

**ACTS REPEAL AND AMENDMENT
(BIRTHS, DEATHS AND
MARRIAGES REGISTRATION)
ACT 1998**

No. 40 of 1998

AN ACT to repeal the —

- *Change of Names Regulation Act 1923;*
- *Legitimation Act 1909;* and
- *Registration of Identity of Persons Act 1975,*

and, as a consequence of the enactment of the *Births, Deaths and Marriages Registration Act 1998*, to amend various other Acts.

[Assented to 30 October 1998.]

The Parliament of Western Australia enacts as follows:

s. 1 No. 40] *Acts Repeal and Amendment
(Births, Deaths and Marriages
Registration) Act 1998*

Short title

1. This Act may be cited as the *Acts Repeal and Amendment (Births, Deaths and Marriages Registration) Act 1998*.

Commencement

2. This Act comes into operation on the day on which the *Births, Deaths and Marriages Registration Act 1998* comes into operation.

***Change of Names Regulation Act 1923* repealed**

3. (1) The *Change of Names Regulation Act 1923* is repealed.
(2) The *Change of Names Regulations 1990* are repealed.

***Legitimation Act 1909* repealed**

4. The *Legitimation Act 1909* is repealed.

***Registration of Identity of Persons Act 1975* repealed**

5. (1) The *Registration of Identity of Persons Act 1975* is repealed.
(2) The *Registration of Identity of Persons Regulations, 1975* are repealed.

***Adoption Act 1994* amended**

6. (1) In this section the *Adoption Act 1994** is referred to as the principal Act.

[* *Act No. 9 of 1994.*
*For subsequent amendments see 1996 Index to
Legislation of Western Australia, Table 1, p. 4 and Act
No. 57 of 1997.]*

(2) Section 4 of the principal Act is amended by deleting the definition of “Registrar General” and substituting the following definition —

“**“Registrar”** means the Registrar of Births, Deaths and Marriages;”

(3) Section 74 (2) (a) of the principal Act is deleted and the following paragraph is substituted —

“(a) section 34 (3) of the *Births, Deaths and Marriages Registration Act 1998*;

(4) Section 78 of the principal Act is repealed and the following section is substituted —

Court to notify Registrar of adoption order etc.

78. (1) If the Court —

(a) makes; or

(b) under section 77 (2) makes an order discharging,

an adoption order, the registrar of the Court is to give the Registrar written notice of the particulars.

(2) If the adoptee’s birth is not registered in this State under the *Births, Deaths and Marriages Registration Act 1998* then in addition to the notice referred to in subsection (1), the registrar of the Court is to give the Registrar a copy of the original registration of the adoptee’s birth, if available.

(3) In this section —

“particulars” means —

- (a) the date of the order;
- (b) the full name, address and occupation of the adoptive parent;
- (c) the name by which the adoptee is known before, and is to be known after, the order becomes effective;
- (d) the terms of consequential or ancillary orders under section 77 (5);
- (e) if available, details of the date and place of the adoptee’s birth and name and address of the adoptee’s birth parents; and
- (f) if available, such other information required by the Registrar in relation to the registration of the adoptee’s birth under the *Births, Deaths and Marriages Registration Act 1998*.

”.

(5) Section 79 (1) (g) of the principal Act is amended by deleting “General”.

(6) Section 80 (1) of the principal Act is amended by deleting “General”.

(7) Section 85 (2) (a) of the principal Act is amended by deleting “General”.

(8) Section 85 (2) (b) of the principal Act is deleted and the following is substituted —

“

(b) the *Births, Deaths and Marriages Registration Act 1998* in relation to the manner of application for access to information held by the Registrar; and

”.

(9) Section 85 (3) of the principal Act is repealed and the following subsection is substituted —

“

(3) The production to the Registrar of the authority referred to in subsection (2) (a) is to be treated as an adequate reason, for the purposes of section 54 or 55 of the *Births, Deaths and Marriages Registration Act 1998*, for the Registrar —

- (a) to allow a person access to the Register;
- (b) to provide a person with information extracted from the Register; or
- (c) to search for information in the Register,

within the meaning of that Act.

”.

(10) Section 86 of the principal Act is amended by deleting “General”.

(11) Section 87 of the principal Act is amended by deleting “Section 19 (1) of the *Registration of Births, Deaths and Marriages Act 1961*” and substituting the following —

“

Section 57 (3) of the *Births, Deaths and Marriages Registration Act 1998*

”.

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(12) Section 92 of the principal Act is repealed and the following section is substituted —

“

Registrar to provide information to Director-General

92. (1) The Registrar is to give to the Director-General such information from the Register as the Director-General certifies in writing is required by the Director-General for the purposes of this Act.

(2) If the Registrar receives information that a person has died, and it appears from the Register that the person was an adoptee, the Registrar is to inform the Director-General of the adoptee's death.

(3) In this section —

“**Register**” has the meaning that it has in the *Births, Deaths and Marriages Registration Act 1998*.

”.

Anatomy Act 1930 amended

7. (1) In this section the *Anatomy Act 1930** is referred to as the principal Act.

[* *Reprinted as authorized 18 March 1970.
For subsequent amendments see 1996 Index to
Legislation of Western Australia, Table 1, p. 10.*]

(2) Section 10A (2) of the principal Act is amended by inserting after “certificate” the following —

“ or record ”.

(3) Section 12 of the principal Act is amended by deleting “a certificate stating in what manner such person came by his death has, previously to the removal of the body, been signed by

the medical practitioner who attended such person during the illness whereof he died, or, if no such practitioner attended such person during such illness, then by some medical practitioner or some stipendiary magistrate who is called in after the death of such person to view his body and who states the manner or cause of death, according to the best of his knowledge and belief, but who shall not be concerned in examining the body after removal; and in the case of such removal such certificate” and substituting the following —

“

before the removal of the body —

- (a) a certificate of cause of death has been provided under section 44 of the *Births, Deaths and Marriages Registration Act 1998* in relation to the person by a medical practitioner other than one concerned in examining the body after the removal; or
- (b) a coroner has made findings as to how the death occurred and the cause of death,

as is applicable to the case; and the certificate or the record of the coroner’s findings

”.

(4) Section 13 of the principal Act is amended by inserting after “certificate” the following —

“ or record ”.

(5) Section 14 of the principal Act is amended by inserting after “certificate” in the 3 places where it occurs the following —

“ or record ”.

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Coroners Act 1996 amended

8. (1) In this section the *Coroners Act 1996** is referred to as the principal Act.

[* Act No. 2 of 1996.

*For subsequent amendments see 1996 Index to
Legislation of Western Australia, Table 1, p. 52 and
Act No. 57 of 1997.]*

(2) Section 3 of the principal Act is amended in the definition of “reportable death” in paragraph (i) by deleting “a medical certificate under section 41 (1) (a) of the *Registration of Births, Deaths and Marriages Act 1961* has not been completed and signed” and substituting the following —

“
the cause of death has not been certified under section 44 of
the *Births, Deaths and Marriages Registration Act 1998*
”.

(3) Section 17 (3) of the principal Act is amended —

- (a) after paragraph (a) by deleting “or”;
- (b) after paragraph (b) by deleting the full stop and substituting the following —

“ ; or ”; and

- (c) after paragraph (b) by inserting the following paragraph —

“
(c) in the opinion of the doctor, the death has
occurred under any suspicious
circumstances.
”.

(4) Section 25 (1) (d) of the principal Act is amended by deleting “*Registration of Births, Deaths and Marriages Act 1961*” and substituting the following —

“ *Births, Deaths and Marriages Registration Act 1998* ”.

(5) Section 28 (1) of the principal Act is amended by deleting “Registrar General within the meaning of the *Registration of Births, Deaths and Marriages Act 1961*” and substituting the following —

“ Registrar of Births, Deaths and Marriages ”.

(6) Section 28 (2) of the principal Act is amended by deleting “Registrar General” and substituting the following —

“ Registrar of Births, Deaths and Marriages ”.

Cremation Act 1929 amended

9. The *Cremation Act 1929** is amended —

(a) by deleting section 8A (a) and substituting the following paragraphs —

“

(a) unless a certificate of cause of death has been provided under section 44 of the *Births, Deaths and Marriages Registration Act 1998* in relation to the deceased person;

(aa) where the deceased person died in a place outside the State, unless a certificate of cause of death has been provided under the law of the place in relation to the deceased person;

”;

and

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(b) by repealing section 11.

[* Reprinted as approved 8 April 1971.
For subsequent amendments see 1996 Index to
Legislation of Western Australia, Table 1, p. 55.]

The Criminal Code amended

10. *The Criminal Code** is amended in section 340 (7) by deleting “a district registrar” and substituting the following —

“ the Registrar of Births, Deaths and Marriages ”.

[* Reprinted as at 21 April 1997.
For subsequent amendments see Acts Nos. 69 of 1996
and 19, 49 and 57 of 1997.]

Electoral Act 1907 amended

11. The *Electoral Act 1907** is amended —

(a) in section 40 (1) (b) by deleting “Registrar General appointed under the *Registration of Births, Deaths and Marriages Act 1961*” and substituting the following —

“ Registrar of Births, Deaths and Marriages ”; and

(b) by repealing section 56 and substituting the following section —

“

Lists of deaths occurring in the State

56. The Registrar of Births, Deaths and Marriages shall, as soon as is reasonably practicable after the end of each month, forward to the Electoral Commissioner a list, in the

prescribed form, containing the names, address, occupation, and age at the time of death of every person not under 18 years of age, whose death has been registered in the State during the month.

”.

[* Reprinted as at 22 April 1997.
For subsequent amendments see Acts Nos. 69 of 1996
and 42 of 1997.]

Evidence Act 1906 amended

12. The *Evidence Act 1906** is amended —

- (a) in section 56 (b) by deleting “Registrar General, Assistant or Deputy Registrar General” and substituting the following —

“

the Registrar or a Deputy Registrar of Births,
Deaths and Marriages

”;

and

- (b) in section 73B (1) and (3) by deleting “Registrar General” in each case and substituting the following —

“ Registrar of Births, Deaths and Marriages ”.

[* Reprinted as at 10 September 1996.
For subsequent amendments see 1996 Index to
Legislation of Western Australia, Table 1, pp. 76-7 and
Acts Nos. 69 of 1996 and 57 of 1997.]

Friendly Societies Act 1894 amended

13. (1) In this section the *Friendly Societies Act 1894** is referred to as the principal Act.

[* *Reprinted as authorized 5 August 1974.
For subsequent amendments see 1996 Index to
Legislation of Western Australia, Table 1, p. 90 and
Act No. 1 of 1997.*]

(2) Section 12 (2) of the principal Act is amended by deleting “a certificate of such death under the hand of the Registrar General or district registrar, or other person having the care of the register of deaths in which such death is or ought to be entered” and substituting the following —

“ an appropriate certificate from the Registrar of Births, Deaths and Marriages ”.

(3) Section 14 (8) of the principal Act is repealed.

(4) Section 37 (2) of the principal Act is amended by deleting “General or district registrar of deaths, or other person having the care of the register of deaths” and substituting the following —

“ of Births, Deaths and Marriages ”.

(5) Section 37 (3) of the principal Act is amended by deleting “General or district registrar of deaths” in the 2 places where it occurs and substituting the following —

“ of Births, Deaths and Marriages ”.

(6) Section 37 (4) of the principal Act is amended —

(a) by deleting “General or district registrar of deaths” and substituting the following —

“ of Births, Deaths and Marriages ”; and

- (b) by deleting “on the certificate of a coroner or a legally qualified medical practitioner who attended such deceased child during its last illness”.

Health Act 1911 amended

14. (1) In this section the *Health Act 1911** is referred to as the principal Act.

[* *Reprinted as at 11 March 1997.
For subsequent amendments see Acts Nos. 103 of 1994,
34 of 1995, 2 of 1996 and 57 of 1997.*]

(2) Section 275 (1) of the principal Act is amended by deleting “district registrar of births and deaths in the registry district within which the birth of such child was registered” and substituting the following —

“ Registrar of Births, Deaths and Marriages ”.

(3) Section 284 of the principal Act is amended by deleting “gives a death certificate” and substituting the following —

“
, for the purposes of section 44 of the *Births, Deaths and Marriages Registration Act 1998*, certifies the cause of death
”.

(4) Section 335 (5) (c) of the principal Act is deleted and the following paragraph is substituted —

“
(c) A medical practitioner who, for the purposes of section 44 of the *Births, Deaths and Marriages Registration Act 1998*, certifies the cause of a neonatal death shall notify the Executive Director, Public Health of the fact in the prescribed form within 48 hours of the certification.
”.

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(5) Section 336A (1) of the principal Act is amended by deleting “was at the time of such stillbirth or death attending that child or who certified that the death of the child had occurred” and substituting the following —

“
, for the purposes of section 44 of the *Births, Deaths and Marriages Registration Act 1998*, certified the cause of the child’s death
”.

Licensed Surveyors Act 1909 amended

15. Section 14 (3) of the *Licensed Surveyors Act 1909** is amended by deleting “Every district registrar of deaths in Western Australia” and substituting the following —

“ The Registrar of Births, Deaths and Marriages ”.

[* *Reprinted as approved 1 September 1995.
For subsequent amendments see 1996 Index to
Legislation of Western Australia, Table 1, p. 132 and
Act No. 79 of 1996.*]

Pharmacy Act 1964 amended

16. Section 30 (2) of the *Pharmacy Act 1964** is amended by deleting “Registrar General of Western Australia” and substituting the following —

“ Registrar of Births, Deaths and Marriages ”.

[* *Reprinted as approved 18 April 1983.
For subsequent amendments see 1996 Index to
Legislation of Western Australia, Table 1, p. 175.*]

***The Kalgoorlie and Boulder Racing Clubs Act 1904
amended***

17. Section 39 of *The Kalgoorlie and Boulder Racing Clubs Act 1904** is repealed.

[* *Private Act.*
*For subsequent amendments see 1996 Index to
Legislation of Western Australia, Table 1, p. 121.*]

Witness Protection (Western Australia) Act 1996 amended

18. (1) In this section the *Witness Protection (Western Australia) Act 1996** is referred to as the principal Act.

[* *Act No. 11 of 1996.*
For subsequent amendments see Act No. 57 of 1997.]

(2) Section 3 of the principal Act is amended —

(a) in the definition of “prescribed authority” by deleting
“a person appointed for the purposes of the
*Registration of Births, Deaths and Marriages
Act 1961*” and substituting the following —

“ the Registrar of Births, Deaths and Marriages ”;

and

(b) in the definition of “prescribed register” by deleting
“*Registration of Births, Deaths and Marriages
Act 1961*” and substituting the following —

“
*Births, Deaths and Marriages Registration
Act 1998*
”.

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(3) Section 18 (1) (b) of the principal Act is amended by deleting “deed poll or a licence under the *Change of Names Regulation Act 1923*” and substituting the following —

“
registration of change of name under Part 5 of the *Births, Deaths and Marriages Registration Act 1998*
”.

(4) Section 18 (4) of the principal Act is amended by deleting “deed poll or a licence under the *Change of Names Regulation Act 1923*” and substituting the following —

“
registration of change of name under Part 5 of the *Births, Deaths and Marriages Registration Act 1998*
”.

(5) Section 19 of the principal Act is amended in the definition of “new identity order” by deleting “Registrar General to make a new entry in the register of births kept under the *Registration of Births, Deaths and Marriages Act 1961*” and substituting the following —

“
Registrar of Births, Deaths and Marriages to make a new entry in the register of births kept under the *Births, Deaths and Marriages Registration Act 1998*
”.

(6) Section 21 (1) (c) of the principal Act is amended by deleting “deed poll or by licence under the *Change of Names Regulation Act 1923*” and substituting the following —

“
registration of change of name under Part 5 of the *Births, Deaths and Marriages Registration Act 1998*
”.

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(7) Section 24 (1) of the principal Act is amended by deleting “*Registration of Births, Deaths and Marriages Act 1961*” and substituting the following —

“ *Births, Deaths and Marriages Registration Act 1998* ”.