BIRTHS, DEATHS AND MARRIAGES REGISTRATION BILL 2003

EXPLANATORY NOTES

GENERAL OUTLINE

Objectives of the Legislation

To repeal the *Registration of Births, Deaths and Marriages Act 1962* ("the *RBDM Act*") and replace it with the *Births, Deaths and Marriages Registration Bill 2003* which is based on the model law for the registration of births, deaths and marriages.

Reasons for the objectives and how they will be achieved

This Bill originated from a national plan to establish greater nationwide co-operation between births, deaths and marriages registry services. To this end, a draft model law was developed by State and Territory registrars of births, deaths and marriages.

A draft Bill was endorsed by the Standing Committee of Attorneys-General (SCAG) and has been the model on which the registration of births, deaths and marriages legislation in other jurisdictions has been based. The model law has been adopted in all Australian jurisdictions except Queensland.

The model law is not uniform legislation. Various jurisdictions have provisions which differ from the original legislation in order to suit local conditions. However, most features of the model law remain and are continued by all participating jurisdictions.

This Bill will repeal the *RBDM Act* and replace it with legislation based on the model law. This is an opportunity to modernise and simplify the present legislative scheme.

A discussion paper titled *Possible Adoption of the Model Law for the Registration of Births, Deaths and Marriages* was released in Queensland in July 2000. The discussion paper canvassed the possible repeal of the present legislation and adoption of the model law.

All submissions received in response to the discussion paper supported adoption of the model law with modifications to suit local conditions.

The key features of the Bill are:—

Change of name register

The Bill introduces a change of name register. The register will be of significant benefit to the people of Queensland, to law enforcement and other authorities. Presently, a person may change his or her name through "repute or usage" or formally by deed poll. A change of name by deed poll can be expensive and there is no cross-referencing of changes of name by deed poll across the court registries. As a result, there is no audit trail in relation to changes of name.

The change of name register will record changes of name (for people born in Queensland and people born overseas but resident in Queensland) in a central register. Unless a person is changing their name back to their birth name or was born overseas, any change of name will be recorded against the person's birth entry. This will allow for an audit trail for authorities and also assist members of the public by having a central record of any name change.

If a Queensland born person, or a person whose adoption has been registered in Queensland, has already legally changed name interstate, this change may be noted on the person's birth or adoption entry.

Name changes for children

A matter which has been of great concern to parents (particularly fathers) of ex-nuptial children, is the inequity in the present legislation between parents of nuptial and ex-nuptial children, as far as naming of their children is concerned.

The provisions of the new Bill will operate so that mothers of ex-nuptial children will no longer be able to unilaterally change a child's name without the registered father's consent. Parental disputes over the changing of a child's name may be resolved by the Magistrates Court.

The Bill provides that information may be prescribed to assist the court in naming children. It is expected that this information may include:—

- The number of previous changes to the child's name;
- The views of both of the child's parents;

- The views of the child;
- The child's cultural, Indigenous or ethnic background and whether the proposed name change is likely to impact on the child's sense of cultural identity.

Change of name provisions generally

The Bill sets out the circumstances in which changes of both first names and surnames can be registered.

The Bill provides that the given names of a child can be changed once on the birth register within 12 months of the child's birth. After 12 months of age, the first names of a child should not be changed any more than once before the child reaches his or her majority. This is because the child's sense of identity is strongly tied to his or her name. The Bill also provides that the consent of the child is required if the child is 12 years of age or more. If necessary, a Magistrates Court can order a change of name in excess of these limitations. However, this should only occur in exceptional circumstances, for example, to protect a child from domestic violence.

The Bill provides that an adult can apply for a change of first or surnames once per year unless otherwise ordered by a court. A similar limitation applies to the children's surnames.

Name of parent on birth registration

A matter which has caused concern under the present Act, is that mothers of ex-nuptial children may refuse to have the father's details recorded on the birth registration. Presently, the mother needs to agree to have the father's details entered into the register. If she refuses to allow the father's details to be recorded there is no other recourse available to the father. Under Bill, the father will have a method of recording his details in the register.

Assistance with research

The Bill will provide greater scope for the registrar-general to assist those organisations involved in medical and other research in the public interest. The present Act is very restrictive about the types of services that can be provided.

However, the Bill also provides that the registrar-general must protect the persons to whom information relates from unjustified intrusion into their privacy. Therefore, the registrar-general may impose conditions when giving someone information, or access to information contained in the register.

Court findings of parentage

The Bill states that the registrar-general is not to include information about the identity of a child's parent in the birth register unless the person signed a birth registration application and the registrar is satisfied that the person is a parent of the child. The registrar can also include information about a parent if the registrar is entitled under s18C of the *Status of Children Act 1978* to presume that the person is the parent of the child.

The Bill provides that one parent may make an application about the identity of the other parent if the other parent cannot join in the application because he or she is dead, cannot be found, the parent is unable to apply for some other reason, or the other parent does not dispute the correctness of the information.

Although the latter provisions are necessary, there may be cases in which the registrar-general may not be certain about the inability of the other parent to apply. For example, the registrar-general may be in possession of conflicting information about who a child's parent is. Important legal and personal ramifications can result from having parentage details entered on a birth certificate, so the registrar-general must be certain of the parent's identity.

For this reason, the Bill has an added safeguard to ensure that the correct parentage information is included in the birth register. The Bill therefore provides that the registrar-general can require a person who claims to be parent of a child to prove it by producing a copy of a court finding that the person is the parent of the child. The present Act contemplates production of a declaration of paternity under the *Status of Children Act 1978* on the application of the mother only. The power will be supported by guidelines which will be included in the Regulation.

Death certification

The *RBDM Act* has provisions concerning the medical certificate of the cause of death. The purpose of the certificate is to allow the cause of death to be included in the death register. Also, a body cannot be disposed of

without the certificate, or, in the absence of such a certificate, a Coroner's order allowing for disposal of the body.

The Bill provides obligations on doctors to issue cause of death certificates when they are able to form an opinion as to the probable cause of death. This can be ascertained by the doctor having attended the deceased person when the person was alive, examining the body or having information about the person's medical history and the circumstances of the death.

It is hoped that the wording of the Bill will ensure that deaths are not needlessly reported to the Coroner, while at the same time ensuring that there is some meaningful assessment of the probable cause of death so that suspicious deaths do not evade detection.

Administrative cost to Government of implementation

The total cost of implementation will be $548,300 in 2003/04, $323,000 in 2004/05, $356,000 in 2005/06 and $361,800 in 2006/07. For the 2003/04, these costs will include general costs of $224,400 and $177,500 for the establishment of the change of name register.

In order to accommodate the needs of groups such as genealogists and family researchers, the registrar-general proposes to produce "historical" (birth, death and marriage) certificates after the new legislation comes into effect. An amount of $111,400 is allocated for this purpose.

It is anticipated that the revenues will be $339,100 in 2003/04, $474,700 in 2004/05, $498,400 in 2005/06 and $523,300 in 2006/07.

Consistency with Fundamental Legislative Principles

The Bill is consistent with the Fundamental Legislative Principles

CONSULTATION

Community

The Roal College of Pathologists of Australasia, the AMAQ, the Queensland Law Society, the Bar Association, the President of the Court of Appeal, the Chief Justice, the Chief Judge of the District Court, the Acting Chief Stipendiary Magistrate, the Brisbane Coroner, the Queensland Nurse's Union, Dr John de Groot, the Local Government Association of

Queensland, The Association of Australian-Owned Funeral Directors, the Independent Funeral Directors Association of Queensland, and the Queensland Funeral Directors Association were consulted in relation to this Bill.

Government

The Departments of Premier and Cabinet, Families, Aboriginal and Torres Strait Islander Policy, Queensland Treasury, Queensland Health, the Queensland Police Service and the Government Statistician have been consulted in relation to the Bill.

NOTES ON PROVISIONS

PART 1—PRELIMINARY

Clause 1 sets out the short title of the Act.

Clause2 provides that the Act commences on a day to be fixed by proclamation.

Clause 3 sets out the objects of the Act.

Clause 4 provides that the Dictionary in Schedule 2 defines particular words for the Act.

PART 2—BIRTHS

Clause 5 contains the provisions regarding notification of birth. The clause provides that, for each child born in Queensland, the responsible person must give a notice to the registrar. The primary emphasis for giving the notice is on the person in charge of the hospital, if the child was born in the hospital or was brought to the hospital within 24 hours of the birth. However, if neither of these events occurs, responsibility for notification descends from the doctor present to a person taking physical custody of an

abandoned child. The notice must be given within 2 working days of the birth.

Clause 6 sets out the circumstances in which the birth of a child must be registered in Queensland. The child must be born in Queensland. Also, the birth can be registered if a Queensland court finds that the child was born in Queensland and makes an order that directs the birth be registered and states the particulars about the birth that are prescribed.

The clause only applies to stillbirths occurring after 30 April 1989. This is the date of commencement of the *Registration of Births, Deaths and Marriages Act Amendment Act 1989*, which provided for the registration of stillbirths.

Clause 7 provides for the circumstances in which the registrar-general has a discretion to register the birth of a child. Clause 7(1) provides that the birth may be registered in Queensland if the child is born on an aircraft or vessel outside Queensland and is not, between the time the child is born and when the child arrives in Queensland, taken to a place outside Queensland. If the child is taken to a "place" other than Queensland, it is appropriate that the birth be registered there.

Clause 7(1) is intended to cover the situation in which a child is born outside of Queensland and is repatriated to Queensland for example, to receive medical care. The subclause should be read in conjunction with 7(6) which provides that "place" does not include an aircraft or vessel.

Clause 7(2) is based on section 27 of the *RBDM Act*, and provides that the birth of a child outside Australia may be registered in Queensland if the child's parents intend to live in Queensland and when the application for registration is made the child is resident in Queensland and not older than 18 months.

Clause 7(4) provides that the death of a stillborn child may be registered under the Act if, at the same time, the registrar is able to register the death of the child. The section is based on section 29A of the *RBDM Act*, which provides that the births (and deaths) of stillborn children occurring prior to the enactment of the *Registration of Births, Deaths and Marriages Amendment Act 1989* could be registered. By requiring that both the birth and death are registered, the Registry is then able to issue birth and death certificates for the child.

Clause 7(5) provides that the registrar must not register under this section a birth that has been registered in another State or country. This tries to avoid dual registrations.

Clause 8 follows the scheme provided for in the model law by providing that it is the responsibility of both parents of the child to register the birth of their child. However, Clause 8(2) provides that the registrar may accept an application completed by only one parent if the other parent is unable or unlikely to sign the application.

Clause 8(4) provides that if an application is not received under clause 8(1), the registrar may require other people to apply to register the birth. This will enable the registrar to set in place the birth registration process, despite the fact that an application to register the birth has not been received under subclauses (1), (2) or (3).

Clause 9 outlines how to apply to have the birth of a child registered. The application must be given to the registrar within 60 days of the birth, however the registrar may accept an application given more than 60 days after the birth if satisfied that the birth happened.

Clause 10 provides for when the registrar may include parentage details on the birth register. These provisions apply when a person applies to register the birth, or after registration of the birth.

Clause 10(2) provides that the registrar must not include information in the births register about the parentage of a child unless the person signed a birth registration application and the registrar is satisfied that the person is the parent of the child, or the registrar is entitled under section 18C of the *Status of Children Act 1978* to presume that the person is the parent of the child.

Clause 10(3) allows the registrar to include information about the identity of a parent who did not sign the birth registration application in certain circumstances.

Clause 10(4) provides that the registrar may require a person claiming to be the parent of a child to prove it by giving the registrar a copy of a court finding mentioned in section 18C of the *Status of Children Act 1978*. This power is to be supported by guidelines to be included in the Regulation to the Act.

Clause 11 provides that a court, on application by an interested person or its own initiative, may order the registrar to register the birth of a child born in Queensland or include or correct application information about the child's birth, other than the child's name, in the register of births. The process for change of a child's name is provided for in other provisions.

Clause 12 provides that a birth registration application (other than an application to register the birth of a stillborn child), must state the child's

name. There is no requirement for the parents of a stillborn child to provide a name for the child, however, they may if they wish.

Clause 12(2) provides that if only one name is provided for a child, that name will be registered as the surname of the child. This is necessary as the model law does not stipulate that the first name of the child will be automatically joined with the surname/s of the mother or father. If only one name is included in the application, it would not be appropriate for the registrar to choose a surname for the child. Under current administrative procedures, the birth indexes are compiled on the basis of surnames. Unless a surname is stipulated for the child, the name chosen by the parents would need to be indexed with surnames.

Clause 12(3) provides the circumstances in which the registrar may choose a name for a child.

Clause 12(6) provides that if the child's parents cannot agree on a name for the child either parent may apply to a Magistrates Court to decide the name. Clause 56 provides that a regulation may prescribe information the court may consider when it is making a decision on a child's name.

Clause 13 provides that the parents or guardian of a child may apply to change the child's first name on the birth register once within a year of the child's birth. Any disputes regarding the change of the child's name may be determined by the Magistrates Court.

Clause 14 sets out the procedure on reregistration of birth or adoption. Reregistration may occur if, because of the number of notes on the entry it would be desirable to reregister the birth, a person applies to have a birth or adoption reregistered after a change of name has been noted under the Act or a person has had a change of sex noted under the Act.

PART 3—CHANGE OF NAME

Clause 15 provides that a person's name may be changed by registration under this Part, unless the change has been registered under a corresponding law or by other legal process in another State. The clause provides that it is no longer possible to change a person's name by deed poll in Queensland. The part does not prevent the change of a person's name by repute or usage.

Clause 16 provides that an adult person may apply to have a change of name entered into the change of name register only if the person's birth or adoption was registered in Queensland or the person was born outside Australia, but the person ordinarily resides in Queensland.

Clause 17 provides that the parents or guardian of a child may apply to register the change of a child's name if the child's birth or adoption was registered in Queensland or the child was born outside Australia, but the child ordinarily resides in Queensland. A dispute about the change of the child's name may be determined by the Magistrates Court.

Clause 18 provides that if a child is 12 years of age of more, the consent of the child must be obtained. This does not apply if the child is unable to understand the meaning or implications of the change. Clause 18(1) does not apply if the court approves the change.

Clause 19 provides that when a person applies for a change of name, the registrar may require evidence of the person's identity and age and that the change is not sought for a fraudulent or improper purpose. A change of name must not be registered if the registrar reasonably suspects that the change is sought for a fraudulent or improper purpose, or is not satisfied of the applicant's identity and of the identity of the person whose change of name is to be registered. The registrar must not approve an application to register a change of name to a prohibited name.

Clause 20 provides that if a person's birth or adoption is registered in Queensland and the person's name has been changed under the law of another State or other legal process (which includes the order of a court), the person may apply to the registrar to note the change of name in the register of births or the adopted children register.

Clause 21 provides for limitations on the number of times that names can be changed. An application to change a child's first name may be made only once before the child turns 18. This is because a child's sense of identity is strongly tied to its name. This provision is in addition to the ability of the parents or guardians to change the child's name on the birth register prior to 12 months of age (see clause 13). A Magistrates Court may make an additional change of first name, but only in exceptional circumstances, such as to protect a child from domestic violence.

Any other changes of name may be made once every 12 months, unless a Magistrates Court has approved the change of name.

PART 4—REASSIGNMENT OF SEX

Clause 22 provides that the reassignment of a person's sex after sexual reassignment surgery may be noted in the person's entry in the register of births or adopted children register, only if the person is not married.

Clause 23 provides that an application to note reassignment of sex may be made by an adult or the parents or guardian of a child. The application must be accompanied by the statutory declarations of 2 doctors verifying that the person has undergone sexual reassignment surgery or a recognition certificate. The definition of "doctor" includes a person who is registered as a medical practitioner in another country corresponding to the *Medical Practitioners Registration Act 2001*. A statutory declaration may also be taken by a notary public in another country.

Clause 24 provides that a person who has had a reassignment of the person's sex entered into a register maintained under a corresponding law, is a person of the sex as reassigned. A person who is the subject of a recognition certificate is a person of the sex as stated in the recognition certificate, however, the person must comply with clause 23 for the reassignment of sex to be noted under the Act. If the reassignment of a person's sex is noted under this Act, the person is a person of the sex as reassigned.

PART 5—MARRIAGES

Clause 25 provides that a marriage solemnised in Queensland must be registered under this Act.

PART 6—DEATHS

Clause 26 provides when deaths must be registered under this Act. This is when a person dies in Queensland.

Also, a death must be registered if a Queensland court finds:—

- that the death happened in Queensland;
- the name of the deceased; and
- the date or approximate date of death; and

the court makes an order that—

- directs that the death be registered; and
- states the findings mentioned in (1)(b)(i) and any other particulars that are prescribed.

The death must also be registered when a Coroner finds that the death happened in Queensland, the name of the person and the date or approximate date of the person's death.

Clause 27 sets out when deaths may be registered in Queensland. This includes the situation in which a death occurs outside Queensland and the body is repatriated to Queensland without stopping at a place which is not in Queensland. If a body is taken to a place which is outside of Queensland, the death should be registered at that place.

Clause 28 provides who is responsible to register a death if a death must be registered in Queensland. This is the spouse or relative of the deceased, unless the spouse or relative has a reasonable excuse. If the registrar does not receive an application from the spouse or relative, the registrar may require others, such as the person in charge of the place where the person died, to register the death. A person must comply with the registrar's requirement unless the person has a reasonable excuse.

Clause 29 provides how to apply to register the death of a person. An application to register the death of a person must be in the approved form. The application must be given to the registrar within 14 days after the death, or the death is discovered, whichever happens later.

Clause 30 provides the circumstances in which a doctor may issue a cause of death certificate. These provisions are subject to section 26(5) of the *Coroners Act 2003* which provides when a doctor must not issue a cause of death certificate. The provision combines the present procedures in the *RBDM Act* to provide for one cause of death certificate for both stillborn children, children under 28 days and adults.

A doctor may issue the certificate when, for a stillborn child, the doctor was present at the stillbirth or examined the stillborn child's body. This continues the present regime in section 24 of the *RBDM Act*.

For deaths other than stillbirths, a doctor who:—

- attended the deceased person when he or she was alive; or
- examined the body of the deceased; or
- has information about the deceased's medical history and the circumstances of the death; and
- is able to form an opinion as to the probable cause of death

may issue the cause of death certificate.

The Bill envisages a triplicate approved form. The original certificate is given to the registrar or person arranging for disposal of the body. A copy is given to the person arranging for disposal of the body. The doctor may keep a copy.

A doctor must not charge for the issue of a cause of death certificate.

If the doctor reasonably suspects that the doctor, or doctor's spouse, may receive a benefit because of the person's death, the doctor must not issue a cause of death certificate for the person.

If the doctor gives the person who is arranging for the disposal of the deceased person's body the original cause of death certificate, the person must give the certificate to the registrar within 14 days after the person has received the certificate.

Clause 31 provides that the District Court, on application by an interested person or on its own initiative, may order the registration of the death of a person. However, a person must not apply for an order under (1) if the person has appealed to the District Court in relation to the same matter.

Clause 32 provides for notifying about disposal of a deceased person's body. The provision does not apply to a school of anatomy when disposing of a human body that was given to it or the disposal of parts of a human body taken during a medical procedure or autopsy.

Clause 33 provides when a stillborn child is taken to have died. Because it may be difficult to ascertain the exact time of death of a stillborn *in utero,* the provision deems the death to have occurred when the child left the mother's body and at the place where the mother was when the child left the mother's body. This gives certainly in determining in which jurisdiction the death should be registered.

PART 7—ADMINISTRATION

Clause 34 provides that the Governor in Council must appoint a registrar-general ("the registrar"). The provision sets out the registrar's functions. These include establishing registers for the Act, and administering the Act in an efficient, effective and economical way.

Clause 35 provides that the Governor in Council must appoint a deputy registrar-general ("the deputy registrar"). The provision sets out the deputy registrar's functions.

Clause 36 provides that the registrar's staff is to consist of staff that are necessary for the proper administration of the Act.

Clause 37 provides that the registrar may delegate any of his or her powers under this or another Act, other than the power of delegation.

Clause 38 provides the procedure for executing documents. The registrar is to have one or more seals. A certificate or other document issued by or for the registrar must be issued with the imprint of one of the registrar's seals and the signature, or the facsimile of a signature, of the registrar or the registrar's delegate.

If a document produced in evidence before a court is apparently signed and sealed by or for the registrar, the court must presume, in the absence of evidence to the contrary, that the document was properly issued under the registrar's authority.

Clause 39 provides for reciprocal administrative arrangements.

Clause 40 provides that the registrar must maintain a register for each type of registrable event. A register may be wholly or partly in the form of a computer database, or in documentary form or in another form that the registrar considers appropriate.

Clause 41 provides that the registrar must register a registrable event if the registrable event is an event that must be registered under this Act and the registrar receives certain documents and information. The registrar may require the person applying for registration to give the registrar evidence to support the application, or information prescribed under a regulation or documents prescribed under a regulation. The registrar may register an event even though the application for registration does not contain all the application information, or the application was not accompanied by all the prescribed documents, or a death is being investigated by a Coroner.

Clause 42 provides when the registrar may correct the register. This is on the order of a Queensland court. The registrar has the discretion to correct the register in the circumstances outlined.

Clause 43 provides that the registrar may conduct enquiries to ensure that the register is correct.

Clause 44 provides for the circumstances in which a person or other entity may obtain information from the register. The clause provides that an application may be made for a certificate, information or copy of a source document (other than a source document prescribed by regulation).

Before the registrar gives out that information, the person must show that the person has adequate reason for obtaining the information, including the relationship (if any) between the person applying and the person to whom the information relates, the reason why the applicant wants the information and the sensitivity of the information.

Clause 45 provides that the registrar may allow an entity to obtain information contained in a register other than under section 44. The registrar must maintain a written statement of policies relating to who may obtain the information under 45(1).

Clause 46 provides that if the registrar gives an entity, or allows an entity to obtain information in the register, the registrar must, as far as practicable, protect the persons to whom the information relates from unjustified intrusion into their privacy. For this purpose, the registrar may impose conditions when giving someone information, or access to information, contained in a register.

Clause 47 provides that despite the *Pubic Records Act 2002*, the registrar is to retain control over access to any information supplied or records maintained under this Act.

Clause 48 provides that the registrar may enter into an arrangement with an entity for the provision of information from the register. This clause contemplates the supply of bulk information to entities, to assist them to undertake activities which are in the public interest. This clause is subject to clause 46, protection of privacy.

PART 8—GENERAL

Clause 49 provides that a person who is dissatisfied with a decision of the registrar may appeal the decision to the District Court.

Clause 50 provides that a person must not give information under this Act that the person knows is false or misleading in a material particular. Subsection (1) does not apply to information given in a document, if the person when giving the document—

- informs the person being given the document, to the best of the person's ability, how the information is false or misleading; and
- if the person has, or can reasonably obtain, the correct information – gives the correct information.

Clause 51 provides that a person must not, without lawful authority—

- access a register or information in a register; or
- make, alter or delete an entry in a register; or
- interfere with a register in any other way.

Clause 52 provides for proceedings for offences. A proceeding must start—

- within 1 year after the offence was committed; or
- within 6 months after the offence came to the complainant's knowledge, but within 2 years after the offence was committed.

Clause 53 provides that the registrar may confiscate—

- a document that the registrar reasonably believes bears a forged facsimile of the registrar's signature or seal; or
- a certificate or other document purporting to be a certificate or other document under this Act that the registrar reasonably believes has been forged; or
- a certificate under this Act about a registrable event if the entry in a register about the event has been amended or cancelled since the certificate was issued.

Clause 54 provides that the registrar, the deputy registrar and the registrar's staff do not incur civil liability for an act done, or omission made honestly and without negligence under this Act. In particular, the registrar,

deputy registrar and the registrar's staff do not incur civil liability for information contained in a document that is obtained under section 44.

Clause 55 provides that the chief executive may approve forms for use under the Act. An approved form is not properly completed unless the form is completed in English and if a regulation prescribes particulars to be application information for the form – the form contains the prescribed particulars.

Clause 56 provides the regulation making power. This includes a power to prescribe information that a court may consider when deciding on or changing a child's name.

PART 9—TRANSITIONAL PROVISIONS

Clause 57 provides the transitional provisions for the Act. A certificate or document issued under the *RBDM Act* is taken to be issued under this Act. Applications, notations or registrations made under the *RBDM Act* and which are not completed prior to commencement, may be continued under that Act. A document that was lodged under the *RBDM Act* but has not been dealt with before commencement of this Act may be dealt with under the *RBDM Act*.

PART 10—REPEAL AND CONSEQUENTIAL AMENDMENTS

Clause 58 repeals the *Registration of Births, Deaths and Marriages Act 1962*.

Clause 59 provides that Schedule 1 amends the Acts it mentions.

SCHEDULE 1

CONSEQUENTIAL AMENDMENTS

CORONERS ACT 2003

*Items 1*and *2* have the effect of removing the current obligation that a death has to be automatically reported to the Coroner if the deceased person had not been seen by a doctor in the previous 3 months. This "3 month rule" is being removed because the more relevant question is whether the doctor is able to form an opinion as to the probable cause of death (see clause 30 of the Bill) – not whether or not the deceased saw a doctor within a certain period of time prior to death.

If the doctor cannot form an opinion as to the probable cause of death (which could include because s/he had not seen the deceased for a considerable period of time prior to death), s/he will not be able to issue a cause of death certificate. The death in these circumstances will need to be reported to the Coroner.

Item 3 inserts a new section 24A which provides for the issue of an autopsy notice and certificate. This section is drawn from the present procedure in section 31 of the *RBDM Act*, whereby the doctor who has performed a post mortem examination under the *Coroners Act 1958* is required to lodge with the registrar-general the doctor's certificate as to the cause of death as disclosed by the post-mortem examination (Form E). Under the *RBDM Act*, the registrar-general may use this form to complete the death registration.

The new section 24A(2) provides that a doctor is required to give the registrar an autopsy notice as soon as practicable after completing the autopsy. Section 24A(3) provides that as soon as practicable after the doctor determines the cause of death, or the doctor finally decides that the doctor cannot determine the cause of death, the doctor must complete an autopsy certificate in the approved form and give that certificate to the registrar. These provisions apply to matters in progress under the *Coroners Act 1958* as well as the matters under the *Coroners Act 2003*.

These provisions should be read in conjunction with clause 41(3) of this Bill which provides that the registrar may register a registrable event even though the application for registration does not contain all the application

information for a death or the death is still being investigated by a Coroner. Therefore, for example, if there will be a delay in the issue of an autopsy certificate under section 24A(3), the registrar will have a discretion to register the death on the basis of a notice under section 24A(2).

Item 7 inserts a new section 97 to the *Coroners Act 2003* which obliges the Coroner to notify the registrar when a body is released for burial or cremation and when an investigation ends.

Proposed section 97(1) is based on section 33 of the *RBDM Act*. Proposed section 97(2) is based on section 35 of the *RBDM Act*.

CREMATIONS ACT 2003

Item 2 makes this definition consistent with the new definition of stillborn child in the Bill.

HEALTH ACT 1937

Item 1 omits the birth notification provision in the *Health Act 1937*.

SCHEDULE 2

DICTIONARY

Contains the definitions for the Bill.