

# Births, Deaths and Marriages Registration Regulation 2011

[2011-464]



New South Wales

## Status Information

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### Provisions in force

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

### Authorisation

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# Births, Deaths and Marriages Registration Regulation 2011



New South Wales

## Part 1 Preliminary

### 1 Name of Regulation

This Regulation is the *Births, Deaths and Marriages Registration Regulation 2011*.

### 2 Commencement

This Regulation commences on 1 September 2011 and is required to be published on the NSW legislation website.

#### Note—

This Regulation replaces the *Births, Deaths and Marriages Registration Regulation 2006* which is repealed on 1 September 2011 by section 10 (2) of the *Subordinate Legislation Act 1989*.

### 3 Definition

(1) In this Regulation:

**the Act** means the *Births, Deaths and Marriages Registration Act 1995*.

(2) Notes included in this Regulation do not form part of this Regulation.

## Part 2 Information required to be given to Registrar or noted in Register

### 4 Notification of birth

For the purposes of section 12 of the Act, the following particulars are required:

- (a) the sex and date and place of birth of the child,
- (b) whether the child was born alive or stillborn,
- (c) the weight of the child at birth and, if the child was stillborn, the period of gestation of the child,
- (d) whether or not the birth was a multiple birth,

- (e) the full name (including, if applicable, the original surname), date of birth and usual place of residence (at the time of delivery) of the birth mother of the child,
- (f) the full name and occupation of the person giving the notice.

## **5 Registration of birth**

- (1) For the purposes of sections 14 and 17 of the Act, the following particulars are required:
  - (a) the sex and date and place of birth of the child,
  - (b) the weight of the child at birth,
  - (c) whether or not the birth was a multiple birth,
  - (d) the full name (including, if applicable, the original surname), date of birth (or age), place of birth, occupation and usual place of residence (at the time of delivery) of each parent of the child,
  - (e) the date and place of marriage of the parents of the child (if applicable),
  - (f) the full name, sex and date of birth of any other children (including any deceased children) of either of the parents of the child,
  - (g) whether or not either of the parents of the child is of Aboriginal or Torres Strait Islander origin,
  - (h) if either parent of the child was born outside Australia, the period of residence in Australia of that parent.

### **Note—**

A birth registration statement given to the Registrar under section 14 of the Act must also state the name of the child (see section 21 of the Act).

- (2) For avoidance of doubt, the Registrar is authorised to include in the Register the registrable information about the identity of the child's parents that is required to be provided under this clause.
- (3) If the particulars supplied to the Registrar under section 14 of the Act specify that:
  - (a) a parent who is the father of the child wishes to be identified in the Register as the father, or
  - (b) a parent who is the birth mother of the child wishes to be identified in the Register as the mother,

or both, the particulars entered in the Register under section 17 of the Act must identify the parent as the father or mother, as the case requires. This subclause does

not limit the particulars which may be included in the Register.

## **6 Registration of adoption**

For the purposes of section 24 of the Act, the following particulars are required:

- (a) the full name, sex and date and place of birth of the child to whom the record of adoption or discharge relates,
- (b) the full name (including, if applicable, the original surname), date of birth (or age), place of birth, occupation and usual place of residence of the child's adoptive parent or parents,
- (c) the date and place of marriage of the adoptive parents of the child (if applicable),
- (d) the full name and date of birth of any other children (whether adopted children or not and including any deceased children) of either of the adoptive parents of the child.

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

For the purposes of section 24A of the Act, the following information is required:

- (a) the full name and last residential address of the deceased person,
- (b) the date and place of death of the deceased person.

## **8 Registration of change of name**

(1) For the purposes of section 31 of the Act, the following particulars are required:

- (a) the sex and date and place of birth of the person whose change of name is being registered,
- (b) the full name of the person immediately before the change of name,
- (c) the full name first given to the person after birth and any other name shown on the person's birth registration,
- (d) any other former names of the person,
- (e) the new full name of the person,
- (f) the full names of the parents of the person (as at the date of the person's birth or registration of the person's birth).

(2) In this clause, **former name** of a person includes:

- (a) a name acquired by the person informally by repute or usage, or
- (b) any other name used by the person.

## **9 Application to alter Register to record change of sex**

For the purposes of section 32C (b) of the Act, the following documents are prescribed as documents that must accompany an application under section 32B of the Act:

- (a) a signed statement by each of the 2 doctors (or 2 medical practitioners) referred to in section 32C (a) of the Act declaring that the doctor or practitioner concerned sighted proof of the identity of the person the subject of the application when making the statutory declaration referred to in that paragraph,
- (b) documentary proof, to the Registrar's satisfaction, of the identity of the person the subject of the application.

## **10 Application to register change of sex**

For the purposes of section 32DB (b) of the Act, the following documents are prescribed as documents that must accompany an application under section 32DA of the Act:

- (a) a signed statement by each of the 2 doctors (or 2 medical practitioners) referred to in section 32DB (a) of the Act declaring that the doctor or practitioner concerned sighted proof of the identity of the person the subject of the application when making the statutory declaration referred to in that paragraph, and
- (b) documentary proof, to the Registrar's satisfaction:
  - (i) that the person is an Australian citizen or permanent resident of Australia, and
  - (ii) that the person lives, and has lived for at least one year, in New South Wales.

## **11 Registration of relationship**

The following particulars of the registration of a relationship under the *Relationships Register Act 2010* are required to be registered in the Register:

- (a) the sex, full name, occupation and usual place of residence of each party to the relationship,
- (b) the date and place of birth of each party to the relationship,
- (c) the full names (including, if applicable, the original surname) of the parents of each party to the relationship.

## **12 Information concerning human remains**

For the purposes of section 41 (1) (d) of the Act, the following information is required from a funeral director or other person who arranges for the disposal of human remains:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,

- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the date of disposal of the remains of the deceased,
- (e) the full name and business address of the funeral director or other person who arranged for the disposal of the remains,
- (f) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (g) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (h) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (i) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such information in relation to each marriage of the deceased if the deceased had married more than once),
- (j) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (k) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (l) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

### **13 Information concerning human remains removed from the State**

For the purposes of section 41 (2) (b) of the Act, the following information is required from a funeral director or other person who arranges for the removal of human remains (other than cremated remains) from the State:

- (a) the full name and last residential address of the deceased,
- (b) the date and place of death of the deceased,
- (c) whether or not the death was reported to a coroner,
- (d) the sex, date of birth (or age at death) and place of birth of the deceased,
- (e) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (f) the date of disposal of the remains of the deceased,



- (g) the full name and business address of the funeral director or other person who arranged for removal of the remains,
- (h) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (i) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (j) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (k) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such information in relation to each marriage of the deceased if the deceased had married more than once),
- (l) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (m) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (n) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

**14 Information concerning human remains not disposed of within 30 days after death**

For the purposes of section 41 (3) (c) of the Act, the following information is required from a funeral director or other person who has custody of human remains that have not been disposed of within 30 days after the date of death:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the full name and business address of the funeral director or other person who has custody of the remains of the deceased,
- (e) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (f) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (g) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,

- (h) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such information in relation to each marriage of the deceased if the deceased had married more than once),
- (i) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (j) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (k) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

## **15 Registration of death**

For the purposes of section 42 of the Act, the following particulars are required:

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the date of disposal of the remains of the deceased,
- (e) the full name and business address of the funeral director or other person who arranged for the disposal of the remains,
- (f) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (g) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (h) whether, immediately before death, the deceased was married, divorced, widowed or in a de facto relationship or had never married,
- (i) if the deceased had married, the date of marriage (or age of the deceased at the date of marriage), the place of marriage and the full name (including, if applicable, the original surname) of his or her spouse (and such particulars in relation to each marriage of the deceased if the deceased had married more than once),
- (j) the full name (including, if applicable, the original surname) of any de facto partner of the deceased,
- (k) the full names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),

- (l) the full name (including, if applicable, the original surname) and occupation of each parent of the deceased.

## **Part 3 Miscellaneous**

### **16 Persons who may apply for old birth certificate**

- (1) For the purposes of section 32F of the Act, the following persons are prescribed as persons who may apply to the Registrar for a birth certificate that shows the sex of a transgender person before the record of the transgender person's sex was altered under Part 5A of the Act:
  - (a) the executor or administrator of the transgender person's estate,
  - (b) a parent of the transgender person,
  - (c) a spouse or de facto partner (or former spouse or de facto partner) of the transgender person,
  - (d) an officer or person acting on behalf of any of the following law enforcement agencies:
    - (i) the NSW Police Force, or the police force of another State or a Territory,
    - (ii) the Australian Federal Police,
    - (iii) the New South Wales Crime Commission,
    - (iv) the Australian Crime Commission,
    - (v) the Office of the Director of Public Prosecutions of this State, of another State or a Territory, or of the Commonwealth,
    - (vi) the Independent Commission Against Corruption.
- (2) In this clause, **transgender person** means a person:
  - (a) who has undergone a sex affirmation procedure, and
  - (b) the record of whose sex has been altered under Part 5A of the Act.

### **16A Exemptions from certain provisions of Division 3 of Part 5 of the Act**

- (1) For the purposes of section 31B of the Act, persons who are inmates, parolees, periodic detainees, forensic patients or correctional patients, or are subject to a supervision order, solely because of one or more of the following reasons are prescribed as not being a class of restricted person:
  - (a) because of the commission or alleged commission of an offence under a law of the Commonwealth,

- (b) because the person is the subject of a warrant under section 170 (1) (a) of the *Defence Force Discipline Act 1982* of the Commonwealth by which an authorised officer under that Act has committed the person to a correctional centre pursuant to a punishment of imprisonment imposed under that Act,
  - (c) because the person is a detainee within the meaning of the *Migration Act 1958* of the Commonwealth and who is held in a correctional centre as referred to in paragraph (b) (ii) of the definition of **immigration detention** in section 5 of that Act,
  - (d) because the person is in the keeping of a correctional officer under section 250 of the *Crimes (Administration of Sentences) Act 1999*.
- (2) A person is exempt from section 31F of the Act if the person is a former serious offender only because of the commission or alleged commission of an offence under a law of the Commonwealth.
- (3) In this clause, terms defined in Part 5 of the Act have the same meanings as they have in that Part.

#### **17 Recognition of change of sex—interstate laws**

- (1) For the purposes of section 32I of the Act, the following laws are prescribed:
- (a) *Births, Deaths and Marriages Registration Act 1997* of the Australian Capital Territory,
  - (b) *Births, Deaths and Marriages Registration Act* of the Northern Territory,
  - (c) *Births, Deaths and Marriages Registration Act 2003* of Queensland,
  - (d) *Sexual Reassignment Act 1988* of South Australia,
  - (e) *Births, Deaths and Marriages Registration Act 1999* of Tasmania,
  - (f) *Gender Reassignment Act 2000* of Western Australia,
  - (g) *Births, Deaths and Marriages Registration Act 1996* of Victoria.
- (2) For the purposes of section 32J of the Act the *Gender Reassignment Act 2000* of Western Australia is prescribed.

#### **18 Fees**

For the purposes of section 54 of the Act, the fee for a service provided by the Registrar (other than a service that is fee exempt under clause 19) is the amount set out opposite the service concerned in Schedule 1.

## 19 Temporary fee exemption for marriage and relationship certificates

- (1) The following services are fee exempt for the period commencing on 1 September 2011 and ending on 13 February 2012 (the **fee exempt period**):
  - (a) the issue of a marriage certificate in respect of a marriage that occurs during the relevant period,
  - (b) the issue of a relationship certificate in respect of a relationship that is registered under the *Relationships Register Act 2010* during the relevant period.
- (2) Accordingly, no fee is payable for the issue of such a marriage certificate or relationship certificate during the fee exempt period.
- (3) This clause does not apply to any other service provided in connection with the issue of a marriage certificate or relationship certificate.
- (4) In this clause:

**marriage certificate** means a certificate certifying particulars contained in an entry in the Register about a marriage registered under the Act.

**relationship certificate** means a certificate certifying particulars contained in an entry in the Register about a relationship registered under the *Relationships Register Act 2010*.

**relevant period** means the period commencing on 14 February 2011 and ending on 13 February 2012.

## 20 Savings

Any act, matter or thing that, immediately before the repeal of the *Births, Deaths and Marriages Registration Regulation 2006*, had effect under that Regulation continues to have effect under this Regulation.

## Schedule 1 Fees

(Clause 18)

Item	Service provided	Fee \$
1	Furnishing a certificate certifying particulars contained in an entry in the Register or a certificate certifying that no entry was located in the Register about a relevant registrable event, including the fee for search under any one name in respect of a period not exceeding 10 years	44.00
2	Furnishing a certificate as to a record in the Register where the applicant has provided the relevant number of the record from an index published by the Registry of Births, Deaths and Marriages	31.00

3	Search against any one name in the Register (including an index to the Register) in respect of a period not exceeding 10 years pursuant to an application under section 50 of the Act, including the fee for a certificate of result of any such search	44.00
4	Continuation of any search under any one name in respect of each period of 10 years, or part of such a period	41.00
5	Giving priority to a search or to the issue of a certificate of result of search in addition to any other fee	24.00
6	Registering a change of name or inserting an additional name or other particulars in a record of a name	123.00
7	Altering the record of a person's sex in the registration of the person's birth	67.00
8	Recording in the Register, subsequent to registration of the birth of a child, the name of (or other particulars relating to) a person as a parent of the child	65.00
9	Verification of the authenticity of a document by means of the CertValid online certification validation system	1.06
10	Manual verification of the authenticity of a document following use of the CertValid online certification validation system	10.61
11	Furnishing a certified copy of any record or document kept by the Registry of Births, Deaths and Marriages, for which no fee is otherwise provided	37.00 per sheet
12	Providing any other service	Such fee as is fixed by negotiation between the Registrar and the person who asks for the relevant service