

WESTERN AUSTRALIA

BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1998

(No. 39 of 1998)

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WESTERN AUSTRALIA

**BIRTHS, DEATHS AND
MARRIAGES REGISTRATION
ACT 1998**

No. 39 of 1998

AN ACT to provide for the registration of births, deaths, marriages, changes of name and adoptions information in Western Australia and for related matters.

[Assented to 30 October 1998.]

The Parliament of Western Australia enacts as follows:

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Births, Deaths and Marriages Registration Act 1998*.

Commencement

2. This Act comes into operation on such day as is fixed by proclamation.

Objects of Act

3. The objects of this Act are to provide for —

- (a) the registration of births, deaths, marriages, changes of name and adoptions information in Western Australia;
- (b) the keeping of registers for recording and preserving information about births, deaths, marriages, changes of name and adoptions in perpetuity;
- (c) 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;
- (d) the issue of certified and uncertified information from the registers; and
- (e) the collection and dissemination of statistical information.

Definitions

4. In this Act, unless the contrary intention appears —

“**adult**” means a person who —

- (a) is 18 years of age or more; or
- (b) although under 18 years of age, is or has been married;

“**approved**” means approved by the Registrar;

“**birth**” means the expulsion or extraction of a child from its mother;

“**birth registration statement**” means the statement referred to in section 14;

“**change**”, in relation to a name, includes an addition, omission or substitution;

“**child**” includes a still-born child;

“**corresponding law**” means a law of another State that provides for the registration of births, deaths and marriages;

“**death**” includes still-birth;

“**disposal**”, in relation to human remains, means —

- (a) cremation of the remains;
- (b) burial of the remains (including burial at sea);
- (c) placing the remains in a mausoleum or other permanent resting place; or

- (d) 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 Act 1894*;

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

“**human remains**” includes the remains of a still-born child;

“**neonatal death**” means the death of a live-born child within 28 days after the birth;

“**prohibited name**” means a name that, in the opinion of the Registrar —

- (a) is obscene or offensive;
- (b) could not practicably be established by repute or usage —
- (i) because it is too long;
- (ii) because it consists of or includes symbols without phonetic significance; or
- (iii) for some other reason;
- (c) is contrary to the public interest for some other reason;

“**Register**” means the Register referred to in section 49 (1);

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

“registrable event” means a birth, death, marriage, change of name or an adoption or discharge of an adoption;

“registrable information” means the particulars and the further information referred to in section 49 (2) that must or may be included in the Register;

“Registrar” means the Registrar of Births, Deaths and Marriages referred to in section 5;

“State” includes a Territory;

“State court” means the Supreme Court, the District Court, the Family Court (including a court of summary jurisdiction having jurisdiction that may be exercised by the Family Court) or the Children’s Court;

“still-birth” means the birth of a still-born child;

“still-born child” means a child —

- (a) of at least 20 weeks’ gestation; or
- (b) if it cannot be reliably established whether the child’s period of gestation is more or less than 20 weeks, with a body mass of at least 400 grams at birth,

that exhibits no sign of respiration or heartbeat, or other sign of life, immediately after birth.

PART 2 — ADMINISTRATION

Division 1 — The Registrar and staff

Registrar

5. There is to be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* a Registrar of Births, Deaths and Marriages for the State.

Registrar's general functions

6. The Registrar's general functions are to —
- (a) establish and maintain the registers necessary for the purposes of this Act;
 - (b) administer the registration system established by this Act and ensure that it operates efficiently, effectively and economically; and
 - (c) ensure that this Act is administered in the way best calculated to achieve its objects.

Registrar's staff

7. (1) There are to be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* —
- (a) one or more Deputy Registrars of Births, Deaths and Marriages; and
 - (b) such other staff as are necessary for the proper administration of this Act.
- (2) A Deputy Registrar has the powers and functions of the Registrar but is subject to direction by the Registrar.

(3) Subject to subsection (2), a Deputy Registrar may act as the Registrar when the Registrar is temporarily unavailable for any reason to perform the functions of office.

Delegation

8. (1) The Registrar may, by instrument in writing, delegate to any person, either generally or as otherwise provided in the instrument, a power or duty that the Registrar has under this Act, other than this power of delegation.

(2) Anything done by a delegate under a delegation under this section has the same force and effect as if it had been done by the Registrar.

Division 2 — Execution of documents

The Registrar's seal

9. The Registrar is to have a seal.

Execution of documents

10. (1) The Registrar may issue a certificate or other document under —

- (a) the Registrar's signature and seal; or
- (b) a facsimile of the Registrar's signature and seal produced by stamp, machine imprint or a prescribed method.

(2) If a document produced before a court or a person acting judicially, 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, machine imprint or a prescribed method,

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

Division 3 — Reciprocal administrative arrangements

Reciprocal administrative arrangements

11. (1) The Minister may enter into an arrangement with the Minister responsible for the administration of a corresponding law and the arrangement may provide for —

- (a) the performance by the Registrar of functions of the registering authority under the corresponding law; and
- (b) the performance 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 perform, to the extent authorized 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 perform, to the extent authorized by the arrangement (but subject to the conditions of the arrangement), the functions of 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;
 - (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

Notification of births

12. (1) In this section —

“responsible person”, in relation to the birth of a child —

- (a) if the child was born in a hospital or brought to a hospital within 24 hours after the child’s birth, means the chief executive officer or general manager of the hospital; or
- (b) in any other case —
 - (i) means the doctor or midwife responsible for the professional care of the child’s mother at the birth;
 - (ii) if the child was still-born, means the doctor who examined the child’s body after the birth; or
 - (iii) if no doctor or midwife was in attendance at the child’s birth, means any person in attendance at the birth.

(2) When a child is born in the State, the responsible person must give the Registrar notice of the birth —

- (a) within one month after the birth; and
- (b) in an approved form and manner.

Penalty: \$1 000.

(3) A person does not commit an offence under subsection (2) if notice of the birth is given by another person.

Division 2 — Registration of births

Cases in which registration of birth is required or authorized

13. (1) If a child is born in the State, the birth must be registered under this Act.

(2) If a State court orders that a birth be registered in this State, the birth must be registered under this Act.

(3) If a court of another State or of the Commonwealth makes a determination that a birth should be registered in this State, the birth may be registered under this Act if the Registrar considers that it is appropriate to do so.

(4) If a child is born —

(a) in an aircraft during a flight to an airport in the State; or

(b) on a vessel during a voyage to a port in the State,

the birth may be registered under this Act.

(5) If a child is born outside the Commonwealth, but the child is to become (or in the case of a still-birth, was to become) a resident of the State, the birth may be registered under this Act.

(6) The Registrar must not register a birth under subsection (4) or (5) if the birth is registered under a corresponding law.

How to have the birth of a child registered

14. A person has the birth of a child registered under this Act by lodging a statement (the “**birth registration statement**”) in an approved form.

Responsibility to have birth registered

15. (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 impracticable for the other parent to join or be required to join in the application because of his or her death, disappearance, ill health or unavailability or the need to avoid unwarranted distress to obtain the signatures of both parents on the birth registration statement.

(2) If a child is a foundling, the person with responsibility for the long-term care, welfare and development 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.

Obligation to have birth registered

16. (1) A person who is responsible under section 15 (1) or (2) for having a child’s birth registered must ensure that a birth registration statement is lodged with the Registrar within 60 days after the date of the birth.

Penalty: \$1 000.

(2) The Registrar must accept a birth registration statement even though it is lodged after the end of the 60 day period.

Registration of birth

17. (1) The Registrar is to register a birth by making an entry about the birth in the Register including such particulars as the Registrar considers appropriate to register the birth.

(2) If the particulars available to the Registrar are incomplete the Registrar may register a birth on the basis of incomplete particulars.

Registration of parentage details

18. (1) The Registrar is not to include information about the identity of a child's parents in the Register unless —

- (a) the father and the mother of the child make a joint application for the inclusion of registrable information about that identity;
- (b) one parent of the child makes an application for the inclusion of registrable information about that identity and the other parent cannot join in the application because —
 - (i) he or she is dead;
 - (ii) he or she cannot be found; or
 - (iii) of some other reason;
- (c) one parent of the child makes an application for the inclusion of registrable information about that identity and the Registrar is satisfied that the other parent does not dispute the correctness of that information;

- (d) a State court orders the inclusion of registrable information about the identity in the Register or makes a finding that a particular person is a parent of a child;
 - (e) a court of another State or of the Commonwealth makes a determination that registrable information about the identity should be included in the Register or makes a finding that a particular person is a parent of a child and the Registrar considers that it is appropriate to include the information in the Register; 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.
- (2) The Registrar may include information about the identity of a child's parent in the Register if —
- (a) the Registrar is not prohibited by subsection (1) from doing so;
 - (b) despite subsection (1), both parents are unable to give registrable information about the identity of a child's parent or parents for some reason or are unavailable and another person can provide information to the Registrar's satisfaction as to the identity of the child's parent or parents; or
 - (c) despite subsection (1), one parent has provided the birth registration statement and the registrable information relates only to the identity of that parent.

Addition of details after birth registration

19. (1) Subject to section 18, a person may apply to the Registrar for the inclusion of additional registrable information about a person's birth registration in the Register.

(2) An application under subsection (1) —

- (a) must be made in writing;
- (b) must include such information that may be required by the Registrar;
- (c) in relation to a child, may include a request that a different surname for the child be entered in the Register (the “**proposed surname**”); and
- (d) 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 other evidence the Registrar may require.

(3) Subject to subsection (4), on an application under subsection (1) that includes a request that a different surname for a child be entered in the Register —

- (a) if the application is jointly made by the child’s father and mother, the Registrar may change the surname for the child entered in the Register to the proposed surname; or
- (b) if the application is not jointly made by the child’s father and mother, the Registrar may change the surname for the child entered in the Register to the proposed surname if —
 - (i) the child’s other parent has died; or
 - (ii) the child’s other parent cannot be found but other children of the same parents are registered in the proposed surname.

(4) On an application under subsection (1) that includes a request that a different surname for a child be entered in the Register the Registrar may change the surname for the child entered in the Register to the proposed surname —

- (a) if the proposed surname is not a prohibited name; and

- (b) if the child is 12 years of age or more and —
 - (i) the child consents to the proposed surname; or
 - (ii) the child is unable to understand the meaning and implications of the change of surname.

Division 3 — Court orders relating to registration of birth

Powers of State courts

20. A State court may, on application by an interested person or on its own initiative, order the Registrar to —

- (a) register a birth; or
- (b) include or correct registrable information about a birth or a child's parents in the Register.

Registration of birth etc. after court findings

- 21.** (1) If a State court finds that —
- (a) the birth of a person is not registered as required under this Act or a corresponding law;
 - (b) the registrable information contained in an entry about a birth in the Register under this Act or a corresponding law is incomplete or incorrect; or
 - (c) information about the identity of a child's parents should be included in the Register under this Act or a corresponding law,

the State court may order the registration of the birth or order the inclusion or correction of registrable information in the Register or make a determination for the purposes of the corresponding law (as is applicable to the case).

(2) The Registrar may register a birth or amend the Register in accordance with the determination of a court of another State or of the Commonwealth which has made a finding of a kind referred to in subsection (1) if the Registrar considers it is appropriate to do so.

Division 4 — Child's name

Name of child

22. (1) The birth registration statement for a child must state the name of the child.

(2) Subsection (1) does not require a still-born child or a child who has a neonatal death to be named but nothing in this subsection prevents such a child from being named if the persons lodging the birth registration statement for the child so wish.

(3) The name is a matter of choice for the person or persons lodging the birth registration statement and nothing in this Act requires that —

- (a) the name be made up of both a surname and a given name or given names; or
- (b) the surname be the same as that of a parent of the child.

(4) The Registrar may assign a name to a child if —

- (a) the name stated in the birth registration statement is a prohibited name; or
- (b) the birth registration statement is lodged by both parents of the child and they satisfy the Registrar that they are unable to agree on the child's name.

(5) If the Family Court has resolved a dispute about a child's name the Registrar must assign or re-assign the child's name in accordance with the court orders.

(6) If a court of another State or of the Commonwealth has resolved a dispute about a child's name the Registrar may assign or re-assign the child's name in accordance with the determination if the Registrar considers that it is appropriate to do so.

Given names can be changed once within a year of birth

23. (1) A person may apply to the Registrar requesting the Registrar to change a name or names of a child entered in the Register other than the child's surname.

(2) An application under subsection (1) —

- (a) must be made in writing;
- (b) must be made within 12 months after the date of the child's birth;
- (c) must be made —
 - (i) if both of the child's parents signed the birth registration statement for the child, by both parents;
 - (ii) if the Registrar accepted the birth registration statement for the child from one parent under section 15 (1), by that parent;
 - (iii) if, after the time when the birth registration statement for the child was lodged, one of the child's parents has died, by the other parent; or

- (iv) if, after the time when the birth registration statement for the child was lodged, both of the child's parents have died, cannot be found or for some other reason cannot exercise their parental responsibilities in relation to the child, by the child's guardian;

and

- (d) cannot be made if a previous application under this section has been made.

(3) On an application under subsection (1) the Registrar may change a name or names of the child entered in the Register other than the child's surname to the name or names in accordance with the request unless a requested name is a prohibited name.

**PART 4 — REGISTRATION OF ADOPTION
INFORMATION**

**Registration of State adoption order, or State discharge of
adoption order, if adoptee's birth registered in this State**

24. On receipt of a notice under section 78 (1) of the *Adoption Act 1994* in relation to an adoptee whose birth is registered in this State, the particulars provided in the notice must be registered by the Registrar in relation to the registration of the adoptee's birth.

**Registration of State adoption order, or State discharge of
adoption order, if adoptee's birth not registered in this
State**

25. (1) On receipt of a notice under section 78 (1) of the *Adoption Act 1994* in relation to an adoptee whose birth is registered in another State, the Registrar —

- (a) must send a copy of the notice to the relevant registering authority; and
- (b) subject to subsection (2), must register the adoptee's birth in accordance with the information provided under section 78 of that Act.

(2) The Registrar is not required to register a birth under subsection (1) if —

- (a) the birth is registered under a corresponding law; and
- (b) information about the adoption order, or the discharge of the adoption order, as is applicable in the case, is registered under a corresponding law.

(3) If a birth is to be registered under subsection (1) but some of the information required to register the birth is not available, the Registrar may endorse the birth registration to the effect that the information was not available when the birth was registered.

Registration of interstate adoption order, or interstate discharge of adoption order, if adoptee's birth registered in this State

26. If —

- (a) an adoption order is made or discharged under a law in force in another State; and
- (b) the order was made or discharged in relation to a person whose birth is registered under this Act,

the particulars (if any) provided under that law must be registered by the Registrar in relation to the registration of the person's birth.

Manner and form of adoption information in the Register

27. A registration or endorsement required under this Part and any related entry in the Register are to be made in an approved manner and form.

Certain certified copies

28. If the Registrar is required under section 86 of the *Adoption Act 1994* to issue a certified copy of that portion of the registration of an adoptee's birth that does not refer to the adoptee's adoption or birth parents, the certified copy is to be in an approved form.

PART 5 — CHANGE OF NAME

Change of name by registration

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

Application to register change of adult's name

30. An adult person —

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

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

Application to register change of child's name

31. (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, in an approved form, apply to the Registrar for registration of a change of the child's name.

(2) 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; or
- (b) the child's other parent has died.

(3) If the parents of a child are dead, cannot be found, or for some other reason cannot exercise their parental responsibilities for a child, the child's guardian may apply for registration of a change of the child's name.

Child's consent to change of name

32. A change of a name of a child who is 12 years of age or more and in respect of whom an application under section 31 has been made 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.

Application to register change of child's name approved by Family Court

33. (1) If the Family Court has approved the change of a child's name or names any person may, in an approved form, apply to the Registrar for registration of the change of the child's name in accordance with the court orders.

(2) The Registrar must register a change of name made on an application under this section.

Registration of change of name

34. (1) Before registering a change of name under this Division, 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;

- (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 who is 12 years of age or more, that —
 - (i) the child consents to the change of name; or
 - (ii) the child 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 the law, or by order of a court, of another State or of the Commonwealth, the change of name may be registered under this Act if the Registrar considers that it is appropriate to do so.

(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.

(4) This section does not apply to an application under section 33.

Entries to be made in the Register

35. (1) The Registrar is to register a change of name by making an entry about the change of name in the Register including such particulars as the Registrar considers appropriate to register the change of name.

(2) If the birth of the person whose name has been changed is registered under this Act, the Registrar may note the change of name in the entry relating to the birth.

(3) If the birth of the person whose name has been changed is registered under a corresponding law, the Registrar may notify the relevant registering authority of the change of name.

(4) 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.

Change of name may be established by repute or usage

36. This Part does not prevent a change of name by repute or usage if the change is made after the commencement of this Act.

PART 6 — REGISTRATION OF MARRIAGES

Marriages in the State to be registered

37. If a marriage is solemnized in the State, the marriage must be registered under this Act.

How to have marriage registered

38. A person may have 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 solemnized before the commencement of that Act, the evidence of the marriage required by the Registrar.

Note: Under section 50 (4) of the *Marriage Act 1961* of the Commonwealth the authorized celebrant is responsible for lodging the certificate of marriage with the Registrar.

Registration of marriage

39. 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 authorized

Deaths to be registered under this Act

40. (1) If a person dies in the State, the death must be registered under this Act.

(2) If a State court or a coroner in the State orders that a death be registered in this State, the death must be registered under this Act.

(3) If a court or coroner of another State or of the Commonwealth makes a determination that a death should be registered in this State, the death may be registered under this Act if the Registrar considers that it is appropriate to do so.

(4) If a person dies —

- (a) in an aircraft during a flight to an airport in the State; or
- (b) on a vessel during a voyage to a port in the State,

the death may be registered under this Act.

(5) If a person dies outside the Commonwealth and the person —

- (a) is domiciled or ordinarily resident in the State; or
- (b) leaves property in the State,

the death may be registered under this Act.

(6) The Registrar may refuse to register a death under subsection (4) or (5) if the death is registered under a corresponding law.

(7) The death of a still-born child must be registered under this Act.

Powers of State courts and coroners and registration of death etc. after court findings

41. (1) A State court or a coroner in the State may, on application by an interested person or on its own initiative, order the Registrar —

- (a) to register a death; or
- (b) to include registrable information about a death in the Register.

(2) If a State court or coroner in the State finds that —

- (a) the death of a person is not registered as required under this Act or a corresponding law; or
- (b) the registrable information contained in an entry about a death in the Register under this Act or a corresponding law is incomplete or incorrect,

the State court or coroner may order the registration of the death or order the inclusion or correction of registrable information in the Register or make a determination for the purposes of the corresponding law (as is applicable to the case).

(3) The Registrar may register a death or amend the Register in accordance with a determination made by a court or coroner of another State or of the Commonwealth which has made a finding of a kind referred to in subsection (2) if the Registrar considers that it is appropriate to do so.

Division 2 — Notification of death

Person responsible for notification of death

42. If a person dies in the State —

- (a) the funeral director or other person who arranges for the disposal of the person's remains; or
- (b) the person who is in charge of an educational or scientific institution where the person's remains are placed for the purpose of medical education or research,

must, within 14 days of the date of death, finding of the person's body or placement of the person's body, as is relevant to the case —

- (c) notify the Registrar of the person's death by lodging a death registration statement in an approved form and manner; and
- (d) give the Registrar the certificate of cause of death provided under section 44 in relation to the person.

Penalty: \$1 000.

Notification of suspected death

43. If a coroner holds an inquest into the circumstances of a suspected death and finds that the death has been established, the coroner is to be treated as the notifying person for the purposes of this Act.

Division 3 — Certificates of cause of death

Doctor to provide certificate of cause of death unless the death is reportable to a coroner

44. (1) In the case of a person's death other than a still-birth or a neonatal death, the doctor who —

- (a) was responsible for the person's medical care immediately before the death; or
- (b) examined the person's deceased body,

must, within 48 hours after the person's death —

- (c) certify, in an approved form, the cause of the death; and
- (d) give the certificate to the person who is responsible under section 42 for notifying the Registrar of the death.

(2) If a child is still-born, the doctor who —

- (a) was responsible for the professional care of the mother at the birth; or
- (b) examined the body of the still-born child after the birth,

must, within 48 hours after the child's death —

- (c) certify, in an approved form, the cause of the death; and
- (d) give the certificate to the person who is responsible under section 42 for notifying the Registrar of the death.

- (3) If a child has a neonatal death, the doctor who —
- (a) was responsible for the child's medical care immediately before the death; or
 - (b) examined the child's deceased body,
- must, within 48 hours after the child's death —
- (c) certify, in an approved form the cause of the death; and
 - (d) give the certificate to the person who is responsible under section 42 for notifying the Registrar of the death.

Penalty applicable to subsections (1), (2) and (3): \$1 000.

- (4) A doctor does not commit an offence under subsection (1), (2) or (3) if —
- (a) a certificate required under the subsection is given by another doctor; or
 - (b) the doctor had reasonable cause for not being able to comply.

(5) This section does not require a doctor to give a certificate of the cause of a person's death if the doctor is required under section 17 (3) of the *Coroners Act 1996* to report the person's death to a coroner.

Division 4 — Disposal of human remains

Notification of disposal of human remains in the State

45. A funeral director or other person who arranges for the disposal of human remains, other than by way of removal of the remains from the State, must within 7 days after the disposal of the remains, give the Registrar notice in an approved form.

Penalty: \$1 000.

Notification of disposal of human remains out of the State

46. 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 —

- (a) within 7 days after the removal of the remains from the State give the Registrar notice in an approved form; and
- (b) within 28 days after the remains are disposed of outside the State give the Registrar notice in an approved form.

Penalty: \$1 000.

Notification if disposal has not occurred within 30 days

47. 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 notice in an approved form.

Penalty: \$1 000.

Division 5 — Registration of death

Registration of death

48. (1) The Registrar is to register a death by making an entry about the death in the Register including such particulars as the Registrar considers appropriate to register the death.

(2) If the particulars available to the Registrar are incomplete the Registrar may register a death on the basis of incomplete particulars.

(3) The Registrar may register a death even though the death is subject to an inquest or other coronial investigation and a finding has not been made about the cause of death.

(4) A death certificate issued before the completion of an inquest or other coronial investigation into the cause of death must be endorsed in a manner that the Registrar considers appropriate to indicate that fact.

PART 8 — THE REGISTER

Division 1 — Keeping the Register

The Register

49. (1) The Registrar must maintain a register or registers of registrable events (the “**Register**”).

(2) The Register —

- (a) must contain the particulars of each registrable event required under this Act, or any other written law, to be included in the Register; and
- (b) may contain further information if its inclusion is considered appropriate by the Registrar.

(3) The Register may be wholly or partly in the form of a computer database, 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.

Division 2 — Registrar’s powers of inquiry

Registrar’s powers of inquiry

50. (1) The Registrar may conduct an inquiry to find out —

- (a) whether a registrable event has happened;
- (b) particulars of a registrable event;

- (c) whether particulars of a particular registrable event have been recorded, or correctly recorded, in the Register; or
- (d) details of any other registrable information.

(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 in a way specified in the notice.

(3) A person must comply with a notice under subsection (2) unless the person has a reasonable excuse to not so comply.

Penalty: \$1 000.

Division 3 — Correction and amendment of Register

Correction of Register

- 51.** (1) The Registrar may correct the Register —
- (a) to reflect a finding made on inquiry under Division 2; or
 - (b) to bring the particulars contained in an entry about a registrable event into conformity with the most reliable information available to the Registrar of the registrable event.
- (2) The Registrar must correct the Register if ordered by a State court to do so.
- (3) The Registrar may correct the Register in accordance with a determination made by a court of another State or of the Commonwealth if the Registrar considers that it is appropriate to do so.

(4) The Registrar is to correct the Register by adding or cancelling an entry in the Register or by adding, altering or deleting particulars contained in an entry.

Amendment of Register

52. The Registrar, whether or not on the application of another person, may, subject to sections 18 and 19, add additional registrable information to an entry in the Register or add an entry in the Register if there is sufficient evidence of the matters to be recorded.

Registrar's functions under other Acts

53. Nothing in this Division affects a requirement in another written law for the Registrar to correct or amend the Register for the purposes of that law.

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

Access to Register

54. (1) The Registrar may, on conditions the Registrar considers appropriate —

- (a) allow a person having an adequate reason for wanting access to the Register, access to the Register; or
- (b) provide a person having 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;

- (b) the sensitivity of the information;
- (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.

Search of Register

55. (1) The Registrar may, on application, search the Register for an entry about a particular registrable event or other information contained in the Register.

(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;
- (b) the age of the entry;
- (c) the contents of the entry; and
- (d) other relevant factors.

(5) Nothing in this Act prevents the Registrar from providing a person, subject to such conditions as the Registrar thinks fit, with information contained in the Register for —

- (a) the keeping of statistics;
- (b) medical or epidemiological research;
- (c) the identification of persons;
- (d) the prevention of fraud; or
- (e) any other purpose.

Protection of privacy

56. 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.

Issue of certificate

57. (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) If, in the Registrar's opinion, a word or expression appearing on an entry in the Register is, or may be regarded as, offensive, the Registrar may issue a certificate under subsection (1) (a) without including the word or expression.

(3) 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.

Access policies

58. (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.

PART 9 — MISCELLANEOUS

False representation

59. A person must not make a false or misleading representation in an application or document under this Act, knowing it to be false or misleading.

Penalty: \$10 000.

Unauthorized access to or interference with Register

60. 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;
- (b) make, alter or delete an entry in the Register; or
- (c) interfere with the Register in any other way.

Penalty: \$10 000 or imprisonment for 2 years.

Falsification of certificate, etc.

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

Penalty: \$10 000 or imprisonment for 2 years.

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

Penalty: \$10 000 or imprisonment for 2 years.

- (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;
 - (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;
 - (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 must comply with a requirement under subsection (3) to return a document or certificate unless the person has a reasonable excuse to not so comply.

Penalty: \$1 000.

Revocation of registration of registrable events obtained by fraud

62. (1) The Registrar may revoke the registration of a registrable event if it appears that the registration was obtained by fraud or other improper means.

(2) If the Registrar revokes a registration of a registrable event the Supreme Court may make orders consequential to the revocation that are necessary or desirable in the circumstances of the case.

Unauthorized disclosure of information

63. A person who has access to the Register —

- (a) in the course of his or her employment; or
- (b) because the Registrar has allowed the person access to the Register under section 54,

must not disclose any information in the Register unless the disclosure is —

- (c) in connection with the administration or execution of this Act;
- (d) authorized or required by law; or
- (e) authorized by the Registrar.

Penalty: \$5 000 or imprisonment for one year.

Power to require and take statutory declarations

64. The Registrar —

- (a) may require that information be given by statutory declaration; and
- (b) is authorized to take any statutory declarations required for the purposes of this Act.

Evidentiary

65. In a proceeding in which it is necessary or expedient to prove the approved form or manner in which notice or a certificate was to be given or lodged under this Act at a particular time, the approved form or manner in which the notice

or certificate was to be given or lodged at that time may be sufficiently proved by the production of a certificate of the Registrar setting out the approved form or manner.

Protection from liability

- 66.** (1) A person who is or was —
- (a) the Registrar;
 - (b) a Deputy Registrar of Births, Deaths and Marriages;
or
 - (c) a public service officer in the Registrar's office,

is a protected person for the purposes of this section.

(2) An action in tort does not lie against a protected person for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act.

(3) The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act may have been capable of being done whether or not this Act had been enacted.

(4) In this section a reference to the doing of anything includes a reference to the omission to do anything.

Review

67. (1) A person who is dissatisfied with a decision of the Registrar made in the performance or purported performance of a function under this Act may apply to the Minister for a review of the decision.

(2) On a review, the Minister may —

- (a) confirm, vary or reverse the Registrar's decision; and
- (b) make a consequential or ancillary direction,

and the Registrar must give effect to a direction of the Minister.

Adoption Act 1994

68. (1) Nothing in this Act prevents a birth parent of an adoptee from applying under section 19 or 52 (other than with a request under section 19 (2) (c)) to add additional registrable information about the adoptee's birth registration if, but for the adoption, the information could have been included in the Register.

(2) This Act is subject to the provisions of the *Adoption Act 1994* relating to access to adoption information in the Register and, to the extent of any inconsistency with this Act, that Act prevails.

Regulations

69. (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.

(2) Without limiting subsection (1), regulations may, for the purposes of this Act —

- (a) prescribe fees; or
- (b) prescribe a basis for calculating fees.

(3) A regulation may impose a penalty not exceeding a fine of \$1 000 for contravention of a provision of the regulations.

Power to remit fees

70. The Registrar may remit the whole or part of a fee under this Act if the Registrar considers that in the circumstances it is appropriate to do so.

Repeals, savings and transitional

71. (1) The *Registration of Births, Deaths and Marriages Act 1961* is repealed.

(2) The *Registration of Births, Deaths and Marriages Act, Regulations 1963* are repealed.

(3) Schedule 1 has effect to make savings and transitional provisions.

Consequential amendment of other Acts

72. Acts amended as a consequence of the enactment of this Act are referred to in the *Acts Repeal and Amendment (Births, Deaths and Marriages Registration) Act 1998*.

SCHEDULE 1 — SAVINGS AND TRANSITIONAL

[Section 71 (3)]

Definitions

1. In this Schedule —

“**commencement day**” means the day on which this Act comes into operation;

“**repealed Act**” means the *Registration of Births, Deaths and Marriages Act 1961* repealed by section 71 (1).

***Interpretation Act 1984* applies**

2. This Schedule does not limit the operation of the *Interpretation Act 1984*.

Persons appointed or employed for the purposes of the repealed Act

3. (1) The person who was the Registrar General under the repealed Act and whose appointment to that office was in effect immediately before the commencement day is to be treated on and after the commencement day as having been appointed as the Registrar under this Act but otherwise on the same terms and conditions as to the person's appointment, including as to remuneration, as those which applied to the person immediately before the commencement day.

(2) A person who was a Deputy Registrar General under the repealed Act and whose appointment to that office was in effect immediately before the commencement day is to be treated on and after the commencement day as having been appointed as a Deputy Registrar of Births, Deaths and Marriages under this Act but otherwise on the same terms and conditions as to the person's appointment, including as to remuneration, as those which applied to the person immediately before the commencement day.

(3) A person who was —

(a) appointed by the Registrar General under the repealed Act to be a district registrar, an assistant district registrar, a deputy of a district registrar, an acting district registrar or a registration officer; or

- (b) employed in the office of the Registrar General under the repealed Act,

and whose appointment to, or employment in, the office was in effect immediately before the commencement day is to be treated on and after the commencement day as having been appointed or employed, as the case requires, on the same terms and conditions as to the person's appointment or employment, including as to remuneration, as those which applied to the person immediately before the commencement day.

(4) A person appointed under section 7 of the repealed Act to act as the Registrar General who is acting as the Registrar General immediately before the commencement day is to be treated on and after the commencement day as acting as the Registrar on the same terms and conditions as to the person's appointment, including as to remuneration, as those which applied to the person immediately before the commencement day.

(5) A person to whom this clause applies retains all existing and accruing rights and benefits as if the holding of the office, or the employment, under this Act were a continuation of the person's holding of the office, or the employment, under the repealed Act immediately before the commencement day.

Registry districts abolished

4. Each registry district established under section 5 of the repealed Act and in effect immediately before the commencement day is abolished on the commencement day.

The Register

5. (1) Each register kept under *Registration of Births, Deaths and Marriages Act 1961* forms part of the Register under this Act.

(2) Each supplement to the register referred to in subclause (1) forms part of the Register under this Act.

(3) The register referred to in section 2B of the *Change of Names Regulation Act 1923* forms part of the Register under this Act.

(4) Each register kept for the purposes of section 6 of the *Legitimation Act 1909* forms part of the Register under this Act.

(5) The Register of Identity maintained under the *Registration of Identity of Persons Act 1975* forms part of the Register under this Act.