

Births, Deaths and Marriages Registration Regulation 2001

under the

Births, Deaths and Marriages Registration Act 1995

Explanatory note

The object of this Regulation is to repeal and remake, without substantial alteration (except in relation to the fees payable for services provided by the Registrar of Births, Deaths and Marriages), the *Births, Deaths and Marriages Registration Regulation 1996*. That Regulation will be repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

This Regulation prescribes the following:

- (a) the particulars required to be notified to the Registrar concerning the birth of a child (clause 5),
- (b) the particulars required to be given to the Registrar for the purpose of having the birth of a child registered (clause 6),
- (c) the particulars required to be entered in the Register kept under the *Births, Deaths and Marriages Act 1995* (***the Act***) in connection with the registration of adoptions (clause 7),
- (d) the particulars required to be entered in the Register in connection with the registration of change of name (clause 8),
- (e) the particulars required to be notified to the Registrar by funeral directors or other persons arranging for the disposal, or removal from the State, of human remains or (in certain circumstances) having custody of human remains (clauses 9–11),
- (f) the documents that are required to accompany an application for the alteration of the Register to record a change of sex (clause 12),
- (g) the persons (in addition to those specified in the Act) who may apply for a birth certificate showing the original sex of a person the record of whose sex has been altered under the Act (clause 13),

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- (h) the laws of certain other Australian jurisdictions for the purposes of the definition of *interstate recognition certificate* in the Act (clause 14),
- (i) the fees to be paid for services provided by the Registrar under the Act (clause 15 and Schedule 1).

This Regulation also contains certain formal and machinery matters (clauses 1–4 and 16).

This Regulation is made under the *Births, Deaths and Marriages Registration Act 1995* and, in particular, under section 62 (the general regulation-making power) and the other sections mentioned in the Regulation.

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Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Births, Deaths and Marriages Registration Regulation 2001*.

2 Commencement

This Regulation commences on 1 September 2001.

Note. This Regulation replaces the *Births, Deaths and Marriages Registration Regulation 1996* which is repealed on 1 September 2001 under section 10 (2) of the *Subordinate Legislation Act 1989*.

3 Definition

In this Regulation:

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

4 Notes

The explanatory note, table of contents and notes in the text of this Regulation do not form part of this Regulation.

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

5 Notification of birth

For the purposes of section 12 of the Act (Notification of births), the following particulars are required:

- (a) the sex and date and place of birth of the child,
- (b) whether the child was born alive or stillborn,
- (c) the weight of the child at birth and, if the child was stillborn, the period of gestation of the child,
- (d) whether or not the birth was a multiple birth,
- (e) the full name, maiden family name, date of birth and usual place of residence of the mother of the child,
- (f) the full name and occupation of the person giving the notice.

6 Registration of birth

For the purposes of section 14 of the Act (How to have the birth of a child registered), the following particulars are required:

- (a) the sex and date, place and time of birth of the child,
- (b) the full name and address of the doctor or midwife responsible for the professional care of the mother at the birth,
- (c) the weight of the child at birth,
- (d) whether or not the birth was a multiple birth,
- (e) the full name, maiden family name, occupation and usual place of residence of the mother of the child,
- (f) the date of birth (or age) and place of birth of the mother of the child,
- (g) the full name, occupation and usual place of residence of the father of the child,
- (h) the date of birth (or age) and place of birth of the father of the child,
- (i) the date and place of marriage of the parents of the child (if applicable),

- (j) if the mother of the child has any other children, the given name, sex and date of birth of those children (including any deceased children),
- (k) whether or not the mother or father of the child is of Aboriginal or Torres Strait Islander origin,
- (l) if either parent of the child was born outside Australia, the period of residence in Australia of that parent.

Note. The notice given for the purposes of section 14 of the Act (called a birth registration statement) must also state the name of the child (see section 21 of the Act).

7 Registration of adoptions

- (1) For the purposes of section 24 of the Act (How adoptions are registered), the following particulars are required:
 - (a) the full name, sex and date and place of birth of the child to whom the memorandum relates,
 - (b) the full name, maiden family name, occupation and usual place of residence of the adoptive mother of the child,
 - (c) the date of birth (or age) and place of birth of the adoptive mother of the child,
 - (d) the full name, occupation and usual place of residence of the adoptive father of the child,
 - (e) the date of birth (or age) and place of birth of the adoptive father of the child,
 - (f) the date and place of marriage of the adoptive parents of the child (if applicable),
 - (g) if the adoptive parents have any other children (whether adopted children or not), the given names and date of birth of each of those children (including any deceased children).
- (2) On and from the commencement of section 24A of the Act (Registration of deceased person's former intention to adopt), and for the purposes of that section, the following particulars are required:
 - (a) the full name and last residential address of the deceased person,
 - (b) the date and place of death of the deceased person.

Note. Section 24A is to be inserted in the Act by Schedule 2.1 [3] to the *Adoption Act 2000*. That Act also inserts the above subclause (2) in clause 7 of the *Births,*

Deaths and Marriages Registration Regulation 1996 (which is repealed). The *Adoption Act 2000* has not yet commenced.

8 Registration of change of name

For the purposes of section 31 of the Act (Entries to be made in the Register), the following particulars are required:

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

9 Information concerning human remains

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

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the date of disposal of the remains of the deceased,
- (e) the full name and business address of the funeral director or other person who arranged for the disposal of the remains,
- (f) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (g) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (h) the marital status of the deceased immediately before death,
- (i) if the deceased had married at any time, the date of marriage (or age of the deceased at the date of the marriage), the place of marriage and the full name (including maiden family name) of

his or her spouse or, if the deceased had married more than once, the date of each marriage (or age of the deceased at the date of each marriage), the place of each marriage and the full name (including maiden family name) of each spouse,

- (j) the given names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
- (k) the full name, maiden family name and occupation of the mother of the deceased,
- (l) the full name and occupation of the father of the deceased.

10 Information concerning human remains removed from the State

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

- (a) the full name and last residential address of the deceased,
- (b) the date and place of death of the deceased,
- (c) whether or not the death was reported to a coroner,
- (d) the sex, date of birth (or age at death) and place of birth of the deceased,
- (e) the usual occupation of the deceased person before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (f) the date of disposal of the remains of the deceased,
- (g) the full name and business address of the funeral director or other person who arranged for removal of the remains,
- (h) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (i) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (j) the marital status of the deceased immediately before death,
- (k) if the deceased had married at any time, the date of marriage (or age of the deceased at the date of the marriage), the place of marriage and the full name (including maiden family name) of his or her spouse or, if the deceased had married more than once, the date of each marriage (or age of the deceased at the

- date of each marriage), the place of each marriage and the full name (including maiden family name) of each spouse,
- (l) the given names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),
 - (m) the full name, maiden family name and occupation of the mother of the deceased,
 - (n) the full name and occupation of the father of the deceased.

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

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

- (a) the date and place of death of the deceased,
- (b) the sex, date of birth (or age at death) and place of birth of the deceased,
- (c) the usual occupation of the deceased before death and whether or not the deceased was a pensioner or was retired immediately before death,
- (d) the full name and business address of the person who has custody of the remains of the deceased,
- (e) if the deceased was born outside Australia, the period of residence in Australia of the deceased before death,
- (f) whether or not the deceased was of Aboriginal or Torres Strait Islander origin,
- (g) the marital status of the deceased immediately before death,
- (h) if the deceased had married at any time, the date of marriage (or age of the deceased at the date of the marriage), the place of marriage and the full name (including maiden family name) of his or her spouse or, if the deceased had married more than once, the date of each marriage (or age of the deceased at the date of each marriage), the place of each marriage and the full name (including maiden family name) of each spouse,
- (i) the given names, sex and date of birth (or age) of the children (if any) of the deceased (including deceased children),

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- (j) the full name, maiden family name and occupation of the mother of the deceased,
- (k) the full name and occupation of the father of the deceased.

Part 3 Provisions relating to change of sex

12 Application to alter Register to record change of sex

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

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

13 Persons who can apply for old birth certificate

(1) For the purposes of section 32F of the Act, the following persons are prescribed as persons who may apply to the Registrar for a birth certificate for a person (the *transgender person*) the record of whose sex has been altered under Part 5A of the Act that shows the transgender person's sex before the record was so altered:

- (a) the executor or administrator of the transgender person's estate,
- (b) a parent of the transgender person,
- (c) a spouse (or former spouse) of the transgender person,
- (d) an officer or person acting on behalf of any of the following law enforcement agencies:
 - (i) the Police Service, or the police force of another State or Territory,
 - (ii) the Australian Federal Police,
 - (iii) the New South Wales Crime Commission,
 - (iv) the National Crime Authority,
 - (v) the Office of the Director of Public Prosecutions of this State, of another State or a Territory, or of the Commonwealth,
 - (vi) the Independent Commission Against Corruption.

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14 Prescribed interstate laws

For the purposes of section 32I of the Act (Effect of alteration of register and interstate recognition certificates), the following laws are prescribed:

Births, Deaths and Marriages Registration Act 1996 of the Northern Territory

Births, Deaths and Marriages Registration Act 1997 of the Australian Capital Territory

Sexual Reassignment Act, 1988 of South Australia

Gender Reassignment Act 2000 of Western Australia

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Part 4 Fees

15 Fees

For the purposes of section 54 of the Act (Fees), the fee for a service provided by the Registrar is the amount set out opposite the service concerned in Schedule 1.

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Part 5 Miscellaneous

16 Savings provision

Any act, matter or thing that, immediately before the repeal of the *Births, Deaths and Marriages Registration Regulation 1996*, had effect under that Regulation is taken to have effect under this Regulation.

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Schedule 1 Fees

		(Clause 15)
		\$
1	For furnishing a certificate certifying particulars contained in an entry in the Register or a certificate certifying that no entry was located in the Register about a relevant registrable event, including the fee for search under any one name in respect of a period not exceeding 10 years	29.00
2	For furnishing a certificate as to a recording in the Register where the applicant has provided the relevant number of the recording from an index published by the Registry of Births, Deaths and Marriages	22.50
3	For search against any one name in the Register (including an index to the Register) in respect of a period not exceeding 10 years pursuant to an application under section 50 of the Act (Issue of certificate relating to children of deceased person), including the fee for a certificate of result of any such search	28.00
4	For continuation of any search under any one name in respect of each period of 10 years, or part of such a period	28.00
5	For giving priority to a search or to the issue of a certificate of result of search in addition to any other fee	15.00
6	For insertion in a recording of a name, an additional name or other particulars, or registration of a change of name	50.00
7	For altering the record of a person's sex in the registration of the person's birth	50.00
8	For recording in the Register, subsequent to registration of the birth of a child, the name of or other particulars relating to a person as a parent of the child	50.00
9	For furnishing a certified copy of any record or	27.00 (each sheet)

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	document kept by the Registry of Births, Deaths and Marriages, for which no fee is otherwise provided	
10	For each special service in relation to the Registry of Births, Deaths and Marriages for which no fee is otherwise provided—such fee as may be approved by the Registrar having regard to the work involved in providing the service	27.50 (minimum fee)