

# Births, Deaths and Marriages Registration Act 1995 No 62

[1995-62]



New South Wales

## Status Information

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### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill 2012](#)

### Authorisation

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# Births, Deaths and Marriages Registration Act 1995 No 62



New South Wales

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

## Part 1 Preliminary

### 1 Name of Act

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

### 2 Commencement

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

### 3 Objects of Act

The objects of this Act are to provide for:

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

### 4 Definitions

(1) In this Act:

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



married.

**birth** includes a stillbirth.

**birth certificate** means a certificate issued under section 49 as to the particulars contained in an entry in the Register in relation to a person's birth.

**birth registration statement** see section 14.

**change** of name includes an addition, omission or substitution.

**child** includes a stillborn child.

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

**death** does not include a stillbirth.

**disposal** of human remains means:

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

**doctor** means a registered medical practitioner.

**exercise** a function includes perform a duty.

**function** includes a power, authority or duty.

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

**prohibited name** means a name that:

- (a) is obscene or offensive, or
- (b) could not practicably be established by repute or usage:
  - (i) because it is too long, or
  - (ii) because it consists of or includes symbols without phonetic significance, or

(iii) for some other reason, or

(c) includes or resembles an official title or rank, or

(d) is contrary to the public interest for some other reason.

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

**registrable information** means information that must or may be included in the Register<sup>1</sup>.

**Register** see section 43.

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

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

**State** includes a Territory.

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

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

(a) is of at least 20 weeks' gestation, or

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

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

**Note—**

<sup>1</sup>See section 43 (2)

#### **4A Application of Act to relationships under the [Relationships Register Act 2010](#)**

This Act and the regulations apply to a relationship that the Registrar determines may be registered under the [Relationships Register Act 2010](#) in the same way that they apply to a registrable event.

## Part 2 Administration

### Division 1 The Registrar

#### 5 Registrar

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

#### 6 Registrar's general functions

The Registrar's general functions are:

- (a) to establish and maintain the registers<sup>1</sup> necessary for the purposes of this Act and the *Relationships Register Act 2010*, and
  - (a1) to maintain the integrity of the Register and to seek to prevent identity fraud associated with the Register and the information extracted from the Register, and
  - (b) to administer the registration system established by this Act and ensure that the system operates efficiently, effectively and economically, and
  - (c) to ensure that this Act is administered in the way best calculated to achieve its objects.

**Note—**

<sup>1</sup>The registers are collectively referred to as the "Register". See section 43.

#### 7 Registrar's staff

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

#### 8 Delegation

- (1) The Registrar may delegate to an authorised person any of the Registrar's functions under this Act and the *Relationships Register Act 2010*, other than this power of delegation.
- (2) A delegate may sub-delegate to an authorised person any function delegated by the Registrar if the delegate is authorised in writing to do so by the Registrar.
- (3) In this section:

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

## **Division 2 Execution of documents**

### **9 The Registrar's seal**

The Registrar is to have a seal.

### **10 Execution of documents**

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

## **Division 3 Reciprocal administrative arrangements**

### **11 Reciprocal administrative arrangements**

- (1) The Minister may enter into an arrangement with the Minister responsible for the administration of a corresponding law providing for:
  - (a) the exercise by the Registrar of functions of the registering authority under the corresponding law, and
  - (b) the exercise by the registering authority under the corresponding law of functions of the Registrar under this Act.
- (2) When an arrangement is in force under this section:
  - (a) the Registrar may exercise, to the extent authorised by the arrangement (but subject to the conditions of the arrangement), the functions of the registering authority under the corresponding law, and
  - (b) the registering authority under the corresponding law may exercise, to the extent authorised by the arrangement (but subject to the conditions of the arrangement), the functions of the Registrar under this Act and anything done by the registering authority under this paragraph is taken to have been done by the Registrar under this Act.

- (3) An arrangement under this section may:
- (a) establish a database in which information is recorded for the benefit of all the participants in the arrangement, and
  - (b) provide for access to information contained in the database, and
  - (c) provide for payments by or to participants in the arrangement for services provided under the arrangement.

## **Part 3 Registration of births**

### **Division 1 Notification of births**

#### **12 Notification of births**

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

Maximum penalty: 5 penalty units.

- (2) The notice must be given:
- (a) in the case of a child born alive—within 7 days after birth, or
  - (b) in the case of a stillbirth—within 48 hours after stillbirth.
- (3) When notice of a stillbirth is given, the responsible person must also give the Registrar, in a form and manner required by the Registrar:
- (a) a doctor's certificate certifying the cause of foetal death, or
  - (b) if a doctor is of the opinion that it is impracticable or undesirable to certify the cause of foetal death at the time the notice referred to in subsection (2) (b) is given, a notice signed by a doctor stating the doctor's intention to complete such a certificate.
- (4) The certificate or notice referred to in subsection (3) must be completed by the doctor responsible for the professional care of the birth mother at the birth or a doctor who examined the body of the stillborn child after the stillbirth.

- (5) In this section:

**responsible person** means:

- (a) in the case of a child born in a hospital or brought to a hospital within 24 hours after birth—the chief executive officer of the hospital, or
- (b) if the child was not born in a hospital or brought to a hospital within 24 hours after

birth, and a doctor or midwife was responsible for the professional care of the birth mother at the birth—that doctor or midwife.

## **Division 2 Registration of births**

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

- (1) If a child is born in the State, the birth must be registered under this Act.
- (2) If a court<sup>1</sup> orders the registration of a birth, the birth must be registered under this Act.

**Note—**

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

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

### **14 How to have the birth of a child registered**

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

### **15 Responsibility to have birth registered**

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

- (a) the person lodging the statement has knowledge of the relevant facts, and
- (b) the child's parents are unable or unlikely to lodge a birth registration statement.

#### **16 Obligation to have birth registered**

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

Maximum penalty: 10 penalty units.

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

#### **17 Registration**

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

#### **18 Registration of parentage details**

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

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

## Division 3 Court powers

### 19 Orders for registration of birth or inclusion of registrable information

- (1) The District Court may, on application by an interested person or on its own initiative, order:
  - (a) the registration of a birth, or
  - (b) the inclusion of registrable information about a birth or a child's parents (including details of the marriage of a child's parents) in the Register.
- (1A) Such an order may only be made in respect of a birth:
  - (a) in the case of an order under subsection (1) (a), if the birth occurred in the State, in an aircraft during a flight to an airport in the State or on a ship during a voyage to a port in the State, and
  - (b) in the case of an order under subsection (1) (b), if the birth has been registered under this Act.
- (2) If any court (including any court of another State or the Commonwealth) makes a finding about a birth or a child's parents, the court may order registration of the birth or inclusion of registrable information about the birth or the parents in the Register.

## Division 4 Alteration of details of birth registration

### 20 Alteration of details after birth registration

- (1) An application to the Registrar for the addition of registrable information in a person's birth registration:
  - (a) must be made in writing, and
  - (b) must include the information required by the Registrar, and
  - (c) must, if the Registrar requires verification of the information contained in the application, be accompanied by a statutory declaration verifying the information contained in the application and any other evidence that the Registrar may require.
- (2) This section is subject to section 18.
- (3) In this section, **registrable information** does not include information relating to a person's change of sex.



## Division 5 Child's name

### 21 Name of child

- (1) The birth registration statement must state the name of the child.
- (2) However, the Registrar may assign a name to the child if:
  - (a) the name stated in the birth registration statement is a prohibited name, or
  - (b) the birth registration statement is lodged by both parents of the child and they satisfy the Registrar that they are unable to agree on the child's name.

### 22 Dispute about child's name

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

## Part 4 Registration of adoptions

### 23 Duty to register adoptions

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

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

**State adoption order** means an adoption order or order under section 117 (Declaration of validity of foreign adoptions) under the [Adoption Act 2000](#).

## **24 How adoptions are registered**

- (1) The Registrar is to register an adoption or discharge of an adoption by registering the record of the adoption or discharge sent to the Registrar under Chapter 7 of the [Adoption Act 2000](#).
- (2) The Registrar registers the record by making an entry about it in the Register including the information required by the regulations.
- (3) If the record relates to a person in relation to whom such a record has previously been registered under this Act, the Registrar is also to note a reference to the later record in the entry in the Register relating to the previous record.

### **24A Registration of deceased person's former intention to adopt**

- (1) The adoptive parent of a person in relation to whom a record is registered under this Part may apply to the Registrar, in a form approved by the Registrar, for registration of the intention of a deceased person before his or her death to adopt the person jointly with the adoptive parent.
- (2) The Registrar registers an intention of a deceased person to adopt by making an entry about the intention to adopt in the Register including the information required by the regulations.
- (3) An application to the Registrar under this section must, if the Registrar requires verification of the information contained in the application, be accompanied by a statutory declaration obtained from the Director-General of the Department of Community Services or an appropriate principal officer (within the meaning of the [Adoption Act 2000](#)) verifying the information contained in the application and any other evidence that the Registrar may require.

## **25 Adoption record to be noted in birth registration**

- (1) If a memorandum registered under this Part relates to a person whose birth is registered under this Act, the Registrar is to note a reference to the memorandum in the entry relating to the birth of the person.
- (2) If a memorandum received by the Registrar under section 130 or 132 of the [Adoption Act 2000](#) relates to a person whose birth is registered under a corresponding law, the Registrar is to cause a copy of the memorandum to be sent to the relevant registering authority.

### **25A Issuing birth certificates to adopted persons**

- (1) After a person's adoption is registered under this Part, a birth certificate issued by the Registrar for the person must contain the relevant information recorded in the Register pursuant to section 24 (2) in place of the corresponding information recorded in the Register pursuant to section 17 (1).

- (2) In particular, a birth certificate for an adopted person must not include any information that indicates that he or she has been adopted.
- (3) This section applies whether or not the person's birth has been registered under this Act.

## **Part 4A Registration of parentage orders**

### **25B How is parentage order registered**

- (1) If a State parentage order is made or an order is made for the discharge of a State parentage order, the order or discharge of order must be registered under this Act.
- (2) The Registrar is to register a State parentage order or discharge of a State parentage order by registering the notice of the parentage order or discharge of a parentage order given to the Registrar under Part 3 of the [Surrogacy Act 2010](#).
- (3) If an Interstate parentage order is made in relation to a person whose birth is registered under this Act or an order is made for the discharge of an Interstate parentage order in relation to such a person, the order or discharge of order may be registered under this Act.
- (4) The Registrar may register an Interstate parentage order or discharge of an Interstate parentage order by registering any notice of the parentage order or discharge of a parentage order given to the Registrar by a registering authority.
- (5) The Registrar registers a notice by making an entry about it in the Register including the information required by the regulations.
- (6) If the notice relates to a person in relation to whom such a notice has previously been registered under this Act, the Registrar is also to note a reference to the later notice in the entry in the Register relating to the previous notice.
- (7) In this section:

***Interstate parentage order*** has the same meaning as it has in the [Surrogacy Act 2010](#).

***State parentage order*** means a parentage order made under the [Surrogacy Act 2010](#).

### **25C Parentage record to be noted in birth registration**

- (1) If a notice registered under this Part relates to a person whose birth is registered under this Act, the Registrar is to note a reference to the notice in the entry relating to the birth of the person.
- (2) If a notice of a parentage order or discharge of a parentage order received by the

Registrar under the [Surrogacy Act 2010](#) relates to a person whose birth is registered under a corresponding law, the Registrar is to cause a copy of the notice to be sent to the relevant registering authority.

#### **25D Issuing birth certificate to person the subject of surrogacy arrangement**

- (1) After a parentage order relating to a person is registered under this Part, a birth certificate issued by the Registrar for the person must contain the relevant information recorded in the Register pursuant to section 25B in place of the corresponding information recorded in the Register pursuant to section 17 (1).
- (2) In particular, a birth certificate for the person must not include any information that indicates that the person was the child of a surrogacy arrangement.
- (3) However, the Registrar must, if the Registrar issues a birth certificate to the person to whom it relates, and the person is at least 18 years of age, attach an addendum to the certificate that indicates that further information is available about the entry.
- (4) This section applies whether or not the person's birth has been registered under this Act.

#### **25E Change of name to be notified**

- (1) If at any time the Registrar registers a change of name in relation to a person to whom a registered parentage order relates, the Registrar is to notify the Director-General of the Department of Health of the change of name.
- (2) The Director-General is authorised to collect and use that information for the purposes of the administration of the central register under the [Assisted Reproductive Technology Act 2007](#).

### **Part 5 Change of name**

#### **Division 1 Preliminary**

##### **25F Definitions**

In this Part:

**Commissioner of Corrective Services** has the same meaning as **Commissioner** in the [Crimes \(Administration of Sentences\) Act 1999](#).

**correctional centre** has the same meaning as in the [Crimes \(Administration of Sentences\) Act 1999](#).

**correctional patient** has the same meaning as in Part 5 of the [Mental Health \(Forensic Provisions\) Act 1990](#).

**forensic patient** has the same meaning as in the [Mental Health \(Forensic Provisions\) Act](#)

1990.

**former serious offender** means a person who was a serious offender but is no longer a serious offender.

**inmate** has the same meaning as in the [Crimes \(Administration of Sentences\) Act 1999](#).

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

**mental health facility** has the same meaning as in the [Mental Health Act 2007](#).

**Mental Health Review Tribunal** means the Mental Health Review Tribunal constituted under the [Mental Health Act 2007](#).

**parolee** means a person who:

- (a) is released on parole in accordance with the [Crimes \(Administration of Sentences\) Act 1999](#), or
- (b) is the subject of a parole order that was made under a law of another State or a Territory and that is registered under the [Parole Orders \(Transfer\) Act 1983](#).

**periodic detainee** means a person who is subject to a periodic detention order made under section 6 of the [Crimes \(Sentencing Procedure\) Act 1999](#) before the repeal of that section by the [Crimes \(Sentencing Legislation\) Amendment \(Intensive Correction Orders\) Act 2010](#) and that is in force.

**person on remand** means any person the subject of a warrant or order by which a court has committed the person to a correctional centre in connection with proceedings for an offence committed, or alleged to have been committed, by the person.

**restricted person**—see section 31B.

**serious offender** has the same meaning as in the [Crimes \(Administration of Sentences\) Act 1999](#) and includes a person who has been convicted of an offence, or is serving a sentence of imprisonment, elsewhere than in New South Wales that would, if the person were convicted or serving the sentence in New South Wales, result in the person being a serious offender within the meaning of that Act.

**supervising authority** means:

- (a) in relation to a restricted person who is a forensic patient, the Mental Health Review Tribunal, or
- (b) in relation to a restricted person who is not a forensic patient and who is of a class of restricted persons for whom a supervising authority is prescribed by the regulations, that supervising authority, or

- (c) in relation to any restricted person not referred to in paragraph (a) or (b), the Commissioner of Corrective Services.

**supervision order** means:

- (a) an interim supervision order or extended supervision order under the *Crimes (Serious Sex Offenders) Act 2006*, or
- (b) a community supervision order within the meaning of Part 4A of the *Crimes (Administration of Sentences) Act 1999* or an intensive correction order or home detention order within the meaning of that Act.

## **Division 2 General requirements relating to change of name**

### **26 Change of name by registration**

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

### **27 Application to register change of adult's name**

An adult person may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the person's name if:

- (a) the person's birth is registered in the State, or
- (b) the person was born outside Australia, the person's birth is not registered in Australia and the person has been resident in the State for at least 3 consecutive years immediately preceding the date of the application.

### **28 Application to register change of child's name**

(1) The parents of a child may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the child's name if:

- (a) the child's birth is registered in the State, or
- (b) the child was born outside Australia, the child's birth is not registered in Australia and the child has been resident in the State for at least 3 consecutive years immediately preceding the date of the application.

(2) If the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities in relation to the child, the application may be made by a person to whom a court within Australia has allocated:

- (a) parental responsibility for the child, or
- (b) specific aspects of parental responsibility for the child so long as the making of the application is not outside the scope of the aspects allocated.

(2A) If there is more than one such person referred to in subsection (2), the application

may be made only as a joint application of those persons.

- (3) An application for registration of a change of a child's name may be made by one parent if:
  - (a) the applicant is the sole parent named in the registration of the child's birth under this Act or any other law (including a corresponding law), or
  - (b) there is no other surviving parent of the child, or
  - (c) a court approves the proposed change of name.
- (4) The District Court may, on application by a child's parent, approve a proposed change of name for the child if satisfied that the change is in the child's best interests.
- (5) If any court (including any court of another State or the Commonwealth) approves a proposed name for a child, the court may order the Registrar to register the child's name in a form specified in the order.
- (6) In this section:

***parental responsibility***, in relation to a child, means all the duties, powers, responsibilities and authority which, by law, parents have in relation to their children.

## **29 Child's consent to change of name**

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

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

### **29A Requirement to disclose criminal record**

- (1) The form approved by the Registrar for an application for registration of a change of an adult's name is to include a requirement to the effect that the applicant disclose whether he or she has been convicted of a relevant offence.
- (2) The form approved by the Registrar for an application for registration of a change of a child's name is to include a requirement to the effect that the applicant disclose whether the child has been convicted of a relevant offence.
- (3) An offence against section 57 in relation to a false or misleading disclosure referred to in this section in an application for registration of a change of name is in addition to an offence against that section for any other false or misleading representation made in the same application.
- (4) In this section:

**conviction for an offence:**

- (a) includes the making of an order under section 10 of the *Crimes (Sentencing Procedure) Act 1999*, and
- (b) does not include a spent conviction within the meaning of Part 2 of the *Criminal Records Act 1991* or a conviction that is taken to be quashed within the meaning of Part 4 of that Act.

**relevant offence** means:

- (a) an offence in New South Wales that is punishable by imprisonment for 12 months or more, or
- (b) an offence in a jurisdiction other than New South Wales that, if committed in New South Wales, would be an offence so punishable.

**Note—**

The provision of false or misleading information in an application for registration of a change of name in relation to disclosure of convictions for relevant offences constitutes an offence against section 57 with a maximum penalty of 100 penalty units or 2 years imprisonment or both.

**29B Restrictions on number of changes of name that may be registered**

The Registrar is not to register a change of name of a person on application made under this Act if the Registrar is aware that:

- (a) a change of the person's name has been registered (whether in this State or in another State) within the period of 12 months immediately preceding the date of the application, or
- (b) 3 or more changes of the person's name have been registered (whether in this State or in another State).

**29C Exceptions to certain change of name restrictions**

- (1) The Registrar may register a change of name of a person despite any restriction imposed by section 27 (a) or 28 (1) (a) that the person's birth must be registered in the State if satisfied that an order has been made (whether in the State or elsewhere) for the protection of the person or the person's children from domestic violence.
- (2) The Registrar may register a change of name of a person despite any restriction imposed by section 27 (b) or 28 (1) (b) as to the period for which the person must be resident in the State, or any restriction imposed by section 29B, if:
  - (a) the Registrar is satisfied that the reason for the proposed change of name warrants the registration of the change of name, or
  - (b) without limiting paragraph (a), the Registrar is satisfied that the proposed change



of name is sought for the protection of the person, the person's children or anyone else associated with the person, or

- (c) the proposed change of name is because of the marriage of the person, or
- (d) the District Court has approved the proposed change of name on application under section 28 (4).

(3) Nothing in this Part limits or affects:

- (a) any power that a court has under another Act or law (whether of this State, another State, the Commonwealth or New Zealand) to order that a change of name is to be registered or the ability of the Registrar to comply with such an order, or
- (b) the operation of the *Adoption Act 2000*, the *Law Enforcement and National Security (Assumed Identities) Act 2010*, the *Surrogacy Act 2010* or the *Witness Protection Act 1995*.

### **30 Registration of change of name**

- (1) Before registering a change of name under this Part, the Registrar may require the applicant to provide evidence to establish to the Registrar's satisfaction:
  - (a) the identity and age of the person whose name is to be changed, and
  - (b) that the change of name is not sought for a fraudulent or other improper purpose, and
  - (c) if the person whose name is to be changed is a child—that the child consents to the change of name or is unable to understand the meaning and implications of the change of name, and
  - (d) the reasons for making the application for registration of the change of name if the registration of the change would require the Registrar to exercise his or her discretion under section 29C.
- (2) If the Registrar is satisfied that the name of a person whose birth is registered in the State has been changed under another law (including a law of another State or the Commonwealth) or by order of a court (including any court of another State or the Commonwealth) the change of name may be registered under this Act.
- (3) The Registrar may refuse to register a change of name if, as a result of the change, the name would become a prohibited name.

### **31 Entries to be made in the Register**

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

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

### **Division 3 Change of name restrictions for certain persons**

#### **31A Application of Division**

- (1) The requirements and restrictions contained in this Division are in addition to any other requirements and restrictions contained in this Part.
- (2) This Division does not apply to a change of name resulting from the exercise of a power, or the operation of an Act, referred to in section 29C (3).

**Note—**

The [Child Protection \(Offenders Registration\) Act 2000](#) contains additional requirements and restrictions in relation to the change of name of registrable persons within the meaning of that Act.

#### **31B Restricted persons**

- (1) For the purposes of this Part, a **restricted person** means any of the following persons:
  - (a) an inmate,
  - (b) a person on remand,
  - (c) a parolee,
  - (d) a periodic detainee,
  - (e) a person who is subject to a supervision order,
  - (f) a forensic patient,
  - (g) a correctional patient,
  - (h) a person of a class included by the regulations under subsection (2).
- (2) The regulations may include as a class of **restricted person** any person of a class

that comprises the whole or any part of either or both of the following classes:

- (a) persons that are in lawful custody,
  - (b) persons that are the subject of an order made under an Act authorising some form of supervision or conditional release of the person concerned in connection with the commission, or the alleged commission, of an offence
- (3) Despite subsection (1), a **restricted person** does not include any person of a class prescribed by the regulations as not being a class of restricted persons.

### **31C Applications for change of name by or on behalf of restricted person**

- (1) A restricted person must not do any of the following without having first obtained the written approval of the supervising authority:
- (a) apply to the Registrar to register a change of his or her name under this Act,
  - (b) apply to an interstate Registrar to register a change of his or her name under a corresponding law.

Maximum penalty: 5 penalty units.

- (2) A person must not, on behalf of a restricted person, do any of the following without having first obtained the written approval of the supervising authority:
- (a) apply to the Registrar to register a change of the restricted person's name under this Act,
  - (b) apply to an interstate Registrar to register a change of the restricted person's name under a corresponding law.

Maximum penalty: 5 penalty units.

### **31D Approval by supervising authority**

- (1) The supervising authority may approve the making of an application to the Registrar for registration of a change of name of a restricted person only if the authority is satisfied that the change of name is in all the circumstances necessary or reasonable.
- (2) The supervising authority must not approve the making of an application to the Registrar for registration of a change of name of a restricted person if the authority is satisfied that:
- (a) the change of name would, if registered, be reasonably likely:
    - (i) to adversely affect the security, discipline or good order of any premises or facility at which the restricted person is held or accommodated, or
    - (ii) to jeopardise the restricted person's or another person's health or safety, or

- (iii) to be used to further an unlawful activity or purpose, or
- (iv) to be used to evade or hinder the supervision of the restricted person, or
- (b) the proposed name would be reasonably likely to be regarded as offensive by a victim of crime or an appreciable sector of the community.

- (3) The supervising authority for a restricted person who is a forensic patient and a person referred to in section 31B (1) (a), (b), (c), (d) or (e) must not approve the making of an application to the Registrar for registration of a change of the person's name unless the authority has consulted with the Commissioner of Corrective Services and the Commissioner has given concurrence.

**Note—**

The supervising authority for all forensic patients is the Mental Health Review Tribunal.

- (4) Subsections (1) and (2) apply to a determination of the Commissioner of Corrective Services as to whether to give concurrence in the same way as those subsections apply to a determination of a supervising authority as to whether to give approval.
- (5) If the supervising authority approves of the making of an application to the Registrar for registration of a change of name of a restricted person, the authority must:
  - (a) as soon as practicable, give written notice of the approval to the person who intends to make the application, and
  - (b) give a copy of the written notice of approval to the Registrar or the interstate Registrar (as the case requires).

**31E Additional requirements for registration of change of name of restricted person**

- (1) The Registrar must not register a change of name of a restricted person unless the Registrar has received a copy of the notice of approval of the supervising authority to the application for registration of a change of name.
- (2) The Registrar must give written notice to the supervising authority of a decision of the Registrar to register or refuse to register a change of name of a restricted person.
- (3) The Registrar must give written notice:
  - (a) to the Commissioner of Corrective Services when the Registrar registers the name of a person who is a forensic patient and a person referred to in section 31B (1) (a), (b), (c), (d) or (e), and
  - (b) to the Commissioner of Police when the Registrar registers the name of a person who is a restricted person and a registrable person (within the meaning of the *Child Protection (Offenders Registration) Act 2000*).

**31F Additional requirements for registration of change of name of former serious offender**

- (1) The Registrar must not register a change of name of a former serious offender unless the Registrar has first obtained the written approval of the Commissioner of Corrective Services and the Commissioner of Police.
- (2) However, the Registrar is not required to obtain the approval of the Commissioner of Police under this section if the Commissioner has given approval under Part 3A of the [Child Protection \(Offenders Registration\) Act 2000](#) to the making of the relevant application to change the name.
- (3) The Commissioner of Corrective Services and the Commissioner of Police may approve the making of an application to the Registrar for registration of a change of name of a former serious offender only if satisfied that the change of name is in all the circumstances necessary or reasonable.
- (4) The Commissioner of Corrective Services and the Commissioner of Police must not give an approval under this section if satisfied that:
  - (a) the change of name would, if registered, be reasonably likely:
    - (i) to jeopardise the former serious offender's or another person's health or safety, or
    - (ii) to be used to further an unlawful activity or purpose, or
  - (b) the proposed name would be reasonably likely to be regarded as offensive by a victim of crime or an appreciable sector of the community.
- (5) This section does not apply to the change of name of a person who is a former serious offender if:
  - (a) at any time since the release date, the person has had a prison-free period of 10 consecutive years, or
  - (b) at the time of making the application for the change of name, the person is a restricted person, or
  - (c) the person's conviction for an offence as a result of which the person became a serious offender has been quashed or set aside.
- (6) This section applies to a former serious offender despite the [Criminal Records Act 1991](#).
- (7) In this section:

**prison-free period**, in relation to a person who is a former serious offender, means any period during which the person has not served any part of a term of imprisonment (whether in New South Wales or elsewhere) as a result of being convicted of any

offence.

**release date**, in relation to a person who is a former serious offender, means:

- (a) the date on which the last sentence of imprisonment that the person served wholly or partly as a serious offender (whether in New South Wales or elsewhere) expired or, if the person was serving one or more other sentences of imprisonment consecutively or concurrently with that sentence of imprisonment, the date on which the combined terms of all of the sentences expired, or
- (b) if the person was a serious offender and a forensic patient, the date on which the person ceased to be a serious offender.

### **31G Registrar may correct Register**

- (1) The Registrar may correct the Register under section 45 if a change of name of a person has been registered in contravention of this Division.
- (2) This section does not limit the power of the Registrar under section 45 to correct the Register.

### **31H Regulations for purposes of Division**

The regulations may make provision for or with respect to the making of applications under this Division, the giving of approvals and concurrences under this Division, consultation requirements for supervising authorities, exemptions from the requirements of any of the provisions of this Division and the modification of the application of the provisions of this Division in any specified circumstances.

## **Division 4 Miscellaneous**

### **31I Information-sharing between relevant authorities and Registrar**

- (1) A supervising authority:
  - (a) must ensure that the Registrar is provided with information as to the identity of the restricted persons for whom it is the supervising authority, including the following information in relation to each of those persons (if known to the authority):
    - (i) the name (including any other name by which a restricted person is or has previously been known),
    - (ii) the date and place of birth of each restricted person,
    - (iii) the residential address or addresses of each restricted person, and
  - (b) must provide that information in the form and manner agreed to from time to time between the authority and the Registrar, and

(c) must notify the Registrar as soon as practicable after a person ceases to be a restricted person if the Registrar has previously been notified by the authority that the person is a restricted person.

(2) The Commissioner of Corrective Services:

(a) must ensure that the Registrar is provided with information as to the identity of persons who are former serious offenders, including the following information in relation to each of those persons (if known to the Commissioner):

(i) the name (including any other name by which each such person is or has previously been known),

(ii) the date and place of birth of each such person,

(iii) the residential address or addresses of each such person,

(iv) the release date of each such person (within the meaning of section 31F), and

(b) must provide that information in the form and manner agreed to from time to time between the Commissioner and the Registrar.

(3) This section has effect despite any law to the contrary.

### **31J Review by Administrative Decisions Tribunal of certain decisions under this Part**

A person may apply to the Administrative Decisions Tribunal for a review of the following decisions in relation to the making of an application to the Registrar for the change of name of the person:

(a) a decision of the supervising authority (other than the Mental Health Review Tribunal) under Division 3 to refuse to approve the making of the application,

(b) a decision by the Commissioner of Corrective Services to refuse to give concurrence under section 31D (3) to the making of the application,

(c) a decision by the Commissioner of Corrective Services or the Commissioner of Police to refuse to give approval under section 31F to the making of the application.

### **31K Appeals from decisions of Mental Health Review Tribunal under this Part**

(1) A restricted person may appeal to the Forensic Division of the Mental Health Review Tribunal against a decision of the Tribunal under Division 3 to refuse to approve the making of an application to the Registrar for registration of a change of name of the restricted person.

(2) A restricted person may appeal against the determination of an appeal by the Forensic Division of the Mental Health Review Tribunal under this section to the Supreme Court in accordance with section 163 of the [Mental Health Act 2007](#).

- (3) This section does not give a right of appeal against a decision of the Mental Health Review Tribunal that was made only because the Commissioner of Corrective Services refused to give concurrence under section 31D (3).
- (4) In this section, the **Forensic Division** of the Mental Health Review Tribunal has the same meaning as in Part 5 of the *Mental Health (Forensic Provisions) Act 1990*.

### **31L Protection of security sensitive information**

- (1) This section applies to the following decisions:
  - (a) a decision of the Commissioner of Corrective Services to refuse to give approval or concurrence under section 31D or 31F on a ground referred to in section 31D (2) (a),
  - (b) a decision of the Commissioner of Police to refuse to give approval under section 31F on a ground referred to in section 31F (4) (a).
- (2) The Commissioner of Corrective Services or the Commissioner of Police is not, under this or any other Act or law, required to give any reasons for a decision of the Commissioner's to which this section applies to the extent that the giving of those reasons would disclose any security sensitive information.
- (3) In determining an application for a review of any decision to which this section applies, the Administrative Decisions Tribunal (and any Appeal Panel in determining any appeal against such a review under the *Administrative Decisions Tribunal Act 1997*):
  - (a) is to ensure that it does not, in the reasons for its decision or otherwise, disclose any security sensitive information without the approval of the Commissioner who made the decision, and
  - (b) in order to prevent the disclosure of any such security sensitive information, is to receive evidence and hear argument in the absence of the public, the applicant for review, the applicant's representative and any other interested party, unless that Commissioner approves otherwise.
- (4) In this section, **security sensitive information** means information classified by the Commissioner of Corrective Services or the Commissioner of Police for the purposes of this section as security sensitive information, being information the disclosure of which could reasonably be expected:
  - (a) to prejudice criminal investigations, or
  - (b) to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement, or
  - (c) to endanger a person's life or physical safety, or



- (d) to adversely affect the security, discipline or good order of a correctional centre, correctional complex or residential facility (within the meaning of the *Crimes (Administration of Sentences) Act 1999*), or
- (e) to adversely affect the supervision of any parolee or person subject to a supervision order.

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

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

## **Part 5A Change of sex**

### **32A Definitions**

In this Part:

**recognised details certificate** means a certificate issued under section 32DD certifying the sex of a person who has undergone a sex affirmation procedure.

**sex affirmation procedure** means a surgical procedure involving the alteration of a person's reproductive organs carried out:

- (a) for the purpose of assisting a 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.

### **32B Application to alter register to record change of sex**

(1) A person who is 18 or above:

- (a) whose birth is registered in New South Wales, and
- (b) who has undergone a sex affirmation procedure, and
- (c) who is not married,

may apply to the Registrar, in a form approved by the Registrar, for alteration of the record of the person's sex in the registration of the person's birth.

(2) The parents of a child (or a parent if the applicant is the sole parent), or the guardian of a child:

- (a) whose birth is registered in New South Wales, and
- (b) who has undergone a sex affirmation procedure, and
- (c) who is not married,

may apply to the Registrar, in a form approved by the Registrar, for alteration of the

record of the child's sex in the registration of the child's birth.

**32C Application must be accompanied by declarations by doctors**

An application under section 32B must be accompanied by:

- (a) statutory declarations by 2 doctors, or by 2 medical practitioners registered under the law of any other State, verifying that the person the subject of the application has undergone a sex affirmation procedure, and
- (b) such other documents and information as may be prescribed by the regulations.

**32D Alteration of register**

- (1) The Registrar is to determine an application under section 32B by making the alteration or by refusing to make the alteration.
- (2) Before altering the record of a person's sex in the registration of the person's birth, the Registrar may require the applicant to provide such particulars relating to the change of sex as may be prescribed by the regulations.
- (3) An alteration of the record of a person's sex must not be made if the person is married.

**32DA Application to register change of sex**

- (1) A person who is 18 or above:
  - (a) who is an Australian citizen or permanent resident of Australia, and
  - (b) who lives, and has lived for at least one year, in New South Wales, and
  - (c) who has undergone a sex affirmation procedure, and
  - (d) who is not married, and
  - (e) whose birth is not registered under this Act or a corresponding law,may apply to the Registrar, in a form approved by the Registrar, for the registration of the person's sex in the Register.
- (2) The parents of a child (or a parent if the applicant is the sole parent), or the guardian of a child:
  - (a) who is an Australian citizen or permanent resident of Australia, and
  - (b) who lives, and has lived for at least one year, in New South Wales, and
  - (c) who has undergone a sex affirmation procedure, and
  - (d) who is not married, and

(e) whose birth is not registered under this Act or a corresponding law,

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

**32DB Documents to accompany application to register change of sex**

An application under section 32DA must be accompanied by:

- (a) statutory declarations by 2 doctors, or by 2 medical practitioners registered under the law of another State, verifying that the person the subject of the application has undergone a sex affirmation procedure, and
- (b) such other documents and information as may be prescribed by the regulations.

**32DC Decision to register change of sex**

- (1) The Registrar is to determine an application under section 32DA by registering the person's change of sex or refusing to register the person's change of sex.
- (2) Before registering a person's change of sex, the Registrar may require the applicant to provide such particulars relating to the change of sex as may be prescribed by the regulations.
- (3) A registration of a person's change of sex must not be made if the person is married.

**32DD Issue of recognised details certificate**

- (1) This section applies if the Registrar registers a person's change of sex under section 32DC.
- (2) The Registrar must, on application by or on behalf of the person, issue a certificate certifying the particulars contained in the entry in the Register.

**32E Issuing of new birth certificate**

- (1) After the record of a person's sex is altered under this Part, a birth certificate issued by the Registrar for the person must, unless otherwise requested by the person, show the person's sex in accordance with the record as altered.
- (2) Any such birth certificate must not include a statement that the person has changed sex.

**32F Issuing of old birth certificate**

- (1) The child of a person the record of whose sex is altered under this Part, or a person prescribed by the regulations, may apply to the Registrar for a birth certificate for the person that shows the person's sex before the record was so altered.
- (2) Despite section 32E, the Registrar may issue such a birth certificate to the child or

prescribed person.

### **32G, 32H (Repealed)**

#### **32I Effect of alteration of register and interstate recognition certificates**

- (1) A person the record of whose sex is altered under this Part is, for the purposes of, but subject to, any law of New South Wales, a person of the sex as so altered.
- (2) A person to whom an interstate recognition certificate relates is, for the purposes of, but subject to, any law of New South Wales, a person of the sex as stated in the certificate.
- (3) An **interstate recognition certificate** is a certificate issued under the law of another State that is prescribed by the regulations for the purposes of this section.

#### **32J Effect of registration of change of sex and interstate recognised details certificates**

- (1) A person the record of whose sex is registered under this Part is, for the purposes of, but subject to, any law of New South Wales, a person of the sex so registered.
- (2) A person to whom an interstate recognised details certificate relates is, for the purposes of, but subject to, any law of New South Wales, a person of the sex stated in the certificate.
- (3) An **interstate recognised details certificate** is a certificate issued under the law of another State that is prescribed by the regulations for the purposes of this section.

## **Part 6 Registration of marriages**

### **33 Cases in which registration of marriage is required**

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

### **34 How to have marriage registered**

A person has a marriage registered by lodging with the Registrar a certificate of the marriage under the [Marriage Act 1961](#) of the Commonwealth or, if the marriage was solemnised before the commencement of that Act, the evidence of the marriage required by the Registrar.<sup>1</sup>

#### **Note—**

<sup>1</sup>Under section 50 (4) of the [Marriage Act 1961](#) of the Commonwealth the authorised celebrant (within the meaning of that Act) is responsible for lodging the certificate of marriage with the Registrar.

### **35 Registration of marriage**

A marriage may be registered by:

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

## **Part 7 Registration of deaths**

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

#### **36 Deaths to be registered under this Act**

- (1) If a person dies in the State, the death must be registered under this Act.
- (2) If a court<sup>1</sup> orders the registration of a death, the death must be registered under this Act.
- (3) If a person dies:
  - (a) in an aircraft during a flight to an airport in the State, or
  - (b) on a ship during a voyage to a port in the State,the death may be registered under this Act.
- (4) If a person who is domiciled or ordinarily resident in the State dies outside the Commonwealth, or a person dies outside the Commonwealth leaving property in the State, the death may be registered under this Act.
- (5) However, the Registrar is not obliged to register a death under subsection (3) or (4) if the death is registered under a corresponding law.
- (6) If a child is stillborn, the child's death<sup>2</sup> is not to be registered under this Part.
- (7) This section is subject to section 38.

#### **Notes—**

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

<sup>2</sup> ie the foetal death. A stillbirth is registered as a birth but not as a death.

#### **37 Power to order registration of death**

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

#### **38 Circumstances in which death must not be registered**

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

- (a) a notice given by a doctor under section 39 in relation to the death of the person,
  - (b) an order made by a coroner under section 101 of the *Coroners Act 2009* that authorises the disposal of the remains of the deceased person,
  - (c) a notice given by a coroner under section 34 (1) or (2) of the *Coroners Act 2009* for the purpose of effecting or completing registration of the death,
  - (d) a document issued, made or given in relation to the death under the law of another State or the Commonwealth or any other place, being a document which the Registrar is satisfied is equivalent to a notice or order referred to in paragraph (a), (b) or (c).
- (2) Despite subsection (1), a death is to be registered if:
- (a) a court orders the registration of the death, or
  - (b) the Registrar is of the opinion that, having regard to the circumstances of the case, it is proper that the death should be registered without any notice, order or document referred to in that subsection.

## **Division 2 Notification of deaths**

### **39 Notification of deaths by doctors**

- (1) A doctor who was responsible for a person's medical care immediately before death, or who examines the body of a deceased person after death, must, within 48 hours after the death:
- (a) give the Registrar notice of the death and of the cause of death in a form and manner required by the Registrar, or
  - (b) if the doctor is of the opinion that it is impracticable or undesirable to give notice of the cause of death of the person within that time, give the Registrar notice of the death, and of the doctor's intention to give notice of the cause of death, in a form and manner required by the Registrar.

Maximum penalty: 5 penalty units.

- (2) However, a doctor need not give a notice under this section if:
- (a) another doctor has given the required notice, or
  - (b) the death has been reported to a coroner under the *Coroners Act 2009*.
- (3) A doctor must not give a notice under this section if the doctor is prevented from giving a certificate as to the cause of death of the person by section 38 of the *Coroners Act 2009*.

- (4) If a death is reported to a coroner under the *Coroners Act 2009*, the coroner must give the Registrar notice of the death as soon as practicable.

#### **40 Notification of cause of death by coroner**

- (1) If a coroner authorises the disposal of human remains, or makes a finding about the cause of a death, the coroner must give a copy of the disposal authorisation or the finding to the Registrar.
- (2) The Registrar may register a death even though the death is subject to coronial inquest and a finding has not been made about the cause of death.
- (3) A death certificate issued before a coronial inquest into the cause of death is completed must be endorsed in such manner as the Registrar considers appropriate to indicate that fact.
- (4) This section is subject to section 38.

#### **41 Notification by funeral director and others**

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

Maximum penalty: 5 penalty units.

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

Maximum penalty: 5 penalty units.

- (3) If human remains have not been disposed of within 30 days after the date of death,

the funeral director or other person who has custody of the remains must give the Registrar a notice, in a form and manner required by the Registrar, specifying the following particulars together with such supporting documentation as may be required by the Registrar:

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

Maximum penalty: 5 penalty units.

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

## **Division 3 Registration of death**

### **42 Registration**

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

## **Part 8 The Register**

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

#### **43 The Register**

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



subsection (1).

- (6) The Register may be referred to as the Births, Deaths and Marriages Register and a reference in any Act or any instrument made under any Act to the Births, Deaths and Marriages Register is taken to be a reference to the Register.

## **Division 2 Registrar's powers of inquiry**

### **44 Registrar's powers of inquiry**

- (1) The Registrar may conduct an inquiry to find out:
- (a) whether a registrable event has happened, or
  - (b) particulars of a registrable event, or
  - (c) whether particulars of a specific registrable event have been correctly recorded in the Register.
- (2) The Registrar may, by notice given to a person who may be able to provide information relevant to an inquiry under this section, require the person to answer specified questions or to provide other information within a time and manner specified in the notice.
- (3) A person who fails, without reasonable excuse, to comply with a notice under subsection (2) is guilty of an offence.

Maximum penalty: 10 penalty units.

## **Division 3 Correction of Register**

### **45 Correction of Register**

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

## **Division 4 Access to, and certification of, Register entries**

### **46 General access to Register**

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

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

#### **46A Access to change of name information by law enforcement agencies**

- (1) The Registrar may allow access by officers of a law enforcement agency to entries in the Register regarding changes of names, but only in accordance with a memorandum of understanding entered into by the Registrar with the head of the agency.
- (2) The Registrar must not enter into a memorandum of understanding unless satisfied that the terms of the memorandum, as far as practicable, protect the persons to whom the entries in the Register relate from unjustified intrusion on their privacy.
- (3) A memorandum of understanding entered into for the purposes of this section may be amended, revoked or replaced from time to time.
- (4) The functions of the Registrar and of each law enforcement agency must as far as practicable be exercised in conformity with a memorandum of understanding entered into by them under this section. However, a failure to comply with this subsection does not itself invalidate anything done or omitted to be done by the Registrar or the law enforcement agency.
- (5) In this section, **law enforcement agency** means:
  - (a) the NSW Police Force, or
  - (b) the New South Wales Crime Commission, or
  - (c) the police force of another State or the Commonwealth, or

- (d) any other law enforcement or investigative agency of the government of New South Wales or the government of another State or the Commonwealth prescribed by the regulations.

#### **47 Search of Register**

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

#### **48 Protection of privacy**

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

#### **49 Issue of certificate**

- (1) On completing a search of the Register, the Registrar may issue a certificate:
  - (a) certifying particulars contained in an entry, or
  - (b) certifying that no entry was located in the Register about the relevant registrable event.
- (2) A certificate under subsection (1) (a) is admissible in legal proceedings as evidence of:
  - (a) the entry to which the certificate relates, and
  - (b) the facts recorded in the entry.
- (3) If the word "illegitimate", or any other word or expression referring to the fact that a child was born outside marriage, appears in an entry in the Register, that word or

expression is not to be included in any certificate issued by the Registrar.

- (4) If requested to do so by an applicant, and authorised to do so under the [Adoption Act 2000](#), the Registrar must issue a single certificate (an **adopted person's birth record**) certifying particulars contained in an entry relating to the birth of a person and particulars relating to a record sent to the Registrar under section 130 or 132 of the [Adoption Act 2000](#) (or a memorandum under the former Acts) and registered under this Act.
- (5) If requested to do so by an applicant, and authorised to do so under the [Surrogacy Act 2010](#), the Registrar must issue the applicant with a full birth record, being a single certificate that certifies particulars relating to the birth of a person registered under section 17 and particulars of a parentage order or discharge of a parentage order relating to the person registered by the Registrar under Part 4A.

#### **50 Issue of certificate relating to children of deceased person**

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

#### **51 Issue of certificate to enable disposal of human remains**

If the death of a person has been registered before the remains of the person have been disposed of, the Registrar may, on application of a person who satisfies the Registrar that the person requires a certificate to enable the remains to be disposed of in accordance with the [Coroners Act 2009](#), issue a certificate certifying that the death of the person has been recorded on the Register.

#### **52 Access to information to be given in accordance with [Adoption Act 2000](#) and [Surrogacy Act 2010](#)**

This Act is subject to the [Adoption Act 2000](#)<sup>1</sup> and the [Surrogacy Act 2010](#)<sup>2</sup> and, to the extent of any inconsistency with this Act, those Acts prevail.

**Note—**

<sup>1</sup> The [Adoption Act 2000](#) sets out entitlements to and restrictions on access to adoption information held by the Registrar and other information sources. For instance, that Act sets out the circumstances in which the Registrar is entitled to give an adopted person access to his or her original birth certificate.

<sup>2</sup> The [Surrogacy Act 2010](#) sets out entitlements to access birth records held by the Registrar that relate to surrogacy arrangements.

### **53 Access policies**

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

### **54 Fees**

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

### **55 Power to remit fees**

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

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

### **55A Registrar may collect and maintain other information**

- (1) The Registrar may collect and 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 the information relates or on the Registrar's own initiative.
- (4) Sections 46 (3) and 48 apply to any records maintained under this section as if they were part of the Register.

### **55B Additional information services in relation to information in Register and other information**

- (1) In this section, **additional information services** means services relating to the information in the Register or any other information collected and maintained under section 55A that are additional to the services otherwise provided by the Registrar under this Act, including the following:

- (a) the provision of information relating to a registrable event in the form of a decorative certificate or other document,
  - (b) the provision of historical and genealogical information.
- (2) The Registrar may enter into an arrangement for the provision of additional information services.
- (3) The charge for providing an additional information service is:
  - (a) except as provided by paragraph (b), the amount determined by the Registrar, or
  - (b) if the regulations under section 54 so provide, the amount fixed by, or determined in accordance with, the regulations.

The charge is not required to bear any relation to the cost of providing the service.
- (4) In providing additional information services, the Registrar must, as far as practicable, protect the persons to whom the information concerned relates from unjustified intrusion on their privacy.

## **Part 9 General power of review**

### **56 Review by the Administrative Decisions Tribunal**

- (1) A person who is dissatisfied with a decision of the Registrar made in the exercise or purported exercise of functions under this Act may apply to the Administrative Decisions Tribunal for a review of the decision.
- (2) This section does not give a right of review of a decision of the Registrar to refuse to register a change of name that was made only because the Commissioner of Corrective Services or the Commissioner of Police refused to give approval under section 31F.

## **Part 10 Miscellaneous**

### **57 False representation**

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

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

### **58 Unauthorised access to or interference with Register**

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

- (a) obtain access to the Register or information contained in the Register, or

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

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

### **59 Falsification of certificates and other documents**

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

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

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

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

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

- (a) a document which the Registrar has reason to believe bears a forged impression of the Registrar's signature or seal, or
- (b) a certificate or other document purporting to be a certificate or other document under this Act which the Registrar has reason to believe has been forged or falsified, or
- (c) a certificate under this Act about a registrable event if the entry in the Register about the event has been cancelled or corrected since the issue of the certificate, or
- (d) a certificate or document issued by the Registrar in error or as a result of fraud.

- (4) A person who fails, without reasonable excuse, to comply with a requirement under subsection (3) to return a document or certificate is guilty of an offence.

Maximum penalty: 10 penalty units.

### **60 Unauthorised disclosure of information**

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

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

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

### **61 Immunity from liability**

Any matter or thing done or omitted by the Registrar does not subject the Registrar personally to any action, liability, claim or demand, if the matter or thing was done or

omitted in good faith for the purposes of executing this or any other Act.

## **62 Regulations**

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

## **63 Proceedings for offences**

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

## **64 Repeal of [Registration of Births, Deaths and Marriages Act 1973 No 87](#)**

The [Registration of Births, Deaths and Marriages Act 1973](#) is repealed.

## **65, 66 (Repealed)**

## **67 Savings, transitional and other provisions**

Schedule 3 has effect.

## **68 Review of Act**

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

## **Schedules 1, 2 (Repealed)**

## **Schedule 3 Savings, transitional and other provisions**

(Section 67)

## **Part 1 Regulations**

### **1 Regulations**

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:



this Act

*Births, Deaths and Marriages Registration Amendment Act 2007*

*Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008* (but only to the extent that it relates to this Act or amendments to the *Status of Children Act 1996* that affect the operation of this Act)

*Births, Deaths and Marriages Registration Amendment (Change of Name) Act 2009*

*Relationships Register Act 2010*

*Surrogacy Act 2010*

*Births, Deaths and Marriages Registration Amendment (Change of Name) Act 2012*

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

## **Part 2 Provisions consequent on enactment of this Act**

### **2 Definition**

In this Part:

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

### **3 The Register**

- (1) A register kept under the *Registration of Births, Deaths and Marriages Act 1973* forms

part of the Register under this Act.

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

#### **4 General**

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

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

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

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

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

#### **7 Applications made before the repeal of former Act**

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

#### **8 Applications to Supreme Court pending on repeal of former Act**

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

#### **9 Orders made by coroner under former Act**

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

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

## **registration**

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

### **11 Death certificate issued before repeal of former Act**

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

### **12 Medical certificate given under former Act**

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

### **13 Reference to former Act, Registrars and Register**

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

### **14 Local registers kept under former legislation**

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

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

#### **15 Saving of regulations under former Act**

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

### **Part 3 Provisions consequent on enactment of Births, Deaths and Marriages Registration Amendment Act 2007**

#### **16 Notification of births**

The amendment made to section 12 (2) (a) by the [Births, Deaths and Marriages Registration Amendment Act 2007](#) applies only in relation to births that occur after the commencement of that amendment.

### **Part 4 Provision consequent on enactment of Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008**

#### **17 Application to alter register as consequence of amendment of Status of Children Act 1996**

- (1) In this clause:  
**relevant provisions** means section 14 (1A) (a) of, and clause 7 of Schedule 2 to, the [Status of Children Act 1996](#), as inserted by the [Miscellaneous Acts Amendment \(Same Sex Relationships\) Act 2008](#).
- (2) An application may be made to the Registrar for the addition of registrable information, about the identity of a woman who is presumed to be a parent of the child under the relevant provisions, in the birth registration of a child born before the commencement of those provisions.
- (3) The Registrar is to determine the application by making the addition or refusing to make the addition.
- (4) The Registrar must not add registrable information in the child's birth registration about the identity of the woman as a parent of the child unless:

- (a) the application is made jointly by that woman and the birth mother, and
  - (b) if the child's birth registration already includes registrable information that purports to identify a person as the father of the child:
    - (i) that person has given his consent to the removal of the particulars from the birth registration that identify him as the father of the child (or a court or the regulations authorise their removal because the person is not the father by operation of law or otherwise), and
    - (ii) the Registrar removes those particulars from the birth registration, and
  - (c) if the Registrar requires verification of the information contained in the application—the application is accompanied by a statutory declaration verifying the information contained in the application and any other evidence that the Registrar may require.
- (5) An application made under this clause must be in a form approved by the Registrar.
- (6) This clause has effect despite sections 18 and 20 of this Act and clause 7 (2) of Schedule 2 to the *Status of Children Act 1996*.

## **Part 5 Provisions consequent on enactment of *Courts and Crimes Legislation Further Amendment Act 2008***

### **18 Orders for registration under section 19**

The Registrar is not obliged to comply with an order under section 19 (1) (a) made before the commencement of section 19 (1A), as inserted by the *Courts and Crimes Legislation Further Amendment Act 2008*, if such an order could not have lawfully been made after that commencement.

### **19 Validation of previously issued birth certificates**

Anything that has been done or omitted to be done by the Registrar at any time before the commencement of section 25A (as inserted by the *Courts and Crimes Legislation Further Amendment Act 2008*), and that would have been validly done or omitted had section 25A then been in force, is taken to have been validly done or omitted.

## **Part 6 Provisions consequent on enactment of *Births, Deaths and Marriages Registration Amendment (Change of Name) Act 2009***

### **20 Pending applications**

An amendment made to this Act by the *Births, Deaths and Marriages Registration Amendment (Change of Name) Act 2009* does not apply to, or affect the determination of, an application under this Act for registration of a change of name if the application was made before the commencement of the amendment but was not finally determined

before that commencement.

## **21 Memorandum of understanding**

The memorandum of understanding entered into for the purposes of clause 8 (2) of the *Births, Deaths and Marriages Registration Regulation 2006* (as in force before its repeal by the *Births, Deaths and Marriages Registration Amendment (Change of Name) Act 2009*) is taken to have been entered into for the purposes of section 46A and may be amended, revoked or replaced accordingly.

## **Part 7 Provisions consequent on enactment of Births, Deaths and Marriages Registration Amendment (Change of Name) Act 2012**

### **22 Definition**

In this Part, **amending Act** means the *Births, Deaths and Marriages Registration Amendment (Change of Name) Act 2012*.

### **23 Approvals required for change of name of restricted persons**

Division 3 of Part 5 (as inserted by the amending Act) does not apply to or in respect of a change of name of a restricted person (within the meaning of that Part) if the application for the change of name was made before the commencement of that Division.

### **24 Change of name of former serious offenders**

A reference in section 31F (as inserted by the amending Act):

- (a) to a former serious offender includes a reference to a person who ceased to be a serious offender before the commencement of the section, and
- (b) to a release date is a reference to a release date whether occurring before or after the commencement of the section, and
- (c) to any period of time includes a reference to any period of time occurring wholly or partly before the commencement of the section.