



# **Births, Deaths and Marriages Registration Act 2023**

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Queensland

# Births, Deaths and Marriages Registration Act 2023

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# Births, Deaths and Marriages Registration Act 2023

**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 2023*.

### **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, civil partnerships, adoptions, changes of name and alterations of sex; and
  - (ii) transfers of parentage under the *Surrogacy Act 2010*; and
  - (iii) transfers of parentage under the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*; and

- (iv) another matter that the registrar is required to keep information about under another Act; and
- (b) the issue of documents that acknowledge the name and sex of persons who are resident in Queensland and were born outside of Queensland; and
- (c) access, in appropriate cases, to information—
  - (i) in a register mentioned in paragraph (a); or
  - (ii) collected and maintained under section 105; and
- (d) the issue of certified and uncertified information from a register; and
- (e) 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 form required by the registrar and in an approved way, 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 birth parent, present at the birth; or
  - (iv) if the birth parent was alone at the birth—the birth parent; or
  - (v) if the birth parent 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 birth parent.
- (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).
- (5) In this section—
- midwife* means a person registered under the Health Practitioner Regulation National Law to practise in the midwifery profession, other than as a student.

## 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 by regulation.

- (2) For subsection (1)(b)(ii)(B), the Queensland court is only required to state the particulars about the birth that are available to the court at the time of making the order.
- (3) 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 by regulation.
- (4) For subsection (3)(b)(ii), the non-Queensland court is only required to state the particulars about the birth that are available to the court at the time of making the order.
- (5) 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.
- (6) The registrar must not register under this section a birth that has been registered in another State or country.
- (7) 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 other parent’s identity.
- 2 The applicant does not know the other parent’s whereabouts.

- (b) the other parent is unable, unwilling or unlikely 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.
- (3) 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.
- (4) A failure of the registrar to comply with subsection (3), or a failure of the parent of a child to sign an application as requested under subsection (3)(b), does not prevent the registration of the child's birth or affect the validity of the registration.
- (5) 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.
- (6) If the registrar does not receive an application under subsection (1), (2) or (5) 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 whom the registrar reasonably believes knows the relevant facts.
- (7) 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 a child must be—
- (a) in the form required by the registrar (a *birth registration application*); and
  - (b) made in an approved way.
- (2) The birth registration application must be given to the registrar—
- (a) in the case of a birth where variations of sex characteristics have been identified—within 180 days after the birth; or
  - (b) otherwise—within 60 days after the birth.
- (3) However, the registrar may accept a birth registration application given—
- (a) in the case of a birth mentioned in subsection (2)(a)—more than 180 days after the birth, if satisfied the birth happened; or
  - (b) in the case of a birth mentioned in subsection (2)(b)—more than 60 days after the birth, if satisfied the birth happened.
- (4) If the birth of the child is being registered under an order of a court directing the birth to be registered, the birth registration application must be accompanied by a copy of the order.
- (5) The registrar may require the applicant to give to the registrar other information the registrar believes is relevant to the birth registration application.

## **10 How births are registered**

- (1) The registrar registers the birth of a child by entering in the register of births—
  - (a) for a birth that is directed by a court to be registered—
    - (i) the particulars about the birth stated in the court's order; and
    - (ii) any other information the registrar considers appropriate to enter; or
  - (b) for another birth—
    - (i) the particulars prescribed by regulation; and
    - (ii) any other information the registrar considers appropriate to enter.
- (2) Despite subsection (1)(b)(i), the registrar may register the birth of a child even though some or all of the particulars mentioned in subsection (1)(b)(i) for the birth are not available to the registrar.

## **11 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 26 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 a 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, for another justifiable reason, unable to sign; or
  - (b) the registrar is satisfied that the 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) 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 26.

## **12 How parentage details may be registered**

- (1) In relation to the registration of a relevant event for a child—
  - (a) each of the child’s parents may be registered as the child’s—
    - (i) mother; or
    - (ii) father; or
    - (iii) parent; and
  - (b) not more than 2 people in total may be registered as the child’s parents (however described).

(2) In this section—

***final adoption discharge order*** means—

- (a) an order for the discharge of a final adoption order under the *Adoption Act 2009*; or
- (b) an order of another Australian jurisdiction that corresponds to an order mentioned in paragraph (a).

***relevant event***, for a child, means—

- (a) the child's birth; or
- (b) the child's adoption; or
- (c) the child's transfer of parentage under—
  - (i) a parentage order or parentage discharge order; or
  - (ii) a final adoption discharge order; or
  - (iii) a cultural recognition order or the discharge of a cultural recognition order.

### **13 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 particulars about a child's birth, other than the child's name, in the register of births.

(2) However, a person may not apply for an order under subsection (1) if the person has, under section 124, applied to QCAT for a review of a decision of the registrar in relation to the same matter.

(3) In this section—

***court*** means—

- (a) for particulars about a child's parentage—the Supreme Court; or
- (b) otherwise—the District Court.

## 14 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) Subsection (4) applies 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.
- (4) The registrar may choose a name for the child and enter it in the register.
- (5) 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.
- (6) 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.
- (7) Before entering a name in the register for a child under subsection (4), the registrar must give the applicants at least 14 days written notice of the registrar's intention to do so.
- (8) 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.
- (9) The Magistrates Court may—
  - (a) choose a name for the child, other than a prohibited name, that is in the child's best interests; and

- (b) order that the name be entered in the register of births for the child.

## **15 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 to register a change of the child's first name.
- (3) However, 1 of the parents may apply to register a change of the child's first name if—
  - (a) the parent is the only parent of the child entered in the relevant child register; or
  - (b) the other parent is dead and there is no other person with parental responsibility for the child; or
  - (c) the parent has sole parental responsibility, under a parenting order made under the *Family Law Act 1975* (Cwlth), part VII, to make decisions about—
    - (i) major long-term issues for the child; or
    - (ii) the child's name; or
  - (d) a Magistrates Court approves the change of name under section 16.
- (4) A person may apply to register a change of the child's first name if—
  - (a) circumstances stated in column 1 of the table in schedule 1, part 1 apply to the person in relation to the child; and
  - (b) the person is a person mentioned in column 2 of the table opposite those circumstances.
- (5) Two or more persons may apply to register a change of the child's first name if—

- (a) circumstances stated in column 1 of the table in schedule 1, part 2 apply to the persons in relation to the child; and
  - (b) the persons are persons mentioned in column 2 of the table opposite those circumstances.
- (6) An application made under this section—
- (a) must be in the form required by the registrar and made in an approved way; and
  - (b) must be accompanied by the fee prescribed by regulation; and
  - (c) may be made only once and within a year of the child's birth.
- (7) The registrar may register, or refuse to register, a change of a child's first name.
- (8) The registrar must refuse to register a change of a child's first name to a prohibited name.
- (9) Before registering a change of a child's first name the registrar may require the applicant to provide evidence to satisfy the registrar of the applicant's identity.
- (10) In this section—
- register a change*, of a child's first name, means register a change of the child's first name in the relevant child register.

## 16 Magistrates Court may approve change of child's first name

A Magistrates Court may, on application by an eligible person for a child whose birth or adoption was registered in Queensland, make an order approving a proposed change of first name for the child if—

- (a) the name is not a prohibited name; and
- (b) the court is satisfied that the change is in the child's best interests.

## Part 3                      Adoptions and transfers of parentage

### Division 1                Preliminary

#### 17        Definitions for part

In this part—

*relevant parentage register*—

- (a) for an event that is an adoption or a discharge of an adoption—means the adopted children register; or
- (b) for an event that is a transfer of parentage under a cultural recognition order or a discharge of a transfer of parentage under a cultural recognition order—means the cultural recognition register; or
- (c) for an event that is a transfer of parentage under a parentage order or a discharge of parentage under a parentage order—means the parentage order register.

*State* includes New Zealand.

### Division 2                Registrar receives initial notice or initial order

#### 18        Application of division

- (1) This division applies if—
  - (a) the registrar receives, under the *Adoption Act 2009*, section 289, a notice (an *initial notice*) of the making of a final adoption order; or
  - (b) the registrar receives, under the *Adoption Act 2009*, section 290B, a notice (also an *initial notice*) to record an adoption granted in another country.

- (2) This division also applies if—
- (a) the registrar receives—
    - (i) an order (an *initial order*) of another jurisdiction that corresponds to a final adoption order; or
    - (ii) a notice (also an *initial notice*) of the making of an order, that corresponds to a final adoption order, of another State; and
  - (b) the order relates to a person whose birth or previous adoption is registered in Queensland.
- (3) This division also applies if—
- (a) a parentage order (also an *initial order*) is made in relation to a child whose birth was registered in Queensland; and
  - (b) the registrar receives—
    - (i) an application to register the initial order accompanied by the fee prescribed by regulation; and
    - (ii) an original copy of the initial order.
- (4) This division further applies if—
- (a) a cultural recognition order (also an *initial order*) is made in relation to a person whose birth was registered in Queensland; and
  - (b) the registrar receives a copy of the initial order from the commissioner.
- (5) In this section—

**commissioner** means the person appointed as commissioner under the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*.

## 19 Registering event in relevant parentage register

- (1) The registrar must register the event to which the initial notice or initial order relates by incorporating the initial notice or initial order into the relevant parentage register for the event.
- (2) If the registrar receives an original copy of an initial order mentioned in section 18(3)(a), the registrar must also incorporate into the parentage order register information from the application mentioned in section 18(3)(b)(i).
- (3) The registrar must close the person's birth entry and any previous entry in the adopted children register by—
  - (a) noting on the birth entry or previous entry in the adopted children register (each of which is a *closed entry*) a reference to the registration mentioned in subsection (1); and
  - (b) noting on the relevant parentage register for the event a reference to the closed entry or entries.

## Division 3 Registrar receives discharge notice or discharge order

### 20 Application of division

- (1) This division applies if the registrar receives, under the *Adoption Act 2009*, section 289, a notice (a *discharge notice*) of the making of an order of the Supreme Court discharging a final adoption order.
- (2) This division also applies if—
  - (a) the registrar receives—
    - (i) an order (a *discharge order*) of another jurisdiction that corresponds to an order mentioned in subsection (1); or



- (ii) a notice (also a ***discharge notice***) of the making of an order, that corresponds to an order mentioned in subsection (1), of another State; and
  - (b) the order relates to a person with an entry in the adopted children register.
- (3) This division also applies if—
  - (a) the registrar has registered a parentage order about a person under section 19; and
  - (b) a parentage discharge order (also a ***discharge order***) is made discharging the parentage order; and
  - (c) the registrar receives—
    - (i) an application to register the discharge order accompanied by the fee prescribed by regulation; and
    - (ii) an original copy of the discharge order.
- (4) This division further applies if—
  - (a) the registrar has registered a cultural recognition order about a person under section 19; and
  - (b) a discharge order, within the meaning of the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*, schedule 1 (also a ***discharge order***), is made discharging the cultural recognition order; and
  - (c) the registrar receives—
    - (i) an application to register the discharge order; and
    - (ii) an original copy of the discharge order under the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*, section 79.

## 21 Re-registering birth

- (1) The registrar must re-register the person's birth by making a new entry in the birth register that includes—
  - (a) the person's names as declared in the discharge order or discharge notice; and
  - (b) all of the information that was in the entry closed under section 19(3) other than information about the making or discharge of the initial order or the order to which the initial notice relates; and
  - (c) a note that the new entry was made under this section; and
  - (d) a reference to the entry closed under subsection (3).
- (2) The registrar must note on the entry closed under section 19(3)—
  - (a) that the person's birth has been re-registered under this section; and
  - (b) a reference to the new entry made under subsection (1).
- (3) The registrar must close the entry in the relevant parentage register that was made to register the initial order or order to which the initial notice relates by—
  - (a) incorporating, in the entry, the discharge notice or discharge order; and
  - (b) noting on the entry—
    - (i) that the initial order or order to which the initial notice relates has been discharged; and
    - (ii) that the person's birth has been re-registered under this section; and
    - (iii) a reference to the new entry made under subsection (1).
- (4) If the registrar receives an original copy of a discharge order mentioned in section 20(3)(b), the registrar must also

incorporate information from the application mentioned in section 20(3)(c)(i) into the parentage order register.

- (5) If the registrar receives an original copy of a discharge order mentioned in section 20(4)(b), the registrar must also incorporate information from the application mentioned in section 20(4)(c)(i) into the cultural recognition register.
- (6) The registrar may make any other notations in the register that the registrar considers necessary to ensure the register includes the correct information for the person.

## Division 4                      Other provisions

### 22                      **Sending notice of particular adoption orders and discharges to other States**

- (1) This section applies if—
  - (a) the registrar receives, under the *Adoption Act 2009*, section 289, a notice of a final adoption order or an order discharging a final adoption order; and
  - (b) the registrar knows or suspects there is an entry for the adopted person’s birth or adoption in a register kept under a law of another State.
- (2) The registrar must give a notice of the making of the order to the appropriate officer in that State with responsibility for keeping the register.

### 23                      **Addendum to birth certificate**

- (1) This section applies if—
  - (a) a person (the *applicant*)—
    - (i) applies to the registrar, in the form required by the registrar and in an approved way, for requested information or a certificate about an entry for the person in the birth register; and

- (ii) is at least 18 years at the time of making the application; and
  - (b) a parentage order in relation to the applicant was registered in the parentage order register under section 19 (even if the entry in the parentage order register was later closed under section 21); and
  - (c) the registrar gives the requested information or issues the certificate to the applicant.
- (2) The registrar must attach an addendum to the information or certificate stating that further information is available about the entry.
- (3) To remove any doubt, it is declared that the registrar must not issue the addendum to any person other than the applicant.

## Part 4                      Change of name

### Division 1                Preliminary

#### 24        Definitions for part

In this part—

*adult person* 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.

#### 25        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.

*Note—*

See also sections 19 and 21 for changes to a person's name under a parentage order, parentage discharge order, cultural recognition order or discharge of a cultural recognition order.

- (2) It is no longer possible in Queensland to change a person's name by deed poll.
- (3) However, this part does not prevent the change of a person's name by repute or usage.

## **Division 2                    Change of adult person's name**

### **26            Application to register change of adult person's name**

- (1) An adult person may apply to register a change of the person's name only if—
  - (a) the person's birth or adoption was registered in Queensland; or
  - (b) both of the following apply—
    - (i) the person was born outside Australia and the person's birth was not registered in another State; and
    - (ii) the person has been ordinarily resident in Queensland for at least 12 consecutive months immediately before the person makes the application.
- (2) Despite any restriction in subsection (1), the registrar may accept an application to register a change of an adult person's name if the registrar is satisfied there are exceptional circumstances for accepting the application.
- (3) Despite any restriction in subsection (1)(b)(ii), the registrar may accept an application to register a change of an adult person's name if—
  - (a) the application relates to a marriage or divorce of the person; or

- (b) the registrar is satisfied the application is for the purpose of protecting the person, a child of the person or another person associated with the person.

*Example for paragraph (b)—*

The application is for the purpose of protecting the adult person or a child of the adult person from domestic violence.

- (4) An application made under this section must be—
  - (a) in the form required by the registrar and made in an approved way; and
  - (b) accompanied by the fee prescribed by regulation.
- (5) In this section—

***register a change***, of an adult person's name, means register a change of the person's name in the change of name register.

## **27 Limit on number of name changes for adult person**

- (1) The registrar must not approve an application to register a change of name for an adult person if the registrar is aware that—
  - (a) 3 or more changes of the person's name have been registered in Queensland or another State; or
  - (b) the person has had a change of name registered in Queensland or another State in the 12 months immediately before the person makes the application.
- (2) For the purpose of counting the previous registrations of changes of an adult person's name under subsection (1), a change of name by the person when the person was a child is not to be counted.
- (3) Subsection (1) does not apply if—
  - (a) the application is made under section 39(4) or 50(4) or the registrar is otherwise satisfied the change of name is an affirmation or expression of the person's sex; or

- (b) the application relates to a marriage or divorce of the adult person; or
- (c) the registrar is satisfied that the application is for the purpose of protecting the adult person, a child of the adult person or another person associated with the adult person; or

*Example for paragraph (c)—*

The change of name is sought for the protection of the adult person or the person's children from domestic violence.

- (d) the registrar is satisfied there are exceptional circumstances for approving the application.

## Division 3                      Change of eligible child's name

### 28            Meaning of *eligible child*

- (1) A child is an *eligible child*, for an application to register a change of the child's name, if—
  - (a) the child's birth or adoption was registered in Queensland; or
  - (b) both of the following apply—
    - (i) the child was born outside Australia and the child's birth was not registered in another State;
    - (ii) either—
      - (A) the child has been ordinarily resident in Queensland for at least 12 consecutive months immediately before the application is made; or
      - (B) the application is made within 12 months of the child's birth and at least 1 person who makes the application has been ordinarily resident in Queensland for at least 12 consecutive months immediately before the application is made.

- (2) Despite any restriction in subsection (1), a child is an eligible child, for an application to register a change of the child's name, if the registrar is satisfied there are exceptional circumstances for accepting the application.
- (3) Despite any restriction in subsection (1)(b)(ii), a child is an eligible child, for an application to register a change of the child's name, if—
  - (a) the application relates to a marriage or divorce of at least 1 of the applicants; or
  - (b) the registrar is satisfied that the application is for the purpose of protecting the child or a person associated with the child; or  
*Example for paragraph (b)—*

The application is for the purpose of protecting the child from domestic violence.
  - (c) a non-Queensland court has directed the registrar to accept the application.

## **29 Application by parents and others to register change of eligible child's name**

- (1) An eligible child's parents may apply to register a change of the child's name.
- (2) However, 1 of the parents may apply to register a change of the eligible child's name if—
  - (a) the parent is the only parent of the child entered in the relevant child register or shown on the child's birth certificate; or
  - (b) the other parent is dead and there is no other person with parental responsibility for the child; or
  - (c) the parent has sole parental responsibility, under a parenting order made under the *Family Law Act 1975* (Cwlth), part VII, to make decisions about—
    - (i) major long-term issues for the child; or



- (ii) the child's name; or
- (d) a Magistrates Court approves the change of name under section 30.
- (3) A person may apply to register a change of an eligible child's name if—
  - (a) circumstances stated in column 1 of the table in schedule 1, part 1 apply to the person in relation to the child; and
  - (b) the person is a person mentioned in column 2 of the table opposite those circumstances.
- (4) Two or more persons may apply to register a change of an eligible child's name if—
  - (a) circumstances stated in column 1 of the table in schedule 1, part 2 apply to the persons in relation to the child; and
  - (b) the persons are persons mentioned in column 2 of the table opposite those circumstances.
- (5) An application made under this section must be—
  - (a) in the form required by the registrar and made in an approved way; and
  - (b) accompanied by the fee prescribed by regulation.
- (6) In this section—

*register a change*, of an eligible child's name, means register a change of the child's name in the change of name register.

### **30 Magistrates Court may approve change of eligible child's name**

A Magistrates Court may, on application by an eligible person for an eligible child, make an order approving a proposed change of name for the child if—

- (a) the name is not a prohibited name; and

- (b) the court is satisfied that the change is in the child's best interests.

### **31 Eligible child's consent to change of name**

- (1) The registrar must not approve an application to register the change of the name of an eligible 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.

### **32 Limit on number of name changes for child**

- (1) The registrar must not approve an application to—
  - (a) register the change of a child's first name if the registrar is aware a change of name, other than a change of name under section 15, has already been registered for the child in Queensland or another State; or
  - (b) register the change of a child's name, other than the child's first name, more than once in a 1-year period.
- (2) Subsection (1) does not apply if—
  - (a) the application is made under section 42 or 53 or the registrar is otherwise satisfied the change of name is an affirmation or expression of the child's sex; or
  - (b) the application relates to a marriage or divorce of at least 1 of the applicants; or
  - (c) the registrar is satisfied that the application is for the purpose of protecting the child or a person associated with the child; or

*Example for paragraph (c)—*

The change of name is sought for the protection of the child from domestic violence.

- (d) the registrar is satisfied there are exceptional circumstances for approving the application; or
- (e) a Magistrates Court or non-Queensland court has approved the change of name.

## **Division 4                      General**

### **33            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, age and residence of the person;
    - (ii) that the change of name is not sought for a fraudulent or other improper purpose; and
  - (b) if the person may only make the application with written permission under the *Corrective Services Act 2006*, section 27—a copy of the written permission; and
  - (c) if the person may only make the application with written permission under the *Dangerous Prisoners (Sexual Offenders) Act 2003*, section 43AB—a copy of the written permission; and
  - (d) if the person may only make the application with written permission under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, section 74A—a copy of the written permission; and
  - (e) other information the registrar believes is relevant to the application.
- (2) The registrar may register, or refuse to register, a change of a person's name.

- (3) The registrar must refuse to register a change of name—
  - (a) if the registrar is not satisfied of—
    - (i) the identity of the applicant, or each of the applicants; and
    - (ii) 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) if the proposed name is a prohibited name.
- (4) 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.
- (5) If the change of name of a person is being registered under an order of a court directing the change of name to be registered, the application must be accompanied by a copy of the order.
- (6) The registrar may notify the registering authority under a corresponding law of a change of name under this Act.

### **34 How changes of name are registered**

- (1) The registrar registers the change of a person's name by entering in the change of name register—
  - (a) for a change of name ordered by a court—
    - (i) the particulars about the change of name stated in the court's order; and
    - (ii) any other information the registrar considers appropriate to enter; or
  - (b) for another change of name—
    - (i) the particulars prescribed by regulation; and
    - (ii) any other information the registrar considers appropriate to enter.

- (2) Despite subsection (1)(b)(i), the registrar may register the change of a person's name even though some or all of the particulars mentioned in subsection (1)(b)(i) for the change are not available to the registrar.
- (3) If the registrar registers a change of name of a person whose birth or adoption was registered in Queensland, the registrar must also—
  - (a) if the person requests the change be noted in the relevant child register—note the changed name in the relevant child register; or
  - (b) otherwise—note in the relevant child register that a change of name has been entered in the change of name register.
- (4) 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.

### **35 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.

*Examples of other legal process—*

- an order of a Queensland court or a non-Queensland court, including an order approving a change of name
  - a deed poll under the law of another State
- (2) An adult person may apply to the registrar to note the change of the person's name.
  - (3) A child's parents may apply to the registrar to note the change of the child's name.
  - (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 relevant child register; or
  - (b) the other parent is dead and there is no other person with parental responsibility for the child; or
  - (c) the parent has sole parental responsibility, under a parenting order made under the *Family Law Act 1975* (Cwlth), part VII, to make decisions about—
    - (i) major long-term issues for the child; or
    - (ii) the child's name; or
  - (d) a Magistrates Court approves the change of name under section 30; or
  - (e) a Queensland court or non-Queensland court has ordered the change of name.
- (5) A person may apply to note the change of the child's name if—
- (a) circumstances stated in column 1 of the table in schedule 1, part 1 apply to the person in relation to the child; and
  - (b) the person is a person mentioned in column 2 of the table opposite those circumstances.
- (6) Two or more persons may apply to note the change of the child's name if—
- (a) circumstances stated in column 1 of the table in schedule 1, part 2 apply to the persons in relation to the child; and
  - (b) the persons are persons mentioned in column 2 of the table opposite those circumstances.
- (7) An application made under this section must be—
- (a) in the form required by the registrar and made in an approved way; and
  - (b) accompanied by—

- (i) a document, prescribed by regulation, that evidences that the person's name has been changed under the law of another State or other legal process; and
  - (ii) the fee prescribed by regulation.
- (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; and
  - (b) other information the registrar believes is relevant to the application.
- (9) The registrar must not approve an application to note the change of a person's name—
  - (a) if the registrar is not satisfied of—
    - (i) the identity of the applicant, or each of the applicants; and
    - (ii) 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) if the name is a prohibited name.
- (10) If an application to note 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—

**note**, a change of a person's name, means note a change of the person's name in the relevant child register.

### **36 Re-registration of relevant event after change of name registered or noted**

- (1) This section applies if the registrar—
  - (a) registers the change of a person's name under section 34; or
  - (b) notes the change of a person's name under section 35.
- (2) If the person is an adult person, the person may apply to re-register the person's relevant event.
- (3) If the person is a child, the person or persons who applied under section 29 to register the change of the child's name, or under section 35 to note the change of the child's name, may apply to re-register the child's relevant event.
- (4) An application made under this section must be—
  - (a) in the form required by the registrar and made in an approved way; and
  - (b) accompanied by the fee prescribed by regulation.
- (5) The registrar may re-register the person's relevant event by—
  - (a) making a new entry in the register that includes—
    - (i) all the information that was in the entry for the person's relevant event (the *closed entry*) in a new entry in the relevant child register, other than information that has been superseded; and
    - (ii) a note that the new entry was made under this section; and
  - (b) noting on the closed entry—
    - (i) that the relevant event has been re-registered under this section; and
    - (ii) a reference to the new entry made under paragraph (a).



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## Part 5 Acknowledgement of sex

### Division 1 Interpretation

#### 37 Definitions for part

In this part—

***assessment***, of a child, means a written assessment of the child by a developmentally informed practitioner who has a relationship with the child, stating—

- (a) for an application made under division 2—
  - (i) that the application is supported by the developmentally informed practitioner; and
  - (ii) that the child understands the meaning and legal implications of the alteration of the record of sex of the child in the relevant child register; and
  - (iii) the information prescribed by regulation; or
- (b) for an application made under division 3—
  - (i) that the application is supported by the developmentally informed practitioner; and
  - (ii) that the child understands the meaning and legal implications of the issue of a recognised details certificate for the child; and
  - (iii) the information prescribed by regulation.

***developmentally informed practitioner*** means a person who is a type of person prescribed by regulation.

## **Division 2                    Persons whose birth or adoption is    registered in Queensland**

### **Subdivision 1            Preliminary**

#### **38            Application of division**

This division applies to a person whose birth or adoption is registered in Queensland.

### **Subdivision 2            Applications to registrar**

#### **39            Application to alter record of sex of person 16 years or    more in relevant child register**

- (1) If the person is 16 years or more, the person may apply to alter the record of sex of the person in the relevant child register.
- (2) An application must—
  - (a) be in the form required by the registrar and made in an approved way; and
  - (b) nominate a sex descriptor; and
  - (c) include a statement, verified by statutory declaration, that the person—
    - (i) identifies as the sex stated in the application; and
    - (ii) lives, or seeks to live, as a person identified by that sex; and
  - (d) be accompanied by—
    - (i) a supporting statement; and
    - (ii) if the person may only make the application with written permission under the *Corrective Services Act 2006*, section 27AA—a copy of the written permission; and

- (iii) if the person may only make the application with written permission under the *Dangerous Prisoners (Sexual Offenders) Act 2003*, section 43ABA—a copy of the written permission; and
  - (iv) the fee prescribed by regulation; and
  - (v) any other documents or information required by the registrar.
- (3) A supporting statement must—
  - (a) be made by a person who is at least 18 years and who has known the person making the application for at least 12 months; and
  - (b) state that the person making the supporting statement—
    - (i) believes that the person making the application makes the application in good faith; and
    - (ii) supports the application.
- (4) A person who makes an application under this section may apply at the same time to register a change of the person’s first name in the change of name register.

#### **40 Application to alter record of sex of child under 16 years in relevant child register**

- (1) This section applies if the person is a child under 16 years.
- (2) The child’s parents may apply to alter the record of sex of the child.
- (3) However, 1 of the parents may apply to alter the record of sex of the child if—
  - (a) the parent is the only parent of the child entered in the relevant child register or shown on the child’s birth certificate; or
  - (b) the other parent is dead and there is no other person with parental responsibility for the child; or

- (c) the parent has sole parental responsibility to make decisions about major long-term issues for the child under a parenting order made under the *Family Law Act 1975* (Cwlth), part VII; or
  - (d) the parent has obtained an order from the Childrens Court under section 44, or from another Queensland court or a non-Queensland court, directing the registrar to accept the application; or
  - (e) the parent has obtained a dispensation order.
- (4) A person may apply to alter the record of sex of the child if—
- (a) circumstances stated in column 1 of the table in schedule 1, part 1 apply to the person in relation to the child; and
  - (b) the person is a person mentioned in column 2 of the table opposite those circumstances.
- (5) Two or more persons may apply to alter the record of sex of the child if—
- (a) circumstances stated in column 1 of the table in schedule 1, part 2 apply to the persons in relation to the child; and
  - (b) the persons are persons mentioned in column 2 of the table opposite those circumstances.
- (6) The child may apply to alter the record of sex of the child if the child has obtained an order from the Childrens Court under section 45 directing the registrar to accept the application.
- (7) In this section—
- alter the record of sex***, of a child, means alter the record of sex of the child in the relevant child register.

#### **41 Form of application to alter record of sex of child under 16 years**

- (1) An application made under section 40 must—

- (a) be in the form required by the registrar and made in an approved way; and
  - (b) nominate a sex descriptor; and
  - (c) be accompanied by—
    - (i) the fee prescribed by regulation; and
    - (ii) any other documents or information required by the registrar.
- (2) If a dispensation order was made in relation to the application, the application must also—
- (a) include a statement that the applicant believes on reasonable grounds that alteration of the record of sex of the child is in the child's best interests; and
  - (b) be accompanied by—
    - (i) a copy of the dispensation order; and
    - (ii) an assessment of the child.
- (3) If a court order, other than a dispensation order, was made in relation to the application, the application must also be accompanied by a copy of the court order.
- (4) If the application is not an application in relation to which a court order, including a dispensation order, was made and the application is made by a person other than the child, the application must also—
- (a) include a statement that the applicant, or each of the applicants, believes on reasonable grounds that alteration of the record of sex of the child is in the child's best interests; and
  - (b) be accompanied by an assessment of the child.

## **42 Application to register change of child's first name at the same time**

- (1) Subsection (2) applies if—

- (a) 1 or more persons, other than the child, make an application under section 40; and
  - (b) either—
    - (i) the application is not an application—
      - (A) for which an order of the Childrens Court was sought under section 44(2); or
      - (B) that another Queensland court or a non-Queensland court directed the registrar to accept; or
    - (ii) a dispensation order, that included an order about changing the child’s name, was made in relation to the application.
- (2) The person or persons may apply at the same time to register a change of the child’s first name in the change of name register.
- (3) Subsection (4) applies if—
- (a) 1 or more persons, other than the child, make an application under section 40; and
  - (b) either—
    - (i) the application is an application the Childrens Court directed the registrar to accept under section 44(2) and the court also made an order under section 44(7) approving a change of name for the child; or
    - (ii) another Queensland court or a non-Queensland court made an order directing the registrar to accept the application and the court also made an order approving a change of name for the child.
- (4) The person or persons may apply at the same time to register the change of the child’s first name in the change of name register.
- (5) A child who makes an application under section 40 may apply at the same time to register a change of the child’s first name

in the change of name register, if the Childrens Court makes an order approving the change of name under section 45(10).

- (6) If an application is made under subsection (4) or (5), the application must be accompanied by a copy of the court order.

### **43 Action by registrar**

- (1) This section applies if an application is made to the registrar under section 39 or 40 to alter the record of sex of a person in the relevant child register.
- (2) The registrar may alter, or refuse to alter, the record of sex of the person in the relevant child register.
- (3) The registrar must refuse to alter the record of sex if—
- (a) the alteration would result in the recorded sex being a prohibited sex descriptor; or
  - (b) the registrar reasonably suspects that the alteration is sought for a fraudulent or other improper purpose; or
  - (c) a record of the person's sex has been altered under this part within the 12 months immediately preceding the day when the application is made.
- (4) The registrar alters the record of sex of the person by re-registering the person's relevant event.
- (5) The registrar re-registers the person's relevant event by—
- (a) making a new entry in the register that includes—
    - (i) all the information that was in the entry for the person's relevant event (the *closed entry*) in a new entry in the relevant child register, other than information that has been superseded; and
    - (ii) a note stating the superseded information; and
    - (iii) a note that the new entry was made under this section; and
  - (b) noting on the closed entry—

- (i) that the relevant event has been re-registered under this section; and
- (ii) a reference to the new entry made under paragraph (a).

### **Subdivision 3 Applications to Childrens Court**

#### **44 Application to Childrens Court by parent or other person**

- (1) This section applies if the person is a child under 16 years.
- (2) The Childrens Court may, on application by an eligible person for the child, make an order directing the registrar to accept an application to alter the record of sex of the child in the relevant child register.
- (3) The application must be accompanied by an assessment of the child.
- (4) The Childrens Court must make the order if the court is satisfied it is in the child's best interests to make the order.
- (5) In deciding whether making the order is in the child's best interests, the matters to which the Childrens Court may have regard include the following—
  - (a) the assessment mentioned in subsection (3);
  - (b) the views of the child, however expressed;
  - (c) whether the child is sufficiently mature to understand the meaning and legal implications of the alteration of the record of sex of the child.
- (6) If an eligible person for the child makes an application to the Childrens Court under this section the person may apply to the court at the same time for approval of a proposed change of first name for the child.
- (7) The Childrens Court may make an order approving the proposed change of first name for the child if—
  - (a) the name is not a prohibited name; and



- (b) the court is satisfied that the change is in the child's best interests.

#### **45 Application to Childrens Court by child**

- (1) This section applies if—
  - (a) the person is a child of at least 12 years but less than 16 years; and
  - (b) each parent of the child or person with parental responsibility for the child does not support an alteration of the record of sex of the child.
- (2) The Childrens Court may, on application by the child, make an order directing the registrar to accept an application to alter the record of sex of the child in the relevant child register.
- (3) The application must include the following statements by the child—
  - (a) that the child is aware that, unless the Childrens Court decides otherwise under section 46(2), a copy of the application must be served on the respondents;
  - (b) that the child is aware the child may make submissions to the Childrens Court under section 46(5).
- (4) The application must be accompanied by an assessment of the child.
- (5) The following persons are respondents to the application—
  - (a) each parent of the child;
  - (b) each person with parental responsibility for the child.
- (6) The child must serve a copy of the application on each of the respondents.
- (7) The Childrens Court must make the order if the court is satisfied it is in the child's best interests to make the order.
- (8) In deciding whether making the order is in the child's best interests, the matters to which the Childrens Court may have regard include the following—

- (a) the assessment mentioned in subsection (4);
  - (b) the views of the child, however expressed;
  - (c) whether the child is sufficiently mature to understand the meaning and legal implications of the alteration of the record of sex of the child.
- (9) If the child makes an application to the Childrens Court under this section the child may apply to the court at the same time for approval of a proposed change of first name for the child.
- (10) The Childrens Court may make an order approving the proposed change of first name for the child if—
- (a) the name is not a prohibited name; and
  - (b) the court is satisfied that the change is in the child’s best interests.

#### **46 Dispensing with service of application**

- (1) This section applies if a child makes an application under section 45.
- (2) The child may also apply to the Childrens Court for an order dispensing with the requirement to serve a copy of the application on 1 or more of the respondents (the *requirement*).
- (3) The Childrens Court must not make an order under subsection (2) unless the court is satisfied that the requirement could reasonably be expected to adversely affect the child.
- (4) For subsection (3), a child is not adversely affected only because—
  - (a) 1 or more of the respondents does not support the alteration of the record of sex of the child; and
  - (b) that lack of support causes discomfort to the child.
- (5) The child may make submissions to the Childrens Court about whether the court should make an order under subsection (2).

- (6) If the child makes submissions under subsection (5), the Childrens Court must, after considering the submissions, decide whether the requirement could reasonably be expected to adversely affect the child.
- (7) If the Childrens Court decides that the child could not reasonably be expected to be adversely affected by the requirement, the court must give the child a written notice stating—
  - (a) the reasons for the court’s decision; and
  - (b) that the child may, in writing, withdraw the application before the end of a stated period of at least 28 days after the day the notice is given; and
  - (c) that the child may appeal against the court’s decision under section 78(2) within 28 days after the decision is made.

## **Subdivision 4      Effect of alteration of record of sex**

### **47      Effect of alteration of record of sex of person in relevant child register**

- (1) If the record of a person’s sex in the relevant child register is altered under this division, the person is a person of the sex as altered for the purposes of, but subject to, a law of the State.
- (2) Subsection (3) applies to a person who has an entitlement—
  - (a) under a will; or
  - (b) under a trust; or
  - (c) otherwise by operation of law.
- (3) The person does not, except as otherwise provided under the will, the trust or by the law conferring the entitlement, lose the entitlement only because the record of the person’s sex has been altered in the relevant child register.

## **Division 3                    Queensland residents born elsewhere**

### **Subdivision 1            Preliminary**

#### **48            Application of division**

This division applies in relation to a person who—

- (a) was born outside of Queensland; and
- (b) has been ordinarily resident in Queensland for at least 12 consecutive months immediately before the person makes an application, or an application is made on behalf of the person, under this division.

#### **49            Meaning of *recognised details certificate***

A *recognised details certificate*, for a person, is a document that acknowledges the person's name and sex.

### **Subdivision 2            Applications to registrar**

#### **50            Application for recognised details certificate for person 16 years or more**

- (1) If the person is 16 years or more the person may apply to the registrar for a recognised details certificate for the person.
- (2) An application must—
  - (a) be in the form required by the registrar and made in an approved way; and
  - (b) nominate a sex descriptor; and
  - (c) include a statement, verified by statutory declaration, that the person—
    - (i) identifies as the sex stated in the application; and

- (ii) lives, or seeks to live, as a person identified by that sex; and
- (d) be accompanied by—
  - (i) a supporting statement; and
  - (ii) evidence of the person’s name and residency; and
  - (iii) if the person may only make the application with written permission under the *Corrective Services Act 2006*, section 27AA—a copy of the written permission; and
  - (iv) if the person may only make the application with written permission under the *Dangerous Prisoners (Sexual Offenders) Act 2003*, section 43ABA—a copy of the written permission; and
  - (v) the fee prescribed by regulation; and
  - (vi) any other documents or information required by the registrar.
- (3) A supporting statement must—
  - (a) be made by a person who is at least 18 years and who has known the person making the application for at least 12 months; and
  - (b) state that the person making the supporting statement—
    - (i) believes that the person making the application makes the application in good faith; and
    - (ii) supports the application.
- (4) A person who makes an application under this section, other than a person who was born in another State, may apply at the same time to register a change of the person’s first name in the change of name register.

## **51 Application for recognised details certificate for child under 16 years**

- (1) This section applies if the person is a child under 16 years.

- (2) The child's parents may apply for a recognised details certificate for the child.
- (3) However, 1 of the parents may apply for a recognised details certificate for the child if—
  - (a) the parent is the only parent named in a register kept under a corresponding law or the law of any place outside Australia; or
  - (b) the other parent is dead and there is no other person with parental responsibility for the child; or
  - (c) the parent has sole parental responsibility to make decisions about major long-term issues for the child under a parenting order made under the *Family Law Act 1975* (Cwlth), part VII; or
  - (d) the parent has obtained an order from the Childrens Court under section 55, or from another Queensland court or a non-Queensland court, directing the registrar to accept the application; or
  - (e) the parent has obtained a dispensation order.
- (4) A person may apply for a recognised details certificate for the child if—
  - (a) circumstances stated in column 1 of the table in schedule 1, part 1 apply to the person in relation to the child; and
  - (b) the person is a person mentioned in column 2 of the table opposite those circumstances.
- (5) Two or more persons may apply for a recognised details certificate for the child if—
  - (a) circumstances stated in column 1 of the table in schedule 1, part 2 apply to the persons in relation to the child; and
  - (b) the persons are persons mentioned in column 2 of the table opposite those circumstances.

- (6) The child may apply for a recognised details certificate for the child if the child has obtained an order from the Childrens Court under section 56 directing the registrar to accept the application.

## **52 Form of application for recognised details certificate for child under 16 years**

- (1) An application made under section 51 must—
- (a) be in the form required by the registrar and made in an approved way; and
  - (b) nominate a sex descriptor; and
  - (c) be accompanied by—
    - (i) the fee prescribed by regulation; and
    - (ii) any other documents or information required by the registrar.
- (2) If a dispensation order was made in relation to the application, the application must also—
- (a) include a statement that the applicant believes on reasonable grounds that the issue of a recognised details certificate is in the child’s best interests; and
  - (b) be accompanied by—
    - (i) a copy of the dispensation order; and
    - (ii) an assessment of the child.
- (3) If a court order, other than a dispensation order, was made in relation to the application, the application must also be accompanied by a copy of the court order.
- (4) If the application is not an application in relation to which a court order, including a dispensation order, was made and the application is made by a person other than the child, the application must also—
- (a) include a statement that the applicant, or each of the applicants, believes on reasonable grounds that the issue

of a recognised details certificate is in the child's best interests; and

- (b) be accompanied by an assessment of the child.

**53 Application to register change of child's first name at the same time**

- (1) Subsection (2) applies if—
- (a) 1 or more persons, other than the child, make an application under section 51; and
  - (b) the child was not born in another State; and
  - (c) either—
    - (i) the application is not an application—
      - (A) for which an order of the Childrens Court was sought under section 55(2); or
      - (B) that another Queensland court or a non-Queensland court directed the registrar to accept; or
    - (ii) a dispensation order, that included an order about changing the child's name, was made in relation to the application.
- (2) The person or persons may apply at the same time to register a change of the child's first name in the change of name register.
- (3) Subsection (4) applies if—
- (a) 1 or more persons, other than the child, make an application under section 51; and
  - (b) the child was not born in another State; and
  - (c) either—
    - (i) the application is an application for which the Childrens Court made an order under section 55(2) directing the registrar to accept the application and



the court also made an order under section 55(8) approving a change of first name for the child; or

- (ii) another Queensland court or a non-Queensland court made an order directing the registrar to accept the application and the court also made an order approving a change of first name for the child.
- (4) The person or persons may apply at the same time to register the change of the child's first name in the change of name register.
  - (5) A child who makes an application under section 51 may apply at the same time to register a change of the child's first name in the change of name register, if the Childrens Court makes an order approving the change of name under section 56(10).
  - (6) If an application is made under subsection (4) or (5), the application must be accompanied by a copy of the court order.

## **54 Action by registrar**

- (1) This section applies if an application is made under section 50 or 51 to the registrar for a recognised details certificate for a person.
- (2) The registrar may issue, or refuse to issue, the recognised details certificate for the person.
- (3) The registrar must refuse to issue the recognised details certificate if—
  - (a) the recognised details certificate would state a prohibited sex descriptor; or
  - (b) the registrar reasonably suspects that the recognised details certificate is sought for a fraudulent or other improper purpose; or
  - (c) within the 12 months immediately preceding the day the application is made, a recognised details certificate has been issued for the person under this division.

- (4) The recognised details certificate—
  - (a) must state the name and sex of the person as stated in the application for the certificate; and
  - (b) may only state any previous name or sex of the person if the applicant has requested the previous name or sex to be stated on the certificate; and
  - (c) must state the person’s date and place of birth; and
  - (d) may, if the registrar considers it appropriate, include any other information about the person’s birth requested in the application to be included; and
  - (e) must include a statement to the effect that details about the person included in the certificate, except the person’s sex, are not certified by the registrar.

### **Subdivision 3 Applications to Childrens Court**

#### **55 Application to Childrens Court by parent or other person**

- (1) This section applies if the person is a child under 16 years.
- (2) The Childrens Court may, on application by an eligible person for the child, make an order directing the registrar to accept an application for a recognised details certificate for the child.
- (3) The application must be accompanied by an assessment of the child.
- (4) The Childrens Court must make the order if the court is satisfied it is in the child’s best interests to make the order.
- (5) In deciding whether making the order is in the child’s best interests, the matters to which the Childrens Court may have regard include the following—
  - (a) the assessment mentioned in subsection (3);
  - (b) the views of the child, however expressed;

- (c) whether the child is sufficiently mature to understand the meaning and legal implications of the issue of a recognised details certificate for the child.
- (6) If an eligible person for the child makes an application to the Childrens Court under this section the person may apply to the court at the same time for approval of a proposed change of first name for the child.
- (7) Subsection (6) does not apply if the child was born in another State.
- (8) The Childrens Court may make an order approving the proposed change of first name for the child if—
  - (a) the name is not a prohibited name; and
  - (b) the court is satisfied that the change is in the child’s best interests.

## **56 Application to Childrens Court by child**

- (1) This section applies if—
  - (a) the person is a child of at least 12 years but less than 16 years; and
  - (b) each parent of the child or person with parental responsibility for the child does not support the issue of a recognised details certificate for the child.
- (2) The Childrens Court may, on application by the child, make an order directing the registrar to accept an application for a recognised details certificate for the child.
- (3) The application must include the following statements by the child—
  - (a) that the child is aware that, unless the Childrens Court decides otherwise under section 57(2), a copy of the application must be served on the respondents;
  - (b) that the child is aware the child may make submissions to the Childrens Court under section 57(5).

- (4) The application must be accompanied by an assessment of the child.
- (5) The following persons are respondents to the application—
  - (a) each parent of the child;
  - (b) each person with parental responsibility for the child.
- (6) The Childrens Court must make the order if the court is satisfied it is in the child's best interests to make the order.
- (7) In deciding whether making the order is in the child's best interests, the matters to which the Childrens Court may have regard include the following—
  - (a) the assessment mentioned in subsection (4);
  - (b) the views of the child, however expressed;
  - (c) whether the child is sufficiently mature to understand the meaning and legal implications of the issue of a recognised details certificate for the child.
- (8) If the child makes an application to the Childrens Court under this section the child may apply to the court at the same time for approval of a proposed change of first name for the child.
- (9) Subsection (8) does not apply if the child was born in another State.
- (10) The Childrens Court may make an order approving the proposed change of first name for the child if—
  - (a) the name is not a prohibited name; and
  - (b) the court is satisfied that the change is in the child's best interests.

## **57 Dispensing with service of application**

- (1) This section applies if a child makes an application under section 56.
- (2) The child may also apply to the Childrens Court for an order dispensing with the requirement to serve a copy of the

application on 1 or more of the respondents (the *requirement*).

- (3) The Childrens Court must not make an order under subsection (2) unless the court is satisfied that the requirement could reasonably be expected to adversely affect the child.
- (4) For subsection (3), a child is not adversely affected only because—
  - (a) 1 or more of the respondents does not support the issue of a recognised details certificate for the child; and
  - (b) that lack of support causes discomfort to the child.
- (5) The child may make submissions to the Childrens Court about whether the court should make an order under subsection (2).
- (6) If the child makes submissions under subsection (5), the Childrens Court must, after considering the submissions, decide whether the requirement could reasonably be expected to adversely affect the child.
- (7) If the Childrens Court decides that the child could not reasonably be expected to be adversely affected by the requirement, the court must give the child a written notice stating—
  - (a) the reasons for the court’s decision; and
  - (b) that the child may, in writing, withdraw the application before the end of a stated period of at least 28 days after the day the notice is given; and
  - (c) that the child may appeal against the court’s decision under section 78(2) within 28 days after the decision is made.

## **Subdivision 4      Effect of certificate**

### **58      Effect of recognised details certificate**

- (1) If a recognised details certificate is issued for a person under this division, the person is a person of the sex stated in the certificate for the purposes of, but subject to, a law of the State.
- (2) If more than 1 recognised details certificate has been issued for a person, the person is a person of the sex stated in the most recently issued certificate.
- (3) Subsection (4) applies to a person who has an entitlement—
  - (a) under a will; or
  - (b) under a trust; or
  - (c) otherwise by operation of law.
- (4) The person does not, except as otherwise provided under the will, the trust or by the law conferring the entitlement, lose the entitlement only because a recognised details certificate has been issued for the person.

## **Subdivision 5      Cancellation of certificate**

### **59      Cancellation of recognised details certificate**

The registrar must cancel a recognised details certificate issued for a person if the registrar receives an application from the chief executive (corrective services) under the *Corrective Services Act 2006*, section 27AA(6) or the *Dangerous Prisoners (Sexual Offenders) Act 2003*, section 43ABA(6) about the certificate.

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## Division 4                      Dispensation orders

### 60      Application of division

This division applies if—

- (a) a parent (a *relevant person*) of a child under 16 years is not able to make an acknowledgement of sex application or a combined application for the child because the other parent (the *stated party*) of the child does not consent to, or have the capacity to consent to, the application being made; or
- (b) a person (also a *relevant person*) who is 1 of a group of 2 or more persons mentioned in column 2 of the table in schedule 1, part 2 with parental responsibility for a child under 16 years is not able to make an acknowledgement of sex application or a combined application for the child because 1 or more of the other persons (each also a *stated party*) in the group does not consent to, or have the capacity to consent to, the application being made.

### 61      Definitions for division

In this division—

*acknowledgement of sex application*, for a child, means—

- (a) an application under section 40 to alter the record of sex of the child; or
- (b) an application under section 51 for a recognised details certificate for the child.

*combined application*, for a child, means—

- (a) an application under section 40 to alter the record of sex of the child and an application under section 42 to register a change of the child's first name; or
- (b) an application under section 51 for a recognised details certificate for the child and an application under section 53 to register a change of the child's first name.

*dispensation order* see section 62(1).

*relevant person* see section 60(a) and (b).

*stated party* see section 60(a) and (b).

## **62 Application for dispensation order**

- (1) A relevant person may apply to the Childrens Court for an order (a *dispensation order*) dispensing with the need for an acknowledgement of sex application or a combined application to be made with the consent of a stated party.
- (2) The application must state the grounds on which it is made.

## **63 Notice of application**

- (1) As soon as practicable after filing an application for a dispensation order, the relevant person must serve a copy of the application on the stated party.
- (2) A copy served on the stated party must state—
  - (a) where and when the application is to be heard; and
  - (b) that the application may be heard and decided even though the party does not appear in court.
- (3) The Childrens Court may dispense with the requirement to serve a copy of the application on the stated party if the court is satisfied of any of the following matters—
  - (a) the relevant person can not locate the party after making all reasonable enquiries;
  - (b) the conception of the child was a result of an offence committed by the party;
  - (c) it is in the child's best interests to dispense with service.



## **64 Respondent**

If a stated party is served with a copy of an application for a dispensation order, the party is a respondent in the proceeding.

## **65 Hearing of application in absence of stated party**

- (1) The Childrens Court may hear and decide an application for a dispensation order in the absence of the stated party only if—
  - (a) the party has been given reasonable notice of the hearing and failed to attend or continue to attend the hearing; or
  - (b) the court dispenses with the requirement to serve a copy of the application on the party under section 63(3).
- (2) Subsection (1) does not limit the Childrens Court's jurisdiction to exclude a person from a proceeding.

## **66 Court may make dispensation order**

The Childrens Court may make a dispensation order if—

- (a) the court is satisfied of a matter stated in section 63(3)(a) or (b); or
- (b) QCAT has made a declaration that the stated party does not have capacity to give consent for an acknowledgement of sex application or a combined application for the child; or
- (c) a tribunal of another jurisdiction, a Queensland court or a non-Queensland court has made an order or other direction, however called, that the stated party does not have capacity to give consent for an acknowledgement of sex application or a combined application for the child; or
- (d) the court is satisfied it is in the child's best interests to make the order.

## **67 Effect of dispensation order**

- (1) This section applies if the registrar is given a copy of a dispensation order with an acknowledgement of sex application or a combined application.
- (2) The registrar must consider and decide the application without the need for the application to be made with the consent of the stated party.

## **Division 5 Court proceedings**

### **Subdivision 1 Proceedings of Childrens Court**

#### **68 Application of subdivision**

This subdivision applies to a proceeding in the Childrens Court commenced by an application made under—

- (a) division 2, subdivision 3; or
- (b) division 3, subdivision 3; or
- (c) division 4.

#### **69 Court's jurisdiction and constitution**

- (1) The proceeding must be heard by the Childrens Court constituted by a Childrens Court magistrate or, if a Childrens Court magistrate is not available, a magistrate.
- (2) In this section—  
*available* means available having regard to the orderly and expeditious exercise of the jurisdiction of the Childrens Court.

## **70 Court's paramount consideration**

In exercising its jurisdiction or powers in the proceeding, the Childrens Court must regard the wellbeing and best interests of the child as paramount.

## **71 Parties to proceedings**

- (1) The parties to a proceeding commenced by an application made under section 44, 55 or 62 are—
  - (a) the person making the application; and
  - (b) the child the subject of the application; and
  - (c) the respondent or respondents, if any.
- (2) The parties to a proceeding commenced by an application made under section 45 or 56 are—
  - (a) the child making the application; and
  - (b) the respondent or respondents, if any.

## **72 Representation**

In the proceeding a party may appear without representation or may be represented by a lawyer.

## **73 Court to ensure parties understand proceeding**

The Childrens Court must, as far as practicable, ensure the parties to the proceeding understand—

- (a) the nature, purpose and legal implications of the proceeding; and
- (b) any order or ruling made by the court.

## **74 Evidence**

- (1) In the proceeding, the Childrens Court is not bound by the rules of evidence, but may inform itself in any way it thinks appropriate.
- (2) If, on an application for an order, the Childrens Court is to be satisfied of a matter, the court need only be satisfied of the matter on the balance of probabilities.

## **75 Child cannot be compelled to give evidence**

- (1) A child may only be called to give evidence in the proceeding with the leave of the Childrens Court.
- (2) The Childrens Court may grant leave only if the child—
  - (a) is at least 12 years; and
  - (b) agrees to give evidence.
- (3) If the child gives evidence, the child may be cross-examined only with the leave of the Childrens Court.

## **76 Way child is to be heard in proceeding**

- (1) This section applies if the Childrens Court is to hear from a child who is the subject of the proceeding or a party to the proceeding, other than when the child gives evidence.
- (2) The Childrens Court may hear from the child in the way the court considers appropriate, including, for example, by—
  - (a) hearing from the child orally in court or another place or with the use of technology, including an audio visual link or audio link; or
  - (b) hearing from the child without the other participants being present; or
  - (c) receiving a document from the child; or
  - (d) receiving submissions by, or on behalf of, the child.

## **Subdivision 2      Appeals**

### **77      Definition for subdivision**

In this subdivision—

*appellate court* means the Childrens Court constituted by a Childrens Court judge.

### **78      Who may appeal**

- (1) A party to the proceeding for an application for any of the following orders may appeal to the appellate court against a decision on the application—
  - (a) an order under section 44, 45, 55 or 56;
  - (b) a dispensation order.
- (2) A child who is given a notice by the Childrens Court under section 46(7) or 57(7) may appeal to the appellate court against the decision stated in the notice.

### **79      How to start appeal**

- (1) An appeal is started by filing a written notice of appeal with the registrar of the appellate court.
- (2) In the case of an appeal under section 78(1), the appellant must serve a copy of the notice on the party or parties to the proceeding mentioned in section 78(1).
- (3) The notice of appeal must be filed within 28 days after the decision is made.
- (4) The appellate court may at any time extend the period for filing the notice of appeal.
- (5) The notice of appeal must state fully the grounds of the appeal and the facts relied on.

## **80 Stay of operation of decisions**

A decision the subject of an appeal under this division is stayed until the appellate court decides the appeal.

## **81 Hearing procedures**

- (1) An appeal must be decided on the evidence and proceedings before the Childrens Court.
- (2) However, the appellate court may order that the appeal be heard afresh, in whole or part.

## **82 Powers of appellate court**

In deciding an appeal, the appellate court may—

- (a) confirm the decision appealed against; or
- (b) vary the decision appealed against; or
- (c) set aside the decision and substitute another decision; or
- (d) set aside the decision appealed against and remit the matter to the Childrens Court magistrate or magistrate who made the decision.

## **Subdivision 3 General**

### **83 Court hearings not public**

- (1) This section applies to the hearing in the Childrens Court under subdivision 1 or the appellate court under subdivision 2 of a proceeding under this Act.
- (2) The hearing is not open to the public.
- (3) Despite the *Childrens Court Act 1992*, section 20, a court must exclude from the room in which the court is sitting a person who is not—
  - (a) a child to whom the proceeding relates; or

- (b) a parent of, or person with parental responsibility for, a child to whom the proceeding relates; or
  - (c) a lawyer of a party to the proceeding; or
  - (d) a witness giving evidence.
- (4) However, the court may permit a person who is not mentioned in subsection (3) to be present during the hearing if the court is satisfied it is in the interests of justice to do so.

## Part 6 Marriages

### 84 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, in an approved way—
  - (a) the marriage certificate; or
  - (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.

### 85 How marriages are registered

- (1) The registrar registers a marriage by—

- (a) entering in the marriage register the particulars prescribed by regulation; or
  - (b) including the marriage certificate or evidence mentioned in section 84(2)(b) as part of the marriage register.
- (2) The registrar may also enter in the marriage register any other information the registrar considers appropriate to enter in relation to the marriage.

## **Part 7**                      **Civil partnerships**

### **86**        **Registration of civil partnership**

- (1) This section applies if the registrar is required to register a relationship as a civil partnership under the *Civil Partnerships Act 2011*, section 9 or 12.
- (2) The registrar must register the civil partnership by including in the register the particulars of the civil partnership prescribed by regulation.
- (3) The registrar may also enter in the register any other information the registrar considers appropriate to enter in relation to the civil partnership.

### **87**        **Declaration of civil partnership before civil partnership notary other than registrar**

- (1) If 2 persons make, under the *Civil Partnerships Act 2011*, section 11, a declaration of civil partnership before a civil partnership notary other than the registrar, the notary must give the following to the registrar not later than 14 days after the day the declaration is made—
  - (a) written notice of the making of the declaration;
  - (b) the notice given to the notary under the *Civil Partnerships Act 2011*, section 10 for the civil partnership.



Maximum penalty—5 penalty units.

(2) In this section—

*civil partnership notary* see the *Civil Partnerships Act 2011*, schedule 2.

## Part 8 Deaths

### 88 Definition for part

In this part—

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

### 89 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 by 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) For subsection (1)(b)(ii)(B), the Queensland court is only required to state the particulars about the death that are available to the court at the time of making the order.
- (3) In this section—
- Coroners Court*** means the Coroners Court under the repealed *Coroners Act 1958* or the *Coroners Act 2003*.
- person*** includes a stillborn child born after 30 April 1989.

## 90 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 the person dies and the time 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.
- (3) 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 the location of the death is not known; and
  - (b) the name of the person; and
  - (c) the date or approximate date of the person's death.

- 
- (4) 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.
  - (5) 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.
  - (6) The registrar must not register under this section a death that has been registered in another State or country.
  - (7) In this section—

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

*place* does not include an aircraft or vessel.

## 91 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—  
*relative* includes a relative by marriage.

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

- (1) An application to register the death of a person must be—
- (a) in the form required by the registrar (a *death registration application*); and
  - (b) made in an approved way.
- (2) The application must be given to the registrar within 14 days after—
- (a) the death happens; or
  - (b) the death is discovered.
- (3) However, the registrar may accept an application given more than 14 days after the death happens or 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.

*Note—*

Also see section 7 for the requirement to register the birth.

- (5) If any of the following documents is issued in relation to the death, the document must accompany the death registration application—
- (a) the cause of death certificate for the deceased person;

- (b) a notice under section 97(2) in relation to the deceased person;
  - (c) an autopsy notice under the *Coroners Act 2003*, section 24A(2)(a) in relation to the deceased person;
  - (d) an autopsy certificate under the *Coroners Act 2003*, section 24A(3)(a) in relation to the deceased person.
- (6) If the death of the person is being registered under an order of a court directing the death to be registered, the death registration application must be accompanied by a copy of the order.
- (7) The registrar may require the applicant to give to the registrar other information the registrar believes is relevant to the death registration application.

### **93 How deaths are registered**

- (1) The registrar registers the death of a person by entering in the register of deaths—
- (a) for a registration ordered by a court—
    - (i) the particulars about the death stated in the court's order; and
    - (ii) any other information the registrar considers appropriate to enter; or
  - (b) for another registration—
    - (i) the particulars prescribed by regulation; and
    - (ii) any other information the registrar considers appropriate to enter.
- (2) Despite subsection (1)(b)(i), the registrar may register the death of a person even though some or all of the particulars mentioned in subsection (1)(b)(i) for the death are not available to the registrar.

- (3) The registrar may register the death of a person even if the death is being investigated by a coroner under the *Coroners Act 2003* or the repealed *Coroners Act 1958*.

## 94 Cause of death certificate

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

- (a) complete a certificate, in the form required by the registrar, (*cause of death certificate*) for the deceased person; and
- (b) give the original certificate, in an approved way, to the person who is arranging for the disposal of the deceased person's body or to the registrar; and
- (c) give a copy of the certificate, in an approved way, to the person who is arranging for the disposal of the deceased person's body.

*Note—*

The *Coroners Act 2003*, section 26(5), provides that a doctor must not issue a cause of death certificate for a person in certain circumstances.

- (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 country corresponding to the Health Practitioner Regulation National Law.

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

## 95 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 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, under section 124, applied to QCAT for a review of a decision of the registrar 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 by regulation.



- (4) For subsection (3)(d), the District Court is only required to state the particulars about the death that are available to the court at the time of making the order.

## **96 School of anatomy to notify registrar**

If a school of anatomy receives the body of a deceased person under the *Transplantation and Anatomy Act 1979*, part 5, the person in charge of the school of anatomy must give the registrar written notice that the body has been received for anatomical purposes.

## **97 Notifying about disposal, removal or failure to dispose of a deceased person's body**

- (1) This section does not apply to—
- (a) a school of anatomy when disposing of a human body, or a part of the body, that was placed in its custody; or
- Note—*  
See section 96.
- (b) the disposal of parts of a human body taken during a medical procedure or autopsy.
- (2) Each of the following persons must give the registrar notice, in the form required by the registrar and in an approved way, within 7 days after the disposal of a human body—
- (a) the person who arranges the disposal of the body;  
*Example for paragraph (a)—*  
a funeral director
  - (b) the person in charge of a cemetery or crematorium in which the disposal of the body happens.
- 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 form required by the registrar and in an approved way before moving the body outside Queensland.

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 repealed *Coroners Act 1958*, section 20; or
  - (b) an order for burial or a certificate for cremation under the repealed *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) Subsection (6) applies 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 makes—
    - (i) an order for removal of the body out of the State under the repealed *Coroners Act 1958*, section 20; or
    - (ii) an order for burial or a certificate for cremation under the repealed *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.
- (6) The person in possession of the body must immediately give the registrar notice in the form required by the registrar and in an approved way.

Maximum penalty—20 penalty units.

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

**autopsy** means an autopsy or post mortem under—

- (a) the repealed *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).

## 98 Stillbirths

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

- (a) when the child left the birth parent's body; and
- (b) at the place where the birth parent was when the child left the birth parent's body.

# Part 9 Administration

## Division 1 The registrar

### 99 The registrar

- (1) There is to be a registrar-general (the **registrar**).
- (2) The registrar is to be employed under the *Public Sector Act 2022*.
- (3) The registrar's functions are—
  - (a) to establish the registers for this Act; and
  - (b) to administer this Act—
    - (i) in an efficient, effective and economical way; and
    - (ii) in a way best calculated to achieve its objects; and
  - (c) to maintain the integrity of the registers and seek to prevent fraud associated with the registers; and
  - (d) the functions given under this or another Act.

- (4) The registrar has the powers necessary to perform the registrar's functions.

## **100 Staff**

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

## **101 Delegation**

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.

## **102 Executing documents**

- (1) The registrar is to have 1 or more seals.
- (2) A certificate or other document issued by or for the registrar may be issued—
  - (a) under 1 of the registrar's seals; and
  - (b) with 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.

## **103 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.

## **Division 2                    The registers**

### **104    The registers**

- (1) The registrar must maintain a register for each type of registrable event.
- (2) A register—

- (a) must contain, for each registrable event or alteration of a registrable event, the particulars required under this Act or another law to be included in the register; and
  - (b) may contain other information the registrar considers appropriate for inclusion in the register.
- (3) The registrar must register a registrable event if the registrar believes the particulars of the event to be included in the register are correct.
- (4) When registering a registrable 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;
  - (c) information prescribed by regulation.
- (5) The registrar must assign to each registrable event in a register the following particulars—
- (a) the registrar’s first initial and surname;
  - (b) the registration number;
  - (c) the day and place of registration.
- (6) The registrar may include for each registrable event in a register details of any marginal notes or other notes or notations.
- (7) 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.
- (8) The registrar must maintain the information in a register in a way that makes the information reasonably accessible.
- (9) In this section—

*marginal note* means—

- (a) for an entry in documentary form—a note entered into the margin of, or an area set aside for notes in, the entry; or
- (b) for an entry in computer database form—a note made in a field designated for the purpose of entering a note in the entry.

*registration number* means the number assigned to a registrable event when the event is entered in a register.

## **105 Registrar may collect and maintain other information**

- (1) The registrar may collect and maintain records of information, other than registrable information, relating to registrable events.
- (2) The registrar may include information in the records maintained under this section at the request of a person interested in the registrable event to which the information relates or on the registrar's own initiative.
- (3) Section 116 applies to any records maintained under this section as if they were part of a register.

## **106 Re-registering events having regard to number of notes**

- (1) The registrar may re-register a person's relevant event if the registrar decides that, because of the number of notes on the entry for the event, it would be desirable to re-register the event.
- (2) The registrar re-registers a person's relevant event by—
  - (a) duplicating the information in the entry for the person's relevant event (the *closed entry*) in a new entry in the relevant child register, other than information that has been superseded, and without indicating what information has been superseded; and
  - (b) noting on the closed entry—
    - (i) that the relevant event has been re-registered; 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.

## **107 Correcting the register**

- (1) The registrar must correct a register—
  - (a) on the order of a Queensland court or QCAT; or
  - (b) on the application of the chief executive (corrective services) under—
    - (i) the *Corrective Services Act 2006*, section 27(4) or 27AA(4); or
    - (ii) the *Dangerous Prisoners (Sexual Offenders) Act 2003*, section 43AB(4) or 43ABA(4); or
  - (c) on the application of the police commissioner under the *Child Protection (Offender Reporting and Offender Prohibition Order) Act 2004*, section 74A(5); or
  - (d) subject to section 104(4), to reflect a coroner’s findings if the findings differ from the information entered on a register.
- (2) The registrar may correct a register—
  - (a) on application by a person—
    - (i) to reflect the order of a non-Queensland court; or
    - (ii) 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; or
  - (b) to reflect a finding made on inquiry under section 108; or
  - (c) on the registrar’s own initiative.



- (3) An application made under subsection (2)(a) must be—
  - (a) in the form required by the registrar and made in an approved way; and
  - (b) accompanied by the fee prescribed by regulation.
- (4) For subsection (2)(a)(ii), the most reliable information about a registrable event may differ from the information that was previously entered on the register in relation to that event, although the information previously entered was correct at the time of its entry.

*Example—*

The particulars of the birth entry about the birth of A state that A's mother is B. Subsequent to the registration of A's birth, the registrar alters the record of B's sex to male under part 5. The registrar may correct the birth entry for A's birth to state that B is A's father.

- (5) Subject to subsections (7) and (8), 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; or
  - (c) by re-registering a person's relevant event.
- (6) For subsection (5)(c), the registrar re-registers a person's relevant event by—
  - (a) making a new entry in the register that includes—
    - (i) all the information that was in the entry for the event (the *closed entry*) in a new entry in the register, other than information that is to be corrected; and
    - (ii) a note that the new entry was made under this section; and
  - (b) noting on the closed entry—
    - (i) that the relevant event has been re-registered; and

- (ii) a reference to the new entry made under paragraph (a).
- (7) An entry in a register must not be cancelled under subsection (5)(a) if the entry was correct at the time the entry was made.
- (8) Particulars in an entry in a register must not be deleted under subsection (5)(b) if the particulars were correct at the time the particulars were entered.
- (9) The registrar need not correct a register in relation to historical information.
- (10) A certificate from an entry that contains corrected information must show the most recent information.
- (11) However, the certificate may also show information that has been corrected if the registrar considers it necessary.
- (12) The registrar may publish, on a relevant website, a policy about how the registrar exercises the registrar's discretion to correct an entry under this section.
- (13) In this section—
  - police commissioner* means the commissioner of the Queensland Police Service.
  - relevant website* means the department's website or [www.qld.gov.au](http://www.qld.gov.au) .

## **108 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; or
  - (d) whether a person is seeking to use, or has used, the registration system for a fraudulent or other improper purpose.

- (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 stated 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—
  - (a) that the registrar may be required, under this Act or another Act, to record or note in a register; and
  - (b) in relation to which the registrar may be required, under this Act or another Act, to alter the register.

## **Division 3                      Obtaining information and certificates from registrar**

### **109      Adequate reason**

In deciding whether an applicant has an adequate reason for obtaining requested information under section 110(4) or a certificate under section 112(3), the registrar must have regard to—

- (a) the relationship, if any, between the applicant and the person to whom the information or certificate relates; and
- (b) the reason the applicant wants the information or certificate; and
- (c) the use to be made of the information or certificate; and
- (d) the age of the entry from which the information is to be obtained or the certificate is to be issued; and

- (e) the contents of the entry or source document from which the information is to be obtained or the certificate is to be issued; and
- (f) the sensitivity of the information or certificate; and  
*Example of sensitive information—*  
a person's sex
- (g) the provision of an Act, if any, that permits the applicant to obtain the information or certificate; and
- (h) any other relevant factors.

## **110 Obtaining requested information from registrar**

- (1) An entity may apply to the registrar for any of the following (the *requested information*)—
  - (a) registrable information; or
  - (b) a copy of a source document; or
  - (c) information collected and maintained by the registrar under section 105.
- (2) An application under this section must be—
  - (a) in the form required by the registrar and made in an approved way; and
  - (b) accompanied by the fee prescribed by regulation.
- (3) An applicant for requested information, other than historical information, must satisfy the registrar of the applicant's identity.
- (4) 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 requested information.
- (5) The registrar may give requested information in the form the registrar considers appropriate.

- (6) If an applicant for a source document is not the person who created the document, the registrar may give the applicant a copy of the document with information redacted.

## **111 Restrictions on access to requested information about particular life events**

- (1) The registrar may not give requested information relating to an adopted person's birth entry except to the extent allowed under the *Adoption Act 2009*, section 290.
- (2) The registrar may only give requested information relating to an entry about a person closed under section 43 to any of the following persons—
- (a) the person;
  - (b) a child of the person;
  - (c) if the person is aged 16 or 17 years and gives consent to the release of the information—
    - (i) a parent of the person; or
    - (ii) a person with parental responsibility for the person;
  - (d) if the person is a child under 16 years—
    - (i) a parent of the child; or
    - (ii) a person with parental responsibility for the child;
  - (e) a person prescribed by regulation.
- (3) The registrar may only give requested information relating to an entry closed under section 19 or 21 that relates to a parentage order to any of the following persons—
- (a) a birth parent for the parentage order;
  - (b) an intended parent for the parentage order;
  - (c) if the child for the parentage order is at least 18 years—the child;

- (d) a guardian appointed under the *Guardianship and Administration Act 2000* for any of the persons mentioned in paragraphs (a) to (c);
  - (e) if an administrator has been appointed under the *Guardianship and Administration Act 2000*, section 14 for the child—the administrator;
  - (f) if a personal representative has been appointed for the child—the personal representative;
  - (g) an officer of, or person acting for, a law enforcement body;
  - (h) the Attorney-General.
- (4) When applying for information from a closed entry, a person mentioned in subsection (3)(d), (e) or (f) must—
- (a) produce to the registrar the person’s instrument of appointment; and
  - (b) show that the information is required to discharge a function under the person’s appointment.
- (5) Despite subsection (3), the registrar may give requested information relating to an entry closed under section 19 or 21 that relates to a parentage order to a child who is under 18 years if the birth parents and the intended parent, or intended parents, for the parentage order consent to the child’s application for the information.
- (6) For subsection (5), a person’s consent is not required if—
- (a) the person has died; or
  - (b) the child can not locate the person after making all reasonable enquiries.
- (7) The registrar may only give requested information relating to an entry closed under section 19 or 21 that relates to a cultural recognition order to—
- (a) a person who has been authorised under the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander*

*Traditional Child Rearing Practice) Act 2020*,  
section 64; or

- (b) an officer of, or person acting for, a law enforcement body.
- (8) When applying for information from a closed entry, a person mentioned in subsection (3)(g) or (7)(b) must show that the information is required to discharge—
- (a) a function of the law enforcement body; or
  - (b) the person's duty as an officer of the law enforcement body.

- (9) In this section—

***birth parent*** means—

- (a) for a parentage order under the *Surrogacy Act 2010*—a birth parent under that Act; or
- (b) for another parentage order—a person corresponding, under the law of another Australian jurisdiction where the order was made, to a birth parent under the *Surrogacy Act 2010*.

***intended parent*** means—

- (a) for a parentage order under the *Surrogacy Act 2010*—an intended parent under that Act; or
- (b) for another parentage order—a person corresponding, under the law of another Australian jurisdiction where the order was made, to an intended parent under the *Surrogacy Act 2010*.

## 112 Obtaining certificates from registrar

- (1) An entity may apply to the registrar for a certificate about an event that is, or may be, in a register kept by the registrar.
- (2) An application under this section must be—
  - (a) in the form required by the registrar and made in an approved way; and

- (b) accompanied by the fee prescribed by regulation.
- (3) 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.
- (4) The registrar may issue a certificate by certifying—
  - (a) some or all of the particulars that are in the most recent entry in the register for a stated registrable event; or
  - (b) that no entry was located in the register about the stated registrable event.
- (5) A certificate must 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 2012* or an interstate order or registered New Zealand order under part 6 of that Act.
  - 2 The registrar is satisfied that the person’s residential address should not be disclosed for the purpose of protecting the person or a person associated with the person.
- (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 by regulation.
  - (7) The registrar may issue a certificate electronically.
  - (8) A certificate is admissible in proceedings as evidence of its contents.

## **113 Obtaining information about sex of person from registrar**

- (1) This section applies if—



- (a) an entry for an event in a relevant child register states the sex of a person (the *subject person*); and
- (b) the subject person or another person applies to the registrar—
  - (i) under section 110 for requested information, other than historical information, about the event; or
  - (ii) under section 112 for a certificate containing information, other than historical information, about the event.
- (2) The registrar may only give the requested information or certificate containing a reference to the sex of the subject person if the applicant requests that the registrar include that information.
- (3) Also, the registrar may only give the requested information or certificate containing a notation of any previous sex stated in the relevant child register for the subject person if—
  - (a) the applicant requests that the registrar include that information; and
  - (b) the applicant is—
    - (i) the subject person; or
    - (ii) a child of the subject person; or
    - (iii) if the person is aged 16 or 17 years and gives consent to the release of the information or certificate—
      - (A) a parent of the person; or
      - (B) a person with parental responsibility for the person; or
    - (iv) if the subject person is a child under 16 years—
      - (A) a parent of the child; or
      - (B) a person with parental responsibility for the child; or

- (v) a person prescribed by regulation.

## 114 Additional services

- (1) Subject to section 116, the registrar may provide services relating to the information in a register or maintained by the registrar under section 105 that are additional to the services otherwise provided by the registrar under this Act.
- (2) The services the registrar may provide under subsection (1) include the issue of a commemorative certificate containing some or all of the particulars contained in an entry from the relevant register.
- (3) A commemorative certificate has no legal effect.
- (4) If the registrar provides a service under subsection (1), the registrar may charge a fee for the service.
- (5) In this section—  
*commemorative certificate* means a certificate that is more decorative than another certificate.

## 115 Information policies

- (1) The registrar may allow an entity to obtain information contained in a register other than under section 110 or 112.
- (2) The registrar must maintain a written statement of the policies relating to who may obtain—
  - (a) information under subsection (1); or
  - (b) information under section 110 or a certificate under section 112.
- (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 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.

## **116 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 an entity information, or access to information, contained in a register.

## **Division 4 Other provisions**

### **117 Control of records**

Despite the *Public Records Act 2023*, the registrar is to retain control over access to any information or records maintained under this Act.

### **118 Registrar may enter into arrangement**

- (1) This section applies in relation to information (*relevant information*)—
  - (a) in a register, including information in bulk or historical or genealogical information; or
  - (b) maintained by the registrar under section 105.
- (2) Subject to section 116, the registrar may enter into an arrangement with an entity for the provision of relevant

information to the entity if the registrar is satisfied that the provision of that information is in the public interest.

- (3) Without limiting subsection (2), an arrangement that may be entered into by the registrar under this section includes—
- (a) an arrangement between the registrar and a law enforcement body about providing relevant information to the body for the purpose of supporting the performance of the body's activities related to the enforcement of laws; and
  - (b) an arrangement between the registrar and a government agency about providing relevant information to the agency for the purpose of—
    - (i) informing the agency's policy making or program delivery; or
    - (ii) supporting the efficient delivery of the agency's services; or
    - (iii) assisting in the implementation and assessment of the agency's services; or
    - (iv) supporting research and development by the agency that the agency demonstrates to the registrar has clear and direct public benefits; and
  - (c) an arrangement between the registrar and a foreign corresponding authority about providing change of name records and death records about persons whose births are registered by the authority, to the authority for the purpose of supporting up-to-date demographic and identity records in the authority's jurisdiction; and
  - (d) an arrangement between the registrar and a non-government organisation, private sector agency or government agency about providing relevant information to the organisation or agency for the purpose of removing the names of deceased persons from a database of the organisation or agency.

- (4) If the registrar enters into an arrangement with an entity under this section the registrar may—
  - (a) provide relevant information to the entity under the arrangement; and
  - (b) charge the entity a fee for providing relevant information to the entity under the arrangement.
- (5) In this section—

*foreign corresponding authority* means an authority of a foreign country that registers births, deaths and marriages.

### **119 Registrar to give notice of registration of child's death to family and child 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 family and child 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 family and child commissioner—
    - (i) the registration number for the registration; and
    - (ii) the child's name; and
    - (iii) the child's date and place of birth; and
    - (iv) the child's usual place of residence; and
    - (v) the child's sex; and
    - (vi) the child's occupation, if any; and
    - (vii) the duration of the last illness, if any, had by the child; and
    - (viii) the date and place of death; and

- (ix) 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.

## **120 Registrar may enter into arrangement with family and child commissioner**

- (1) The registrar may enter into an arrangement with the family and child 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 family and child commissioner under the arrangement.
- (3) The registrar and the family and child 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 family and child 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 23, 110 to 112, 114 to 116 and 118.
- (6) In this section—  
*child death research functions*, for the family and child commissioner, means the commissioner's functions under the *Family and Child Commission Act 2014*, part 3.

## **121 Registrar may enter into arrangement with health ombudsman**

- (1) The registrar may enter into an arrangement with the health ombudsman about providing to the health ombudsman information from a register or a source document, or providing to the health ombudsman a copy of a source document, about the death of a person to which an investigation under the *Health Ombudsman Act 2013* may be relevant.
- (2) The registrar may provide information or a copy of a source document to the health ombudsman under the arrangement.
- (3) The registrar and the health ombudsman must, as far as practicable, 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 health ombudsman, 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 23, 110 to 112, 114 to 116 and 118.
- (6) In this section—

*health ombudsman* means the health ombudsman under the *Health Ombudsman Act 2013*.

## 122 Arrangement for giving information about persons for particular purposes under Adoption Act 2009

- (1) The chief executive (adoptions) may give information to the registrar about the identity of a person if—
  - (a) the person has given a contact statement to the chief executive (adoptions); or
  - (b) the public trustee has given a notice about the person to the chief executive (adoptions) under the *Adoption Act 2009*, section 217(3).
- (2) The registrar may give information to the chief executive (adoptions) about whether the person has died and, if the person has died, the date of the death.
- (3) The registrar and the chief executive (adoptions) may enter into an arrangement for giving information under this section.
- (4) In this section—

*chief executive (adoptions)* means the chief executive of the department in which the *Adoption Act 2009* is administered.

*contact statement* means a contact statement under the *Adoption Act 2009*, section 269(1).

## 123 Registrar to inform chief executive (corrective services) of particular applications

- (1) Subsection (2) applies if either—
  - (a) all of the following apply—
    - (i) the registrar receives an application under section 26;
    - (ii) the registrar is aware that the application may only be made with written permission under the *Corrective Services Act 2006*, section 27 or the



*Dangerous Prisoners (Sexual Offenders) Act 2003*,  
section 43AB;

- (iii) written permission was not given to the registrar with the application; or
- (b) all of the following apply—
  - (i) the registrar receives an application under section 39 or 50;
  - (ii) the registrar is aware that the application may only be made with written permission under the *Corrective Services Act 2006*, section 27AA or the *Dangerous Prisoners (Sexual Offenders) Act 2003*, section 43ABA;
  - (iii) written permission was not given to the registrar with the application.
- (2) The registrar must inform the chief executive (corrective services) of the application.

## Part 10                      General

### 124      Reviewing registrar's decisions

- (1) A person who is dissatisfied with a decision of the registrar may, as provided under the QCAT Act, apply to QCAT for a review of the decision.
- (2) Despite the QCAT Act, section 157, the registrar is required to give a person a written notice complying with that section for a decision only if the decision—
  - (a) is made on the application of the person; and
  - (b) is not the decision sought by the person.

*Note—*

The QCAT Act, sections 158 and 159 provide for a person dissatisfied with a decision of the registrar obtaining a written statement of reasons for the decision.

## **125 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) has, or can reasonably obtain, the correct information—gives the correct information.

## **126 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 mentioned 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.
- (3) In this section, a reference to a register includes a reference to a record collected and maintained by the registrar under section 105.

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## 127 Registered overseas child orders

- (1) For part 4, a reference to a parenting order made under the *Family Law Act 1975* (Cwlth), part VII, stating who may make decisions about major long-term issues for a child or a child's name includes a reference to a registered overseas child order.
- (2) For part 5, a reference to a parenting order made under the *Family Law Act 1975* (Cwlth), part VII, stating who may make decisions about major long-term issues for a child includes a reference to a registered overseas child order.
- (3) An application made under part 4 or 5 that is based on a registered overseas child order must be accompanied by the relevant documents for the registered overseas child order.
- (4) In this section—

***overseas child order*** see the *Family Law Act 1975* (Cwlth), section 4.

***registered overseas child order*** means an overseas child order that—

- (a) has been registered under the *Family Law Regulations 1984* (Cwlth), regulation 23; and
- (b) corresponds to—
  - (i) for an application made under part 4—a parenting order made under the *Family Law Act 1975* (Cwlth), part VII, stating who may make decisions about major long-term issues for a child or a child's name; or
  - (ii) for an application made under part 5—a parenting order made under the *Family Law Act 1975* (Cwlth), part VII, stating who may make decisions about major long-term issues for a child.

***relevant documents***, for a registered overseas child order, means—

- (a) a copy of the order; and

- (b) a copy of the certificate for the order mentioned in the *Family Law Regulations 1984*, regulation 23(1)(a)(ii).

## **128 Effect of interstate recognition certificate stating sex or gender of person**

- (1) If an interstate recognition certificate stating a sex is issued for a person, the person is a person of the sex stated in the certificate, for the purposes of, but subject to, a law of the State.
- (2) If an interstate recognition certificate stating a gender is issued for a person, the stated gender of the person is taken to be the sex of the person and the person is a person of that sex, for the purposes of, but subject to, a law of the State.
- (3) If more than 1 interstate recognition certificate has been issued for a person this section applies to the most recently issued certificate.
- (4) Subsection (5) applies to a person who has an entitlement—
  - (a) under a will; or
  - (b) under a trust; or
  - (c) otherwise by operation of law.
- (5) The person does not, except as otherwise provided under the will, the trust or by the law conferring the entitlement, lose the entitlement only because an interstate recognition certificate has been issued for the person.
- (6) In this section—

*interstate recognition certificate* means a certificate issued under the law of another State that identifies the person who is the subject of the certificate as being the sex or gender stated in the certificate.

## **129 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.

## **130 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.

## **131 Regulation-making power**

- (1) The Governor in Council may make regulations under this Act.
- (2) 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 register; and
  - (c) prescribe information that a court may consider when deciding or changing a child's name; and
  - (d) prescribe fees for this Act; and

- (e) provide for the registrar to waive payment of a fee; and
- (f) provide for the registrar to refund a fee paid.

## **Part 11**                      **Repeal and transitional provisions**

### **Division 1**                      **Repeal**

#### **132**      **Act repealed**

The Births, Deaths and Marriages Registration Act 2003, No. 31 is repealed.

### **Division 2**                      **Transitional provisions**

#### **133**      **Definitions for division**

In this division—

*2003 Act* means the *Births, Deaths and Marriages Registration Act 2003* as in force from time to time before the commencement.

*former*, for a provision, means the provision of that number of the 2003 Act.

#### **134**      **Certificates and other documents**

A certificate or other document issued under the 2003 Act is taken to have been issued under this Act.

#### **135**      **Registers**

The registers kept under the 2003 Act form part of the registers under this Act.

**136 Registrar**

The person holding office as registrar immediately before the commencement continues as the registrar under this Act.

**137 Continued application of 2003 Act**

Subject to sections 138 and 139, the 2003 Act, as in force immediately before the commencement, continues to apply to—

- (a) an application made but not decided before the commencement; and
- (b) a document lodged but not dealt with before the commencement; and
- (c) a notation or registration started but not completed before the commencement.

**138 Application of s 9 to births before commencement**

Section 9(2)(a) applies to the registration of the birth of a child if—

- (a) the child was born before the commencement; and
- (b) the child's birth was not registered before the commencement; and
- (c) variations of sex characteristics have been identified.

**139 Existing applications under former s 17**

- (1) This section applies to an application made under former section 17, but not decided, before the commencement.
- (2) The application is to be decided under this Act.

## **140 Entries closed under 2003 Act**

- (1) This section applies if an entry in a register was closed by the registrar under a former provision mentioned in column 1.
- (2) The entry is taken to be an entry that is closed under the provision of this Act mentioned in column 2.

<b>Provision of 2003 Act</b>	<b>Provision of this Act</b>
former section 14(2)	section 43
former section 14(3)	section 106
former section 41A(4)	section 19(3)
former section 41B(4)	section 21(3)
former section 41D(3)	section 19(3)
former section 41E(2)	section 21(3)
former section 41DA(3)	section 19(3)
former section 41DB(4)	section 21(3)

## **141 Application of s 27**

For the purpose of counting the previous registrations of changes of an adult person's name under section 27(1), a change of name by the person before the commencement is not to be counted.

## **142 Reassignment of sex noted under former s 22**

- (1) This section applies if, before the commencement, a person's sex was noted in the person's entry in the register of births or adopted children register under former section 22.
- (2) The person is a person of the sex as reassigned.
- (3) Subsection (4) applies to a person who has an entitlement—
  - (a) under a will; or



- (b) under a trust; or
  - (c) otherwise by operation of law.
- (4) The person 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.

## **Schedule 1      Applications in relation to children**

sections 15, 29, 35, 40, and 51

### **Part 1                      Person who may apply**

	<b>Column 1 Circumstances</b>	<b>Column 2 Who may apply</b>
1	<p>1 person, other than a parent of the child, has obtained in relation to the child—</p> <p>(a) for an application under section 15—an order under section 16; or</p> <p>(b) for an application under section 29—an order under section 30; or</p> <p>(c) for an application under section 35—</p> <p>(i) an order under section 30; or</p> <p>(ii) an order of a Queensland court or non-Queensland court ordering the change of name; or</p>	<p>the person</p>

Column 1 Circumstances	Column 2 Who may apply
(d) for an application under section 40— <ul style="list-style-type: none"> <li>(i) an order under section 44(2); or</li> <li>(ii) a dispensation order; or</li> <li>(iii) an order of a Queensland court or non-Queensland court directing the registrar to accept the application; or</li> </ul>	
(e) for an application under section 51— <ul style="list-style-type: none"> <li>(i) an order under section 55(2); or</li> <li>(ii) a dispensation order; or</li> <li>(iii) an order of a Queensland court or non-Queensland court directing the registrar to accept the application;</li> </ul>	
2	1 person is a guardian of the child under a relevant child protection order
3	2 persons are guardians of the child under a relevant child protection order and only 1 of the persons (the <i>relevant person</i> ) is alive
4	1 person is a guardian of the child under an appointment by will and the child has no surviving parent

Schedule 1

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	<b>Column 1 Circumstances</b>	<b>Column 2 Who may apply</b>
5	1 person, other than a parent, has sole parental responsibility to make decisions about major long-term issues for the child under a parenting order made under the <i>Family Law Act 1975</i> (Cwlth), part VII	the person
6	2 or more persons have parental responsibility to make decisions about major long-term issues for the child under a parenting order made under the <i>Family Law Act 1975</i> (Cwlth), part VII and only 1 of the persons (the <b><i>relevant person</i></b> ) is alive	the relevant person
7	for an application under section 15, 29 or 35—1 person, other than a parent, has sole parental responsibility to make decisions about the child’s name under a parenting order made under the <i>Family Law Act 1975</i> (Cwlth), part VII	the person
8	for an application under section 15, 29 or 35—2 or more persons have parental responsibility to make decisions about the child’s name under a parenting order made under the <i>Family Law Act 1975</i> (Cwlth), part VII and only 1 of the persons (the <b><i>relevant person</i></b> ) is alive	the relevant person

## Part 2 Two or more persons who may apply

	<b>Column 1 Circumstance</b>	<b>Column 2 Persons who may apply</b>
1	2 or more persons have guardianship of the child under a relevant child protection order	the persons
2	2 or more persons are guardians of the child under an appointment by will and the child has no surviving parent	the persons
3	2 or more persons have parental responsibility to make decisions about major long-term issues for the child under a parenting order made under the <i>Family Law Act 1975</i> (Cwlth), part VII	the persons
4	for an application under section 15, 29 or 35—2 or more persons have parental responsibility to make decisions about the child's name under a parenting order made under the <i>Family Law Act 1975</i> (Cwlth), part VII	the persons

## Schedule 2 Dictionary

### section 4

***acknowledgement of sex application***, for a child, for part 5, division 4, see section 61.

***adult person***, for part 4, see section 24.

***appellate court***, for part 5, division 5, subdivision 2, see section 77.

***approved way***, of making an application or giving a notice, means a way that is—

- (a) approved by the registrar; and
- (b) published on the department's website or [www.qld.gov.au](http://www.qld.gov.au).

***assessment***, of a child, for part 5, see section 37.

***birth entry*** means an entry in the register of births.

***birth parent***, of a child, means the person, of any sex, who gave birth to the child.

***birth registration application*** see section 9.

***cause of death certificate*** see section 94(2)(a).

***change***, a name, includes add a name.

***child***—

- (a) generally, includes a stillborn child; and
- (b) for part 4, see section 24.

***combined application***, for a child, for part 5, division 4, see section 61.

***coroner***—

- (a) for part 8—see section 88; or
- (b) otherwise—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.

***cultural recognition order*** see the *Meriba Omasker Kaziw Kazipa (Torres Strait Islander Traditional Child Rearing Practice) Act 2020*, schedule 1.

***developmentally informed practitioner***, for part 5, see section 37.

***discharge notice*** see section 20(1) and (2)(a)(ii).

***discharge order*** see section 20(2)(a)(i), (3)(b) and (4)(b).

***dispensation order*** see section 62(1).

***disposal***, of human remains, means—

- (a) cremation of the remains; or
- (b) burial of the remains, including burial at sea; or
- (c) placing the remains in a mausoleum or other permanent resting place; or
- (d) placing the remains in the custody of an educational or scientific institution for the purpose of medical education or research; or
- (e) removal of the remains from the State, other than if the remains have been cremated or are taken from the State by sea and buried at sea in the course of the voyage.

***eligible child*** see section 28.

***eligible person***, for a child, means—

- (a) 1 of the child's parents; or
- (b) a person who is 1 of a group of 2 or more persons mentioned in column 2 of the table in schedule 1, part 2.

***entitlement*** includes a right.

***family and child commissioner*** means the principal commissioner under the *Family and Child Commission Act 2014*.

***fee*** includes a tax.

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

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

***initial notice*** see section 18(1)(a) and (b) and (2)(a)(ii).

***initial order*** see section 18(2)(a)(i), (3)(a) and (4)(a).

***law enforcement body*** means—

- (a) the Queensland Police Service or a police service of another State; or
- (b) the Australian Federal Police; or
- (c) the Crime and Corruption Commission; or
- (d) the Australian Crime Commission.

***long-term guardianship order*** see the *Child Protection Act 1999*, schedule 3.

***marriage certificate*** means an official certificate of marriage under the *Marriage Act 1961* (Cwlth), section 50.

***non-Queensland court*** means—

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

***parentage discharge order*** means—

- (a) a discharge order under the *Surrogacy Act 2010*; or
- (b) an order of another Australian jurisdiction that corresponds to an order mentioned in paragraph (a).

***parentage order*** means—

- (a) a parentage order under the *Surrogacy Act 2010*; or
- (b) an order of another Australian jurisdiction that corresponds to an order mentioned in paragraph (a).



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***permanent care order*** see the *Child Protection Act 1999*, schedule 3.

***person with parental responsibility***, for a child, means—

- (a) a guardian of the child under a relevant child protection order; or
- (b) a guardian of the child under an appointment by will; or
- (c) a person who has parental responsibility to make decisions about major long-term issues for the child under a parenting order made under the *Family Law Act 1975* (Cwlth), part VII.

***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
- (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; or
- (f) is a name prescribed by regulation to be a prohibited name.

***prohibited sex descriptor*** means a sex descriptor—

- (a) that is obscene, offensive or absurd; or
- (b) that 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
- (c) that is contrary to the public interest.

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

***reasonably believes*** means believes on grounds that are reasonable in the circumstances.

***recognised details certificate***, for a person, see section 49.

***register***, used as a noun, means a register maintained under section 104.

***register***, used as a verb, means to enter information about a registrable event into a 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 Act 2009*; or
- (c) a change of parentage under a parentage order; or
- (d) a change of parentage under a cultural recognition order; or
- (e) another event that the registrar is required, under another Act, to record in a register.

***registrable information*** means information that the registrar must, or may, include in a register under section 104.

***registrar*** see section 99(1).

***relevant child protection order*** means—

- (a) an order granting short-term guardianship; or
- (b) a long-term guardianship order; or
- (c) a permanent care order; or

- (d) an order, corresponding to an order mentioned in paragraph (a), (b) or (c) made under a child welfare law of another State.

**relevant child register**, for a person, means whichever of the following registers has an open entry for the person—

- (a) the birth register;
- (b) the adopted children register;
- (c) the parentage order register;
- (d) the cultural recognition register.

**relevant event**, for a person, means the most recent of the following events for the person—

- (a) birth;
- (b) adoption;
- (c) change of parentage under a parentage order;
- (d) change of parentage under a cultural recognition order.

**relevant parentage register**, for part 3, see section 17.

**relevant person**, for part 5, division 4, see section 60(a) and (b).

**requested information** see 110(1).

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

**seal** includes a stamp.

**sex descriptor** means—

- (a) ‘male’; or
- (b) ‘female’; or
- (c) any other descriptor of a sex.

*Examples—*

‘agender’, ‘genderqueer’, ‘non-binary’

**short-term guardianship** see the *Child Protection Act 1999*, schedule 3.

**source document** means—

- (a) a document given to the registrar in relation to the registration or notation of an event in a register kept by the registrar, other than a document—
  - (i) to the extent the document contains statistical information; or
  - (ii) given to the registrar under section 23 of the repealed *Births, Deaths and Marriages Registration Act 2003*; or
- (b) a digitised copy of a document to which paragraph (a) applies, kept by the registrar as an official record of the document.

**State**, for part 3, see section 17.

**stated party**, for part 5, division 4, see section 60(a) and (b).

**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 body of the child's birth parent; and
- (b) who—
  - (i) has been gestated for 20 weeks or more; or
  - (ii) weighs 400g or more.

**vessel** includes a hovercraft.