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## **Births, Deaths and Marriages Registration Act 1999**

**An Act to provide for uniform legislation in relation to the registration of births, deaths and marriages and to provide for the rights of persons who have undergone sexual reassignment surgery**

**[Royal Assent 24 November 1999]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

### **PART 1 - Preliminary**

#### **1. Short title**

This Act may be cited as the *Births, Deaths and Marriages Registration Act 1999*.

#### **2. Commencement**

- (1) Sections 1, 2 and 62 commence on the day on which this Act receives the Royal Assent.
- (2) The remaining provisions of this Act commence on a day to be proclaimed.

#### **3. Interpretation**

In this Act, unless the contrary intention appears –

**adult** means a person who is aged 18 years or older or, although under that age, is or has been married;

**authorised celebrant** means an authorised celebrant under the Marriage Act 1961 of the Commonwealth, as amended;

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

**birth registration statement** means the statement referred to in section 13;

**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);

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

**midwife** means a person registered under the Health Practitioner Regulation National Law (Tasmania) in the midwifery profession;

**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;

**recognition certificate** means a certificate that –

(a) is issued under a law of another State that recognises that a person who has undergone sexual reassignment surgery may have changed sex; and

(b) is issued in respect of a person who, having undergone sexual reassignment surgery, has changed sex; and

(c) states the sex of that person as so changed;

**Register** means the Register referred to in [section 40](#);

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

**registrable event** means a birth, change of name, death, marriage or adoption;

**registrable information** means information that must or may be included in the Register;

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

**regulations** means regulations made and in force under this Act;

**sexual reassignment surgery** means a surgical procedure involving the alteration of a person's reproductive organs carried out –

(a) for the purpose of assisting the person to be considered to be a member of the opposite sex; or

(b) to correct or eliminate ambiguities relating to the sex of the person;

**State** includes a Territory;

**stillbirth** means the birth of a stillborn child;

**stillborn child** means a child of at least 20 weeks' gestation or, if it cannot be reliably established whether the 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 after birth.

## **PART 2 - Administration**

### ***Division 1 - The Registrar***

#### **4. Registrar**

(1) Subject to and in accordance with the [State Service Act 2000](#), the Registrar of Births, Deaths and Marriages is to be appointed or employed for the purposes of this Act.

(2) The Registrar is responsible, subject to the Minister's control and direction, for the administration of this Act.

#### **5. Registrar's general functions**

The Registrar's general functions are to –

(a) establish and maintain the registers necessary for the purposes of this Act; and

(b) administer the registration system established by this Act and ensure that it operates efficiently, effectively and economically.

## **6. Registrar's staff**

(1) The Registrar's staff consists of any staff necessary for the proper administration of this Act.

(2) The Registrar's staff are to be appointed or employed subject to and in accordance with the State Service Act 2000.

## **7. Delegation**

The Registrar may delegate to any person any of the Registrar's powers or functions other than this power of delegation.

### ***Division 2 - Execution of documents***

## **8. The Registrar's seal**

The Registrar has a seal.

## **9. Execution of documents**

(1) The Registrar may issue a certificate or other document under the Registrar's signature and seal or a facsimile of the Registrar's signature and seal produced by stamp, machine imprint or some other method authorised by regulation.

(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, machine imprint or some other method authorised by regulation –

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 seal.

### ***Division 3 - Reciprocal administrative arrangements***

## **10. 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 powers and functions of the registering authority under the corresponding law; and

(b) the exercise by the registering authority under the corresponding law of powers and 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 powers and 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 powers and 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; 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***

#### **11. Notification of births**

(1) When a child is born in the State, the responsible person must give notice of the birth to the Registrar.

(2) Notice is to –

(a) be in writing or in any other manner or form approved by the Registrar; and

(b) include any particulars the Registrar requires.

Penalty:

Fine not exceeding 10 penalty units.

(3) The notice must be given –

(a) in the case of a live birth, within 21 days after birth; or

(b) in the case of a stillbirth, within 48 hours after birth.

(4) When notice of a stillbirth is given, the responsible person must also give the Registrar a medical practitioner's certificate in a form approved by the Registrar, certifying the cause of foetal death.

(5) The certificate must be completed by the medical practitioner responsible for the professional care of the mother at the birth or a medical practitioner who examined the body of the stillborn child after the birth.

(6) 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) in any other case –

(i) the medical practitioner or midwife responsible for the professional care of the mother at the birth; or

(ii) if no medical practitioner or midwife was in attendance at the birth, any other person in attendance at the birth.

## ***Division 2 - Registration of births***

### **12. Cases in which registration of birth is required or authorised**

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

(2) If a court, whether of this or any other State or the Commonwealth, directs the registration of a birth, the birth must be registered under this Act.

(3) If a child is born in an aircraft during a flight or on a vessel during a voyage to a place of disembarkation 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 a resident of the State, the birth may be registered under this Act.

(5) The Registrar must not register a birth under subsection (3) or (4) if the birth is registered under a corresponding law.

### **13. How to have the birth of a child registered**



A person has the birth of a child registered under this Act by lodging a birth registration statement in a manner and form approved by the Registrar.

#### **14. 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.

#### **15. Obligation to have birth registered**

(1) A person responsible for having the birth of a child registered must ensure that a birth registration statement is lodged with the Registrar within 60 days after the date of the birth.

Penalty:

Fine not exceeding 10 penalty units.

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

(3) The Registrar, at any time before registering a birth, may request that further information be provided to support the birth registration statement.

#### **16. Registration**

(1) The Registrar registers a birth by making an entry about the birth in the Register.

(2) However, if the particulars available to the Registrar are incomplete, the Registrar may register a birth on the basis of those incomplete particulars.

#### **17. Registration of parentage details**

(1) The Registrar must not include information about the identity of any 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; or

(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 –

(i) because he or she is dead; or

(ii) because he or she cannot be found; or

(iii) for some other reason; or

(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; or

(d) any court having jurisdiction orders the inclusion of registrable information about that identity in the Register; or

(e) any court having jurisdiction makes a finding that a particular person is a parent of a 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.

(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; or

(b) despite subsection (1), both the parents are unable to give registrable information about the identity of a child's parent or parents 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.

## **18. Addition of details after registration of birth**

(1) A person may apply to the Registrar for the inclusion in the Register of additional registrable information about a child's birth.

(2) An application to the Registrar for the inclusion of registrable information in the Register –

(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 other evidence the Registrar may require.

### ***Division 3 - Court order for registration of birth***

#### **19. Court may order registration of birth**

(1) A magistrate, on application by an interested person or on his or her own initiative, may order –

(a) the registration of a birth; or

(b) the inclusion of registrable information about a birth or a child's parents in the Register.

(2) If a court, including a court of another State or the Commonwealth, finds that –

(a) a birth is not registered as required under this Act or a corresponding law; or

(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 –

the court may direct registration of the birth or the inclusion or correction of registrable information in the Register under this Act or the corresponding law.

### ***Division 4 - Child's name***

#### **20. Name of child**

(1) Subject to this section, the birth registration statement must state the name of the child.

(2) The name is a matter of choice for the person or persons lodging the statement, but 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.

#### **21. Dispute about child's name**

(1) If there is a dispute between parents about a child's name, either parent may apply to a magistrate for a resolution of the dispute.

(2) On an application under subsection (1), the magistrate may –

- (a) resolve the dispute about the child's name as the magistrate considers appropriate; and
- (b) order the Registrar to register the child's name in a form specified in the order.

## **PART 4 - Change of name**

### **22. Change of name by registration**

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

### **23. 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.

### **24. 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) 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) there is no other surviving parent of the child; or
- (c) a magistrate approves the proposed change of name.

(3) A magistrate 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.

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

## **25. Child's consent to change of name**

A change of a name of a child of more than 12 years of age 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.

## **26. 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 aged 12 years or more, 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 or by order of a court, 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.

## **27. Entries to be made in Register**

(1) The Registrar registers a change of name by making an entry about the change of name in the Register.

(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, notify 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 include the person's name as changed under this Part.

## **28. Change of name by repute or usage**

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

## **PART 4A - Registration of change of sex**

### **28A. Application to register change of sex**

(1) An adult person –

(a) whose birth is entered in the Register; and

(b) who has undergone sexual reassignment surgery; and

(c) who is not married –

may apply to the Registrar, in a form approved by the Registrar, to register a change of the person's sex.

(2) The parents of a child 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 sex.

(3) An application for registration of a change of a child's sex 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) there is no other surviving parent of the child.

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

### **28B. Application to be accompanied by documents**

An application under section 28A is to be accompanied by –

(a) a statutory declaration from each of 2 medical practitioners verifying that the person who is the subject of the application has undergone sexual reassignment surgery; and

(b) any other document or information that the Registrar requires.

### **28C. Registration of change of sex**

(1) On receipt of an application, the Registrar must –

(a) register the change of sex by making an entry of the change in the Register; or

(b) refuse to register the change of sex.

(2) In considering whether or not to note the particulars of a change of sex, the Registrar may –

(a) require the person or persons who signed the application to provide further particulars as the Registrar requires; or

(b) make such inquiries, if any, as he or she thinks fit to inform himself or herself as to whether the person has undergone sexual reassignment surgery.

(3) The Registrar must not note in the Register particulars of the change of a person's sex if the person is married.

#### **28D. Issue of birth certificate after change of sex**

(1) If a change of sex is registered under this Part in respect of any person, a birth certificate issued by the Registrar for the person is to show the person's sex as registered with a notation that the person was previously registered as of the other sex.

(2) If requested by the person, the Registrar may issue an extract from the Register which does not include the notation referred to in subsection (1).

#### **28E. Issue of old birth certificate**

The child of a person whose change of sex is registered under this Part, or a prescribed person, may apply to the Registrar, in a form approved by the Registrar, for a birth certificate of the person that shows the person's sex before his or her change of sex, and the Registrar may issue the birth certificate to the child or prescribed person showing the person's sex as previously registered with a notation that the person has been subsequently registered as of the other sex.

#### **28F. Use of former birth certificate**

A person in respect of whom a change of sex is registered under this Part must not, with intention to deceive, produce to another person a birth certificate or a copy of a birth certificate or an extract from the Register issued for the person that shows the person's sex before the change was so registered.

Penalty:

Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

#### **28G. Effect of registration of change of sex**

(1) Where a person's change of sex is registered under this Part, the person is, for the purposes of, but subject to, any law in force in this State, a person of the sex as so changed.

(2) A person's change of sex does not affect any relationship of that person arising by consanguinity or by operation of law.

#### **28H. Recognition of certificates issued outside Tasmania**

A person in respect of whom there is a recognition certificate is taken to be, for the purposes of, but subject to, any law in force in this State, a person of the sex stated in the recognition certificate.

#### **28J. Saving for rights of transgendered persons**

(1) A person who is entitled as a beneficiary –

(a) under a will; or

(b) under a trust; or

(c) otherwise by operation of law –

does not, except as may be otherwise provided under the will, the trust or by the law conferring the entitlement, forfeit any right or entitlement by reason only of the fact that he or she is a person whose change of sex is registered or recognised under this Part.

(2) Subsection (1) does not operate so as to confer any right or entitlement that would not exist apart from that subsection.

### **PART 5 - Registration of marriages**

#### **29. Cases in which registration of marriage is required**

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

#### **30. How to have marriage registered**

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 solemnised before the commencement of that Act, the evidence of the marriage required by the Registrar.

#### **31. 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 6 - Registration of deaths**

### ***Division 1 - Cases where registration of death is required or authorised***

#### **32. 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 court or coroner, whether of this or any other State or the Commonwealth, directs the registration of a death, the death must be registered under this Act.
- (3) If a person dies in an aircraft during a flight or on a vessel during a voyage to a place of disembarkation 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) The Registrar is not obliged to register a death under subsections (3) and (4) if the death is registered under a corresponding law.
- (6) If a child is stillborn, the child's death is not to be registered under this Part.

#### **33. Court may order registration of death**

- (1) A magistrate, on application by an interested person or on his or her own initiative, may order –
  - (a) the registration of a death; or
  - (b) the inclusion of registrable information about a death in the Register.
- (2) If a court, including a court of another State or the Commonwealth, 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 court may direct registration of the death or the inclusion or correction of registrable information in the Register under this Act or the corresponding law.

#### **34. Circumstances in which death not to be registered**

(1) The Registrar must not register a death unless the Registrar –

(a) has been given notice by a medical practitioner under section 35(1) in relation to the death of the person; or

(b) has been given notice of the death in the form of a certificate issued by a coroner under section 32 of the Coroners Act 1995 that authorises the disposal of the remains of the deceased person; or

(c) has received a notice under section 28 of the Coroners Act 1995 containing the particulars needed to effect or complete registration of the death; or

(d) has been given notice in the form of a document issued, made or given in relation to the death under a corresponding law, being a document which the Registrar is satisfied is equivalent to a notice or certificate referred to in paragraph (a), (b) or (c).

(2) Despite subsection (1), the Registrar must register the death if –

(a) registration of the death is ordered by a court; 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, certificate or order referred to in this section.

### ***Division 2 - Notification of death***

#### **35. Notification of death by doctor**

(1) A medical practitioner 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, notify the Registrar of the death and of the cause of death in a form approved by the Registrar.

Penalty:

Fine not exceeding 10 penalty units.

(2) A medical practitioner need not give notice under this section if –

(a) another medical practitioner has given the required notice; or

(b) a coroner or a police officer is required to be notified of the death under the Coroners Act 1995.

(3) When notice of a death is given, the medical practitioner must also give a certificate in a form approved by the Registrar, certifying the cause of death, to –

(a) the Registrar; and

(b) the funeral director or other person who will be arranging for the disposal of the human remains.

Penalty:

Fine not exceeding 10 penalty units.

(4) Notice provided to the Registrar under this section is to be provided free of charge.

### **36. Notification by coroner**

(1) If a coroner is notified of a death under the Coroners Act 1995, the coroner must inform the Registrar as soon as practicable after receiving the notification.

(2) 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.

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

(4) A death certificate issued before a coronial inquiry into the cause of death is completed must be endorsed with the words: "Incomplete registration – Cause of death subject to coronial inquiry".

### **37. Notification by funeral director**

(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 written statement of –

(a) the name and last residential address of the deceased; and

(b) if the death was reported to a coroner, a statement of that fact; and

(c) the place and manner of disposal; and

(d) any other information required by the Registrar.

Penalty:

Fine not exceeding 10 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 written statement

of where and how the remains were disposed of, and any other information required by the Registrar.

Penalty:

Fine not exceeding 10 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 written statement of –

- (a) the name and last residential address of the deceased; and
- (b) if the death was reported to a coroner, a statement of that fact; and
- (c) any other information required by the Registrar.

Penalty:

Fine not exceeding 10 penalty units.

### ***Division 3 - Registration of death***

#### **38. Registration of death**

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

#### **39. Registration of death on war service**

- (1) For the purposes of this section, a person is taken to be on war service if the person is engaged on service outside this State –
  - (a) in the naval, military or air services of the Commonwealth, or of the Sovereign, during any period when a state of war exists between the Commonwealth and any other country; or
  - (b) in any work in connection with such war.
- (2) On the application of any person and on production of a certificate in the form approved by the Registrar purporting to be signed by the officer in charge of the base records of the relevant branch of the Defence Forces, certifying that any person named in the certificate has died while on war service, the Registrar may register the death of that person, even though the death may have occurred more than 12 months before the registration.

## **PART 7 - The Register**

### ***Division 1 - Keeping the Register***

#### **40. 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 further information if the Registrar considers its inclusion appropriate.
- (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***

#### **41. 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 particular 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 in a way specified in the notice.
- (3) A person must not fail, without reasonable excuse, to comply with a notice under subsection (2).

Penalty:

Fine not exceeding 10 penalty units.

### ***Division 3 - Correction of Register***

## **42. Registrar may correct Register**

(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, 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***

## **43. Access to Register**

(1) The Registrar may, on any 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.

## **44. 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 have 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) any other relevant factors.

#### **45. 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.

#### **46. 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.

#### **47. 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.

#### **48. 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.

#### **49. Power to remit fees**

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

### ***Division 5 - Additional information and services***

#### **50. Registrar may collect other information**

- (1) Despite anything to the contrary in this Act, the Registrar may maintain records of information, other than registrable information relating to registrable events.
- (2) Records maintained under this section must be kept separately from the Register.
- (3) The Registrar may include information in the records maintained under this section at the request of a person interested in the registrable event to which it relates or on the Registrar's own motion.
- (4) Section 43(3) and section 45 apply to records maintained under this section as if they were part of the Register.

#### **51. Additional services**

- (1) The Registrar may enter into an arrangement for the provision of additional services in connection with the provision of services relating to a registrable event, including, but not limited to –
- (a) the provision of information in the form of a decorative certificate or other document; and
  - (b) the provision of information from records maintained under section 50 relating to the registrable event.
- (2) The Registrar may enter into an arrangement for the provision of information from records maintained under section 50 or the Register, including historical or genealogical information.



(3) If the Registrar provides a service or an additional service under this section, the Registrar may make a charge for the service determined by the Registrar, in his or her absolute discretion, which does not necessarily bear a relation to the cost of providing the service.

(4) In providing a service or an additional service, the Registrar must comply with section 43(3) and section 45.

## **52. Access to adoption information**

In relation to access to adoption information, this Act is subject to the Adoption Act 1988 and to the extent of any inconsistency with this Act, that Act prevails.

## **PART 8 - General power of review**

### **53. Review**

(1) A person who is dissatisfied with a decision of the Registrar made in the performance or purported performance of functions under this Act may apply to the Magistrates Court (Administrative Appeals Division) for a review of the decision.

(2) . . . . .

## **PART 9 - Miscellaneous**

### **54. False representation**

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:

Fine not exceeding 10 penalty units.

### **55. 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.

Penalty:

Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

## **56. Falsification of certificate**

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

Penalty:

Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

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

Penalty:

Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

(3) The Registrar may impound –

(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.

## **57. Immunity from liability**

(1) No liability attaches to the Registrar for an honest act or omission in the performance or purported performance of functions under this Act.

(2) A liability that would, but for subsection (1), attach to the Registrar attaches instead to the Crown.

## **58. Registrar to retain control over records**

Despite the Archives Act 1983, the Registrar is to retain control over access to any information supplied or records maintained under this Act.

## **59. Return of records**

A person who, by virtue of section 4(1A) of the Registration of Births and Deaths Act 1895 was, immediately before the commencement of this Act, a registrar of births and deaths for a district, must forward to the Registrar all registers, register books and associated documents in his or her possession within 3 months of that commencement.

## **60. Regulations**

(1) The Governor may make regulations for the purposes of this Act.

(2) The regulations may –

(a) provide that a contravention of, or a failure to comply with, any of the regulations is an offence; and

(b) in respect of such an offence, provide for the imposition of a fine not exceeding 10 penalty units.

## **61. Savings provisions**

(1) A certificate or other document issued under the *Marriages Registration Act 1962* or the *Registration of Births and Deaths Act 1895* is taken to have been issued under this Act.

(2) The Register of Marriages kept under the *Marriages Registration Act 1962* and the registers kept under the *Registration of Births and Deaths Act 1895* form part of the Register under this Act.

(3) The person holding office as Registrar-General immediately before the commencement of this Act continues as the Registrar under this Act.

## **62. Continuation of Registration of Births and Deaths Regulations 1969**

(1) The *Subordinate Legislation Order 1998 (S.R. 1998, No. 175)* validly postponed the rescission of the *Registration of Births and Deaths Regulations 1969* from 1 January 1999 to 1 January 2000.

(2) The rescission of the *Registration of Births and Deaths Regulations 1969* is further postponed until 1 January 2001.

## **63. Marriages Registration Act 1962 repealed**

The *Marriages Registration Act 1962* is repealed.

## **64. Registration of Births and Deaths Act 1895 repealed**

The *Registration of Births and Deaths Act 1895* is repealed.

## **65.**

See Schedule 1.

## **66.**

See Schedule 2.

## **SCHEDULE 1**

*The amendments effected by Section 65 and this Schedule have been incorporated into authorised versions of the following Acts:*

- (a) Adoption Act 1988;*
- (b) Anatomy Act 1964;*
- (c) Births, Deaths and Marriages Registration Act 1999;*
- (d) Coroners Act 1995;*
- (e) Electoral Act 1985;*
- (f) Evidence Act 1910;*
- (g) Maintenance Act 1967;*
- (h) Mental Health Act 1963;*
- (i) Perinatal Registry Act 1994;*
- (j) Pharmacy Act 1908;*
- (k) Registration of Births and Deaths Act 1895;*
- (l) Status of Children Act 1974.*

## **SCHEDULE 2**

*The amendments effected by Section 66 and this Schedule have been incorporated into the authorised version of the Adoption Act 1988.*