



Western Australia

Births, Deaths and Marriages Registration Act 1998

**Incorporating the amendments proposed by
the *Births, Deaths and Marriages Registration
Amendment (Sex or Gender Changes)*
Bill 2024 Pt. 2 (Bill No. 156-2)**

Births, Deaths and Marriages Registration Act 1998

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Births, Deaths and Marriages Registration Act 1998

An Act to provide for the registration of births, deaths, marriages, changes of name, changes of registration of sex and gender, and ~~name and~~ information about certain parentage changes in Western Australia and for related matters.

[Long title amended: No. 47 of 2008 s. 47; [Births, Deaths and Marriages Registration Amendment \(Sex or Gender Changes\) Bill 2024 cl. 4.](#)]

Part 1 — Preliminary

1. Short title

This Act may be cited as the *Births, Deaths and Marriages Registration Act 1998*.

2. Commencement

This Act comes into operation on such day as is fixed by proclamation.

3. Objects of Act

The objects of this Act are to provide for the following —
~~provide for —~~

- (a) the registration of births, deaths, marriages, changes of name, changes of registration of sex and gender and ~~name and~~ parentage change information in Western Australia;
- (b) the keeping of registers for recording and preserving information about births, deaths, marriages, changes of name and parentage changes in perpetuity;
- (c) access to the information in the registers in appropriate cases by government or private agencies and members of the public, from within and outside the State;
- (d) the issue of certified and uncertified information from the ~~registers; registers; and~~
- (da) the issue of documents that acknowledge the sex or gender of persons who are resident in Western Australia and were born outside of Australia;
- (e) the collection and dissemination of statistical information.

[Section 3 amended: No. 47 of 2008 s. 48; Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 5.]

4. Terms used

In this Act, unless the contrary intention appears —

adult means a person who —

- (a) is 18 years of age or more; or
- (b) although under 18 years of age, is or has been married;

approved means approved by the Registrar;

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

birth registration statement means the statement referred to in section 14;

change, in relation to a name, includes an addition, omission or substitution;

child includes a still-born child;

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

death includes still-birth;

disposal, in relation to human remains, means —

- (a) cremation of the remains;
- (b) burial of the remains (including burial at sea);
- (c) placing the remains in a mausoleum or other permanent resting place; or
- (d) removal of the remains from the State (but not if the remains have been cremated or are taken from the State by sea and buried at sea in the course of the voyage);

doctor means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

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

human remains includes the remains of a still-born child;

neonatal death means the death of a live-born child within 28 days after the birth;

prohibited name means a name that, in the opinion of the Registrar —

- (a) is obscene or offensive;
- (b) could not practicably be established by repute or usage —
 - (i) because it is too long;
 - (ii) because it consists of or includes symbols without phonetic significance; or
 - (iii) for some other reason;
- (c) is contrary to the public interest for some other reason;

Register means the Register referred to in section 49(1);

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

registrable event means a birth, death, marriage, change of name or an adoption or discharge of an adoption or the making or discharge of a parentage order as defined in the *Surrogacy Act 2008* section 14;

registrable information means the particulars and the further information referred to in section 49(2) or (2A) that must or may be included in the Register;

Registrar means the Registrar of Births, Deaths and Marriages referred to in section 5;

State includes a Territory;

State court means the Supreme Court, the District Court, the Family Court (including a court of summary jurisdiction having jurisdiction that may be exercised by the Family Court) or the Children's Court;

still-birth means the birth of a still-born child;

still-born child means a child —

- (a) of at least 20 weeks' gestation; or
- (b) if it cannot be reliably established whether the child's period of gestation is more or less than 20 weeks, with a body mass of at least 400 grams at birth,

that exhibits no sign of respiration or heartbeat, or other sign of life, immediately after birth.

[Section 4 amended: No. 22 of 2008 Sch. 3 cl. 5; No. 47 of 2008 s. 49; No. 35 of 2010 s. 34; [Births, Deaths and Marriages Registration Amendment \(Sex or Gender Changes\) Bill 2024 cl. 6.](#)]

Part 2 — Administration

Division 1 — The Registrar and staff

5. Registrar

There is to be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* a Registrar of Births, Deaths and Marriages for the State.

6. Registrar's general functions

The Registrar's general functions are to —

- (a) establish and maintain the registers necessary for the purposes of this Act;
- (b) administer the registration system established by this Act and ensure that it operates efficiently, effectively and economically; and
- (c) ensure that this Act is administered in the way best calculated to achieve its objects.

7. Registrar's staff

- (1) There are to be appointed under and subject to Part 3 of the *Public Sector Management Act 1994* —
 - (a) one or more Deputy Registrars of Births, Deaths and Marriages; and
 - (b) such other staff as are necessary for the proper administration of this Act.
- (2) A Deputy Registrar has the powers and functions of the Registrar but is subject to direction by the Registrar.
- (3) Subject to subsection (2), a Deputy Registrar may act as the Registrar when the Registrar is temporarily unavailable for any reason to perform the functions of office.

8. Delegation

- (1) The Registrar may, by instrument in writing, delegate to any person, either generally or as otherwise provided in the instrument, a power or duty that the Registrar has under this Act, other than this power of delegation.
- (2) Anything done by a delegate under a delegation under this section has the same force and effect as if it had been done by the Registrar.

Division 2 — Execution of documents

9. The Registrar's seal

The Registrar is to have a seal.

10. Execution of documents

- (1) The Registrar may issue a certificate or other document under —
 - (a) the Registrar's signature and seal; or
 - (b) a facsimile of the Registrar's signature and seal produced by stamp, machine imprint or a prescribed method.
- (2) If a document produced before a court or a person acting judicially, or an administrative authority or official is apparently under —
 - (a) the Registrar's signature and seal; or
 - (b) a facsimile of the Registrar's signature and seal produced by stamp, machine imprint or a prescribed method,

the court, person, authority or official must presume, in the absence of evidence to the contrary, that the document was properly issued under the Registrar's authority.

Division 3 — Reciprocal administrative arrangements

11. Reciprocal administrative arrangements

- (1) The Minister may enter into an arrangement with the Minister responsible for the administration of a corresponding law and the arrangement may provide for —
 - (a) the performance by the Registrar of functions of the registering authority under the corresponding law; and
 - (b) the performance by the registering authority under the corresponding law of functions of the Registrar under this Act.
- (2) When an arrangement is in force under this section —
 - (a) the Registrar may perform, to the extent authorised by the arrangement (but subject to the conditions of the arrangement), the functions of the registering authority under the corresponding law; and

- (b) the registering authority under the corresponding law may perform, to the extent authorised by the arrangement (but subject to the conditions of the arrangement), the 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;
 - (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.

Part 3 — Registration of births

Division 1 — Notification of births

12. Notification of births

(1) In this section —

responsible person, in relation to the birth of a child —

- (a) if the child was born in a hospital or brought to a hospital within 24 hours after the child's birth, means —
 - (i) in the case of a public hospital as defined in the *Health Services Act 2016* section 6 — the chief executive of the health service provider for that hospital; or
 - (ii) in the case of a private hospital as defined in the *Private Hospitals and Health Services Act 1927* section 2(1) — the chief executive officer or general manager of the hospital;

or

- (b) in any other case —
 - (i) means the doctor or midwife responsible for the professional care of the child's mother at the birth;
 - (ii) if the child was still-born, means the doctor who examined the child's body after the birth; or
 - (iii) if no doctor or midwife was in attendance at the child's birth, means any person in attendance at the birth.

(2) When a child is born in the State, the responsible person must give the Registrar notice of the birth —

- (a) within one month after the birth; and
- (b) in an approved form and manner.

Penalty: \$1 000.

(3) A person does not commit an offence under subsection (2) if notice of the birth is given by another person.

[Section 12 amended: No. 11 of 2016 s. 284.]

Division 2 — Registration of births

13. Cases in which registration of birth is required or authorised

- (1) If a child is born in the State, the birth must be registered under this Act.
- (2) If a State court orders that a birth be registered in this State, the birth must be registered under this Act.
- (3) If a court of another State or of the Commonwealth makes a determination that a birth should be registered in this State, the birth may be registered under this Act if the Registrar considers that it is appropriate to do so.
- (4) If a child is born —
 - (a) in an aircraft during a flight to an airport in the State; or
 - (b) on a vessel during a voyage to a port in the State,the birth may be registered under this Act.
- (5) If a child is born outside the Commonwealth, but the child is to become (or in the case of a still-birth, was to become) a resident of the State, the birth may be registered under this Act.
- (6) The Registrar must not register a birth under subsection (4) or (5) if the birth is registered under a corresponding law.

14. How to have the birth of a child registered

A person has the birth of a child registered under this Act by lodging a statement (the “birth registration statement”) in an approved form.

15. Responsibility to have birth registered

- (1) The parents of a child are jointly responsible for having the child’s birth registered under this Act (and must both sign the birth registration statement) but the Registrar may accept a birth registration statement from one of the parents if satisfied that it is impracticable for the other parent to join or be required to join in the application because of his or her death, disappearance, ill health or unavailability or the need to avoid unwarranted distress to obtain the signatures of both parents on the birth registration statement.

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- (2) If a child is a foundling, the person with responsibility for the long-term care, welfare and development of the child is responsible for having the child's birth registered.
- (3) The Registrar may accept a birth registration statement from a person who is not responsible for having the child's birth registered if satisfied that —
 - (a) the person lodging the statement has knowledge of the relevant facts; and
 - (b) the child's parents are unable or unlikely to lodge a birth registration statement.

16. Obligation to have birth registered

- (1) A person who is responsible under section 15(1) or (2) for having a child's birth registered must ensure that a birth registration statement is lodged with the Registrar within 60 days after the date of the birth.

Penalty: \$1 000.

- (2) The Registrar must accept a birth registration statement even though it is lodged after the end of the 60 day period.

17. Registration of birth

- (1) The Registrar is to register a birth by making an entry about the birth in the Register including such particulars as the Registrar considers appropriate to register the birth.
- (2) If the particulars available to the Registrar are incomplete the Registrar may register a birth on the basis of incomplete particulars.

18. Registration of parentage details

- (1) The Registrar is not to include information about the identity of a child's parents in the Register unless —
 - (a) both parents of the child make a joint application for the inclusion of registrable information about that identity;
 - (b) one parent of the child makes an application for the inclusion of registrable information about that identity and the other parent cannot join in the application because —

(i) the other parent is dead; or

(ii) the other parent cannot be found; or

~~(i) he or she is dead;~~

-
- ~~(ii) he or she cannot be found; or~~
- (iii) of some other reason;
 - (c) one parent of the child makes an application for the inclusion of registrable information about that identity and the Registrar is satisfied that the other parent does not dispute the correctness of that information;
 - (d) a State court orders the inclusion of registrable information about the identity in the Register or makes a finding that a particular person is a parent of a child;
 - (e) a court of another State or of the Commonwealth makes a determination that registrable information about the identity should be included in the Register or makes a finding that a particular person is a parent of a child and the Registrar considers that it is appropriate to include the information in the Register; or
 - (f) the Registrar is entitled under any law (including a law of another State or the Commonwealth) to make a presumption as to the identity of the child's parent.
- (2) The Registrar may include information about the identity of a child's parent in the Register if —
- (a) the Registrar is not prohibited by subsection (1) from doing so;
 - (b) despite subsection (1), both parents are unable to give registrable information about the identity of a child's parent or parents for some reason or are unavailable and another person can provide information to the Registrar's satisfaction as to the identity of the child's parent or parents; or
 - (c) despite subsection (1), one parent has provided the birth registration statement and the registrable information relates only to the identity of that parent.

[Section 18 amended: No. 3 of 2002 s. 30; [Births, Deaths and Marriages Registration Amendment \(Sex or Gender Changes\) Bill 2024 cl. 7.](#)]

19. Addition of details after birth registration

- (1) Subject to section 18, a person may apply to the Registrar for the inclusion of additional registrable information about a person's birth registration in the Register.

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- (2) An application under subsection (1) —
- (a) must be made in writing;
 - (b) must include such information that may be required by the Registrar;
 - (c) in relation to a child, may include a request that a different surname for the child be entered in the Register (the *proposed surname*); and
 - (d) must, if the Registrar requires verification of the information contained in the application, be accompanied by a statutory declaration verifying the information contained in the application and other evidence the Registrar may require.
- (3) Subject to subsection (4), on an application under subsection (1) that includes a request that a different surname for a child be entered in the Register —
- (a) if the application is jointly made by both parents of the child, the Registrar may change the surname for the child entered in the Register to the proposed surname; or
 - (b) if the application is not jointly made by both parents of the child, the Registrar may change the surname for the child entered in the Register to the proposed surname if —
 - (i) the child's other parent has died; or
 - (ii) the child's other parent cannot be found but other children of the same parents are registered in the proposed surname.
- (4) On an application under subsection (1) that includes a request that a different surname for a child be entered in the Register the Registrar may change the surname for the child entered in the Register to the proposed surname —
- (a) if the proposed surname is not a prohibited name; and
 - (b) if the child is 12 years of age or more and —
 - (i) the child consents to the proposed surname; or
 - (ii) the child is unable to understand the meaning and implications of the change of surname.

[Section 19 amended: No. 3 of 2002 s. 31.]

Division 3 — Court orders relating to registration of birth

20. Powers of State courts

A State court may, on application by an interested person or on its own initiative, order the Registrar to —

- (a) register a birth; or
- (b) include or correct registrable information about a birth or a child's parents in the Register.

21. Registration of birth etc. after court findings

(1) If a State court finds that —

- (a) the birth of a person is not registered as required under this Act or a corresponding law;
- (b) the registrable information contained in an entry about a birth in the Register under this Act or a corresponding law is incomplete or incorrect; or
- (c) information about the identity of a child's parents should be included in the Register under this Act or a corresponding law,

the State court may order the registration of the birth or order the inclusion or correction of registrable information in the Register or make a determination for the purposes of the corresponding law (as is applicable to the case).

(2) The Registrar may register a birth or amend the Register in accordance with the determination of a court of another State or of the Commonwealth which has made a finding of a kind referred to in subsection (1) if the Registrar considers it is appropriate to do so.

Division 4 — Child's name

22. Name of child

- (1) The birth registration statement for a child must state the name of the child.
- (2) Subsection (1) does not require a still-born child or a child who has a neonatal death to be named but nothing in this subsection prevents such a child from being named if the persons lodging the birth registration statement for the child so wish.

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Division 4 Child's name

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- (3) The name is a matter of choice for the person or persons lodging the birth registration statement and nothing in this Act requires that —
 - (a) the name be made up of both a surname and a given name or given names; or
 - (b) the surname be the same as that of a parent of the child.
- (4) The Registrar may assign a name to a child if —
 - (a) the name stated in the birth registration statement is a prohibited name; or
 - (b) the birth registration statement is lodged by both parents of the child and they satisfy the Registrar that they are unable to agree on the child's name.
- (5) If the Family Court has resolved a dispute about a child's name the Registrar must assign or re-assign the child's name in accordance with the court orders.
- (6) If a court of another State or of the Commonwealth has resolved a dispute about a child's name the Registrar may assign or re-assign the child's name in accordance with the determination if the Registrar considers that it is appropriate to do so.

23. Given names can be changed once within a year of birth

- (1) A person may apply to the Registrar requesting the Registrar to change a name or names of a child entered in the Register other than the child's surname.
- (2) An application under subsection (1) —
 - (a) must be made in writing;
 - (b) must be made within 12 months after the date of the child's birth;
 - (c) must be made —
 - (i) if both of the child's parents signed the birth registration statement for the child, by both parents;
 - (ii) if the Registrar accepted the birth registration statement for the child from one parent under section 15(1), by that parent;
 - (iii) if, after the time when the birth registration statement for the child was lodged, one of the child's parents has died, by the other parent; or

- (iv) if, after the time when the birth registration statement for the child was lodged, both of the child's parents have died, cannot be found or for some other reason cannot exercise their parental responsibilities in relation to the child, by the child's guardian;
- and
- (d) cannot be made if a previous application under this section has been made.
- (3) On an application under subsection (1) the Registrar may change a name or names of the child entered in the Register other than the child's surname to the name or names in accordance with the request unless a requested name is a prohibited name.

Part 4 — Registration of information about certain parentage changes

[Heading inserted: No. 47 of 2008 s. 50.]

24. WA order: birth registered in WA

- (1) On receipt of a notice under section 78(1) of the *Adoption Act 1994* in relation to an adoptee whose birth is registered in this State, the particulars provided in the notice must be registered by the Registrar in relation to the registration of the adoptee's birth.
- (2) On receipt of a notice under section 32(1) of the *Surrogacy Act 2008* in relation to the making or discharge of a parentage order about a child whose birth is registered in this State, the particulars provided in the notice must be registered by the Registrar in relation to the registration of the child's birth.

[Section 24 amended: No. 47 of 2008 s. 51.]

25. WA order: birth not registered in WA

- (1) On receipt of a notice under section 78(1) of the *Adoption Act 1994* in relation to an adoptee whose birth is registered in another State, the Registrar —
 - (a) must send a copy of the notice to the relevant registering authority; and
 - (b) subject to subsection (2), must register the adoptee's birth in accordance with the information provided under section 78 of that Act.
- (2A) On receipt of a notice under section 32(1) of the *Surrogacy Act 2008* in relation to the making or discharge of a parentage order about a child whose birth is registered in another State, the Registrar —
 - (a) must send a copy of the notice to the relevant registering authority; and
 - (b) subject to subsection (2), must register the child's birth in accordance with the information provided under section 32 of that Act.
- (2) The Registrar is not required to register a birth under subsection (1) or (2A) if —
 - (a) the birth is registered under a corresponding law; and
 - (b) information about the adoption order or parentage order, or the discharge of the adoption order or parentage

order, as is applicable in the case, is registered under a corresponding law.

- (3) If a birth is to be registered under subsection (1) or (2A) but some of the information required to register the birth is not available, the Registrar may endorse the birth registration to the effect that the information was not available when the birth was registered.

[Section 25 amended: No. 47 of 2008 s. 52.]

26. Order in other State: birth registered in WA

- (1) If —
- (a) an adoption order or parentage order is made or discharged under a law in force in another State; and
 - (b) the order was made or discharged in relation to a person whose birth is registered under this Act,

the particulars (if any) provided under that law must be registered by the Registrar in relation to the registration of the person's birth.

- (2) In subsection (1) —

parentage order means an order substantially similar in effect to a parentage order under the *Surrogacy Act 2008*.

[Section 26 amended: No. 47 of 2008 s. 53]

27. Manner and form of adoption information in the Register

A registration or endorsement required under this Part and any related entry in the Register are to be made in an approved manner and form.

28. Certain certified copies

If the *Adoption Act 1994* section 86 or the *Surrogacy Act 2008* section 39 requires the Registrar to issue a certified copy of that portion of the registration of a person's birth that does not refer to —

- (a) the person's birth parents; or
- (b) as the case requires, the person's adoption or change of parentage under the *Surrogacy Act 2008*,

the certified copy is to be in an approved form.

[Section 28 inserted: No. 47 of 2008 s. 54.]

Part 5 — Change of name

Division 1 — Terms used

[Heading inserted: No. 46 of 2020 s. 4.]

28A. Terms used

In this Part —

Australian citizen has the meaning given in the *Australian Citizenship Act 2007* (Commonwealth) section 3;

detainee has the meaning given in the *Young Offenders Act 1994* section 3;

early release order has the meaning given in the *Sentence Administration Act 2003* section 4(2);

high risk serious offender means a person subject to —

- (a) a supervision order as defined in the *High Risk Serious Offenders Act 2020* section 27(1); or
- (b) an order under the *High Risk Serious Offenders Act 2020* section 58;

permanent resident has the meaning given in the *Australian Citizenship Act 2007* (Commonwealth) section 3;

prisoner has the meaning given in the *Prisons Act 1981* section 3(1);

reportable offender has the meaning given in the *Community Protection (Offender Reporting) Act 2004* section 3;

required declarant means a person who is any of the following —

- (a) a high risk serious offender;
- (b) a detainee;
- (c) a person subject to an early release order;
- (d) a prisoner;
- (e) a reportable offender;
- (f) a supervised offender;
- (g) a supervised young offender;

supervised offender —

- (a) means a person who is subject to an order under which the person is supervised or monitored under the *Sentencing Act 1995*, the *Sentence Administration Act 2003* or the *Young Offenders Act 1994*; but

- (b) does not include a supervised young offender or a person subject to an early release order;

supervised young offender means a person who is the subject of a supervised release order as defined in the *Young Offenders Act 1994* section 3.

[Section 28A inserted: No. 46 of 2020 s. 4.]

Division 2 — General requirements relating to change of name

[Heading inserted: No. 46 of 2020 s. 5.]

29. Change of name by registration

A person's name may be changed by registration of the change under this Part.

29A. Registrar may register change of name despite restrictions

- (1) Despite any restriction imposed by this Division, the Registrar may, on application, register a change of a person's name if the Registrar is satisfied that —
 - (a) the change is for the personal protection of the person; or
 - (b) the change is because of the marriage or divorce of the person; or
 - (c) the change is justified by exceptional circumstances.
- (2) The Registrar may require the applicant to provide evidence to enable the Registrar to be satisfied under subsection (1).

[Section 29A inserted: No. 46 of 2020 s. 6.]

30. Application to register change of adult's name

- (1) An adult may apply to the Registrar for registration of a change of the adult's name if —
 - (a) the adult's birth is registered in the State; or
 - (b) the adult was born outside Australia and —
 - (i) the adult is an Australian citizen or permanent resident; and
 - (ii) the adult's birth is not registered in another State; and
 - (iii) the adult has lived in the State for at least 12 consecutive months immediately before the day the application is made.

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- (2) The application must be made in the approved form.
- (3) The application must contain a declaration by the applicant setting out whether the applicant is, at the time the application is made, a required declarant.

[Section 30 inserted: No. 46 of 2020 s. 7.]

30A. Restrictions on changes of adult's name

- (1) The Registrar must not register a change of an adult's name on an application under section 30 if the Registrar is aware that —
 - (a) a change of the adult's name has been registered (whether in this State or in another State) within the period of 12 months immediately before the day the application is made; or
 - (b) 3 or more changes of the adult's name have been registered (whether in this State or in another State).
- (2) When counting the number of changes of name for the purposes of subsection (1)(b), a change of name made before the applicant becomes an adult must not be counted.

[Section 30A inserted: No. 46 of 2020 s. 7.]

31. Application to register change of child's name

- (1) The parents or guardian of a child may apply to the Registrar for registration of a change of the child's name if the child's birth is registered in the State.
- (2) The parents or guardian of a child may also apply to the Registrar for registration of a change of the child's name if —
 - (a) the child was born outside Australia; and
 - (b) the child is an Australian citizen or permanent resident; and
 - (c) the child's birth is not registered in another State; and
 - (d) either —
 - (i) the application is made within 12 months after the date of the child's birth and at least 1 of the child's parents or guardians has lived in the State for at least 12 consecutive months immediately before the day the application is made; or
 - (ii) the application is not made within 12 months after the date of the child's birth and the child has lived in the State for at least 12 consecutive

months immediately before the day the application is made.

- (3) An application under subsection (1) or (2) may be made by a child's guardian if, and only if, ~~guardian only if~~ the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.
- (4) An application under subsection (1) or (2) may be made by 1 parent if, and only if —
 - (a) the applicant is the sole parent named in the registration of the child's birth under this Act or any other law; or
 - (b) the child's other parent has died.
- (5) An application under subsection (1) or (2) must —
 - (a) be made in the approved form; and
 - (b) contain a declaration by the applicant setting out whether the child is, at the time the application is made, a required declarant.

[Section 31 inserted: No. 46 of 2020 s. 8; amended: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 8.]

32. Child's consent to change of name

A change of a name of a child who is 12 years of age or more and in respect of whom an application under section 31 has been made must not be registered unless —

- (a) the child consents to the change of name; or
- (b) the child is unable to understand the meaning and implications of the change of name.

32A. Restriction on changes of child's name

- (1) The Registrar must not register a change of a child's name on an application under section 31 if a change of the child's name has been registered (whether in this State or in another State) within the period of 12 months immediately before the day the application is made.
- (2) Subsection (1) does not apply if the change of the child's name has been registered on an application under section 23 or 33.

[Section 32A inserted: No. 46 of 2020 s. 9.]

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33. Application to register change of child's name approved by Family Court

- (1) If the Family Court has approved the change of a child's name or names any person may, in an approved form, apply to the Registrar for registration of the change of the child's name in accordance with the court orders.
- (2) The Registrar must register a change of name made on an application under this section.

34. Registration of change of name

- (1) Before registering a change of name under this Division, the Registrar may require the applicant to provide evidence to establish to the Registrar's satisfaction any of the following —
 - (a) the identity and age of the person whose name is to be changed;
 - (b) that all requirements of this Division have been met;
 - (c) that the person whose name is to be changed is not the subject of a pending charge, within or outside the State, of an offence involving fraud or dishonesty and has not been convicted of such an offence;
 - (d) that the change of name is not sought for the purpose of avoiding the payment of a debt;
 - (e) that the change of name is not sought for the purpose of preventing the location or identification of the person whose name is to be changed by —
 - (i) a government department, agency or organisation of this State, another State or the Commonwealth; or
 - (ii) a body or organisation, if the person is required by a written law or a law of another State or the Commonwealth to prove their identity to that body or organisation; or
 - (iii) a body or organisation that is required by a written law or a law of another State or the Commonwealth to record the person's identity;
 - (f) that the change of name is not sought for a fraudulent or other improper purpose;
 - (g) if the person whose name is to be changed is a child who is 12 years of age or more, that —
 - (i) the child consents to the change of name; or

- (ii) the child is unable to understand the meaning and implications of the change of name.
- (2) If the Registrar is satisfied that the name of a person whose birth is registered in the State has been changed under the law, or by order of a court, of another State or of the Commonwealth, the change of name may be registered under this Act if the Registrar considers that it is appropriate to do so.
- (3) The Registrar may refuse to register a change of name if —
 - (a) as a result of the change, the name would become a prohibited name; or
 - (b) the Registrar is not satisfied that any of the matters set out in subsection (1)(a) to (g) have been established.
- (4) This section does not apply to an application under section 33.
[Section 34 amended: No. 46 of 2020 s. 10.]

35. Entries to be made in the Register

- (1) The Registrar is to register a change of name by making an entry about the change of name in the Register including such particulars as the Registrar considers appropriate to register the change of name.
- (2) If the birth of the person whose name has been changed is registered under this Act, the Registrar may note the change of name in the entry relating to the birth.
- [(3) deleted]*
- (4) If the change of name is noted in the Register under subsection (2), a birth certificate issued by the Registrar for the person must show the person's name as changed under this Part.
[Section 35 amended: No. 46 of 2020 s. 11.]

35A. Registrar must inform certain registering authorities

- (1) If the Registrar registers a change of a person's name and the person's birth was registered by a registering authority, the Registrar must inform the authority of the change and give the authority sufficient information to identify the person.
- (2) The Registrar must not comply with subsection (1) if, in the Registrar's opinion, informing the authority of the change of the person's name would pose a risk to the safety of the person.
[Section 35A inserted: No. 46 of 2020 s. 12.]

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35B. Registrar may inform prescribed public authorities

(1) In this section —

public authority means —

- (a) a government department, agency or organisation of this State, another State or the Commonwealth; or
 - (b) a body, corporate or unincorporate, that is established or continued for a public purpose by this State, another State or the Commonwealth, regardless of the way it is established; or
 - (c) a body, corporate or unincorporate, in another country that has similar functions to the functions of the Registrar under this Part.
- (2) If the Registrar registers a change of a person's name, the Registrar may inform a prescribed public authority of the change and give the authority sufficient information to identify the person.

[Section 35B inserted: No. 46 of 2020 s. 12.]

36. Change of name may be established by repute or usage

This Part does not prevent a change of name by repute or usage if the change is made after the commencement of this Act.

Division 3 — Change of name restrictions for restricted persons

36A. Terms used

In this Division —

restricted person means a person, other than a reportable offender, who is any of the following —

- (a) a high risk serious offender;
- (b) a detainee;
- (c) a person subject to an early release order;
- (d) a prisoner;
- (e) a supervised offender;
- (f) a supervised young offender;

Note for this definition:

The *Community Protection (Offender Reporting) Act 2004* Part 4A is relevant to changing the name of a person who is a reportable offender.

supervisory authority means —

- (a) for a high risk serious offender, the chief executive officer of the department principally assisting in the administration of the *High Risk Serious Offenders Act 2020* Part 4 Division 2; or
- (b) for a detainee, the chief executive officer as defined in the *Young Offenders Act 1994* section 3; or
- (c) for a person subject to an early release order, the Prisoners Review Board established under the *Sentence Administration Act 2003* section 102(1); or
- (d) for a prisoner, the chief executive officer as defined in the *Prisons Act 1981* section 3(1); or
- (e) for a supervised offender, the chief executive officer of the department principally assisting in the administration of the provision of the Act under which the supervised offender is supervised or monitored; or
- (f) for a supervised young offender, the Supervised Release Review Board established under the *Young Offenders Act 1994* section 151(1).

[Section 36A inserted: No. 46 of 2020 s. 13.]

36B. Registrar not to register name change without approval

- (1) The Registrar must not register a change of a restricted person's name on an application unless the Registrar has been given a copy of the written approval for the application by the supervisory authority for the person.
- (2) Subsection (1) does not apply if the Registrar receives an application under section 33.

[Section 36B inserted: No. 46 of 2020 s. 13.]

36C. Restricted person not to apply to change name

- (1) [A restricted person](#) ~~A restricted person~~ must not do any of the following, unless the person has obtained the written approval of the supervisory authority for the person —
 - (a) apply, under this Act, to the Registrar for registration of a change of the person's name;
 - (b) apply to a registering authority for registration of a change of the person's name.

Penalty [for this subsection](#): imprisonment for 2 years and a fine of \$12 000.

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(2) Subsection (1) does not apply to an application made under section 33.

[Section 36C inserted: No. 46 of 2020 s. 13; amended: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 9.]

36D. Person not to apply to change restricted person's name

(1) A person ~~A person~~ (the *applicant*) must not, in respect of a restricted person, do any of the following, unless the applicant has obtained the written approval of the supervisory authority for the restricted person —

- (a) apply, under this Act, to the Registrar for registration of a change of the restricted person's name;
- (b) apply to a registering authority for registration of a change of the restricted person's name.

Penalty for this subsection: imprisonment for 2 years and a fine of \$12 000.

(2) Subsection (1) does not apply to an application made under section 33.

[Section 36D inserted: No. 46 of 2020 s. 13; amended: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 10.]

36E. Approval by supervisory authority

(1) In this section —

change of name application means an application proposed to be made by or in respect of a restricted person for the registration of a change of the person's name.

- (2) A person may apply to a supervisory authority for approval to make a change of name application.
- (3) The application for approval must be made in a manner approved by the supervisory authority.
- (4) A supervisory authority may only approve the making of a change of name application if the authority is satisfied that the change of name is in all the circumstances necessary or reasonable.

- (5) A supervisory authority must not approve the making of a change of name application if the authority is satisfied that the change of name is reasonably likely —
- (a) if the restricted person is detained, to have an adverse effect on the security, discipline or good order of the place in which the restricted person is detained; or
 - (b) to be regarded as offensive by a victim of crime or a significant sector of the community; or
 - (c) to frustrate the administration of any of the following Acts —
 - (i) the *High Risk Serious Offenders Act 2020*;
 - (ii) the *Prisons Act 1981*;
 - (iii) the *Sentence Administration Act 2003*;
 - (iv) the *Sentencing Act 1995*;
 - (v) the *Young Offenders Act 1994*.

[Section 36E inserted: No. 46 of 2020 s. 13.]

36F. Notice of decision by Registrar

- (1) The Registrar must notify the supervisory authority for a restricted person —
- (a) if the Registrar registers a change of the person's name; or
 - (b) if the Registrar refuses to register a change of the person's name.
- (2) When notifying a supervisory authority under subsection (1) the Registrar must give the authority sufficient information to identify the restricted person.

[Section 36F inserted: No. 46 of 2020 s. 13.]

36G. Supervisory authority to give, and give notice of, documents and information

- (1) If a supervisory authority decides to approve the making of a change of name application under section 36E, the authority must, as soon as is practicable —
- (a) give written approval to the person who wishes to make the application; and

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(b) notify the Registrar, or if the application is to be made to a registering authority, the registering authority, of the approval.

~~(b) give a copy of the written approval to the Registrar or if the application is to be made to a registering authority, to the registering authority.~~

- (2) For the purposes of the Registrar verifying the details of an application to register a change of name each supervisory authority must, if the Registrar requests, give the Registrar the following —
- (a) the name of each restricted person for whom they are the supervisory authority;
 - (b) any other name by which the person is, or has previously been, known (of which the supervisory authority is aware);
 - (c) the date of birth of the person;
 - (d) any other information that may be used to identify the person.

[Section 36G inserted: No. 46 of 2020 s. 13; amended: [Births, Deaths and Marriages Registration Amendment \(Sex or Gender Changes\) Bill 2024 cl. 11.](#)]

36H. Delegation by chief executive officers

- (1) A chief executive officer referred to in the definition of *supervisory authority* in section 36A, may delegate to any person any power or duty of the chief executive officer under another provision of this Division.
- (2) The delegation must be in writing signed by the chief executive officer.
- (3) A person to whom a power or duty is delegated under this section cannot delegate the power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section, is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Unless the contrary is shown, it is to be presumed that a document purporting to have been signed by a person as a delegate of the chief executive officer was signed by a person in the performance of a function that at the time was delegated to the person by the chief executive officer.

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- (6) Nothing in this section limits the ability of the chief executive officer to perform a function through an officer or agent.

[Section 36H inserted: No. 46 of 2020 s. 13.]

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Part 5A — Changes of registration of sex or gender and issue of acknowledgment documents

[Heading inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

Division 1 — Preliminary

[Heading inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36I. Terms used

(1) In this Part —

acknowledgment document has the meaning given in section 36ZA(1);

psychologist means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession.

(2) Terms used in this Part have the same meaning as they have in section 28A.

(3) A reference in this Part to the Family Court —

(a) includes a reference to the Magistrates Court constituted by a family law magistrate (as defined in the *Family Court Act 1997* section 5(1)) so as to be able, under the *Family Court Act 1997* section 39(b), to exercise the Family Court's non-federal jurisdiction; but

(b) does not include a reference to the Magistrates Court referred to in the *Family Court Act 1997* section 39(a).

[Section 36I inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

Division 2 — Change of registration of sex or gender

[Heading inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36J. Application to Registrar by person 18 years or more

(1) A person who is 18 years of age or more may apply to the Registrar to change the person's sex or gender in the registration of the person's birth if —

(a) the person's birth is registered in the State; and

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(b) the person believes the person's sex or gender to be the sex or gender specified in the application.

(2) The application must —

(a) be made in the approved form; and

(b) specify a sex or gender of a kind prescribed in the regulations; and

(c) be accompanied by —

(i) a statement by a doctor, or a psychologist, certifying that the person has received appropriate clinical treatment in relation to the person's sex or gender; and

(ii) any other document or information prescribed by the regulations;

and

(d) contain a declaration by the applicant setting out whether the applicant is, at the time the application is made, a required declarant.

[Section 36J inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36K. Application to Registrar to change registration of sex or gender of child 12 years or more

(1) The parents or guardians of a child who is at least 12 years of age and under 18 years of age may apply to the Registrar to change the child's sex or gender in the registration of the child's birth if —

(a) the child's birth is registered in the State; and

(b) the child consents to the change in accordance with the application; and

(c) each applicant believes the child's sex or gender to be the sex or gender specified in the application.

(2) The application must —

(a) be made in the approved form; and

(b) specify a sex or gender of a kind prescribed in the regulations; and

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- (c) be accompanied by a statement by a doctor, or a psychologist, certifying that the child —
- (i) has received appropriate clinical treatment in relation to the child’s sex or gender; and
- (ii) understands the meaning and implications of the application;
- and
- (d) be accompanied by —
- (i) a statement by the child consenting to the change; and
- (ii) any other document or information prescribed by the regulations;
- and
- (e) contain a declaration by each applicant setting out whether the child is, at the time the application is made, a required declarant.
- (3) An application under subsection (1) may be made by 1 parent if, and only if —
- (a) the applicant is the sole parent named in the registration of the child’s birth under this Act; or
- (b) the child’s other parent is dead.
- (4) An application under subsection (1) may be made by a guardian if, and only if, the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.
- (5) Without limiting subsection (4), an application under subsection (1) may be made by joint guardians if, and only if, the joint guardians are unanimous in making the application.
- [Section 36K inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36L. Application to Family Court by parent or guardian of child 12 years or more

- (1) A parent or guardian of a child may apply to the Family Court for an order approving the change of the child’s sex or gender in the registration of the child’s birth if —
- (a) the child is at least 12 years of age and under 18 years of age; and

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(b) the child's birth is registered in the State.

(2) The application must specify a sex or gender of a kind prescribed in the regulations.

(3) An application under subsection (1) may be made by a guardian if, and only if, the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.

(4) The Family Court may make the order if satisfied that it is in the child's best interests.

(5) In determining whether or not to make the order, the Family Court must consider —

(a) any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the Family Court thinks are relevant to the weight it should give to the child's views; and

(b) any views expressed by a parent or guardian of the child; and

(c) whether the child has received appropriate clinical treatment in relation to the child's sex or gender.

[Section 36L inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36M. Application to Family Court by child 12 years or more

(1) This section applies if —

(a) each parent or guardian of a child who is at least 12 years of age and under 18 years of age does not support the change of the child's sex or gender in the registration of the child's birth; and

(b) the child's birth is registered in the State.

(2) The child may apply to the Family Court for an order approving the change of the child's sex or gender in the registration of the child's birth.

(3) The application must specify a sex or gender of a kind prescribed in the regulations.

(4) The Family Court may make the order if satisfied that it is in the child's best interests.

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(5) In determining whether or not to make the order, the Family Court must consider —

(a) any views expressed by the child and any factors (such as the child’s maturity or level of understanding) that the Family Court thinks are relevant to the weight it should give to the child’s views; and

(b) any views expressed by a parent or guardian of the child; and

(c) whether the child has received appropriate clinical treatment in relation to the child’s sex or gender.

[Section 36M inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36N. Application to Family Court by parent or guardian of child under 12 years

(1) A parent or guardian of a child under 12 years of age whose birth is registered in the State may apply to the Family Court for an order approving the change of the child’s sex or gender in the registration of the child’s birth.

(2) The application must specify a sex or gender of a kind prescribed in the regulations.

(3) An application under subsection (1) may be made by a guardian if, and only if, the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.

(4) The Family Court may make the order if satisfied that it is in the best interests of the child.

(5) In determining whether or not to make the order, the Family Court must consider —

(a) any views expressed by the child and any factors (such as the child’s maturity or level of understanding) that the Family Court thinks are relevant to the weight it should give to the child’s views; and

(b) any views expressed by a parent or guardian of the child; and

(c) whether the child has received appropriate clinical treatment in relation to the child's sex or gender.

[Section 36N inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36O. Application by CEO (Children and Community Services)

(1) In this section —

CEO (Children and Community Services) means the CEO as defined in the *Children and Community Services Act 2004* section 3;

parent has the meaning given in the *Children and Community Services Act 2004* section 3.

(2) If a protection order (time-limited) or a protection order (until 18) is in force in respect of a child under the *Children and Community Services Act 2004* —

(a) the CEO (Children and Community Services) may make an application under section 36K, 36L or 36N in respect of the child; and

(b) no other person can make the application.

(3) Before making an application under section 36K the CEO (Children and Community Services) must take reasonable steps to notify each parent of the child of the proposed application and give them a reasonable opportunity to provide their written views on the making of the application.

(4) An application may be made under section 36K only if no parent notified under subsection (3) opposes the making of the application.

[Section 36O inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36P. Application to Registrar if Family Court order made

(1) Any person may apply to the Registrar to change a child's sex or gender in the registration of the child's birth if the Family Court has made an order under section 36L, 36M or 36N approving the change.

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(2) The application to the Registrar must —

(a) be made in the approved form; and

(b) be accompanied by —

(i) a copy of the order; and

(ii) any other document or information prescribed by the regulations;

and

(c) contain a declaration by the applicant setting out whether the child is, at the time the application is made, a required declarant.

[Section 36P inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36Q. Entries on, and access to, Register and issue of certificates

(1) On receipt of an application under section 36J or 36K, the Registrar must —

(a) make the requested change; or

(b) refuse to make the requested change.

(2) On receipt of an application under section 36P, the Registrar must make the change in accordance with the order of the Family Court.

(3) If a person's sex or gender in the registration of the person's birth is changed under this section, the Registrar —

(a) must retain on the Register the particulars contained in the entry in the Register relating to the person's sex or gender before the registration was changed; but

(b) must not —

(i) allow access to the particulars referred to in paragraph (a); or

(ii) issue a birth certificate for the person showing the person's sex or gender before the registration was changed.

(4) Despite subsection (3)(b), the Registrar may allow access to the particulars referred to in subsection (3)(a), or issue a birth certificate for the person showing both the person's sex or gender before the registration was changed and the person's sex

or gender after the registration was changed, if an application requesting the access or issue of a certificate is made by —

(a) the person; or

(b) a person or body prescribed by the regulations.

(5) If a person's sex or gender in the registration of the person's birth has changed more than once, an application for the issue of a birth certificate may request that specified changes be shown.

[Section 36Q inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36R. Entitlement not affected by change of registration of sex or gender

(1) Subsection (2) applies to a person who has an entitlement —

(a) under a will; or

(b) under a trust; or

(c) otherwise by operation of law.

(2) 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 person's sex or gender in the registration of the person's birth has been changed.

[Section 36R inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36S. Interaction with other laws

If a person's sex or gender in the registration of the person's birth is changed under this Division or under a corresponding law prescribed for the purposes of this section, the person is a person of the sex or gender as changed for the purposes of, but subject to, a law of the State.

[Section 36S inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

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s. 36T

Division 3 — Western Australian residents born outside of Australia

[Heading inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36T. Application to Registrar for acknowledgment document by person 18 years or more

(1) A person who is 18 years of age or more may apply to the Registrar for an acknowledgment document for the person if —

(a) the person was born outside of Australia; and

(b) the person has lived in the State for at least 12 consecutive months immediately before the day the application is made; and

(c) the person believes the person's sex or gender to be the sex or gender specified in the application.

(2) The application must —

(a) be made in the approved form; and

(b) specify a sex or gender of a kind prescribed in the regulations; and

(c) be accompanied by —

(i) a statement by a doctor, or a psychologist, certifying that the person has received appropriate clinical treatment in relation to the person's sex or gender; and

(ii) any other document or information prescribed by the regulations;

and

(d) contain a declaration by the applicant setting out whether the applicant is, at the time the application is made, a required declarant.

[Section 36T inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36U. Application to Registrar for acknowledgment document for child 12 years or more

- (1) The parents or guardians of a child who is at least 12 years of age and under 18 years of age may apply to the Registrar for an acknowledgment document for the child if —
- (a) the child was born outside of Australia; and
 - (b) the child has lived in the State for at least 12 consecutive months immediately before the day the application is made; and
 - (c) the child consents to the issue of the document in accordance with the application; and
 - (d) each applicant believes the child's sex or gender to be the sex or gender specified in the application.
- (2) The application must —
- (a) be made in the approved form; and
 - (b) specify a sex or gender of a kind prescribed in the regulations; and
 - (c) be accompanied by a statement by a doctor, or a psychologist, certifying that the child —
 - (i) has received appropriate clinical treatment in relation to the child's sex or gender; and
 - (ii) understands the meaning and implications of the application;
- and
- (d) be accompanied by —
 - (i) a statement by the child consenting to the issue of the document; and
 - (ii) any other document or information prescribed by the regulations;
- and
- (e) contain a declaration by each applicant setting out whether the child is, at the time the application is made, a required declarant.
- (3) An application under subsection (1) may be made by 1 parent if, and only if —
- (a) the applicant is the sole parent named in the registration of the child's birth; or
 - (b) the child's other parent is dead.

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(4) An application under subsection (1) may be made by a guardian if, and only if, the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.

(5) Without limiting subsection (4), an application under subsection (1) may be made by joint guardians if, and only if, the joint guardians are unanimous in making the application.

[Section 36U inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36V. Application to Family Court by parent or guardian of child 12 years or more

(1) A parent or guardian of a child may apply to the Family Court for an order approving the issue of an acknowledgment document for the child if —

(a) the child is at least 12 years of age and under 18 years of age; and

(b) the child was born outside of Australia; and

(c) the child has lived in the State for at least 12 consecutive months immediately before the day the application is made.

(2) The application must specify a sex or gender of a kind prescribed in the regulations.

(3) An application under subsection (1) may be made by a guardian if, and only if, the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.

(4) The Family Court may make the order if satisfied that it is in the child's best interests.

(5) In determining whether or not to make the order, the Family Court must consider —

(a) any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the Family Court thinks are relevant to the weight it should give to the child's views; and

(b) any views expressed by a parent or guardian of the child; and

- (c) whether the child has received appropriate clinical treatment in relation to the child's sex or gender.

[Section 36V inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36W. Application to Family Court by child 12 years or more

- (1) This section applies if —

- (a) each parent or guardian of a child who is at least 12 years of age and under 18 years of age does not support the issue of an acknowledgment document for the child; and

- (b) the child was born outside of Australia; and

- (c) the child has lived in the State for at least 12 consecutive months immediately before the day the application is made.

- (2) The child may apply to the Family Court for an order approving the issue of an acknowledgment document for the child.

- (3) The application must specify a sex or gender of a kind prescribed in the regulations.

- (4) The Family Court may make the order if satisfied that it is in the child's best interests.

- (5) In determining whether or not to make the order, the Family Court must consider —

- (a) any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the Family Court thinks are relevant to the weight it should give to the child's views; and

- (b) any views expressed by a parent or guardian of the child; and

- (c) whether the child has received appropriate clinical treatment in relation to the child's sex or gender.

[Section 36W inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

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36X. Application to Family Court by parent or guardian of child under 12 years

(1) A parent or guardian of a child under 12 years of age may apply to the Family Court for an order approving the issue of an acknowledgment document for the child if —

(a) the child was born outside of Australia; and

(b) the child has lived in the State for at least 12 consecutive months immediately before the day the application is made.

(2) The application must specify a sex or gender of a kind prescribed in the regulations.

(3) An application under subsection (1) may be made by a guardian if, and only if, the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.

(4) The Family Court may make the order if satisfied that it is in the best interests of the child.

(5) In determining whether or not to make the order, the Family Court must consider —

(a) any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the Family Court thinks are relevant to the weight it should give to the child's views; and

(b) any views expressed by a parent or guardian of the child; and

(c) whether the child has received appropriate clinical treatment in relation to the child's sex or gender.

[Section 36X inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36Y. Application by CEO (Children and Community Services)

(1) In this section —

CEO (Children and Community Services) means the CEO as defined in the *Children and Community Services Act 2004* section 3;

parent has the meaning given in the *Children and Community Services Act 2004* section 3.

(2) If a protection order (time-limited) or a protection order (until 18) is in force in respect of a child under the *Children and Community Services Act 2004* —

(a) the CEO (Children and Community Services) may make an application under section 36U, 36V or 36X in respect of the child; and

(b) no other person can make the application.

(3) Before making an application under section 36U the CEO (Children and Community Services) must take reasonable steps to notify each parent of the child of the proposed application and give them a reasonable opportunity to provide their written views on the making of the application.

(4) An application may be made under section 36U only if no parent notified under subsection (3) opposes the making of the application.

[Section 36Y inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36Z. Application to Registrar if Family Court order made

(1) Any person may apply to the Registrar for an acknowledgment document for a child if the Family Court has made an order under section 36V, 36W or 36X approving the issue of the acknowledgment document.

(2) The application to the Registrar must —

(a) be made in the approved form; and

(b) be accompanied by —

(i) a copy of the order; and

(ii) any other document or information prescribed by the regulations;

and

(c) contain a declaration by the applicant setting out whether the child is, at the time the application is made, a required declarant.

[Section 36Z inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

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36ZA. Issue of acknowledgment document

- (1) A document issued under subsection (2) or (3) is an **acknowledgment document**.
- (2) On receipt of an application under section 36T or 36U, the Registrar must —
- (a) issue a document acknowledging the person's sex or gender; or
- (b) refuse to issue the document.
- (3) On receipt of an application under section 36Z, the Registrar must issue a document acknowledging the person's sex or gender in accordance with the order of the Family Court.
- (4) The acknowledgment document must not state the applicant's former sex or gender unless the applicant has requested, in writing, that the information be included.

[Section 36ZA inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36ZB. Entitlement not affected by issue of acknowledgment document

- (1) Subsection (2) applies to a person who has an entitlement —
- (a) under a will; or
- (b) under a trust; or
- (c) otherwise by operation of law.
- (2) 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 acknowledgment document has been issued for the person.

[Section 36ZB inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36ZC. Interaction with other laws

If an acknowledgment document or an interstate document (as defined in section 36ZF(1)) issued under a corresponding law prescribed for the purposes of this section is issued for a person,

the person is a person of the sex or gender specified in the document for the purposes of, but subject to, a law of the State.

[Section 36ZC inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

Division 4 — Restrictions on changes of registration and issue of acknowledgment documents

[Heading inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36ZD. Terms used

In this Division —

restricted person has the meaning given in section 36A;

supervisory authority has the meaning given in section 36A.

[Section 36ZD inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36ZE. Restrictions on change of registration based on frequency of change

(1) The Registrar must not change a person's sex or gender in the registration of the person's birth on an application under section 36J if the Registrar is aware that —

(a) a change of the person's sex or gender in the registration of the person's birth has been made (whether in this State or another State) within the period of 12 months immediately before the day the application is made; or

(b) 3 or more changes of the person's sex or gender in the registration of the person's birth have been made (whether in this State or another State).

(2) When counting the number of changes for the purposes of subsection (1)(b), a change of a person's sex or gender in the registration of the person's birth made before the person reached the age of 18 years must not be counted.

(3) Despite subsection (1)(b), the Registrar may, on application, change a person's sex or gender in the registration of the person's birth if the Registrar is satisfied that the change is justified by exceptional circumstances.

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s. 36ZF

(4) The Registrar may require the person to provide evidence to enable the Registrar to be satisfied under subsection (3).

(5) The Registrar must not change a child's sex or gender in the registration of the child's birth on an application under section 36K if the Registrar is aware that a change of the child's sex or gender in the registration of the child's birth has been registered (whether in this State or another State) within the period of 12 months immediately before the day the application is made.

[Section 36ZE inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36ZF. Restrictions on issue of acknowledgment document based on frequency of issue

(1) In this section —

interstate document, for a person, means a document issued by a registering authority that acknowledges the person's sex or gender.

(2) The Registrar must not issue an acknowledgment document for a person on an application under section 36T if the Registrar is aware that —

(a) an acknowledgment document or interstate document for the person has been issued within the period of 12 months immediately before the day the application is made; or

(b) 3 or more acknowledgment documents or interstate documents for the person have been issued.

(3) When counting the number of acknowledgment documents and interstate documents for the purposes of subsection (2)(b), a document issued before the person reached the age of 18 years must not be counted.

(4) Despite subsection (2)(b), the Registrar may, on application, issue an acknowledgment document for a person if the Registrar is satisfied that the issue is justified by exceptional circumstances.

(5) The Registrar may require the person to provide evidence to enable the Registrar to be satisfied under subsection (4).

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s. 36ZG

- (6) The Registrar must not issue an acknowledgment document for a child on an application under section 36U if the Registrar is aware that an acknowledgment document or interstate document for the child has been issued within the period of 12 months immediately before the day the application is made.

[Section 36ZF inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36ZG. Supervisory authority approval required in relation to restricted person

- (1) The Registrar must not change a restricted person's sex or gender in the registration of the person's birth, or issue an acknowledgment document for a restricted person, on an application, unless the Registrar has been given a copy of the written approval for the application by the supervisory authority for the person.

- (2) Subsection (1) does not apply if the Registrar receives an application under section 36P or 36Z.

[Section 36ZG inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36ZH. Application by restricted person

- (1) A restricted person must not do either of the following unless the person has obtained the written approval of the supervisory authority for the restricted person —

(a) apply, under this Act, to the Registrar to change the restricted person's sex or gender in the registration of the person's birth;

(b) apply, under this Act, to the Registrar for the issue of an acknowledgment document for the person.

Penalty for this subsection: imprisonment for 2 years and a fine of \$12 000.

- (2) Subsection (1) does not apply to an application made under section 36P or 36Z.

[Section 36ZH inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

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s. 36ZJ

36ZI. Application on behalf of restricted person

(1) A person (the *applicant*) must not, in respect of a restricted person, do either of the following unless the applicant has obtained the written approval of the supervisory authority for the restricted person —

(a) apply, under this Act, to the Registrar to change the restricted person's sex or gender in the registration of the person's birth;

(b) apply, under this Act, to the Registrar for the issue of an acknowledgment document for the restricted person.

Penalty for this subsection: imprisonment for 2 years and a fine of \$12 000.

(2) Subsection (1) does not apply to an application made under section 36P or 36Z.

[Section 36ZI inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36ZJ. Approval by supervisory authority

(1) In this section —

change of sex or gender application means an application proposed to be made by or in respect of a restricted person to change the restricted person's sex or gender in the registration of the person's birth.

(2) A person may apply to a supervisory authority for —

(a) approval to make a change of sex or gender application;
or

(b) approval to make an application for an acknowledgment document for a restricted person.

(3) The application for approval must be made in a manner approved by the supervisory authority.

(4) A supervisory authority must not approve the making of a change of sex or gender application, or the making of an application for an acknowledgment document, unless the authority is satisfied that the change of the restricted person's sex or gender in the registration of the person's birth or issue of an acknowledgment document is in all the circumstances necessary or reasonable.

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s. 36ZK

(5) A supervisory authority must not approve the making of a change of sex or gender application, or the making of an application for an acknowledgment document, if the authority is satisfied that the change of the restricted person's sex or gender in the registration of the person's birth or issue of an acknowledgment document is reasonably likely —

(a) if the restricted person is detained — to have an adverse effect on the security, discipline or good order of the place in which the restricted person is detained; or

(b) to be regarded as offensive by a victim of crime or a significant sector of the community; or

(c) to frustrate the administration of any of the following Acts —

(i) the *High Risk Serious Offenders Act 2020*;

(ii) the *Prisons Act 1981*;

(iii) the *Sentence Administration Act 2003*;

(iv) the *Sentencing Act 1995*;

(v) the *Young Offenders Act 1994*.

[Section 36ZJ inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36ZK. Notice of decision by Registrar

(1) The Registrar must notify the supervisory authority for a restricted person if the Registrar does any of the following —

(a) changes the person's sex or gender in the registration of the person's birth;

(b) refuses to change the person's sex or gender in the registration of the person's birth;

(c) issues an acknowledgment document for the person;

(d) refuses to issue an acknowledgment document for the person.

(2) When notifying a supervisory authority under subsection (1), the Registrar must give the authority sufficient information to identify the restricted person.

[Section 36ZK inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

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s. 36ZL

36ZL. Supervisory authority to give documents and information

(1) If a supervisory authority decides to approve the making of a change of sex or gender application, or the making of an application for an acknowledgment document, under section 36ZJ, the authority must, as soon as practicable —

(a) give written approval to the person who wishes to make the application; and

(b) notify the Registrar of the approval.

(2) For the purposes of the Registrar verifying the details of an application to change a restricted person's sex or gender in the registration of the person's birth, or an application for an acknowledgment document for a restricted person, each supervisory authority must, if the Registrar requests, give the Registrar the following —

(a) the name of each restricted person for whom they are the supervisory authority;

(b) any other name by which the person is, or has previously been, known (of which the supervisory authority is aware);

(c) the date of birth of the person;

(d) any other information that may be used to identify the person.

[Section 36ZL inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

36ZM. Delegation by chief executive officers

(1) A chief executive officer referred to in the definition of *supervisory authority* in section 36A may delegate to any person any power or duty of the chief executive officer under another provision of this Division.

(2) The delegation must be in writing signed by the chief executive officer.

(3) A person to whom a power or duty is delegated under this section cannot delegate the power or duty.

(4) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in

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accordance with the terms of the delegation unless the contrary is shown.

(5) Unless the contrary is shown, it is to be presumed that a document purporting to have been signed by a person as a delegate of the chief executive officer was signed by a person in the performance of a function that at the time was delegated to the person by the chief executive officer.

(6) Nothing in this section limits the ability of the chief executive officer to perform a function through an officer or agent.

[Section 36ZM inserted: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 12.]

Part 6 — Registration of marriages

37. Marriages in the State to be registered

If a marriage is solemnized in the State, the marriage must be registered under this Act.

38. How to have marriage registered

A person may have a marriage registered by lodging with the Registrar a certificate of the marriage under the *Marriage Act 1961* of the Commonwealth or, if the marriage was solemnized before the commencement of that Act, the evidence of the marriage required by the Registrar.

Note:

Under section 50(4) of the *Marriage Act 1961* of the Commonwealth the authorised celebrant is responsible for lodging the certificate of marriage with the Registrar.

39. Registration of marriage

A marriage may be registered by —

- (a) including the marriage certificate as part of the Register;
or
- (b) including particulars of the marriage in the Register.

Part 7 — Registration of deaths

Division 1 — Cases where registration of death is required or authorised

40. Deaths to be registered under this Act

- (1) If a person dies in the State, the death must be registered under this Act.
- (2) If a State court or a coroner in the State orders that a death be registered in this State, the death must be registered under this Act.
- (3) If a court or coroner of another State or of the Commonwealth makes a determination that a death should be registered in this State, the death may be registered under this Act if the Registrar considers that it is appropriate to do so.
- (4) If a person dies —
 - (a) in an aircraft during a flight to an airport in the State; or
 - (b) on a vessel during a voyage to a port in the State,the death may be registered under this Act.
- (5) If a person dies outside the Commonwealth and the person —
 - (a) is domiciled or ordinarily resident in the State; or
 - (b) leaves property in the State,the death may be registered under this Act.
- (6) The Registrar may refuse to register a death under subsection (4) or (5) if the death is registered under a corresponding law.
- (7) The death of a still-born child must be registered under this Act.

41. Powers of State courts and coroners and registration of death etc. after court findings

- (1) A State court or a coroner in the State may, on application by an interested person or on its own initiative, order the Registrar —
 - (a) to register a death; or
 - (b) to include registrable information about a death in the Register.

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Part 7 Registration of deaths

Division 2 Notification of death

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- (2) If a State court or coroner in the State finds that —
- (a) the death of a person is not registered as required under this Act or a corresponding law; or
 - (b) the registrable information contained in an entry about a death in the Register under this Act or a corresponding law is incomplete or incorrect,

the State court or coroner may order the registration of the death or order the inclusion or correction of registrable information in the Register or make a determination for the purposes of the corresponding law (as is applicable to the case).

- (3) The Registrar may register a death or amend the Register in accordance with a determination made by a court or coroner of another State or of the Commonwealth which has made a finding of a kind referred to in subsection (2) if the Registrar considers that it is appropriate to do so.

Division 2 — Notification of death

42. Person responsible for notification of death

If a person dies in the State —

- (a) the funeral director or other person who arranges for the disposal of the person's remains; or
- (b) the person who is in charge of an educational or scientific institution where the person's remains are placed for the purpose of medical education or research,

must, within 14 days of the date of death, find the person's body or placement of the person's body, as is relevant to the case —

- (c) notify the Registrar of the person's death by lodging a death registration statement in an approved form and manner; and
- (d) give the Registrar the certificate of cause of death provided under section 44 in relation to the person.

Penalty: \$1 000.

43. Notification of suspected death

If a coroner holds an inquest into the circumstances of a suspected death and finds that the death has been established, the coroner is to be treated as the notifying person for the purposes of this Act.

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Part 7 Registration of deaths

Division 4 Disposal of human remains

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- (5) This section does not require a doctor to give a certificate of the cause of a person's death if the doctor is required under section 17(3) of the *Coroners Act 1996* to report the person's death to a coroner.

Division 4 — Disposal of human remains

45. Notification of disposal of human remains in the State

A funeral director or other person who arranges for the disposal of human remains, other than by way of removal of the remains from the State, must within 7 days after the disposal of the remains, give the Registrar notice in an approved form.

Penalty: \$1 000.

46. Notification of disposal of human remains out of the State

If human remains (other than cremated remains) are removed from the State, the funeral director or other person who arranges for the removal of the remains from the State must—

- (a) within 7 days after the removal of the remains from the State give the Registrar notice in an approved form; and
- (b) within 28 days after the remains are disposed of outside the State give the Registrar notice in an approved form.

Penalty: \$1 000.

47. Notification if disposal has not occurred within 30 days

If human remains have not been disposed of within 30 days after the date of death, the funeral director or other person who has custody of the remains must give the Registrar notice in an approved form.

Penalty: \$1 000.

Division 5 — Registration of death

48. Registration of death

- (1) The Registrar is to register a death by making an entry about the death in the Register including such particulars as the Registrar considers appropriate to register the death.
- (2) If the particulars available to the Registrar are incomplete the Registrar may register a death on the basis of incomplete particulars.

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Registration of deaths

Part 7

Registration of death

Division 5

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- (3) The Registrar may register a death even though the death is subject to an inquest or other coronial investigation and a finding has not been made about the cause of death.
- (4) A death certificate issued before the completion of an inquest or other coronial investigation into the cause of death must be endorsed in a manner that the Registrar considers appropriate to indicate that fact.

Part 8 — The Register

Division 1 — Keeping the Register

49. The Register

- (1) The Registrar must maintain a register or registers of registrable events (the *Register*).
- (2) The Register —
 - (a) must contain the particulars of each registrable event required under this Act, or any other written law, to be included in the Register; and
 - (b) may contain further information if its inclusion is considered appropriate by the Registrar.

(2A) The Registrar may maintain on the Register records of information, in addition to registrable information relating to registrable events, if the inclusion is considered appropriate by the Registrar.

- (3) The Register may be wholly or partly in the form of a computer database, in documentary form, or in another form the Registrar considers appropriate.
- (4) The Registrar must maintain the indexes to the Register that are necessary to make the information contained in the Register reasonably accessible.

[Section 49 amended: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 13.]

Division 2 — Registrar's powers of inquiry

50. Registrar's powers of inquiry

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

other information within a time and in a way specified in the notice.

- (3) A person must comply with a notice under subsection (2) unless the person has a reasonable excuse to not so comply.

Penalty: \$1 000.

Division 3 — Correction and amendment of Register

51. Correction of Register

- (1) The Registrar may correct the Register —
- (a) to reflect a finding made on inquiry under Division 2; or
 - (b) to bring the particulars contained in an entry about a registrable event into conformity with the most reliable information available to the Registrar of the registrable event.
- (2) The Registrar must correct the Register if ordered by a State court to do so.
- (3) The Registrar may correct the Register in accordance with a determination made by a court of another State or of the Commonwealth if the Registrar considers that it is appropriate to do so.
- (4) The Registrar is to correct the Register by adding or cancelling an entry in the Register or by adding, altering or deleting particulars contained in an entry.

52. Amendment of Register

The Registrar, whether or not on the application of another person, may, subject to sections 18 and 19, add additional registrable information to an entry in the Register or add an entry in the Register if there is sufficient evidence of the matters to be recorded.

53. Registrar's functions under other Acts

Nothing in this Division affects a requirement in another written law for the Registrar to correct or amend the Register for the purposes of that law.

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Part 8 The Register

Division 4 Access to, and certification of, Register entries

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Division 4 — Access to, and certification of, Register entries

54. Access to and verification of Register

- (1) The Registrar may, on conditions the Registrar considers appropriate —
 - (a) allow a person having an adequate reason for wanting access to the Register, access to the Register; or
 - (b) provide a person having an adequate reason for wanting information from the Register, with information extracted from the Register; or
 - (c) verify that information held by a person is the same as the information contained in the Register.
- (2) For the purposes of section 54(1)(a) or (b), in deciding whether an applicant has an adequate reason for wanting access to the Register, or information extracted from the Register, the Registrar must have regard to —
 - (a) the nature of the applicant's interest;
 - (b) the sensitivity of the information;
 - (c) the use to be made of the information; and
 - (d) other relevant factors.
- (3) In deciding the conditions under subsection (1) the Registrar must, as far as practicable, protect the persons to whom the entries in the Register relate from unjustified intrusion on their privacy.

(4) The operation of this section is affected by section 36Q(3)(b)(i).

[Section 54 amended: No. 46 of 2020 s. 14; Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 14.]

55. Search of Register

- (1) The Registrar may, on application, search the Register for an entry about a particular registrable event or other information contained in the Register.
- (2) The applicant must state the reason for the applicant's interest in the subject matter of the search.
- (3) The Registrar may reject the application if the applicant does not show an adequate reason for wanting the information to which the application relates.

- (4) In deciding whether an applicant has an adequate reason for wanting information, the Registrar must have regard to —
- (a) the relationship (if any) between the applicant and the person to whom the information relates;
 - (b) the age of the entry;
 - (c) the contents of the entry; and
 - (d) other relevant factors.
- (5) Nothing in this Act prevents the Registrar from providing a person, subject to such conditions as the Registrar thinks fit, with information contained in the Register for —
- (a) the keeping of statistics;
 - (b) medical or epidemiological research;
 - (c) the identification of persons;
 - (d) the prevention of fraud; or
 - (e) any other purpose.

56. Protection of privacy

In providing information extracted from the Register, the Registrar must, as far as practicable, protect the persons to whom the entries in the Register relate from unjustified intrusion on their privacy.

57. Issue of certificate

- (1) On completing a search of the Register the Registrar may issue a certificate —
- (a) certifying particulars contained in an entry; or
 - (b) certifying that no entry was located in the Register about the relevant registrable event.
- (2) If, in the Registrar’s opinion, a word or expression appearing on an entry in the Register is, or may be regarded as, offensive, the Registrar may issue a certificate under subsection (1)(a) without including the word or expression.
- (3) A certificate under subsection (1)(a) is admissible in legal proceedings as evidence of —
- (a) the entry to which the certificate relates; and
 - (b) the facts recorded in the entry.

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Part 8 The Register

Division 4 Access to, and certification of, Register entries

s. 58

58. Access policies

- (1) The Registrar must maintain a written statement of the policies on which access to information contained in the Register is to be given or denied under this Division.
- (2) The Registrar must give a copy of the statement, on request, to any person.

Part 9 — Miscellaneous

59. False representation

A person must not make a false or misleading representation in an application or document under this Act, knowing it to be false or misleading.

Penalty: \$10 000.

60. Unauthorised access to or interference with Register

A person must not, without the authority of the Registrar or other lawful authority —

- (a) obtain access to the Register or information contained in the Register;
- (b) make, alter or delete an entry in the Register; or
- (c) interfere with the Register in any other way.

Penalty: \$10 000 or imprisonment for 2 years.

61. Falsification of certificate etc.

- (1) A person must not forge the Registrar's signature or seal.

Penalty: \$10 000 or imprisonment for 2 years.

- (2) A person must not forge or falsify a certificate or other document under this Act.

Penalty: \$10 000 or imprisonment for 2 years.

- (3) The Registrar may impound or require the return of —

- (a) a document which the Registrar has reason to believe bears a forged impression of the Registrar's signature or seal;
- (b) a certificate or other document purporting to be a certificate or other document under this Act which the Registrar has reason to believe has been forged or falsified;
- (c) a certificate under this Act about a registrable event if the entry in the Register about [the event, or other registrable information](#), ~~the event~~ has been cancelled or corrected since the issue of the certificate; or
- (d) a certificate or document issued by the Registrar in error or as a result of fraud.

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- (4) A person must comply with a requirement under subsection (3) to return a document or certificate unless the person has a reasonable excuse to not so comply.

Penalty: \$1 000.

[Section 61 amended: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 15.]

62. Revocation of registration ~~of registrable events~~ or Part 5A change obtained by fraud

- (1) The Registrar may revoke the registration of a registrable event if it appears that the registration was obtained by fraud or other improper means.

(1A) The Registrar may revoke a change made under Part 5A to a birth registration if it appears that the change was obtained by fraud or other improper means.

- (2) If the Registrar revokes a registration of a registrable event, or revokes a change made under Part 5A to a birth registration, ~~event~~ the Supreme Court may make orders consequential to the revocation that are necessary or desirable in the circumstances of the case.

[Section 62 amended: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 16.]

63. Unauthorised disclosure of information

A person who has access to the Register —

- (a) in the course of their ~~his or her~~ employment; or
(b) because the Registrar has allowed the person access to the Register under section 54,

must not disclose any information in the Register unless the disclosure is —

- (c) in connection with the administration or execution of this Act;
(d) authorised or required by law; or
(e) authorised by the Registrar.

Penalty: \$5 000 or imprisonment for one year.

[Section 63 amended: Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 cl. 17.]

64. Power to require and take statutory declarations

The Registrar —

- (a) may require that information be given by statutory declaration; and
- (b) is authorised to take any statutory declarations required for the purposes of this Act.

65. Evidentiary

In a proceeding in which it is necessary or expedient to prove the approved form or manner in which notice or a certificate was to be given or lodged under this Act at a particular time, the approved form or manner in which the notice or certificate was to be given or lodged at that time may be sufficiently proved by the production of a certificate of the Registrar setting out the approved form or manner.

66. Protection from liability

- (1) A person who is or was —
 - (a) the Registrar;
 - (b) a Deputy Registrar of Births, Deaths and Marriages; or
 - (c) a public service officer in the Registrar's office,

is a protected person for the purposes of this section.

- (2) An action in tort does not lie against a protected person for anything that the person has, in good faith, done in the performance or purported performance of a function under this Act.
- (3) The protection given by this section applies even though the thing done in the performance or purported performance of a function under this Act may have been capable of being done whether or not this Act had been enacted.
- (4) In this section a reference to the doing of anything includes a reference to the omission to do anything.

67. Review

- (1) A person who is dissatisfied with a decision of the Registrar made in the performance or purported performance of a function under this Act may apply to the State Administrative Tribunal for a review of the decision.

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[(2) *deleted*]

[Section 67 amended: No. 55 of 2004 s. 68.]

68. Some effects of *Adoption Act 1994* and *Surrogacy Act 2008*

- (1) Nothing in this Act prevents a birth parent of an adoptee from applying under section 19 or 52 (other than with a request under section 19(2)(c)) to add additional registrable information about the adoptee's birth registration if, but for the adoption, the information could have been included in the Register.
- (2A) Nothing in this Act prevents a birth parent of a child whose parentage was transferred under the *Surrogacy Act 2008* from applying under section 19 or 52 (other than with a request under section 19(2)(c)) to add additional registrable information about the child's birth registration if, but for the transfer of parentage, the information could have been included in the Register.
- (2) To the extent that —
 - (a) a provision of the *Adoption Act 1994* relating to access to adoption information in the Register; or
 - (b) a provision of the *Surrogacy Act 2008* relating to access to information in the Register about the transfer of parentage under that Act,

is inconsistent with this Act, that Act prevails.

[Section 68 amended: No. 47 of 2008 s. 55.]

68A. Review of amendments made by *Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024*

- (1) The Minister must review the operation and effectiveness of the amendments made to this Act by the *Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024*, and prepare a report based on the review, as soon as practicable after the 3rd anniversary of the day on which section 12 of that Act comes into operation.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3rd anniversary.

[Section 68A inserted: *Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024* cl. 18.]

69. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act.
- (2) Without limiting subsection (1), regulations may, for the purposes of this Act —
 - (a) prescribe fees; or
 - (b) prescribe a basis for calculating fees.
- (3) A regulation may impose a penalty not exceeding a fine of \$1 000 for contravention of a provision of the regulations.

70. Power to remit fees

The Registrar may remit the whole or part of a fee under this Act if the Registrar considers that in the circumstances it is appropriate to do so.

70A. Savings provisions for recognition certificates issued under Gender Reassignment Act 2000

Despite the repeal of the *Gender Reassignment Act 2000* —

- (a) a recognition certificate issued under that Act continues in force; and
- (b) the Registrar may act under sections 17 and 18 of that Act as if the sections had not been repealed.

[Section 70A inserted: *Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024* cl. 19.]

[71. *Omitted under the Reprints Act 1984 s. 7(4)(f) and (g).]*

[72. *Omitted under the Reprints Act 1984 s. 7(4)(e).]*

[Schedule 1 omitted under the Reprints Act 1984 s. 7(4)(g).]

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Births, Deaths and Marriages Registration Act 1998

Notes Compilation table

Notes

This is a compilation of the *Births, Deaths and Marriages Registration Act 1998* and includes amendments made by other written laws. For provisions that have come into operation, and for information about any reprints, see the compilation table.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Births, Deaths and Marriages Registration Act 1998</i>	39 of 1998	30 Oct 1998	s. 1 and 2: 30 Oct 1998; Act other than s. 1 and 2: 14 Apr 1999 (see s. 2 and <i>Gazette</i> 9 Apr 1999 p. 1433)
<i>Acts Amendment (Lesbian and Gay Law Reform) Act 2002 Pt. 5</i>	3 of 2002	17 Apr 2002	21 Sep 2002 (see s. 2 and <i>Gazette</i> 20 Sep 2002 p. 4693)
Reprint 1: The Births, Deaths and Marriages Registration Act 1998 as at 11 Jun 2004 (includes amendments listed above)			
<i>State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 2 Div. 12¹</i>	55 of 2004	24 Nov 2004	1 Jan 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7130)
<i>Medical Practitioners Act 2008 Sch. 3 cl. 5</i>	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and <i>Gazette</i> 25 Nov 2008 p. 4989)
<i>Surrogacy Act 2008 Pt. 4 Div. 1</i>	47 of 2008	10 Dec 2008	1 Mar 2009 (see s. 2(b) and <i>Gazette</i> 27 Feb 2009 p. 512)
Reprint 2: The Births, Deaths and Marriages Registration Act 1998 as at 24 Jul 2009 (includes amendments listed above)			
<i>Health Practitioner Regulation National Law (WA) Act 2010 Pt. 5 Div. 6</i>	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and <i>Gazette</i> 1 Oct 2010 p. 5075-6)
<i>Health Services Act 2016 s. 284</i>	11 of 2016	26 May 2016	1 Jul 2016 (see s. 2(b) and <i>Gazette</i> 24 Jun 2016 p. 2291)
<i>Births, Deaths and Marriages Registration Amendment (Change of Name) Act 2020</i>	46 of 2020	9 Dec 2020	s. 1-3: 9 Dec 2020 (see s. 2(1)(a)); Act other than s. 1-3: 1 Oct 2022 (see s. 2(1)(b) and SL 2022/155 cl. 2)
<u><i>Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Bill 2024 Pt. 2</i></u>	<u>Current Bill No. 156-2</u>		

Other notes

¹ The *State Administrative Tribunal (Conferral of Jurisdiction) Amendment and Repeal Act 2004 Pt. 5*, the *State Administrative Tribunal Act 2004* s. 167 and 169, and the *State Administrative Tribunal Regulations 2004* r. 28 and 42 deal with certain transitional issues some of which may be relevant for this Act.