



# **Births, Deaths and Marriages Registration Act 2003**

**Reprinted as in force on 28 September 2007**

**Reprint No. 1G**

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Queensland

# Births, Deaths and Marriages Registration Act 2003

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# **Births, Deaths and Marriages Registration Act 2003**

[as amended by all amendments that commenced on or before 28 September 2007]

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

## **Part 1 Preliminary**

### **1 Short title**

This Act may be cited as the *Births, Deaths and Marriages Registration Act 2003*.

### **2 Commencement**

This Act commences on a day to be fixed by proclamation.

### **3 Objects**

The objects of this Act are to provide for—

- (a) the collection and maintenance, in registers kept by the registrar, of information about—
  - (i) births, deaths, marriages, changes of name and reassignments of sex; and
  - (ii) adoptions under the *Adoption of Children Act 1964*; and
  - (iii) another matter that the registrar is required to keep under another Act; and
- (b) access, in appropriate cases, to information in a register maintained for those purposes; and

- (c) the issue of certified and uncertified information from a register; and
- (d) the collection and dissemination of statistical information.

#### **4 Definitions**

The dictionary in schedule 2 defines particular words used in this Act.

## **Part 2 Births**

#### **5 Notification of birth**

- (1) For each child born in Queensland, the responsible person must give a notice, in the approved form, to the registrar.

Maximum penalty—20 penalty units.

- (2) The responsible person is—
  - (a) if the child was born in a hospital, or brought to a hospital within 24 hours after birth—the person in charge of the hospital; or
  - (b) otherwise—
    - (i) a doctor present at the birth; or
    - (ii) if a doctor was not present at the birth—a midwife present at the birth; or
    - (iii) if neither a doctor nor a midwife were present at the birth—a person, other than the mother, present at the birth; or
    - (iv) if the mother was alone at the birth—the mother; or
    - (v) if the mother dies or abandons the child—the person who takes physical custody of the child, for example a person who discovers the child with the body of the mother.



- (3) The notice must be given within 2 working days after the birth.
- (4) A person need not comply with subsection (1) if someone else has complied with subsection (1).

## **6 Births that must be registered in Queensland**

- (1) The birth of a child must be registered if—
  - (a) the child is born in Queensland; or
  - (b) a Queensland court—
    - (i) finds that the child was born in Queensland; and
    - (ii) makes an order that—
      - (A) directs that the birth be registered; and
      - (B) states the particulars about the birth that are prescribed under a regulation.
- (2) In this section—

*child* includes a stillborn child born after 30 April 1989.

## **7 Births that may be registered in Queensland**

- (1) The birth of a child may be registered under this Act if—
  - (a) the child is born in an aircraft or vessel outside Queensland; and
  - (b) the child is not, between the time when the child is born and when the child arrives in Queensland, taken to a place outside Queensland.

*Example of paragraph (b)—*

A woman gives birth on a ship travelling non-stop from Sydney to Tokyo. The mother and child are flown by helicopter from the ship to Brisbane to enable them to receive medical care. The birth may be registered in Queensland.

- (2) The birth of a child outside Australia may be registered under this Act if—
  - (a) the child's parents intend to live in Queensland; and

- (b) when the application for registration is made, the child is—
  - (i) resident in Queensland; and
  - (ii) not older than 18 months.
- (3) The birth of a child may be registered under this Act if a non-Queensland court—
  - (a) finds that the child was born in Queensland; and
  - (b) makes an order that—
    - (i) directs that the birth be registered; and
    - (ii) states the particulars about the birth that are prescribed under a regulation.
- (4) The birth of a stillborn child born in Queensland before 1 May 1989 may be registered under this Act if, at the same time, the registrar is able to register the death of the child.
- (5) The registrar must not register under this section a birth that has been registered in another State or country.
- (6) In this section—

*place* does not include an aircraft or vessel.

## **8 Responsibility to apply to have birth registered**

- (1) If the birth of a child must be registered in Queensland, the following persons must apply to register the birth—
  - (a) both parents of the child;
  - (b) if the child was found abandoned as a newborn—the person taking care of the child.

Maximum penalty—20 penalty units.

- (2) However, the registrar may accept an application completed by only 1 of the parents if the registrar is satisfied—
  - (a) the applicant is unable or unwilling to give information as to the other parent's identity or whereabouts; or

*Examples—*

- 1 The applicant does not know the father's identity.

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2 The applicant does not know the other parent's whereabouts.

- (b) the other parent is unable, unlikely or unwilling to sign the application; or

*Examples—*

- 1 The other parent is dead.
- 2 The other parent can not be located.

- (c) the requirement under subsection (1)(a) for the other parent to apply to register the birth would cause the applicant unnecessary distress.

*Examples—*

- 1 The applicant is too frightened to contact the other parent because of a domestic violence situation.
- 2 Contact between the applicant and the other parent would breach a domestic violence order.

- (2A) If the registrar accepts an application under subsection (2)(a) or (b) and has an address for the other parent, the registrar must, before registering the birth—

- (a) give the other parent—
- (i) written notice of the application; and
  - (ii) at least 14 days written notice of the registrar's intention to register the birth; and
- (b) ask the other parent to sign an application.

- (2B) A failure of the registrar to comply with subsection (2A), or a failure of the parent of a child to sign an application as requested under subsection (2A)(b), does not prevent the registration of the child's birth or affect the validity of the registration.

- (3) Also, the registrar may accept an application from a person who is not responsible for having the child's birth registered if the registrar is satisfied—

- (a) the child's parents are unable, or unlikely, to apply to register the birth; and
- (b) the person knows the relevant facts.

- (4) If the registrar does not receive an application under subsection (1), (2) or (3) for a birth, the registrar may require 1 of the following persons to apply to register the birth—
- (a) the person in charge of the place where the child was born;
  - (b) a person present at the birth;
  - (c) a person who the registrar reasonably believes knows the relevant facts.
- (5) A person must comply with the registrar's requirement, unless the person has a reasonable excuse.
- Maximum penalty—20 penalty units.

## **9 How to apply to register the birth of a child**

- (1) An application to register the birth of the child must be in the approved form (a *birth registration application*).
- (2) The application must be given to the registrar within 60 days after the birth.
- (3) However, the registrar may accept an application given more than 60 days after the birth if satisfied that the birth happened.

## **10 Registration of parentage details**

- (1) This section applies if a person applies—
  - (a) to register the birth of a child; or
  - (b) to include information about the identity of a child's parent in the register of births after the child's birth has been registered.
- (2) The registrar must not include information in the register of births that identifies a person as the parent of a child unless—
  - (a) both—
    - (i) the person signed a birth registration application; and
    - (ii) the registrar is satisfied that the person is a parent of the child; or

- (b) the registrar is entitled under the *Status of Children Act 1978*, section 18C<sup>1</sup> to presume that the person is a parent of the child.
- (3) However, the registrar may include information about the identity of a parent who did not sign the birth registration application if—
  - (a) the registrar is satisfied that the parent did not sign because—
    - (i) the parent is dead; or
    - (ii) the parent's whereabouts are unknown; or
    - (iii) the parent is unable to sign the application; or
    - (iv) the parent is, for another justifiable reason, unable to apply; or
  - (b) the registrar is satisfied that the other parent does not dispute the correctness of the information; or
  - (c) the registrar is entitled under a law, including a law of another State or the Commonwealth, to make a presumption as to the identity of the child's parent.
- (4) In circumstances prescribed under a regulation, the registrar may require a person who claims that someone is a parent of a child to prove it by giving the registrar a copy of a court finding mentioned in the *Status of Children Act 1978*, section 18C.

## **11 Court order relating to birth register**

- (1) A court, on application by an interested person or on its own initiative, may order the registrar to—
  - (a) register the birth of a child born in Queensland; or
  - (b) include or correct application information about a child's birth, other than the child's name, in the register of births.

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<sup>1</sup> *Status of Children Act 1978*, section 18C (Parentage presumption arising from court finding)

- (2) However, a person may not apply for an order under subsection (1) if the person has appealed to the District Court under section 49<sup>2</sup> in relation to the same matter.
- (3) In this section—  
**court** means—
  - (a) for application information about a child's parentage—the Supreme Court; or
  - (b) otherwise—the District Court.

## 12 Child's name

- (1) A birth registration application, other than an application to register the birth of a stillborn child, must state the child's name.
- (2) If a birth registration application states only 1 name for the child, the name is taken, for this Act, to be the child's surname.
- (3) If—
  - (a) the name stated in the birth registration application is a prohibited name; or
  - (b) for a birth registration application that is made by both parents—the registrar is satisfied that the parents can not agree on the child's name; or
  - (c) no name is stated in the birth registration application;  
the registrar may choose a name for the child and enter it in the register.
- (4) However, the registrar can not choose a first name for a stillborn child if the applicants have indicated that they do not wish to name the child.
- (5) One of the ways in which the applicants may indicate that they do not wish to name the child is by not putting a name for the child in the birth registration application.

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2 Section 49 (Appealing registrar's decisions)

- (5A) Before entering a name in the register for a child under subsection (3), the registrar must give the applicant at least 14 days written notice of the registrar's intention to do so.
- (6) If a child's parents can not agree on a name for the child, either parent may apply to a Magistrates Court to decide the child's name.
- (7) The Magistrates Court may—
  - (a) choose a name, other than a prohibited name, for the child; and
  - (b) order that the name be entered in the register of births for the child.<sup>3</sup>

### **13 Application to change child's first name within a year of birth**

- (1) This section applies if a child's birth or adoption was registered in Queensland.
- (2) The child's parents may apply, in the approved form, to change the child's first name in the register of births or adopted children register.
- (3) However, 1 of the parents may apply to change the child's first name if—
  - (a) the parent is the only parent of the child entered in the register of births or adopted children register; or
  - (b) the other parent is dead; or
  - (c) a Magistrates Court approves the change of name.
- (4) The child's guardians may apply, in the approved form, to change the child's first name in the register of births or adopted children register.
- (5) However, 1 of the guardians may apply to change the child's first name if—
  - (a) the other guardian is dead; or
  - (b) a Magistrates Court approves the change of name.

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<sup>3</sup> Under section 56, a regulation may prescribe information that a court may consider when deciding or changing a child's name.

- (6) The registrar must not approve an application to register a change of a child's first name to a prohibited name.
- (7) A Magistrates Court may, on application by a child's parent or guardian, approve a proposed change of first name for the child if satisfied that—
  - (a) the name is not a prohibited name; and
  - (b) the change is in the child's best interests.<sup>4</sup>
- (8) An application under this section may be made only once and within a year of the child's birth.
- (9) In this section—  
*change* a name includes add a name.

#### **14 Reregistering a birth or adoption**

- (1) This section applies if—
  - (a) a person's birth was registered in Queensland; or
  - (b) a person's adoption was registered under the *Adoption of Children Act 1964*.
- (2) The registrar must reregister a person's birth or adoption when the reassignment of the person's sex is noted under this Act.
- (3) The registrar may reregister a person's birth or adoption if—
  - (a) the registrar decides that, because of the number of notes on the entry, it would be desirable to reregister the birth or adoption; or
  - (b) the registrar receives an application, in the approved form, to reregister the person's birth or adoption after a change of the person's name has been noted under this Act.
- (4) An application to reregister a person's birth or adoption may only be made by—
  - (a) if the person is an adult—the person; or

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<sup>4</sup> Under section 56, a regulation may prescribe information that a court may consider when deciding or changing a child's name.



- (b) if the person is a minor—a parent or guardian of the person.
- (5) The registrar reregisters a person's birth or adoption by—
- (a) duplicating the information in the entry for the person's birth or adoption (the *closed entry*) in a new entry in the register, other than information that has been superseded, and without indicating what information has been superseded; and
- Example—*
- If the registrar is reregistering a birth consequent on the change of a person's surname from Smith to Jones, the information in the new entry would be the same as in the old entry except that the person's surname would appear as Jones.
- (b) noting on the closed entry—
    - (i) that the birth or adoption has been reregistered; and
    - (ii) a reference to the new entry; and
  - (c) noting on the new entry—
    - (i) that the new entry was made under this section; and
    - (ii) a reference to the closed entry.
- (6) A certificate issued by the registrar from the new entry—
- (a) if the person's sex has been reassigned under this Act—
    - (i) must show the person's reassigned sex; and
    - (ii) must not include a statement or other clear indication to the effect that a reassignment of the person's sex has been noted in the register; or
  - (b) if the person's name has been changed under this Act—must not show the person's name that was in the closed entry before a change of name was noted in the closed entry.
- (7) The registrar may issue a certificate from the closed entry.
- (8) However, if the closed entry relates to a person whose sex has been reassigned, the registrar may issue a certificate to only the following persons—
- (a) the person;

- (b) a child of the person;
  - (c) a parent of the person, if the person is a child;
  - (d) a person prescribed under a regulation.
- (9) Subsection (8) is subject to the *Adoption of Children Act 1964*, section 39C.<sup>5</sup>

## **Part 3                      Change of name**

### **15            Change of name by registration**

- (1) A person's name may be changed by registration of the change under this part, unless the change has been registered under a corresponding law.
- (2) A change of name includes the addition of a name.
- (3) It is no longer possible in Queensland to change a person's name by deed poll.
- (4) However, this part does not prevent the change of a person's name by repute or usage.

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

- (1) An adult person may apply to register a change of the person's name in the change of name register only if—
  - (a) the person's birth or adoption was registered in Queensland; or
  - (b) the person was born outside Australia, but the person ordinarily resides in Queensland.
- (2) When deciding whether the person ordinarily resides in Queensland, the registrar may consider—
  - (a) how long the person has resided in Queensland, and if a regulation prescribes a minimum period of residence,

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<sup>5</sup> *Adoption of Children Act 1964*, section 39C (Entitlement to certain records etc.)

- whether the person has resided in Queensland for the minimum period; and
- (b) whether or not the person is employed in Queensland; and
  - (c) whether or not the person is enrolled on an electoral roll under the *Electoral Act 1992*; and
  - (d) any other consideration prescribed under a regulation.
- (3) In this section—
- adult person** includes a person under 18 years who is, or has been, married.

## 17 Application to register change of child's name

- (1) This section applies if—
  - (a) a child's birth or adoption was registered in Queensland; or
  - (b) a child was born outside Australia, but the child ordinarily resides in Queensland.
- (2) The child's parents may apply, in the approved form, to register a change of the child's name in the change of name register.
- (3) However, 1 of the parents may apply to register a change of the child's name if—
  - (a) the parent is the only parent of the child entered in the register of births or adopted children register or shown on the child's birth certificate; or
  - (b) the other parent is dead; or
  - (c) a Magistrates Court approves the change of name.<sup>6</sup>
- (4) The child's guardians may apply, in the approved form, to register a change of the child's name in the change of name register.

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<sup>6</sup> Under section 56, a regulation may prescribe information that a court may consider when deciding or changing a child's name.

- (5) However, 1 of the guardians may apply to register a change of the child's name if—
  - (a) the other guardian is dead; or
  - (b) a Magistrates Court approves the change of name.
- (6) A Magistrates Court may, on application by a child's parent or guardian, approve a proposed change of name for the child if satisfied that—
  - (a) the name is not a prohibited name; and
  - (b) the change is in the child's best interests.
- (7) When deciding whether the child ordinarily resides in Queensland, the registrar may consider—
  - (a) how long the child has resided in Queensland, and if a regulation prescribes a minimum period of residence, whether the child has resided in Queensland for the minimum period; and
  - (b) whether or not the child is employed in Queensland; and
  - (c) any other consideration prescribed under a regulation.
- (8) In this section—

*child* does not include a person under 18 years who is, or has been, married.

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

- (1) The registrar must not approve an application to register the change of the name of a child who is 12 years or more unless the registrar is satisfied that the child—
  - (a) consents to the change of name; or
  - (b) is unable to understand the meaning and implications of the change of name.
- (2) Subsection (1) does not apply if a Magistrates Court has approved the change of name.

**19 Registration of change of name**

- (1) Before registering the change of a person's name, the registrar may require—
  - (a) evidence of the following—
    - (i) the identity and age of the person;
    - (ii) that the change of name is not sought for a fraudulent or other improper purpose;
    - (iii) any other information prescribed under a regulation; or
  - (b) a document prescribed under a regulation.
- (2) The registrar must not approve an application to register a change of name—
  - (a) if the registrar is not satisfied of the applicant's identity and of the identity of the person whose change of name is to be registered; or
  - (b) if the registrar reasonably suspects that the change of name is sought for a fraudulent or other improper purpose; or
  - (c) to a prohibited name.
- (3) If the registrar registers a change of name of a person whose birth or adoption was registered in Queensland and the changed name is not the same as the person's latest name in the register, the registrar must also—
  - (a) if the person requests the change be noted in the register of births or adopted children register—note the changed name in the register of births or adopted children register; or
  - (b) otherwise—note in the register of births or adopted children register that a change of name has been entered in the change of name register.
- (4) The registrar may notify the registering authority under a corresponding law of a change of name under this Act.
- (5) The registrar must note the change of the person's name on the previous entry, if any, for the person in the change of name register.

- (6) If an application to register a person's change of name states only 1 name for the person, the name is taken, for this Act, to be the person's surname.

## **20 Notation of change of name other than by registration**

- (1) This section applies if—
- (a) a person's birth or adoption was registered in Queensland; and
  - (b) the person's name has been changed under the law of another State or other legal process.

*Example of other legal process—*

An order of a Queensland court or a non-Queensland court or a deed poll.

- (2) An adult may apply to the registrar, in the approved form, to note the change of the adult's name in the register of births or adopted children register.
- (3) A child's parents may apply to the registrar, in the approved form, to note the change of the child's name in the register of births or adopted children register.
- (4) However, 1 of the parents may apply to note the change of the child's name if—
- (a) the parent is the only parent of the child entered in the register of births; or
  - (b) the other parent is dead; or
  - (c) a Magistrates Court approves the change of name;<sup>7</sup> or
  - (d) a Queensland court or non-Queensland court has ordered the change of name.
- (5) A child's guardians may apply to the registrar, in the approved form, to note the change of the child's name in the register of births or adopted children register.
- (6) However, 1 of the guardians may apply to note the change of the child's name if—

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<sup>7</sup> Under section 56, a regulation may prescribe information that a court may consider when deciding or changing a child's name.

- (a) the other guardian is dead; or
  - (b) a Magistrates Court approves the change of name; or
  - (c) a Queensland court or non-Queensland court has ordered the change of name.
- (7) The application must be accompanied by a document, prescribed under a regulation, that evidences that the person's name has been changed under the law of another State or other legal process.
- (8) Before noting the change of a person's name, the registrar may require—
- (a) evidence of the following—
    - (i) the identity and age of the person;
    - (ii) that the change of name is not sought for a fraudulent or other improper purpose;
    - (iii) any other information prescribed under a regulation; or
  - (b) a document prescribed under a regulation.
- (9) The registrar must not approve an application to note the change of name—
- (a) if the registrar is not satisfied of the applicant's identity and of the identity of the person whose change of name is to be noted; or
  - (b) if the registrar reasonably suspects that the change of name is sought for a fraudulent or other improper purpose; or
  - (c) to a prohibited name.
- (10) If an application to register a person's change of name states only 1 name for the person, the name is taken, for this Act, to be the person's surname.
- (11) In this section—

**adult** includes a person under 18 years who is, or has been, married.

**child** does not include a person under 18 years who is, or has been, married.

**21 Limit on number of name changes**

- (1) An application to register, or to note, the change of a person's name may be made only—
  - (a) for the change of a child's first names—once before the child reaches 18 years; or
  - (b) otherwise—once in every 1 year period.
- (2) However, subsection (1) does not apply if a Magistrates Court has, because of exceptional circumstances, approved the change of name.

*Example of exceptional circumstances—*

To protect the child from domestic violence.

- (3) An application under subsection (1)(a) may be made in addition to an application under section 13.<sup>8</sup>
- (4) For subsection (1)(b), the 1 year period runs from when the person's change of name was registered under this Act or under a corresponding law, whichever is later in time.

**Part 4 Reassignment of sex****22 When a sexual reassignment may be noted**

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.

**23 Application to note a reassignment of sex**

- (1) An adult may apply to note the reassignment of the adult's sex.
- (2) An application to note the reassignment of a child's sex may be made by—

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<sup>8</sup> Section 13 (Application to change child's first name within a year of birth)



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- (a) the child's parents; or
  - (b) 1 of the child's parents if—
    - (i) the other parent is dead; or
    - (ii) the other parent's whereabouts are unknown; or
    - (iii) the other parent refuses to sign the application; or
    - (iv) the other parent is, for another justifiable reason, unable to apply; or
  - (c) the child's guardians.
- (3) Despite subsection (2), the registrar must accept an application to note the reassignment of a child's sex if a Magistrates Court, on the application of a parent or guardian of the child, orders the registrar to do so.
- (4) The application must be—
- (a) in the approved form; and
  - (b) accompanied by—
    - (i) statutory declarations, by 2 doctors, verifying that the person the subject of the application has undergone sexual reassignment surgery; or
    - (ii) a recognition certificate;<sup>9</sup> and
  - (c) accompanied by other information prescribed under a regulation; and
  - (d) accompanied by other documents prescribed under a regulation.
- (5) For subsection (4)(b), a statutory declaration made by a doctor in another country may be sworn before a notary public in the other country.
- (6) In this section—
- doctor*** includes a person registered as a medical practitioner under a law of another State or country corresponding to the *Medical Practitioners Registration Act 2001*.

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<sup>9</sup> See the dictionary for the definition of a *recognition certificate*.

**24 Effect of reassignment of sex**

- (1) A person who has had the reassignment of the person's sex entered into a register maintained under a corresponding law is a person of the sex as reassigned.
- (2) A person who is the subject of a recognition certificate is a person of the sex stated in the recognition certificate.
- (3) However, the person must comply with section 23<sup>10</sup> for the reassignment of the person's sex to be noted under this Act.
- (4) If the reassignment of a person's sex is noted under this Act, the person is a person of the sex as reassigned.
- (5) A person who has an entitlement—
  - (a) under a will; or
  - (b) under a trust; or
  - (c) otherwise by operation of law;does not, except as otherwise provided under the will, the trust or by the law conferring the entitlement, lose the entitlement only because the reassignment of the person's sex has been noted.
- (6) In this section—  
*entitlement* includes a right.

**Part 5 Marriages****25 Marriages that are registrable**

- (1) A marriage solemnised in Queensland must be registered under this Act.
- (2) A person may have a marriage registered by giving the registrar—
  - (a) the marriage certificate; or

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<sup>10</sup> Section 23 (Application to note a reassignment of sex)

- (b) if the marriage was solemnised before the commencement of the *Marriage Act 1961* (Cwlth)—evidence of the marriage required by the registrar.
- (3) A marriage is taken to be solemnised in Queensland if—
  - (a) it is solemnised on a vessel; and
  - (b) the vessel goes to the place where the marriage is solemnised from a port in Queensland, without stopping at a port that is not in Queensland; and
  - (c) after the marriage is solemnised, the vessel returns to a port in Queensland, without stopping at a port that is not in Queensland.
- (4) The registrar may require a person giving a marriage certificate under subsection (2)(a) to also give it electronically, if it is reasonably practicable for the person to do so.

## **Part 6                      Deaths**

### **26        Deaths that must be registered in Queensland**

- (1) The death of a person must be registered under this Act if—
  - (a) the person dies in Queensland; or
  - (b) a Queensland court, other than the Coroners Court—
    - (i) finds—
      - (A) that the death happened in Queensland; and
      - (B) the name of the person; and
      - (C) the date or approximate date of the person's death; and
    - (ii) makes an order that—
      - (A) directs that the death be registered; and

- (B) states the findings mentioned in paragraph (b)(i) and any other particulars about the death prescribed under a regulation; or
- (c) a coroner finds—
  - (i) that the death happened in Queensland; and
  - (ii) the name of the person; and
  - (iii) the date or approximate date of the person's death.

(2) In this section—

**coroner** means a coroner under the *Coroners Act 1958* or the *Coroners Act 2003*.

**Coroners Court** means the Coroners Court under the *Coroners Act 1958* or the *Coroners Act 2003*.

**person** includes a stillborn child born after 30 April 1989.

## 27 Deaths that may be registered in Queensland

- (1) The death of a person may be registered under this Act if—
  - (a) the person dies in an aircraft or vessel, or in waters, outside Queensland; and
  - (b) the person's body is not, between the time when the person dies and when the person's body arrives in Queensland, taken to a place outside Queensland.

*Example—*

A person dies on a ship travelling non-stop from Sydney to Tokyo. The person's body is taken by helicopter from the ship to a mortuary in Brisbane. The death may be registered in Queensland.

- (2) The death of a person outside Australia may be registered under this Act if the person—
  - (a) ordinarily resided in Queensland; or
  - (b) died leaving real property in Queensland.
- (2A) The death of a person may be registered under this Act if a Queensland court or a coroner finds, or has found—
  - (a) that the death happened but is, or was, unable to find where the person died; and

- (b) the name of the person; and
  - (c) the date or approximate date of the person's death.
- (3) The death of a person may be registered under this Act if a non-Queensland court or a non-Queensland coroner finds—
- (a) that the death happened in Queensland; and
  - (b) the name of the person; and
  - (c) the date or approximate date of the person's death.
- (4) The death of a stillborn child born in Queensland before 1 May 1989 may be registered under this Act if, at the same time, the registrar is able to register the birth of the child.
- (5) The registrar must not register under this section a death that has been registered in another State or country.
- (6) In this section—

*coroner* means a coroner under the *Coroners Act 1958* or the *Coroners Act 2003*.

*place* does not include an aircraft or vessel.

## **28 Responsibility to apply to have death registered**

- (1) If the death of a person must be registered in Queensland, a spouse or relative of the deceased person must apply to register the death, unless the spouse or relative has a reasonable excuse.

Maximum penalty—20 penalty units.

- (2) If the registrar does not receive an application under subsection (1), the registrar may require 1 of the following persons to apply to register the death—
- (a) the person in charge of the place where the person died;
  - (b) the person finding the body;
  - (c) the person arranging for the disposal of the deceased person's body.

*Example of a place mentioned in subsection (2)(a)—*

A hospital or nursing home.

*Example of a person mentioned in subsection (2)(c)—*

A personal representative or funeral director.

- (3) A person must comply with the registrar's requirement, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (4) A person does not commit an offence against subsection (1) if someone else has applied to register the death.

- (5) In this section—

*disposal* includes giving the body to a school of anatomy.

*relative* includes a relative by marriage.

## **29 How to apply to register the death of a person**

- (1) An application to register the death of a person must be in the approved form (a *death registration application*).
- (2) The application must be given to the registrar within 14 days after the death, or the death is discovered, whichever happens later.
- (3) However, the registrar may accept an application given more than 14 days after the death, or the death is discovered, if satisfied the death happened.
- (4) Also, the parent of a stillborn child born before 1 May 1989 may give the registrar a death registration application for the child at any time.<sup>11</sup>
- (5) The registrar may require a person giving an application to give it electronically, if it is reasonably practicable for the person to do so.

## **30 Cause of death certificate**

- (1) This section applies if—
- (a) a doctor—
- (i) for a stillborn child—

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<sup>11</sup> Also see section 7 (Births that may be registered in Queensland) for the requirement to register the birth.

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- (A) was present at the stillbirth; or
- (B) examined the stillborn child's body; or
- (ii) for any other deceased person—
  - (A) attended the deceased person when the person was alive; or
  - (B) examined the deceased person's body; or
  - (C) has considered information about the deceased person's medical history and the circumstances of the deceased person's death; and
- (b) the doctor is able to form an opinion as to the probable cause of death.

*Examples of subsection (1)(a)(ii)(C)—*

- 1 A doctor may consider information about the deceased person's medical history by examining the records of, or speaking to, another doctor who attended the deceased person when the person was alive.
  - 2 A doctor may be able to consider information about the circumstances of the deceased person's death by speaking to someone who was with the deceased when the deceased person died or who discovered the deceased person's body.
- (2) Subject to the *Coroners Act 2003*, section 26(5),<sup>12</sup> the doctor must—
    - (a) complete a certificate, in the approved form, (***cause of death certificate***) for the deceased person; and
    - (b) give the original certificate to the person who is arranging for the disposal of the deceased person's body or to the registrar; and

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<sup>12</sup> The *Coroners Act 2003*, section 26(5), provides that a doctor must not issue a cause of death certificate for a person if—

- (a) the death appears to the doctor to be a reportable death, unless a coroner advises the doctor that the death is not a reportable death; or
- (b) a coroner is investigating the death, unless the coroner authorises the issue of the certificate.

- (c) give a copy of the certificate to the person who is arranging for the disposal of the deceased person's body.
- (3) For subsection (2), a person who is arranging for the disposal of the deceased person's body includes a school of anatomy that is holding the body.
- (4) The doctor must comply with subsection (2) within 2 working days of the person's death or when the person's body is found, whichever is the later.
- (5) However, a doctor need not comply with subsection (2) if another doctor has complied with subsection (2).
- (6) A doctor must not charge a person for a cause of death certificate.
- (7) If a doctor reasonably suspects that the doctor, or the doctor's spouse, may receive a benefit because of a person's death, the doctor must not issue a cause of death certificate for the person.

Maximum penalty—120 penalty units.

- (8) 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.
- (9) Despite subsection (4) or (8), the registrar may accept a cause of death certificate given to the registrar at any time.
- (10) In this section—

***benefit***—

- (a) includes—
  - (i) a payment under a life insurance policy; and
  - (ii) property under a will; and
  - (iii) property under an intestate distribution; but
- (b) does not include fees payable for professional services.

***doctor*** includes a person registered as a medical practitioner under a law of another State or country corresponding to the *Medical Practitioners Registration Act 2001*.

***person*** includes a stillborn child born after 30 April 1989.



**31 Court order relating to registration of death**

- (1) The District Court, on application by an interested person or on its own initiative, may order the registrar to—
  - (a) register the death of a person who died in Queensland; or
  - (b) include or correct application information about a person's death in the register of deaths.
- (2) However, a person must not apply for an order under subsection (1) if the person has appealed to the District Court under section 49<sup>13</sup> in relation to the same matter.
- (3) An order under subsection (1)(a) must state—
  - (a) that the death happened in Queensland; and
  - (b) the name of the person; and
  - (c) the date or approximate date of the person's death; and
  - (d) any other particulars about the death prescribed under a regulation.

**32 Notifying about disposal of a deceased person's body**

- (1) This section does not apply to—
  - (a) a school of anatomy when disposing of a human body that was given to it;<sup>14</sup> or
  - (b) the disposal of parts of a human body taken during a medical procedure or autopsy.
- (2) A person who arranges the disposal of a human body must give the registrar notice, in the approved form, within 7 days after the disposal.  
Maximum penalty—20 penalty units.
- (3) A person who arranges for the body of a deceased person to be moved outside Queensland must give the registrar notice in the approved form before moving the body outside Queensland.

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13 Section 49 (Appealing registrar's decisions)

14 However, see section 41(6) (Registering events in register).

Maximum penalty—20 penalty units.

- (4) Subsections (2) and (3) apply even if a coroner has made—
- (a) an order for removal of the body out of the State under the *Coroners Act 1958*, section 20; or
  - (b) an order for burial or a certificate for cremation under the *Coroners Act 1958*, section 23; or
  - (c) an order releasing the body for burial, or for release of the body to another jurisdiction, under the *Coroners Act 2003*, section 26.
- (5) If the body of a deceased person has not been disposed of within 30 days after—
- (a) a cause of death certificate is issued; or
  - (b) the coroner made—
    - (i) an order for removal of the body out of the State under the *Coroners Act 1958*, section 20; or
    - (ii) an order for burial or a certificate for cremation under the *Coroners Act 1958*, section 23; or
    - (iii) an order releasing the body for burial, or for release of the body to another jurisdiction, under the *Coroners Act 2003*, section 26;

the person who possesses the body must immediately give the registrar notice in the approved form.

Maximum penalty—20 penalty units.

- (6) The registrar may accept a notice under subsection (2), (3) or (5) at any time.
- (7) In this section—

**coroner** means a coroner under the *Coroners Act 1958* or the *Coroners Act 2003*.

### 33 Stillbirths

For this Act, a stillborn child is taken to have died—

- (a) when the child left the mother's body; and

- (b) at the place where the mother was when the child left the mother's body.

## **Part 7 Administration**

### **34 The registrar**

- (1) The Governor in Council must appoint a registrar-general (the *registrar*).
- (2) The registrar's functions are—
  - (a) to establish the registers for this Act; and
  - (b) to administer this Act in an efficient, effective and economical way; and
  - (c) the functions given under this or another Act.
- (3) The registrar has the powers reasonably necessary to perform the registrar's functions.

### **35 The deputy registrar**

- (1) The Governor in Council must appoint a deputy registrar-general (the *deputy registrar*).
- (2) The deputy registrar has the same functions and powers as the registrar, but is subject to the registrar's direction.
- (3) The deputy registrar may act as the registrar when the registrar is temporarily unavailable for any reason to perform the registrar's functions.

### **36 Staff**

The registrar's staff is to consist of the staff that are necessary for the proper administration of this Act.

**37 Delegation**

(1) The registrar may delegate any of the registrar's powers under this or another Act, other than this power of delegation, to an appropriately qualified person.

(2) In this section—

*appropriately qualified*, in relation to the exercise of a power, includes having the qualifications, experience or standing appropriate to exercise the power.

*Example of standing—*

The level at which a person is employed by an entity.

**38 Executing documents**

(1) The registrar is to have 1 or more seals.

(2) A certificate or other document issued by or for the registrar must be issued with—

(a) the imprint of 1 of the registrar's seals; and

(b) the signature, or a facsimile of a signature, of the registrar or the registrar's delegate.

(3) 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.

(4) In this section—

*court* includes an administrative authority or official.

**39 Reciprocal administrative arrangements**

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

(a) the exercise by the registrar of powers and functions of the registering authority under the corresponding law; and

- (b) the exercise by the registering authority under the corresponding law of powers and functions of the registrar under this Act.
- (2) When an arrangement is in force under this section—
    - (a) the registrar may exercise, to the extent authorised by the arrangement, but subject to the conditions of the arrangement, the powers and functions of the registering authority under the corresponding law; and
    - (b) the registering authority under the corresponding law may exercise, to the extent authorised by the arrangement, but subject to the conditions of the arrangement, the powers and functions of the registrar under this Act.
  - (3) An arrangement under this section may—
    - (a) establish a database in which information is recorded for the benefit of all the participants in the arrangement; and
    - (b) provide for access to information contained in the database; and
    - (c) provide for payments by or to participants in the arrangement for services provided under the arrangement.

## **40 The registers**

- (1) The registrar must maintain a register for each type of registrable event.
- (2) A register may be wholly or partly—
  - (a) in the form of a computer database; or
  - (b) in documentary form; or
  - (c) in another form the registrar considers appropriate.
- (3) The registrar must maintain the indexes to a register that are necessary to make the information in the register reasonably accessible.

**41 Registering events in register**

- (1) The registrar must register a registrable event if—
  - (a) the registrable event is an event that must be registered under this Act; and
  - (b) the registrar receives—
    - (i) an application for registration of the event that contains all the information prescribed under a regulation for the event (the *application information*); and
    - (ii) the documents prescribed under a regulation; and
    - (iii) for the registration of a marriage—the certificate or evidence mentioned in section 25(2); and
  - (c) the registrar reasonably believes the application information, and information in the prescribed documents, is correct.
- (2) The registrar may require a person who is applying for registration to give the registrar—
  - (a) evidence to support the application; or
  - (b) information prescribed under a regulation; or
  - (c) documents prescribed under a regulation.

*Example—*

The registrar may require the person to provide a statutory declaration attesting to the particulars contained in the application.

- (3) The registrar may register a registrable event even though—
  - (a) the application for registration does not contain all the application information; or
  - (b) the application was not accompanied by the prescribed information or documents; or
  - (c) for a death—the death is still being investigated by a coroner under the *Coroners Act 1958* or the *Coroners Act 2003*.
- (4) The registrar registers an event by—
  - (a) for any type of registrable event—entering the application information that is necessary for the register,

- and any other information prescribed under a regulation, for the event in the register for that type of event; or
- (b) for a marriage—incorporating the marriage certificate into the register.
- (5) When registering an event, the registrar must not enter the following into the register—
- (a) the word ‘illegitimate’ or words to that effect;
- (b) the word ‘suicide’ or words to that effect.
- (6) If a school of anatomy receives the body of a deceased person under the *Transplantation and Anatomy Act 1979*, part 5,<sup>15</sup> the person in charge of the school of anatomy must give the registrar written notice that the body has been received for anatomical purposes.
- (7) The registrar may enter the information contained in the notice in the register for the death.
- (8) If the registrar receives a coroner’s notice in relation to the death of a person, the registrar may enter the information contained in the notice in the register for the death.
- (9) If the registrar receives a notice or certificate under this or another Act, the registrar may enter the information contained in the notice or certificate in the relevant register.
- (10) In this section—
- coroner’s notice*** means an order or notice under the *Coroners Act 2003*, section 97.

## 42 Correcting the register

- (1) The registrar must correct a register—
- (a) on the order of a Queensland court; or
- (b) on the application of the chief executive (corrective services) under the *Corrective Services Act 2006*, section 27(4).
- (2) The registrar may correct a register—

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<sup>15</sup> *Transplantation and Anatomy Act 1979*, part 5 (Donations for anatomical purposes)

- (a) on the order of a non-Queensland court; or
- (b) to reflect a finding made on inquiry under section 43; or
- (c) on the application, in the prescribed form, of a person who can provide correct information to the registrar; or
- (d) to ensure the particulars in an entry about a registrable event conform with the most reliable information about the registrable event that is available to the registrar.

*Example of paragraph (a)—*

The registrar might correct a register if a Commonwealth court found that a particular person was the parent of a child.

- (3) The registrar may correct a register—
  - (a) by adding, or cancelling, an entry in the register; or
  - (b) by adding, amending or deleting particulars in an entry in the register.
- (4) The registrar need not correct a register in relation to historical information.
- (5) A certificate from an entry that contains corrected information must show the most recent information.
- (6) However, the certificate may also show information that has been corrected if the registrar considers it necessary.

### **43 Inquiry to ensure register correct**

- (1) The registrar may conduct an inquiry to find out—
  - (a) whether a registrable event has happened; or
  - (b) particulars of a registrable event; or
  - (c) whether particulars of a particular registrable event have been correctly recorded in a register.
- (2) The registrar may, by notice given to a person who may be able to provide information relevant to an inquiry under this section, require the person to answer specified questions or to provide other information within a time and in a way specified in the notice.



- (3) The person must comply with the notice unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (4) In this section—

***registrable event*** includes any event for which the registrar may be required, under this Act, to record or note in a register.

#### **44 Obtaining information from the registrar**

- (1) A person or other entity may apply to the registrar, in writing, for—
- (a) a certificate or information about an event that is, or may be, in a register kept by the registrar; or
  - (b) a copy of a document given to the registrar in relation to the registration or notation of an event in a register kept by the registrar (a ***source document***), other than a source document prescribed under a regulation.
- (2) Unless the application relates to historical information, the registrar may refuse the application if the applicant does not have an adequate reason for obtaining the certificate, information or source document.
- (3) In deciding whether an applicant has an adequate reason for obtaining the certificate, information or source document, 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 reason that the applicant wants the information; and
  - (c) the use to be made of the information; and
  - (d) the age of the entry; and
  - (e) the contents of the entry or source document; and
  - (f) the sensitivity of the information; and
  - (g) any other relevant factors.
- (4) If the applicant is not the person who created the source document, the registrar may give the applicant a copy of the source document with information obliterated.

- (5) A certificate must state—
- (a) the information prescribed under a regulation that is in the register for a stated registrable event; or
  - (b) that no entry was located in the register about the stated registrable event.
- (5A) Despite subsection (5)(a), a certificate need not state a person's residential address if the person has satisfied the registrar that, because of exceptional circumstances, the person's residential address should not be disclosed on the certificate.

*Examples of exceptional circumstances—*

- 1 The person is protected by a domestic violence order made under the *Domestic and Family Violence Protection Act 1989* or an interstate order as defined under that Act.
  - 2 The person indicates that giving the information may put the person's life at risk.
- (6) A certificate, other than a certificate containing historical information, must not contain—
- (a) the word 'illegitimate' or words to that effect; or
  - (b) the word 'suicide' or words to that effect; or
  - (c) information prescribed under a regulation.<sup>16</sup>
- (7) A certificate is admissible in proceedings as evidence of its contents.
- (8) A copy of a source document is not admissible in proceedings as evidence of its contents.
- (9) If an application relates to historical information, the application may be made by electronic means.
- (10) For the *Constitution of Queensland 2001*, section 52,<sup>17</sup> issuing a commemorative certificate is a commercial activity.
- (11) In this section—

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<sup>16</sup> Also see the *Corrective Services Act 2006*, section 25 (Registration of birth) for other information that must not be contained on a certificate.

<sup>17</sup> *Constitution of Queensland 2001*, section 52 (Definitions for div 2)

*commemorative certificate* means a certificate that is more decorative than another certificate.

#### **45 Information policies**

- (1) The registrar may allow an entity to obtain information contained in a register other than under section 44.
- (2) The registrar must maintain a written statement of the policies relating to who may obtain—
  - (a) information under subsection (1); or
  - (b) a certificate or information under section 44.
- (3) The registrar must give a copy of the statement to any person who asks for it.
- (4) However, subsection (3) does not apply to a statement if the registrar reasonably believes withholding the statement is necessary—
  - (a) to protect the persons for whom the registrar keeps information from unjustified intrusion on their privacy; or
  - (b) to prevent information mentioned in subsection (1) being obtained fraudulently or improperly.

#### **46 Protection of privacy**

- (1) This section applies if the registrar gives an entity, or allows an entity to obtain, information contained in a register.
- (2) The registrar must, as far as practicable, protect the persons to whom the information relates from unjustified intrusion on their privacy.
- (3) For this purpose, the registrar may impose conditions when giving someone information, or access to information, contained in a register.

**47 Control of records**

Despite the *Public Records Act 2002*, the registrar is to retain control over access to any information supplied or records maintained under this Act.

**48 Additional services**

- (1) Subject to section 46, the registrar may enter into an arrangement with an entity for the provision of information in a register that is in the public interest, including information in bulk or historical or genealogical information.

*Examples of a person who the registrar may enter into an arrangement with—*

A department, or non-profit organisation, conducting medical research.

- (2) If the registrar enters into an arrangement, the registrar may charge a fee for the service that is not more than the actual cost of providing the service.

**48A Registrar to give notice of registration of child death to commissioner**

- (1) This section applies if the registrar registers the death of a child, other than a stillborn child.
- (2) The registrar must give notice of the registration to—
  - (a) the commissioner; and
  - (b) the chief executive (child safety).
- (3) The notice must include the following information, to the extent it is known to the registrar—
  - (a) for the notice to the commissioner—
    - (i) the registration number for the registration; and
    - (ii) the child's name; and
    - (iii) the child's place of birth; and
    - (iv) the child's usual place of residence; and
    - (v) the child's age; and
    - (vi) the child's sex; and

*Births, Deaths and Marriages Registration Act 2003*

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- (vii) the child's occupation, if any;
  - (viii) the duration of the last illness, if any, had by the child; and
  - (ix) the date and place of death; and
  - (x) the cause of death;
- (b) for the notice to the chief executive (child safety)—
- (i) the child's name; and
  - (ii) the child's date and place of birth; and
  - (iii) the child's usual place of residence; and
  - (iv) the date and place of death; and
  - (v) the cause of death.
- (4) To the extent that it is practicable to do so, the registrar must give the notice within 30 days after registering the death.
- (5) In this section—
- chief executive (child safety)*** means the chief executive of the department in which the *Child Protection Act 1999* is administered.

**48B Registrar may enter into arrangement with commissioner**

- (1) The registrar may enter into an arrangement with the commissioner about providing to the commissioner information from a register or a source document, or providing to the commissioner a copy of a source document, about—
- (a) the births of children, whether particular children, children of a class or children generally; or
  - (b) the deaths of children, whether particular children, children of a class or children generally.
- (2) The registrar may provide information or a copy of a source document to the commissioner under the arrangement.
- (3) The registrar and the commissioner must, as far as practicable having regard to the commissioner's child death research functions, protect the persons to whom the information or

source document relates from unjustified intrusion on their privacy.

- (4) If the registrar enters into an arrangement with the commissioner, the registrar may charge a fee for the service that is not more than the actual cost of providing the service.
- (5) This section applies despite sections 44 to 46 and 48.
- (6) In this section—

***child death research functions***, for the commissioner, means the functions set out in the *Commission for Children and Young People and Child Guardian Act 2000*, part 4A, division 2.

***source document*** has the same meaning as in section 44(1)(b) but does not include a source document prescribed under a regulation for that paragraph.

#### **48C Registrar may enter into arrangement with commission**

- (1) The registrar may enter into an arrangement with the commission about providing to the commission information from a register or a source document, or providing to the commission a copy of a source document, about the death of a person to which an investigation under the *Health Quality and Complaints Commission Act 2006* may be relevant.
- (2) The registrar may provide information or a copy of a source document to the commission under the arrangement.
- (3) The registrar and the commission must, as far as practicable, protect the person to whom the information or source document relates from unjustified intrusion on the person's privacy.
- (4) If the registrar enters into an arrangement with the commission, the registrar may charge a fee for the service that is not more than the actual cost of providing the service.
- (5) This section applies despite sections 44 to 46 and 48.
- (6) In this section—

***commission***, means the Health Quality and Complaints Commission established under the *Health Quality and Complaints Commission Act 2006*.

*source document* has the same meaning as in section 44(1)(b) but does not include a source document prescribed under a regulation for that paragraph.

## **Part 8                      General**

### **49      Appealing registrar's decisions**

- (1) A person who is dissatisfied with a decision of the registrar may appeal to the District Court.
- (2) The District Court may—
  - (a) confirm, amend or reverse the registrar's decision; or
  - (b) make consequential and ancillary orders and directions.

### **50      False or misleading representation**

- (1) A person must not give information to a person under this Act that the person knows is false or misleading in a material particular.  
Maximum penalty—80 penalty units.
- (2) Subsection (1) does not apply to information given in a document, if the person when giving the document—
  - (a) informs the person being given the document, to the best of the person's ability, how the information is false or misleading; and
  - (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.
- (3) It is enough for a complaint against a person for an offence against subsection (1) to state that the information was 'false or misleading', without specifying whether it was false or whether it was misleading.

### **51      Unauthorised access to or interference with register**

- (1) A person must not, without lawful authority—

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

Maximum penalty—100 penalty units.

- (2) Without limiting subsection (1), a person has lawful authority to do something in that subsection if—
  - (a) the person is doing the thing to carry out a function under this or another Act; or
  - (b) the registrar has authorised the person to do the thing.

## **52 Proceedings for offences**

- (1) A proceeding for an offence against this Act is a summary proceeding under the *Justices Act 1886*.
- (2) The proceeding must start—
  - (a) within 1 year after the offence was committed; or
  - (b) within 6 months after the offence came to the complainant's knowledge, but within 2 years after the offence was committed.

## **53 False certificates**

The registrar may confiscate—

- (a) a document that the registrar reasonably believes bears a forged facsimile 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 that the registrar reasonably believes has been forged; or
- (c) 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.



**54 Protection from liability**

- (1) 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.
- (2) In particular, the registrar, the deputy registrar and the registrar's staff do not incur civil liability for information contained in a document that is obtained under section 44.<sup>18</sup>
- (3) If subsection (1) or (2) prevents civil liability attaching, the liability attaches instead to the State.

**55 Approved forms**

- (1) The chief executive may approve forms for use under this Act.
- (2) An approved form is not properly completed unless—
  - (a) the form is completed in English; and
  - (b) if a regulation prescribes particulars to be application information for the form—the form contains the prescribed particulars.

**56 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) For example, a regulation may—
  - (a) impose a penalty of not more than 20 penalty units for a contravention of a provision of a regulation; and
  - (b) prescribe information to be contained in a particular approved form, certificate, extract or register; and
  - (c) prescribe information to be contained on the registrar's seal; and
  - (d) prescribe the way in which a register is to be corrected; and
  - (e) prescribe information that a court may consider when deciding or changing a child's name; and

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18 Section 44 (Obtaining information from the registrar)

- (f) prescribe fees for this Act, including for example, a fee for the registration of information under a court order; and
- (g) prescribe an area of the State to be a registry district.

## **Part 9                      Transitional provisions**

### **Division 1                      Transitional provisions for Act No. 31 of 2003**

#### **57                      Transitional provisions**

- (1) A certificate or other document issued under the *Registration of Births, Deaths and Marriages Act 1962* is taken to have been issued under this Act.
- (2) The registers kept under the *Registration of Births, Deaths and Marriages Act 1962* form part of the registers under this Act.
- (3) The person holding office as registrar general immediately before the commencement of this Act continues as the registrar under this Act.
- (4) The person holding office as deputy registrar general immediately before the commencement of this Act continues as the deputy registrar under this Act.
- (5) The *Registration of Births, Deaths and Marriages Act 1962* continues to apply to—
  - (a) an application that was made under that Act but has not been decided before the commencement of this section; and
  - (b) a document that was lodged under that Act but has not been dealt with before the commencement of this section; and

- (c) a notation or registration that was started under that Act but has not been completed before the commencement of this section.
- (6) The *Registration of Births, Deaths and Marriages Act 1962*, sections 32, 33 and 35 continues to apply to a pre-commencement death as defined in the *Coroners Act 2003*.

## **Division 2                      Transitional provision for Justice and Other Legislation Amendment Act 2003**

### **57A      Transitional provision**

A delegation in force immediately before the commencement of the amendment of section 37<sup>19</sup> by the *Justice and Other Legislation Amendment Act 2003* continues in force after the commencement and is unaffected by the amendment.

## **Division 3                      Transitional provisions for Justice and Other Legislation Amendment Act 2007**

### **58              Definition for div 3**

In this division—

*amending Act* means the *Justice and Other Legislation Amendment Act 2007*.

### **59              Existing applications to have birth registered**

- (1) This section applies to an application to have a birth registered if, before the commencement of this section, the registrar—
  - (a) accepted the application under previous section 8(2);
  - and

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19      Section 37 (Delegation)

- (b) had not registered the birth before the commencement.
- (2) Section 8 as amended by the amending Act applies to the application.
- (3) In this section—  
*previous section 8(2)* means section 8(2) as in force before the commencement of the amending Act.

**61 Existing applications for a certificate about an event that is, or may be, in a register**

- (1) This section applies if, before the commencement of this section—
  - (a) a person or other entity applied for a certificate about an event under section 44(1); and
  - (b) the registrar had not given the certificate to the person or entity.
- (2) Section 44 as amended by the amending Act applies to the application.

## Schedule 2      Dictionary

section 4

*amending Act*, for part 9, division 3, see section 58.

*application information* see section 41.<sup>20</sup>

*autopsy* means an autopsy or post mortem under—

- (a) the *Coroners Act 1958*, the *Coroners Act 2003* or the *Transplantation and Anatomy Act 1979*; or
- (b) a law of another State or country that corresponds to an Act mentioned in paragraph (a).

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

*birth registration application* see section 9.<sup>21</sup>

*cause of death certificate* see section 30.<sup>22</sup>

*certificate* includes an extract.

*child* includes a stillborn child.

*commissioner* means the Commissioner for Children and Young People and Child Guardian appointed under the *Commission for Children and Young People and Child Guardian Act 2000*.

*coroner* means a coroner under the *Coroners Act 2003*.

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

*death registration application* means a death registration application under section 29.<sup>23</sup>

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20 Section 41 (Registering events in register)

21 Section 9 (How to apply to register the birth of a child)

22 Section 30 (Cause of death certificate)

23 Section 29 (How to apply to register the death of a person)

## Schedule 2 (continued)

**deputy registrar** see section 35(1).<sup>24</sup>

**fee** includes a tax.

**guardian** means a guardian who has been appointed under a law of a State or the Commonwealth.

**historical information** means information in a register that relates to an event that was registered before a period prescribed under a regulation.

*Example—*

A regulation may prescribe that the information in the birth register for any births that were registered more than 90 years ago is historical information.

**marriage certificate** means an official certificate of marriage under the *Marriage Act 1961* (Cwlth), section 50.<sup>25</sup>

**midwife** means a midwife within the meaning of the *Nursing Act 1992*.

**non-Queensland coroner** means a person who holds a position equivalent to a coroner in another State.

**non-Queensland court** means—

- (a) a court of another State; or
- (b) a Commonwealth court.

**person** includes a child.

**prohibited name** means a name that—

- (a) is obscene or offensive; or
- (b) could not practically 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 another reason; or

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<sup>24</sup> Section 35 (The deputy registrar)

<sup>25</sup> *Marriage Act 1961* (Cwlth), section 50 (Marriage certificates)

## Schedule 2 (continued)

- (c) includes or resembles an official title or rank; or
- (d) is, or includes, a statement; or

*Examples—*

“Save Mother Earth” or “Down with Capitalism”

- (e) is contrary to the public interest for another reason; or
- (f) a regulation states is a prohibited name.

***Queensland court*** means a court of Queensland.

***recognition certificate*** means a certificate issued under the law of another State that identifies the person who is the subject of the certificate as—

- (a) having undergone sexual reassignment surgery; and
- (b) being the sex stated in the certificate.

***register***, used as a noun, means—

- (a) a register mentioned in section 40;<sup>26</sup> and
- (b) the Adopted Children Register under the *Adoption of Children Act 1964*.

***register***, used as a verb, means to enter information about a registrable event into the register.

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

***registrable event*** means—

- (a) a birth, death, marriage or change of name; or
- (b) an adoption under the *Adoption of Children Act 1964*; or
- (c) another event for which the registrar is required, under another Act, to record in a register.

***registrar*** see section 34(1).<sup>27</sup>

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26 Section 40 (The registers)

27 Section 34 (The registrar)

## Schedule 2 (continued)

***school of anatomy*** means a school of anatomy under the *Transplantation and Anatomy Act 1979*.

***seal*** includes a stamp.

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

- (a) to help the person to be considered to be a member of the opposite sex; or
- (b) to correct or eliminate ambiguities about the sex of the person.

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

***stillborn child*** means a child—

- (a) who has shown no sign of respiration or heartbeat, or other sign of life, after completely leaving the child's mother; and
- (b) who—
  - (i) has been gestated for 20 weeks or more; or
  - (ii) weighs 400g or more.

***vessel*** includes a hovercraft.



## Endnotes

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 28 September 2007. Future amendments of the Births, Deaths and Marriages Registration Act 2003 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	2003 Act No. 77	1 February 2004	
1A	2004 Act No. 13	1 August 2004	
1B	2004 Act No. 36	27 October 2004	
1C	2004 Act No. 43	3 December 2004	
1D	2005 Act No. 70	8 December 2005	
1E	2006 Act No. 25	1 July 2006	
1F	2006 Act No. 29	28 August 2006	
1G	2007 Act No. 37	28 September 2007	

## 5 List of legislation

### **Births, Deaths and Marriages Registration Act 2003 No. 31**

date of assent 23 May 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2004 (2003 SL No. 360)

amending legislation—

### **Justice and Other Legislation Amendment Act 2003 No. 77 ss 1, 2(3), pt 7**

date of assent 6 November 2003

ss 1–2 commenced on date of assent

remaining provisions commenced 1 February 2004 (2003 SL No. 359)

### **Child Safety Legislation Amendment Act 2004 No. 13 ss 1–2(1), pt 2**

date of assent 24 June 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 1 August 2004 (2004 SL No. 141)

### **Child Safety Legislation Amendment Act (No. 2) 2004 No. 36 ss 1–2(1), pt 2**

date of assent 27 October 2004

ss 1–2 commenced on date of assent

remaining provisions commenced on date of assent (see s 2(1))

### **Justice and Other Legislation Amendment Act 2004 No. 43 pts 1, 3 s 3 sch**

date of assent 18 November 2004

ss 1–2 commenced on date of assent

remaining provisions commenced 3 December 2004 (2004 SL No. 263)

### **Justice and Other Legislation Amendment Act 2005 No. 70 s 1, pt 6**

date of assent 8 December 2005

commenced on date of assent

**Health Quality and Complaints Commission Act 2006 No. 25 ss 1–2(1), 241(1) sch 3**

date of assent 29 May 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 2006 (see s 2(1))

**Corrective Services Act 2006 No. 29 ss 1, 2(2), 518 sch 3**

date of assent 1 June 2006

ss 1–2 commenced on date of assent

remaining provisions commenced 28 August 2006 (2006 SL No. 213)

**Justice and Other Legislation Amendment Act 2007 No. 37 pts 1, 5, s 19 sch**

date of assent 29 August 2007

ss 1–2 commenced on date of assent

ss 21–22, 27 (to the extent it ins s 60) not yet proclaimed into force (see s 2)

remaining provisions commenced 28 September 2007 (2007 SL No. 241)

## 6 List of annotations

**Responsibility to apply to have birth registered**

s 8 amd 2007 No. 37 s 20

**Child's name**

s 12 amd 2003 No. 77 s 30

**Application to change child's first name within a year of birth**

s 13 amd 2003 No. 77 s 31; 2004 No. 43 s 10

**Change of name by registration**

s 15 amd 2004 No. 43 s 11

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

s 16 amd 2003 No. 77 s 32; 2004 No. 43 s 12

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

s 17 amd 2003 No. 77 s 33; 2004 No. 43 s 13

**Registration of change of name**

s 19 amd 2004 No. 43 s 14; 2005 No. 70 s 39

**Notation of change of name other than by registration**

s 20 amd 2003 No. 77 s 34; 2004 No. 43 s 15

**Limit on number of name changes**

s 21 amd 2004 No. 43 s 16

**Marriages that are registrable**

s 25 amd 2007 No. 37 s 23

**Deaths that may be registered in Queensland**

s 27 amd 2005 No. 70 s 40

**How to apply to register the death of a person**

s 29 amd 2007 No. 37 s 24

**Delegation**

s 37 amd 2003 No. 77 s 35

**Registering events in register**

s 41 amd 2004 No. 43 s 17

**Correcting the register**

s 42 amd 2006 No. 29 s 518 sch 3

**Inquiry to ensure register correct**

s 43 amd 2004 No. 43 s 18

**Obtaining information from the registrar**

s 44 amd 2003 No. 77 s 36; 2004 No. 43 s 3 sch; 2007 No. 37 s 25

**Information policies**

s 45 amd 2007 No. 37 s 26

**Registrar to give notice of registration of child death to commissioner**

s 48A ins 2004 No. 13 s 4  
amd 2004 No. 36 s 4; 2005 No. 70 s 41

**Registrar may enter into arrangement with commissioner**

s 48B ins 2004 No. 13 s 4

**Registrar may enter into arrangement with commission**

s 48C ins 2006 No. 25 s 241(1) sch 3

**PART 9—TRANSITIONAL PROVISIONS****Division 1—Transitional provisions for Act No. 31 of 2003**

div hdg ins 2007 No. 37 s 19 sch

**Transitional provisions**

s 57 prov hdg amd 2003 No. 77 s 37  
sub 2007 No. 37 s 19 sch

**Division 2—Transitional provision for Justice and Other Legislation Amendment Act 2003**

div hdg ins 2007 No. 37 s 19 sch

**Transitional provision**

prov hdg sub 2007 No. 37 s 19 sch  
s 57A ins 2003 No. 77 s 38

**PART 10—REPEAL**

pt hdg amd 2004 No. 43 s 3 sch  
om 2007 No. 37 s 27

**Division 3—Transitional provisions for Justice and Other Legislation Amendment Act 2007**

div hdg ins 2007 No. 37 s 27

**Definition for div 3**

s 58 sub 2007 No. 37 s 27  
def “amending Act” ins 2007 No. 37 s 27

**Existing applications to have birth registered**

**s 59**           prev s 59 om R1 (see RA s 40)  
                  pres s 59 ins 2007 No. 37 s 27

**Existing applications for a certificate about an event that is, or may be, in a register**

**s 61**           ins 2007 No. 37 s 27

**SCHEDULE 1—CONSEQUENTIAL AMENDMENTS**

om R1 (see RA s 40)

**SCHEDULE 2—DICTIONARY**

def “**amending Act**” ins 2007 No. 37 s 28

def “**commissioner**” ins 2004 No. 13 s 5

## **7           List of forms notified or published in the               gazette**

(The following information about forms is taken from the gazette and is included for information purposes only. Because failure by a department to notify or publish a form in the gazette does not invalidate the form, you should check with the relevant government department for the latest information about forms (see Statutory Instruments Act, section 58(8)).)

**Form 4 Version 2—Application to Register a Change of Name in the Change of Name Register**

pubd gaz 16 March 2007 p 1220