.

Note

¹ The registers are collectively referred to as the "Register". See section 43.

7 Registrar's staff

Such staff as may be necessary for the proper administration of this Act are to be employed under Part 2 of the *Public Sector Management Act 1988*.

8 Delegation

- (1) The Registrar may delegate to an authorised person any of the Registrar's functions under this Act, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Registrar if the delegate is authorised in writing to do so by the Registrar.

- (3) In this section:

authorised person means an officer or temporary employee of the Public Service or a person otherwise employed in the public sector.

Division 2 Execution of documents

9 The Registrar's seal

The Registrar is to have a seal.

10 Execution of documents

- (1) The Registrar may issue a certificate or other document under the Registrar's signature and seal, or under a facsimile of the Registrar's signature and seal produced by stamp or machine imprint or by some other method authorised by the regulations.
- (2) If a document produced before a court or an administrative authority or official is apparently under:
 - (a) the Registrar's signature and seal, or
 - (b) a facsimile of the Registrar's signature and seal produced by stamp or machine imprint or by some other method authorised by the regulations,

the court, authority or official must presume, in the absence of evidence to the contrary, that the document was properly issued under the Registrar's authority.

- (3) Judicial notice is to be taken of the Registrar's seal.

Division 3 Reciprocal administrative arrangements

11 Reciprocal administrative arrangements

- (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 of functions of the registering authority under the corresponding law, and
 - (b) the exercise by the registering authority under the corresponding law of functions of the Registrar under this Act.
- (2) When an arrangement is in force under this section:
- (a) the Registrar may exercise, to the extent authorised by the arrangement (but subject to the 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 the conditions of the arrangement), the functions of the Registrar under this Act and anything done by the registering authority under this paragraph is taken to have been done by the Registrar under this Act.
- (3) An arrangement under this section may:
- (a) establish a database in which information is recorded for the benefit of all the participants in the arrangement, and
 - (b) provide for access to information contained in the database, and
 - (c) provide for payments by or to participants in the arrangement for services provided under the arrangement.

Part 3 Registration of births

Division 1 Notification of births

12 Notification of births

- (1) When a child is born in the State, the responsible person must give notice of the birth to the Registrar in a form and manner required by the Registrar, specifying the particulars required by the regulations.

Maximum penalty: 5 penalty units.

- (2) The notice must be given:
 - (a) in the case of a child born alive—within 21 days after birth, or
 - (b) in the case of a stillbirth—within 48 hours after stillbirth.
- (3) When notice of a stillbirth is given, the responsible person must also give the Registrar, in a form and manner required by the Registrar:
 - (a) a doctor's certificate certifying the cause of foetal death, or
 - (b) if a doctor is of the opinion that it is impracticable or undesirable to certify the cause of foetal death at the time the notice referred to in subsection (2) (b) is given, a notice signed by a doctor stating the doctor's intention to complete such a certificate.
- (4) The certificate or notice referred to in subsection (3) must be completed by the doctor responsible for the professional care of the mother at the birth or a doctor who examined the body of the stillborn child after the stillbirth.
- (5) In this section:

responsible person means:

- (a) in the case of a child born in a hospital or brought to a hospital within 24 hours after birth—the chief executive officer of the hospital, or

- (b) if the child was not born in a hospital or brought to a hospital within 24 hours after birth, and a doctor or midwife was responsible for the professional care of the mother at the birth—that doctor or midwife.

Division 2 Registration of births

13 Cases in which registration of birth is required or authorised

- (1) If a child is born in the State, the birth must be registered under this Act.
- (2) If a court¹ orders the registration of a birth, the birth must be registered under this Act.
- (3) If a child is born:
 - (a) in an aircraft during a flight to an airport in the State, or
 - (b) on a ship during a voyage to a port in the State,the birth may be registered under this Act.
- (4) If a child is born outside the Commonwealth, but the child is to become (or in the case of a stillbirth, was to become) a resident of the State, the birth may be registered under this Act.
- (5) However, the birth of a child born outside the State is not to be registered under this Act if the birth is registered under a corresponding law.

Note

¹ The power to order registration of birth may be exercised by courts of this State and also by courts of other States and the Commonwealth (see section 19).

14 How to have the birth of a child registered

A person has the birth of a child registered under this Act by giving notice of the birth to the Registrar (the *birth registration statement*) in a form and manner required by the Registrar, specifying the particulars required by the regulations.

15 Responsibility to have birth registered

- (1) The parents of a child are jointly responsible for having the child's birth registered under this Act (and must both sign the birth registration statement) but the Registrar may accept a birth registration statement from one of the parents if satisfied that it is not practicable to obtain the signatures of both parents on the birth registration statement.
- (2) If a child is a foundling, the person who has custody of the child is responsible for having the child's birth registered.
- (3) The Registrar may accept a birth registration statement from a person who is not responsible for having the child's birth registered if satisfied that:
 - (a) the person lodging the statement has knowledge of the relevant facts, and
 - (b) the child's parents are unable or unlikely to lodge a birth registration statement.

16 Obligation to have birth registered

- (1) A person responsible for having the birth of a child registered must have the birth registered (as provided by section 14) within 60 days after the date of the birth.

Maximum penalty: 10 penalty units.

- (2) However, the Registrar must accept a birth registration statement given for the purposes of having a birth registered even though it is given after the end of the 60 day period.

17 Registration

- (1) The Registrar registers a birth by making an entry about the birth in the Register including the particulars required by the regulations.
- (2) However, if the particulars available to the Registrar are incomplete the Registrar may register a birth on the basis of incomplete particulars.

18 Registration of parentage details

The Registrar must not include registrable information about the identity of a child's parent in the Register unless:

- (a) the father and mother of the child make a joint application for the inclusion of the information, or
- (b) one parent of the child makes an application for the inclusion of the information and the other parent cannot join in the application because he or she is dead or cannot be found, or for some other reason, or
- (c) one parent of the child makes an application for the inclusion of the information and the Registrar is satisfied that the other parent does not dispute the correctness of that information, or
- (d) a court orders the inclusion of the information in the Register, or
- (e) a court makes a finding that a particular person is a parent of the child, or
- (f) the Registrar is entitled under any law (including a law of another State or the Commonwealth) to make a presumption as to the identity of the child's parent, or
- (g) the regulations authorise the Registrar to include the information.

Division 3 Court powers

19 Orders for registration of birth or inclusion of registrable information

- (1) The District Court may, on application by an interested person or on its own initiative, order:
 - (a) the registration of a birth, or
 - (b) the inclusion of registrable information about a birth or a child's parents (including details of the marriage of a child's parents) in the Register.

- (2) If any court (including any court of another State or the Commonwealth) makes a finding about a birth or a child's parents, the court may order registration of the birth or inclusion of registrable information about the birth or the parents in the Register.

Division 4 Alteration of details of birth registration

20 Addition of details after birth registration

- (1) An application to the Registrar for the addition of registrable information in a person's birth registration:
 - (a) must be made in writing, and
 - (b) must include the information required by the Registrar, and
 - (c) must, if the Registrar requires verification of the information contained in the application, be accompanied by a statutory declaration verifying the information contained in the application and any other evidence that the Registrar may require.
- (2) This section is subject to section 18.

Division 5 Child's name

21 Name of child

- (1) The birth registration statement must state the name of the child.
- (2) However, the Registrar may assign a name to the 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 that they are unable to agree on the child's name.

22 Dispute about child's name

- (1) If there is a dispute between parents about a child's name, either parent may apply to the District Court for a resolution of the dispute.
- (2) On an application under subsection (1), the District Court may:
 - (a) resolve the dispute about the child's name as the Court considers appropriate, and
 - (b) order the Registrar to register the child's name in a form specified in the order.
- (3) If any court (including any court of another State or the Commonwealth) resolves a dispute about a child's name, the court may order the Registrar to register the child's name in a form specified in the order.

Part 4 Registration of adoptions

23 Duty to register adoptions

- (1) If a State adoption order is made or an order is made for the discharge of such an order, the adoption or discharge of adoption must be registered under this Act.
- (2) If an Interstate adoption order is made in relation to a person whose birth or previous adoption is registered under this Act or an order is made for the discharge of an Interstate adoption order in relation to such a person, the adoption or discharge of adoption must be registered under this Act.
- (3) In this section:

Interstate adoption order means an adoption order made (whether by a court or not) under the law in force in another State.

State adoption order means an adoption order made under the *Adoption of Children Act 1965* or an order made under section 47 of that Act.

24 How adoptions are registered

- (1) The Registrar is to register an adoption or discharge of an adoption by registering the memorandum sent to the Registrar under section 61 or 63 of the *Adoption of Children Act 1965*.
- (2) The Registrar registers the memorandum by making an entry about the memorandum in the Register including the particulars required by the regulations.
- (3) If the memorandum relates to a person in respect of whom such a memorandum has previously been registered under this Act, the Registrar is also to note a reference to the later memorandum in the entry in the Register relating to the previous memorandum.

25 Adoption memorandum to be noted in birth registration

- (1) If a memorandum registered under this Part relates to a person whose birth is registered under this Act, the Registrar is to note a reference to the memorandum in the entry relating to the birth of the person.
- (2) If a memorandum received by the Registrar under section 61 or 63 of the *Adoption of Children Act 1965* relates to a person whose birth is registered under a corresponding law, the Registrar is to cause a copy of the memorandum to be sent to the relevant registering authority.

Part 5 Change of name

26 Change of name by registration

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

27 Application to register change of adult's name

An adult person:

- (a) who is domiciled or ordinarily resident in the State, or
- (b) whose birth is registered in the State,

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

28 Application to register change of child's name

- (1) The parents of a child:

- (a) who is domiciled or ordinarily resident in the State, or
- (b) whose birth is registered in the State,

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

- (2) 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.

- (3) An application for registration of a change of a child's name may be made by one parent if:

- (a) the applicant is the sole parent named in the registration of the child's birth under this Act or any other law (including a corresponding law), or
- (b) there is no other surviving parent of the child, or
- (c) a court approves the proposed change of name.

- (4) The District 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.

- (5) If any court (including any court of another State or the Commonwealth) approves a proposed name for a child, the court may order the Registrar to register the child's name in a form specified in the order.

29 Child's consent to change of name

A change of a child's name must not be registered unless:

- (a) the child consents to the change of name, or
- (b) the child is unable to understand the meaning and implications of the change of name.

30 Registration of change of name

- (1) Before registering a change of name under this Part, the Registrar may require the applicant to provide evidence to establish to the Registrar's satisfaction:
- (a) the identity and age of the person whose name is to be changed, and
 - (b) that the change of name is not sought for a fraudulent or other improper purpose, and
 - (c) if the person whose name is to be changed is a child—that the child consents to the change of name or is unable to understand the meaning and implications of the change of name.
- (2) If the Registrar is satisfied that the name of a person whose birth is registered in the State has been changed under another law (including a law of another State or the Commonwealth) or by order of a court (including any court of another State or the Commonwealth) the change of name may be registered under this Act.
- (3) The Registrar may refuse to register a change of name if, as a result of the change, the name would become a prohibited name.

31 Entries to be made in the Register

- (1) The Registrar registers a change of name by making an entry about the change of name in the Register including the particulars required by the regulations.

- (2) If the applicant for registration of the change of name asks the Registrar to arrange for noting the change of name in the particulars of the person's birth, and the person's birth is registered under this Act or a corresponding law, the Registrar must:
- (a) if the birth is registered under this Act—note the change of name in the entry relating to the birth, or
 - (b) if the birth is registered under a corresponding law—give notice to the relevant registering authority of the change of name.
- (3) If the change of name is noted in the Register under subsection (2), a birth certificate issued by the Registrar for the person must show the person's name as changed under this Part.

32 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 6 Registration of marriages

33 Cases in which registration of marriage is required

If a marriage is solemnised in the State in accordance with law, the marriage must be registered under this Act.

34 How to have marriage registered

A person has a marriage registered by lodging with the Registrar a certificate of the marriage under the *Marriage Act 1961* of the Commonwealth or, if the marriage was solemnised before the commencement of that Act, the evidence of the marriage required by the Registrar.¹

Note

¹ Under section 50 (4) of the *Marriage Act 1961* of the Commonwealth the authorised celebrant (within the meaning of that Act) is responsible for lodging the certificate of marriage with the Registrar.

35 Registration of marriage

A marriage may be registered by:

- (a) including the marriage certificate as part of the Register, or
- (b) including particulars of the marriage in the Register.

Part 7 Registration of deaths

Division 1 Cases where registration of death is required or authorised

36 Deaths to be registered under this Act

- (1) If a person dies in the State, the death must be registered under this Act.
- (2) If a court¹ orders the registration of a death, the death must be registered under this Act.
- (3) If a person dies:
 - (a) in an aircraft during a flight to an airport in the State, or
 - (b) on a ship during a voyage to a port in the State,the death may be registered under this Act.
- (4) If a person who is domiciled or ordinarily resident in the State dies outside the Commonwealth, or a person dies outside the Commonwealth leaving property in the State, the death may be registered under this Act.
- (5) However, the Registrar is not obliged 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 death² is not to be registered under this Part.
- (7) This section is subject to section 38.

Notes

¹ The power to order registration of death may be exercised by courts of this State and also by courts of other States and the Commonwealth (see section 37).

² ie the foetal death. A stillbirth is registered as a birth but not as a death.

37 Power to order registration of death

If a court (including any court of another State or the Commonwealth) finds that a person whose death is not registered under this Act died in the State, the court may order registration of the death.

38 Circumstances in which death must not be registered

- (1) The Registrar must not register the death of a person unless the Registrar has been given one of the following:
 - (a) a notice given by a doctor under section 39 in relation to the death of the person,
 - (b) an order made by a coroner under section 53B of the *Coroners Act 1980* that authorises the disposal of the remains of the deceased person,
 - (c) a notice given by a coroner under section 16A (1) or (2) of the *Coroners Act 1980* for the purpose of effecting or completing registration of the death,
 - (d) a document issued, made or given in relation to the death under the law of another State or the Commonwealth or any other place, being a document which the Registrar is satisfied is equivalent to a notice or order referred to in paragraph (a), (b) or (c).
- (2) Despite subsection (1), a death is to be registered if:
 - (a) a court orders the registration of the death, or
 - (b) the Registrar is of the opinion that, having regard to the circumstances of the case, it is proper that the death should be registered without any notice, order or document referred to in that subsection.

Division 2 Notification of deaths**39 Notification of deaths by doctors**

- (1) A doctor who was responsible for a person's medical care immediately before death, or who examines the body of a deceased person after death, must, within 48 hours after the death:

- (a) give the Registrar notice of the death and of the cause of death in a form and manner required by the Registrar, or
- (b) if the doctor is of the opinion that it is impracticable or undesirable to give notice of the cause of death of the person within that time, give the Registrar notice of the death, and of the doctor's intention to give notice of the cause of death, in a form and manner required by the Registrar.

Maximum penalty: 5 penalty units.

- (2) However, a doctor need not give a notice under this section if:
 - (a) another doctor has given the required notice, or
 - (b) the death has been reported to a coroner under the *Coroners Act 1980*¹.
- (3) A doctor must not give a notice under this section if the doctor is prevented from giving a certificate as to the cause of death of the person by section 12B of the *Coroners Act 1980*.
- (4) If a death is reported to a coroner under the *Coroners Act 1980*, the coroner must give the Registrar notice of the death as soon as practicable.

Note

¹ See section 12A of the *Coroners Act 1980*.

40 Notification of cause of death by coroner

- (1) If a coroner authorises the disposal of human remains, or makes a finding about the cause of a death, the coroner must give a copy of the disposal authorisation or the finding to the Registrar.
- (2) The Registrar may register a death even though the death is subject to coronial inquest and a finding has not been made about the cause of death.

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- (3) A death certificate issued before a coronial inquest into the cause of death is completed must be endorsed in such manner as the Registrar considers appropriate to indicate that fact.
 - (4) This section is subject to section 38.

41 Notification by funeral director and others

- (1) A funeral director or other person who arranges for the disposal of human remains must within 7 days after disposal of the remains give the Registrar a notice, in a form and manner required by the Registrar, specifying the following particulars together with such supporting documentation as may be required by the Registrar:
 - (a) the name and last residential address of the deceased,
 - (b) whether or not the death was reported to a coroner,
 - (c) the place and manner of disposal,
 - (d) the information required by the regulations.

Maximum penalty: 5 penalty units.

- (2) If human remains (other than cremated remains) are removed from the State, the funeral director or other person who arranges for the removal of the remains from the State must, within 28 days after the remains are disposed of outside the State, give the Registrar a notice, in a form and manner required by the Registrar, specifying the following particulars together with such supporting documentation as may be required by the Registrar:
 - (a) the place and manner of disposal,
 - (b) the information required by the regulations.

Maximum penalty: 5 penalty units.

- (3) If human remains have not been disposed of within 30 days after the date of death, the funeral director or other person who has custody of the remains must give the Registrar a notice, in a form and manner required by the Registrar, specifying the following particulars together with such supporting documentation as may be required by the Registrar:

- (a) the name and last residential address of the deceased,
- (b) whether or not the death was reported to a coroner,
- (c) the information required by the regulations.

Maximum penalty: 5 penalty units.

- (4) This section applies in relation to the disposal of any human remains, including the remains of a stillborn child.

Division 3 Registration of death

42 Registration

- (1) The Registrar registers a death by making an entry about the death in the Register including the particulars required by the regulations.
- (2) However, if the particulars available to the Registrar are incomplete the Registrar may register a death on the basis of incomplete particulars.

Part 8 The Register

Division 1 Keeping the Register

43 The Register

- (1) The Registrar must maintain a register or registers of registrable events.
- (2) The Register:
 - (a) must contain the particulars of each registrable event required under this Act, or another law, to be included in the Register, and
 - (b) may contain such further information as the Registrar considers appropriate for inclusion.
- (3) The Register may be wholly or partly in the form of a computer data base, in documentary form, or in another form the Registrar considers appropriate.
- (4) The Registrar must maintain the indexes to the Register that are necessary to make the information contained in the Register reasonably accessible.
- (5) A reference in this Act to the *Register* is a reference to all the registers kept under subsection (1).
- (6) The Register may be referred to as the Births, Deaths and Marriages Register and a reference in any Act or any instrument made under any Act to the Births, Deaths and Marriages Register is taken to be a reference to the Register.

Division 2 Registrar's powers of inquiry

44 Registrar's powers of inquiry

- (1) The Registrar may conduct an inquiry to find out:
 - (a) whether a registrable event has happened, or
 - (b) particulars of a registrable event, or
 - (c) whether particulars of a specific registrable event have been correctly recorded in the Register.

- (2) The Registrar may, by notice given to a person who may be able to provide information relevant to an inquiry under this section, require the person to answer specified questions or to provide other information within a time and manner specified in the notice.
- (3) A person who fails, without reasonable excuse, to comply with a notice under subsection (2) is guilty of an offence.

Maximum penalty: 10 penalty units.

Division 3 Correction of Register

45 Correction of Register

- (1) The Registrar may correct the Register:
 - (a) to reflect a finding made on inquiry under Division 2, or
 - (b) to bring an entry about a particular registrable event into conformity with the most reliable information available to the Registrar of the registrable event.
- (2) The Registrar must, if required by a court, correct the Register.
- (3) The Registrar corrects the Register by adding or cancelling an entry in the Register or by adding, altering or deleting particulars contained in an entry.

Division 4 Access to, and certification of, Register entries

46 General access to Register

- (1) The Registrar may, on conditions the Registrar considers appropriate:
 - (a) allow a person or organisation that has an adequate reason for wanting access to the Register, access to the Register, or
 - (b) provide a person or organisation that has an adequate reason for wanting information from the Register, with information extracted from the Register.

- (2) In deciding whether an applicant has an adequate reason for wanting access to the Register, or information extracted from the Register, the Registrar must have regard to:
 - (a) the nature of the applicant's interest, and
 - (b) the sensitivity of the information, and
 - (c) the use to be made of the information, and
 - (d) other relevant factors.
- (3) In deciding the conditions on which access to the Register, or information extracted from the Register, is to be given under this section, the Registrar must, as far as practicable, protect the persons to whom the entries in the Register relate from unjustified intrusion on their privacy.

47 Search of Register

- (1) The Registrar may, on application, search the Register for an entry about a particular registrable event.
- (2) The applicant must state the reason for the applicant's interest in the subject-matter of the search.
- (3) The Registrar may reject the application if the applicant does not show an adequate reason for wanting the information to which the application relates.
- (4) In deciding whether an applicant has an adequate reason for wanting information, the Registrar must have regard to:
 - (a) the relationship (if any) between the applicant and the person to whom the information relates, and
 - (b) the age of the entry, and
 - (c) the contents of the entry, and
 - (d) other relevant factors.

48 Protection of privacy

In providing information extracted from the Register, the Registrar must, as far as practicable, protect the persons to whom the entries in the Register relate from unjustified intrusion on their privacy.

49 Issue of certificate

- (1) On completing a search of the Register, the Registrar may issue a certificate:
 - (a) certifying particulars contained in an entry, or
 - (b) certifying that no entry was located in the Register about the relevant registrable event.
- (2) A certificate under subsection (1) (a) is admissible in legal proceedings as evidence of:
 - (a) the entry to which the certificate relates, and
 - (b) the facts recorded in the entry.
- (3) If the word “illegitimate”, or any other word or expression referring to the fact that a child was born outside marriage, appears in an entry in the Register, that word or expression is not to be included in any certificate issued by the Registrar.

50 Issue of certificate relating to children of deceased person

- (1) The executor, administrator or trustee of the estate of a deceased person may apply to the Registrar for a certificate certifying whether or not the deceased person is recorded in the Register as being a parent of any children, and if so, the names of the children and such other particulars relating to the children as may be prescribed by the regulations.
- (2) On receipt of the application, together with any fee required by the regulations, the Registrar is to cause a search of the Register to be made and, on completion of that search, issue the certificate applied for.

51 Issue of certificate to enable disposal of human remains

If the death of a person has been registered before the remains of the person have been disposed of, the Registrar may, on application of a person who satisfies the Registrar that the person requires a certificate to enable the remains to be disposed of in accordance with the *Coroners Act 1980*, issue a certificate certifying that the death of the person has been recorded on the Register.

52 Access to adoption information to be given in accordance with Adoption Information Act 1990

This Act is subject to the *Adoption Information Act 1990*¹ and, to the extent of any inconsistency with this Act, that Act prevails.

Note

¹ The *Adoption Information Act 1990* sets out entitlements to and restrictions on access to adoption information held by the Registrar and other information sources. For instance, that Act sets out the circumstances in which the Registrar is entitled to give an adopted person access to his or her original birth certificate.

53 Access policies

- (1) The Registrar must maintain a written statement of the policies on which access to information contained in the Register is to be given or denied under this Division.
- (2) The Registrar must give a copy of the statement, on request, to any person.

54 Fees

- (1) The regulations may prescribe fees, or a basis for calculating fees, for:
 - (a) access to the Register, or
 - (b) a search of the Register, or
 - (c) the issue of a certificate following a search of the Register, or
 - (d) other services provided by the Registrar.
- (2) The regulations may allow for fees to be fixed by negotiation between the Registrar and the person who asks for the relevant services.

55 Power to remit fees

The Registrar may, in appropriate cases, remit the whole or part of a fee under this Act.

Part 9 General power of review

56 Review

- (1) A person who is dissatisfied with a decision of the Registrar made in the exercise or purported exercise of functions under this Act may apply to the District Court for a review of the decision.
- (2) On a review, the District Court may:
 - (a) confirm, vary or reverse the Registrar's decision, and
 - (b) make consequential and ancillary orders and directions.

Part 10 Miscellaneous

57 False representation

A person who makes a representation in an application, notice or document under this Act or in response to a notice under section 44 of this Act (Registrar's powers of inquiry), knowing the representation to be false or misleading in a material particular, is guilty of an offence.

Maximum penalty: 100 penalty units or 2 years imprisonment, or both.

58 Unauthorised access to or interference with Register

A person must not, without the authority of the Registrar or other lawful authority:

- (a) obtain access to the Register or information contained in the Register, or
- (b) make, alter or delete an entry in the Register, or
- (c) interfere with the Register in any other way.

Maximum penalty: 100 penalty units or 2 years imprisonment, or both.

59 Falsification of certificates and other documents

- (1) A person must not forge the Registrar's signature or seal.

Maximum penalty: 100 penalty units or 2 years imprisonment, or both.

- (2) A person must not forge or falsify a certificate or other document under this Act.

Maximum penalty: 100 penalty units or 2 years imprisonment, or both.

- (3) The Registrar may impound or require the return of:

- (a) a document which the Registrar has reason to believe bears a forged impression of the Registrar's signature or seal, or

- (b) a certificate or other document purporting to be a certificate or other document under this Act which the Registrar has reason to believe has been forged or falsified, or
 - (c) a certificate under this 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, or
 - (d) a certificate or document issued by the Registrar in error or as a result of fraud.
- (4) A person who fails, without reasonable excuse, to comply with a requirement under subsection (3) to return a document or certificate is guilty of an offence.

Maximum penalty: 10 penalty units.

60 Unauthorised disclosure of information

A person must not disclose any information obtained in connection with the administration or execution of this Act, except:

- (a) in connection with the administration or execution of this Act, or
- (b) as authorised or required by law.

Maximum penalty: 50 penalty units or 1 year imprisonment, or both.

61 Immunity from liability

Any matter or thing done or omitted by the Registrar does not subject the Registrar personally to any action, liability, claim or demand, if the matter or thing was done or omitted in good faith for the purposes of executing this or any other Act.

62 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) A regulation may create an offence punishable by a penalty not exceeding 100 penalty units.

63 Proceedings for offences

Proceedings for an offence against this Act or the regulations are to be dealt with summarily by a Local Court constituted by a Magistrate sitting alone.

64 Repeal of Registration of Births, Deaths and Marriages Act 1973 No 87

The *Registration of Births, Deaths and Marriages Act 1973* is repealed.

65 Amendment of Coroners Act 1980 No 27

The *Coroners Act 1980* is amended as set out in Schedule 1.

66 Consequential amendment of other Acts

The Acts specified in Schedule 2 are amended as set out in that Schedule.

67 Savings, transitional and other provisions

Schedule 3 has effect.

68 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report of the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Amendment of Coroners Act 1980 No 27

(Section 65)

[1] Section 12A Obligation to report death

Omit “, or by section 24 (8) of the *Registration of Births, Deaths and Marriages Act 1973*” from section 12A (2).

Insert instead “, or by section 12B (5),”.

[2] Section 12B

Insert after section 12A:

12B Medical practitioner must not certify cause of death if death is reportable to a coroner

- (1) A medical practitioner must not give a certificate as to the cause of death of a person for the purposes of notification of the cause of death under the *Births, Deaths and Marriages Registration Act 1995* if the medical practitioner is of the opinion that the person died in any of the following circumstances:
 - (a) the person died a violent or unnatural death,
 - (b) the person died a sudden death the cause of which is unknown,
 - (c) the person died under suspicious or unusual circumstances,
 - (d) the person died having not been attended by a medical practitioner within the period of 3 months immediately preceding his or her death,
 - (e) the person died while under, or as a result of, or within 24 hours after the administration of, an anaesthetic administered in the course of a medical, surgical or dental operation or procedure or an operation or procedure of a like nature, other than a local anaesthetic administered solely for the purpose of facilitating a procedure of resuscitation from apparent or impending death,

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- (f) the person died within a year and a day after the date of any accident to which the cause of his or her death is or may be attributable,
- (g) the person died while in or temporarily absent from any of the following establishments and while the person was a resident at the establishment for the purpose of receiving care, treatment or assistance:
- a hospital within the meaning of the *Mental Health Act 1990*
 - a facility within the meaning of the *Community Welfare Act 1987*
 - a residential centre for handicapped persons licensed under the *Youth and Community Services Act 1973*
 - a residential child care centre licensed under the *Children (Care and Protection) Act 1987*,
- (h) the person died in circumstances that are examinable as referred to in section 13A (Deaths in custody etc examinable only by State Coroner or Deputy State Coroner).
- (2) Despite subsection (1), a medical practitioner may give a certificate as to the cause of death of a person if the medical practitioner is of the opinion that the person:
- (a) was 65 years of age or older, and
 - (b) died in circumstances other than those referred to in subsection (1) (b), (c), (d), (e), (g) or (h), and
 - (c) died after sustaining an injury from an accident, being an accident that was attributable to the age of that person, contributed substantially to the death of the person and was not caused by an act or omission by any other person.
- (3) Subsection (2) does not apply if the accident concerned occurred in a hospital or nursing home.

- (4) If a medical practitioner certifies the cause of death of a person in pursuance of subsection (2), the certificate must state that it is given in pursuance of that subsection.
- (5) A medical practitioner who is prevented from certifying the cause of death of a person because of this section must, as soon as practicable after the death, report that death to a member of the police force.

[3] Section 16A

Insert after section 16:

16A Notice of particulars of death to be given to Registrar of Births, Deaths and Marriages

- (1) If a coroner holds an inquest in respect of the death of a person, the coroner must, for the purpose of enabling registration of the death of the person to be effected or completed, give notice in writing to the Registrar of Births, Deaths and Marriages of such particulars as are known to the coroner relating to the death of the person.
- (2) If a coroner dispenses with the holding of an inquest under section 14 or terminates an inquest under section 19, the coroner must, for the purpose of enabling registration of the death of the person to be effected or completed, give notice in writing to the Registrar of Births, Deaths and Marriages of such particulars as are known to the coroner relating to the death of the person.
- (3) If a coroner is satisfied (whether before or during an inquest in respect of the death of a person) that there will be a delay in concluding the inquest and that he or she is able, on the basis of such evidence as the coroner considers sufficient, to determine the particulars relating to the death of the person, the coroner may, for the purpose of enabling registration of the death of the person to be completed or effected, make that determination and give notice of the determination in writing to the Registrar of Births, Deaths and Marriages.

- (4) A notice under this section must not include any matter incriminating any person.
- (5) In this section, a reference to the particulars relating to the death of a person is a reference to the identity of, and date, place and cause of death of, the deceased person.

[4] Section 24 Coroner's right to possession of body

Omit "under section 49 (Order authorising the disposal of a body) of the *Registration of Births, Deaths and Marriages Act 1973*" from section 24 (3).

Insert instead "under section 53B".

[5] Section 50 Medical witness neglecting to obey order

Omit "or 49". Insert instead ", 49 or 53B (4)".

[6] Part 6A

Insert after Part 6:

Part 6A Disposal of human remains

53A Unauthorised disposal of human remains

- (1) A person must not bury or cremate human remains, or place human remains in a mausoleum or other permanent resting place, or cause the remains to be so buried, cremated or placed, unless the person has been given or has in his or her possession a document that authorises the disposal of the remains or the disposal of the remains is otherwise authorised by the regulations.

Maximum penalty: 50 penalty units.

- (2) A person must not deliver or hand over human remains for anatomical or medical research, or remove human remains (other than cremated remains) from the State, or cause such remains to be so delivered, handed over or removed, unless a document authorising the disposal of the remains has been signed, issued or made or the disposal of the remains is otherwise authorised by the regulations.

Maximum penalty: 50 penalty units.

- (3) Only the following documents authorise the disposal of the remains of a deceased person (other than the remains of a stillborn child):
- (a) a notice given by a medical practitioner for the purpose of section 39 of the *Births, Deaths and Marriages Registration Act 1995* relating to the deceased person,
 - (b) an order made by a coroner under section 53B authorising the disposal of the remains,
 - (c) a certificate issued under section 51 of the *Births, Deaths and Marriages Registration Act 1995* that relates to the deceased person.
- (4) Only the following documents authorise the disposal of the remains of a stillborn child:
- (a) a certificate or notice given by a medical practitioner for the purpose of section 12 (3) of the *Births, Deaths and Marriages Registration Act 1995* relating to the stillborn child,
 - (b) an order made by a coroner under section 53B authorising the disposal of the remains.
- (5) In this section, *stillborn child* has the same meaning as in the *Births, Deaths and Marriages Registration Act 1995*.

53B Order authorising the disposal of human remains

- (1) A coroner may, by order in writing, authorise the disposal of human remains.
- (2) The order may be made by a coroner who:
 - (a) is holding, has held or is intending to hold an inquest in respect of the death under this Act, or
 - (b) has dispensed with the holding of an inquest in respect of the death under this Act.

- (3) If the remains are that of a stillborn child and a medical practitioner has not certified the cause of death of the child, the order may be made by a coroner who has been informed by a member of the police force of the stillbirth and who is, after consideration of any information in the possession of the coroner, satisfied as to the occurrence of the stillbirth.
- (4) A coroner may, by order in writing, direct any medical practitioner to perform an examination of human remains for the purpose of determining whether the remains are that of a stillborn child.
- (5) If an order is made under subsection (2) authorising the disposal of human remains and it is established at an inquest that the remains were those of a stillborn child, the order is valid and is taken to have been made under subsection (3).
- (6) In this section, *stillborn child* and *stillbirth* have the same meanings as in the *Births, Deaths and Marriages Registration Act 1995*.

Schedule 2 Consequential amendment of other Acts

(Section 66)

2.1 Adoption Information Act 1990 No 63

[1] The whole Act (except Schedule 1)

Omit "*Registration of Births, Deaths and Marriages Act 1973*" wherever occurring.

Insert instead "*Births, Deaths and Marriages Registration Act 1995*".

[2] The whole Act

Omit "Office of the Principal Registrar" wherever occurring.

Insert instead "Office of the Registrar".

[3] Section 4 Definitions

Omit "a certified copy of the recording relating to the birth of the person" from the definition of *amended birth certificate*.

Insert instead "a certificate certifying the particulars relating to the birth of the person".

[4] Section 4

Omit "a certified copy of the recording relating to the birth of the person made under section 11 of that Act" from the definition of *original birth certificate*.

Insert instead "a certificate certifying the particulars relating to the birth of the person registered under section 17 of that Act".

[5] Section 4

Omit the definition of *Principal Registrar*.

[6] Section 4

Insert in alphabetical order:

Registrar means the Registrar of Births, Deaths and Marriages.

[7] The whole Act (except section 4)

Omit "Principal Registrar" wherever occurring.
Insert instead "Registrar".

2.2 Adoption of Children Act 1965 No 23

[1] Section 31A Notice of consents to certain putative fathers

Omit "*Registration of Births, Deaths and Marriages Act 1973*" from section 31A (1) (e).

Insert instead "*Births, Deaths and Marriages Registration Act 1995*".

[2] Section 61 Functions of nominated officer in relation to orders under this Act

Omit "Principal Registrar". Insert instead "Registrar".

[3] Section 63 Particulars of orders received from other States or Territories

Omit "Principal Registrar". Insert instead "Registrar".

2.3 Anatomy Act 1977 No 126

Section 9 Conditions of taking possession of body

Omit "where section 19 or 27 of the *Registration of Births, Deaths and Marriages Act 1973* applies".

Insert instead "where section 53A of the *Coroners Act 1980* applies".

2.4 Children (Equality of Status) Act 1976 No 97

[1] Section 4 Definitions

Omit the definition of *Principal Registrar* from section 4 (1).

[2] Section 11 Paternity acknowledgments

Omit "recorded in a register of births, or in the register of parentage information, kept under the *Registration of Births, Deaths and Marriages Act 1973*" wherever occurring.

Insert instead "recorded in the Births, Deaths and Marriages Register".

[3] Section 11

Omit "to the Principal Registrar to be dealt with under the *Registration of Births, Deaths and Marriages Act 1973*" wherever occurring.

Insert instead "to the Registrar of Births, Deaths and Marriages to be dealt with under the *Births, Deaths and Marriages Registration Act 1995*".

[4] Section 11 (4) (d)

Omit "Principal Registrar".

Insert instead "Registrar of Births, Deaths and Marriages".

[5] Section 12 Effect of orders for maintenance etc relating to fathers of exnuptial children

Omit "to the Principal Registrar to be dealt with under the *Registration of Births, Deaths and Marriages Act 1973*" from section 12 (4).

Insert instead "to the Registrar of Births, Deaths and Marriages to be dealt with under the *Births, Deaths and Marriages Registration Act 1995*".

[6] Section 13 Declarations of paternity

Omit "Principal Registrar" from section 13 (1) (c).
Insert instead "Registrar of Births, Deaths and Marriages".

[7] Section 13

Omit "to the Principal Registrar to be dealt with under the *Registration of Births, Deaths and Marriages Act 1973*" wherever occurring.
Insert instead "to the Registrar of Births, Deaths and Marriages to be dealt with under the *Births, Deaths and Marriages Registration Act 1995*".

[8] Section 14 Effect of orders for maintenance etc relating to mothers of exnuptial children

Omit "to the Principal Registrar to be dealt with under the *Registration of Births, Deaths and Marriages Act 1973*" wherever occurring.
Insert instead "to the Registrar of Births, Deaths and Marriages to be dealt with under the *Births, Deaths and Marriages Registration Act 1995*".

[9] Section 15 Declarations of maternity

Omit "Principal Registrar" from section 15 (1) (c).
Insert instead "Registrar of Births, Deaths and Marriages".

[10] Section 15

Omit "to the Principal Registrar to be dealt with under the *Registration of Births, Deaths and Marriages Act 1973*" wherever occurring.
Insert instead "to the Registrar of Births, Deaths and Marriages to be dealt with under the *Births, Deaths and Marriages Registration Act 1995*".

2.5 Crimes Act 1900 No 40

[1] Section 296 Falsifying entires of births etc or giving false certificates

Omit "the Registrar-General or any local, district or other registrar".
Insert instead "the Registrar of Births, Deaths and Marriages".

[2] Section 547A False statement respecting births, deaths or marriages

Omit "any district registrar, or assistant district registrar, appointed under any Act providing for the registration of births or deaths,".
Insert instead "the Registrar of Births, Deaths and Marriages".

2.6 Parliamentary Electorates and Elections Act 1912 No 41

Section 41 Information as to deaths and convictions

Omit "Principal" from section 41 (1).

2.7 Public Health Act 1991 No 10

[1] Section 3 Definitions

Omit the definition of *still-birth* from section 3 (1).
Insert instead:

still-birth means the birth of a child that exhibits no sign of respiration or heartbeat, or other sign of life, after birth and that:

- (a) is of at least 20 weeks' gestation, or
- (b) if it cannot be reliably established whether the period of gestation is more or less than 20 weeks, has a body mass of at least 400 grams at birth.

[2] Section 20 Notification of certain deaths

Omit "Principal".

[3] Section 64 Inspection of, and extracts from, certain registers

Omit "*Registration of Births, Deaths and Marriages Act 1973*" from section 64 (1).

Insert instead "*Births, Deaths and Marriages Registration Act 1995*".

[4] Section 64 (3)

Omit "Principal".

2.8 Public Sector Management Act 1988 No 33

Schedule 3B Senior executive positions

Omit "Principal Registrar of Births, Deaths and Marriages" from the list of positions in the Attorney General's Department contained in Part 1.

Insert instead "Registrar of Births, Deaths and Marriages".

2.9 Trustee Act 1925 No 14

Section 60 Distribution after notice

Omit "a certificate under section 48A of the *Registration of Births, Deaths and Marriages Act 1973*" from section 60 (7).

Insert instead "a certificate under section 50 of the *Births, Deaths and Marriages Registration Act 1995*".

2.10 Wills, Probate and Administration Act 1898 No 13

Section 92 Distribution of assets after notice given by executor or administrator

Omit “a certificate under section 48A of the *Registration of Births, Deaths and Marriages Act 1973*” from section 92 (3).

Insert instead “a certificate under section 50 of the *Births, Deaths and Marriages Registration Act 1995*”.

Schedule 3 Savings, transitional and other provisions

(Section 67)

Part 1 Regulations

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act.
- (2) Any such savings and transitional provisions may make provision for or with respect to the modification of any of the provisions of Part 2 of this Schedule in the event that the whole of the *Registration of Births, Deaths and Marriages Act 1973* is not repealed on the one day.
- (3) Savings or transitional provisions contained in regulations made under this Part may, if the regulations so provide, take effect on the date of assent to this Act or a later date.
- (4) To the extent to which any such savings or transitional provision takes effect on a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or any authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or any authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

2 Definition

In this Part:

former Act means the *Registration of Births, Deaths and Marriages Act 1973*, as in force immediately before its repeal.

3 The Register

- (1) A register kept under the *Registration of Births, Deaths and Marriages Act 1973* forms part of the Register under this Act.
- (2) An index to a register kept under the *Registration of Births, Deaths and Marriages Act 1973* is taken to have been established under this Act.

4 General

Anything done under or for the purposes of a provision of the former Act and having effect immediately before the repeal of the former Act is taken to have been done under or for the purposes of the corresponding provision of this Act.

5 Act applies to registrable events whether occurring before or after repeal of former Act

This Act applies in respect of a registrable event that occurs on or after the repeal of the former Act and, subject to this Part and the regulations under Part 1, extends to apply in respect of a registrable event that occurred before the repeal of the former Act.

6 Obligation to give notice of registrable event occurring before repeal of former Act

The former Act continues to apply in respect of any obligation to give notice of a registrable event that occurred before the repeal of the former Act, as if this Act had not been enacted.

7 Applications made before the repeal of former Act

An application for a certificate, certified copy or extract relating to information on the Register or an application for the inclusion of information in the Register that was made under the former Act, and is pending on the repeal of that Act, is to be dealt with as if this Act had not been enacted.

8 Applications to Supreme Court pending on repeal of former Act

An application pending under section 13 of the former Act (Supreme Court may order registration of birth or stillbirth) immediately before the repeal of the former Act is to be dealt with as if this Act had not been enacted.

9 Orders made by coroner under former Act

- (1) An order made by a coroner under section 49 of the former Act (Order authorising the disposal of a body) that has any effect immediately before the repeal of that Act is taken to have been made under section 53B (1) of the *Coroners Act 1980*.
- (2) An order made by a coroner under section 50 of the former Act (Examination of body for purpose of section 49) that has any effect immediately before the repeal of that Act is taken to have been made under section 53B (4) of the *Coroners Act 1980*.

10 Notice given by coroner under former Act for purpose of effecting or completing death registration

- (1) A notice given by a coroner under section 25 (1) of the former Act is taken to have been given under section 16A (1) of the *Coroners Act 1980*.
- (2) A notice given by a coroner under section 25 (3) of the former Act is taken to have been given under section 16A (2) of the *Coroners Act 1980*.

11 Death certificate issued before repeal of former Act

A certificate issued under section 26 of the former Act (Certificate of registration of death) is taken to have been issued under section 51 of this Act (Issue of certificate to enable disposal of human remains).

12 Medical certificate given under former Act

- (1) A medical certificate or notice signed by a medical practitioner under section 24 (2) of the former Act in respect of a death that occurred before the repeal of the former Act is taken to be a notice under section 39 of this Act.
- (2) A medical certificate or notice signed by a medical practitioner under section 18 (2) of the former Act in respect of a stillbirth that occurred before the repeal of the former Act is taken to be a medical certificate or notice under section 12 (3) of this Act.

13 Reference to former Act, Registrars and Register

- (1) A reference in any other Act or any instrument made under an Act or in any instrument of any other kind to the *Registration of Births, Deaths and Marriages Act 1973* is taken to be a reference to this Act.
- (2) A reference in any other Act or any instrument made under an Act or in any instrument of any other kind to the Principal Registrar, a Deputy Principal Registrar or a local registrar (within the meaning of the former Act), is taken to be a reference to the Registrar.
- (3) A reference (however expressed) in any other Act or any instrument made under an Act or in any instrument of any other kind to a register under the former Act, is taken to be a reference to the Register under this Act.

14 Local registers kept under former legislation

- (1) If the Registrar corrects an entry about a particular registrable event in the Register and the Registrar considers it impracticable to correct an entry about the same event in a local register, the Registrar need not correct the local register.
- (2) In such a case the Registrar may cause a written notice to be attached to the local register, in such words as the Registrar considers appropriate, to indicate that the information contained in the Register may not be correct.

- (3) The Registrar may assume custody of any local register and may, subject to the *Archives Act 1960*, destroy or otherwise dispose of such a register in such manner as the Registrar considers appropriate.
- (4) In this clause, a reference to a *local register* is a reference to a local register within the meaning of the former Act.

15 Saving of regulations under former Act

- (1) The regulations in force under the former Act immediately before its repeal are taken to have been made under this Act. This does not prevent the future amendment or repeal of those regulations.
- (2) For the purposes of the *Subordinate Legislation Act 1989*, those regulations are taken to have been made when they were made under the former Act.

[Minister's second reading speech made in—
Legislative Council on 25 October 1995
Legislative Assembly on 21 November 1995]

