

SOUTH AUSTRALIA

BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1996

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BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1996

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Births, Deaths and Marriages Registration Act 1996 No. 6 of 1996
[Assented to 4 April 1996]¹

¹ Came into operation 3 June 1996: *Gaz.* 23 May 1996, p. 2534.

N.B. The amendments effected to this Act by the *Coroners Act 2003* have not been brought into operation.

An Act about the registration of births, deaths and marriages and related matters.

The Parliament of South Australia enacts as follows:

**PART 1
PRELIMINARY****Short title**

1. This Act may be cited as the *Births, Deaths and Marriages Registration Act 1996*.

Commencement

2. This Act will come into operation on a day to be fixed by proclamation.

Objects of Act

3. The objects of this Act are to provide for—

- (a) the registration of births, deaths and marriages in South Australia; and
- (b) the registration of changes of name; and
- (c) the keeping of registers for recording and preserving information about births, deaths, marriages and changes of name in perpetuity; and
- (d) 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; and
- (e) the issue of certified information from the registers; and
- (f) the collection and dissemination of statistical information.

Definitions

4. In this Act—

"**adult**" means a person who is 18 or above or, although under 18, is or has been married;

"**authorised celebrant**" means an authorised celebrant under the *Marriage Act 1961* (Cwth);

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

"**change**" of 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;

"**Court**" means the Magistrates Court;

"**death**" includes still-birth;

"**disposal**" of human remains means—

- (a) cremation of the remains; or
- (b) burial of the remains (including burial at sea); or
- (c) placing the remains in a mausoleum or other permanent resting place; or
- (d) placing the remains in the custody of an educational or scientific institution for the purpose of medical education or research; or
- (e) removal of the remains from the State (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 as a medical practitioner under the *Medical Practitioners Act 1983*;

"**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;

"**prohibited name**" means a name that—

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

"**registrable event**" means a birth, change of name, death or marriage;

"**registrable information**" means information that must or may be included in the Register¹;

"**Register**"—*See section 40*;

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

"**Registrar**" means the Registrar of Births, Deaths and Marriages;

"**State**" includes a Territory;

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

"**still-born child**" means a child of at least 20 weeks' gestation or, if it cannot be reliably established whether the 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, after birth but does not include the product of a procedure for the termination of pregnancy.

¹ See section 40(2).

**PART 2
ADMINISTRATION**

DIVISION 1—THE REGISTRAR

Registrar

5. The Registrar of Births, Deaths and Marriages¹ is responsible, subject to the Minister's control and direction, for the administration of this Act.

¹ This is to be a Public Service position established under the *Public Sector Management Act 1995*.

Registrar's general functions

6. The Registrar's general functions are to—

- (a) establish and maintain the registers¹ necessary for the purposes of this Act; and
- (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.

¹ The registers are collectively referred to as the "**Register**"— See section 40.

Registrar's staff

7. (1) The Registrar's staff consists of—

- (a) one or more Deputy Registrars of Births, Deaths and Marriages¹; and
- (b) the other staff¹ necessary for the proper administration of this Act.

¹ These are to be Public Service positions established under the *Public Sector Management Act 1995*.

(2) A Deputy Registrar has the powers and functions of the Registrar but is subject to direction by the Registrar.¹

¹ If necessary, a person may be appointed to act in the position of Registrar on a temporary basis under the *Public Sector Management Act 1995*.

Delegation

8. (1) The Registrar may delegate powers or functions under this or any other Act.

(2) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.

(3) A delegation under this section—

- (a) must be by instrument in writing; and
- (b) may be absolute or conditional; and
- (c) does not derogate from the power of the delegator to act in any matter; and
- (d) is revocable at will by the delegator.

DIVISION 2—EXECUTION OF DOCUMENTS**The Registrar's seal**

9. The Registrar has a seal.

Execution of documents

10. (1) The Registrar may issue a certificate or other document under the Registrar's signature and seal, or a facsimile of the Registrar's signature and seal produced by stamp, machine imprint or some other method authorised by regulation.

(2) If a document produced before a court 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 some other method authorised by regulation,

the court, 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**Reciprocal administrative arrangements**

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

- (a) the exercise by the Registrar of powers and functions of the registering authority under the corresponding law; and
- (b) the exercise by the registering authority under the corresponding law of powers and functions of the Registrar under this Act.

(2) When an arrangement is in force under this section—

- (a) the Registrar may exercise, to the extent authorised by the arrangement (but subject to the conditions of the arrangement), the powers and functions of the registering authority under the corresponding law; and
- (b) the registering authority under the corresponding law may exercise, to the extent authorised by the arrangement (but subject to the conditions of the arrangement), the powers and functions of the Registrar under this Act.

(3) An arrangement under this section may—

- (a) establish a data base in which information is recorded for the benefit of all the participants in the arrangement; and
- (b) provide for access to information contained in the data base; 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

Notification of births

12. (1) When a child is born in the State, the responsible person must give written notice of the birth to the Registrar including the particulars required by regulation.

Maximum penalty: \$1 250

(2) The notice must be given—

(a) in the case of a child born alive—within 7 days after birth;

(b) in the case of a still-birth—within 48 hours after birth.

(3) When notice of a still-birth is given, the responsible person must also give a doctor's certificate in a form approved by the Registrar, certifying the cause of foetal death, to—

(a) the Registrar; and

(b) the funeral director or other person who will be arranging for the disposal of the human remains.

Maximum penalty: \$1 250

(4) The certificate must be completed by the doctor responsible for the professional care of the mother at the birth or a doctor who examined the body of the still-born child after the birth.

(5) In this section—

"responsible person" means—

(a) in the case of a child born in a hospital or brought to a hospital within 24 hours after birth—the chief executive officer of the hospital; or

(b) in other cases—the doctor or midwife responsible for the professional care of the mother at the birth.

DIVISION 2—REGISTRATION OF BIRTHS

Cases in which registration of birth is required or authorised

13. (1) If a child is born in the State, the birth must be registered under this Act.

(2) If a court (whether of this or any other State or the Commonwealth) directs the registration of a birth, the birth must be registered under this Act.

(3) If a child is born in an aircraft during a flight or on a vessel during a voyage to a place of disembarkation in the State, the birth may be registered under this Act.

(4) If a child is born outside the Commonwealth, but—

- (a) the child is to become a resident of the State; or
- (b) in the case of a still-born child—a person responsible for having the birth of the child registered is or is to become a resident of the State,

the birth may be registered under this Act.

(5) However, the Registrar must not register a birth under subsections (3) or (4) if the birth is registered under a corresponding law.

How to have the birth of a child registered

14. A person has the birth of a child registered under this Act by lodging a statement (the "**birth registration statement**") in a form approved by the Registrar containing the information required by regulation.

Responsibility to have birth registered

15. (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 impossible, impracticable or inappropriate for the other parent to join or be required to join in the application whether because of his or her death, disappearance, ill-health or unavailability or the need to avoid unwarranted distress or for some other reason.

(2) If a child is a foundling, the person who has custody 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.

Obligation to have birth registered

16. (1) A person responsible for having the birth of a child registered must ensure that a birth registration statement is lodged with the Registrar within 60 days after the date of the birth.

Maximum penalty: \$1 250

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

Registration

17. (1) The Registrar registers a birth by making an entry about the birth in the Register including the particulars required by regulation.

(2) However, if the particulars available to the Registrar are incomplete the Registrar may register a birth on the basis of incomplete particulars.

DIVISION 3—ALTERATION OF DETAILS OF BIRTH REGISTRATION**Alteration of details of parentage after registration of birth**

18. (1) The Registrar may include registrable information about a child's parents in the Register after registration of the child's birth if—

- (a) the father and mother of the child make a joint application for the addition of the information; or
- (b) one parent of the child makes an application for the addition of the information and the other parent cannot join in the application because he or she is dead or cannot be found, or for some other reason.

(2) The Registrar must include or correct registrable information about a child's parents in the Register after registration of the child's birth if a court (whether of this or any other State or the Commonwealth) directs the inclusion or correction of the information in the Register or the Registrar is advised of a finding by a court that a particular person is a parent of the child.

(3) An application to the Registrar for the inclusion of registrable information in the Register—

- (a) must be made in writing; and
- (b) must include the information required by the Registrar; and
- (c) 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.

DIVISION 4—COURT ORDERS RELATING TO REGISTRATION OF BIRTH**Application to Court**

19. The Court may, on application by an interested person or on its own initiative, order—

- (a) the registration under this Act of a birth that has occurred in the State; or
- (b) the inclusion or correction of registrable information about a birth or a child's parents in the Register.

Power to direct registration of birth, etc.

20. If a court finds—

- (a) that the birth of a person is not registered as required under this Act or a corresponding law; or
- (b) that the registrable information contained in an entry about a birth in the Register under this Act or a corresponding law is incomplete or incorrect,

the court may direct registration of the birth, or the inclusion or correction of registrable information in the Register under this Act or the corresponding law (as the case may require).

DIVISION 5—CHILD’S NAME

Name of child

21. (1) Subject to this section, the birth registration statement must state the name of the child.

(2) The name is a matter of choice for the person or persons lodging the statement¹, but 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.

(3) A birth registration statement relating to a still-born child need not state the name of the child.

¹ For example, there is no requirement that the name be made up of both a surname and a given name or given names.

Dispute about child’s name

22. (1) If there is a dispute between parents about a child’s name, either parent may apply to the Court for a resolution of the dispute.

(2) On an application under subsection (1), the Court may—

- (a) resolve the dispute about the child’s name as the Court considers appropriate; and
- (b) order the Registrar to register the child’s name in a form specified in the order.

**PART 4
CHANGE OF NAME**

Change of name by registration

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

Application to register change of adult's name

24. An adult person—

- (a) who is domiciled or ordinarily resident in the State; or
- (b) whose birth is registered in the State;

may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the person's name.

Application to register change of child's name

25. (1) The parents of a child—

- (a) who is domiciled or ordinarily resident in the State; or
- (b) whose birth is registered in the State;

may apply to the Registrar, in a form approved by the Registrar, for registration of a change of the child's name.

(2) An application for registration of a change of a child's name may be made by one parent 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) there is no other surviving parent of the child; or
- (c) the Court approves the proposed change of name.

(3) The Court may, on application by a child's parent, approve a proposed change of name for the child if satisfied that the change is in the child's best interests.

(4) If the parents of a child are dead, cannot be found, or for some other reason cannot exercise their parental responsibilities to a child, the child's guardian may apply for registration of a change of the child's name.

Child's consent to change of name

26. A change of a child's name 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.

Registration of change of name

27. (1) Before registering a change of name under this Part, the Registrar may require the applicant to provide evidence to establish to the Registrar's satisfaction—

- (a) the identity and age of the person whose name is to be changed; and
- (b) that the change of name is not sought for a fraudulent or other improper purpose; and
- (c) if the person whose name is to be changed is a child—that the child consents to the change of name or 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 another law or by order of a court, the change of name may be registered under this Act.

(3) The Registrar may refuse to register a change of name if, as a result of the change, the name would become a prohibited name.

Entries to be made in the Register

28. (1) The Registrar registers a change of name by making an entry about the change of name in the Register including the particulars required by regulation.

(2) If the applicant for registration of the change of name asks the Registrar to arrange for noting the change of name in the particulars of the person's birth, and the person's birth is registered under this Act or a corresponding law, the Registrar must—

- (a) if the birth is registered under this Act—note the change of name in the entry relating to the birth; or
- (b) if the birth is registered under a corresponding law—notify the relevant registering authority of the change of name.

(3) 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.

Change of name may still be established by repute or usage

29. This Part does not prevent a change of name by repute or usage.

PART 5
REGISTRATION OF MARRIAGES

Cases in which registration of marriage is required

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

How to have marriage registered

31. 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 solemnised before the commencement of that Act, the evidence of the marriage required by the Registrar.¹

¹ 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.

Registration of marriage

32. 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 6
REGISTRATION OF DEATHS**

**DIVISION 1—CASES WHERE REGISTRATION OF DEATH
IS REQUIRED OR AUTHORISED**

Deaths to be registered under this Act

33. (1) If a person dies in the State, the death must be registered under this Act.

(2) If a court or coroner (whether of this or any other State or the Commonwealth) directs the registration of a death, the death must be registered under this Act.

(3) If a person dies in an aircraft during a flight or on a vessel during a voyage to a place of disembarkation in the State, the death may be registered under this Act.

(4) If a person who is domiciled or ordinarily resident in the State dies outside the Commonwealth, or a person dies outside the Commonwealth leaving property in the State, the death may be registered under this Act.

(5) However, the Registrar is not obliged to register a death under subsection (3) or (4) if the death is registered under a corresponding law.

(6) If a child is still-born, the child's death¹ is not to be registered under this Part.

¹ i.e. the foetal death. A **child** is defined to include a still-born child.

DIVISION 2—COURT ORDERS RELATING TO REGISTRATION OF DEATH

Application to Court

34. The Court may, on application by an interested person or on its own initiative, order—

- (a) the registration under this Act of a death that has occurred in the State; or
- (b) the inclusion or correction of registrable information about a death in the Register.

Power to direct registration of death, etc.

35. If a court or coroner finds—

- (a) that the death of a person is not registered as required under this Act or a corresponding law; or
- (b) that 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 court or coroner may direct registration of the death or the inclusion or correction of registrable information in the Register under this Act or the corresponding law (as the case may require).

DIVISION 3—NOTIFICATION OF DEATHS**Notification of deaths by doctors**

36. (1) A doctor who was responsible for a person's medical care immediately before death, or who examines the body of a deceased person after death, must, within 48 hours after the death, give written notice of the death to the Registrar, including the particulars required by regulation.

Maximum penalty: \$1 250

(2) However, a doctor—

- (a) need not give a notice under this section if another doctor has given the required notice; and
- (b) must not give a notice under this section if a coroner or a police officer is required to be notified of the death under the *Coroners Act 1975*¹.

Maximum penalty: \$1 250

(3) When notice of a death is given, the doctor must also give a certificate in a form approved by the Registrar, certifying the cause of death, to—

- (a) the Registrar; and
- (b) the funeral director or other person who will be arranging for the disposal of the human remains.

Maximum penalty: \$1 250

(4) If a child is still-born, the child's death is not to be notified under this section².

¹ See section 31 of the *Coroners Act 1975*.

² In the case of a still-birth notice must be given to the Registrar under section 12.

Notification by coroner

37. (1) If a coroner is notified of a death under the *Coroners Act 1975* or is inquiring into the cause of a death under that Act (whether in the course of an inquest or an inquiry for the purpose of determining whether or not an inquest is necessary or desirable), the coroner must, as soon as practicable, notify the Registrar of that fact.

(2) If a coroner authorises the disposal of human remains, or makes a finding about the cause of a death, the coroner must give a copy of the disposal authorisation or the finding to the Registrar.

(3) The Registrar may register a death even though the death is subject to an inquest or other coronial inquiry and a finding has not been made about the cause of death.

(4) A certificate by the Registrar, certifying particulars contained in an entry about a death in the Register, issued before an inquest or other coronial inquiry into the cause of death is completed must be endorsed with the words: "Incomplete registration—Cause of death subject to coronial inquiry".

Notification by funeral director, etc.

38. (1) A funeral director or other person who arranges for the disposal of human remains must within 7 days after disposal of the remains give the Registrar a written statement of—

- (a) the name and last residential address of the deceased or, in the case of a still-born child, the name and residential address of the parents of the still-born child; and
- (b) if the death was reported to a coroner—a statement of that fact; and
- (c) the place and manner of disposal; and
- (d) the information required by regulation.

Maximum penalty: \$1 250

(2) 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, within 28 days after the remains are disposed of outside the State, give the Registrar a written statement of where and how the remains were disposed of, and the other information required by regulation.

Maximum penalty: \$1 250

(3) 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 a written statement of—

- (a) the name and last residential address of the deceased or, in the case of a still-born child, the name and residential address of the parents of the still-born child; and
- (b) if the death was reported to a coroner—a statement of that fact; and
- (c) the information required by regulation.

Maximum penalty: \$1 250

DIVISION 4—REGISTRATION OF DEATH

Registration

39. (1) The Registrar registers a death by making an entry about the death in the Register including the particulars required by regulation.

(2) However, if the particulars available to the Registrar are incomplete the Registrar may register a death on the basis of incomplete particulars.

**PART 7
THE REGISTER**

DIVISION 1—KEEPING THE REGISTER

The Register

40. (1) The Registrar must maintain a register or registers¹ of registrable events.

¹ A reference in this Act to the "**Register**" extends to all the registers kept under this subsection.

(2) The Register—

(a) must contain the particulars of each registrable event required under this Act, or another law, to be included in the Register; and

(b) may contain further information if its inclusion is authorised under the regulations.

(3) The Register may be wholly or partly in the form of a computer data base, 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.

DIVISION 2—REGISTRAR'S POWERS OF INQUIRY

Registrar's powers of inquiry

41. (1) The Registrar may conduct an inquiry to find out—

(a) whether a registrable event has happened; or

(b) particulars of a registrable event; or

(c) whether particulars of a particular registrable event have been correctly recorded in the Register.

(2) The Registrar may, by notice given to a person who may be able to provide information relevant to an inquiry under this section, require the person to answer specified questions or to provide other information within a time and in a way specified in the notice.

(3) A person who fails, without reasonable excuse, to comply with a notice under subsection (2) is guilty of an offence.

Maximum penalty: \$1 250

DIVISION 3—CORRECTION OF REGISTER

Registrar's power to correct Register

42. (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 corrects the Register by adding or cancelling an entry in the Register or by adding, altering or deleting particulars contained in an entry.

(3) The Registrar's power to correct the Register under this section is in addition to any other power of the Registrar under this Act.

DIVISION 4—ACCESS TO, AND CERTIFICATION OF, REGISTER ENTRIES

Access to Register

43. (1) The Registrar may, on conditions the Registrar considers appropriate—

- (a) allow a person or organisation that has an adequate reason for wanting access to the Register, access to the Register; or
- (b) provide a person or organisation that has an adequate reason for wanting information from the Register, with information extracted from the Register.

(2) 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; and
- (b) the sensitivity of the information; and
- (c) the use to be made of the information; and
- (d) other relevant factors.

(3) In deciding the conditions on which access to the Register, or information extracted from the Register, is to be given under this section, the Registrar must, as far as practicable, protect the persons to whom the entries in the Register relate from unjustified intrusion on their privacy.

Search of Register

44. (1) The Registrar may, on application, search the Register for an entry about a particular registrable event.

(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; and
- (b) the age of the entry; and
- (c) the contents of the entry; and

- (d) other relevant factors.

Protection of privacy

45. 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.

Issue of certificate

46. (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) 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.

Access policies

47. (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.

Fees

48. (1) The regulations may prescribe fees, or a basis for calculating fees, for—

- (a) access to the Register; or
(b) a search of the Register; or
(c) the issue of a certificate following a search of the Register; or
(d) other services provided by the Registrar.

(2) The regulations may allow for fees to be fixed by negotiation between the Registrar and the person who asks for the relevant services.

Power to remit fees

49. The Registrar may, in appropriate cases, remit the whole or part of a fee under this Act.

**PART 8
GENERAL POWER OF REVIEW**

Review

50. (1) A person who is dissatisfied with a decision of the Registrar made in the performance or purported performance of functions under this Act may apply to the Court for a review of the decision.

(2) On a review, the Court may—

- (a) confirm, vary or reverse the Registrar's decision; and
- (b) make consequential and ancillary orders and directions.

**PART 9
MISCELLANEOUS**

False representation

51. A person who makes a false or misleading representation in an application or document under this Act, knowing it to be false or misleading, is guilty of an offence.

Maximum penalty: \$1 250

Unauthorised access to or interference with Register

52. 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; or
- (b) make, alter or delete an entry in the Register; or
- (c) interfere with the Register in any other way.

Maximum penalty: \$10 000 or imprisonment for 2 years

Falsification of certificate, etc.

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

Maximum penalty: \$10 000 or imprisonment for 2 years

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

Maximum penalty: \$10 000 or imprisonment for 2 years

(3) The Registrar may impound—

- (a) a document which the Registrar has reason to believe bears a forged impression of the Registrar's signature or seal; or
- (b) a certificate or other document purporting to be a certificate or other document under this Act which the Registrar has reason to believe has been forged or falsified; or
- (c) a certificate under this Act about a registrable event if the entry in the Register about the event has been cancelled or corrected since the issue of the certificate.

Immunity from liability

54. (1) No liability attaches to the Registrar for an honest act or omission in the performance or purported performance of functions under this Act.

(2) A liability that would, but for subsection (1), attach to the Registrar attaches instead to the Crown.

Regulations

55. (1) The Governor may make regulations for the purposes of this Act.

(2) A regulation may impose a penalty not exceeding a fine of \$1 250 for contravention of a provision of the regulations.

SCHEDULE 1

Repeal and Transitional

Interpretation

1. In this schedule—

"**repealed Act**" means the *Births, Deaths and Marriages Registration Act 1966*.

Repeal of Births, Deaths and Marriages Registration Act 1966

2. The *Births, Deaths and Marriages Registration Act 1966* is repealed.

The Register

3. A Register maintained under the repealed Act forms part of the Register under this Act.

The Registrar and Deputy Registrars

4. (1) The person holding office as the Principal Registrar of Births, Deaths and Marriages immediately before the commencement of this Act continues as the Registrar, subject to the provisions of this Act.

(2) The person holding office as the Deputy Registrar immediately before the commencement of this Act continues as a deputy registrar, subject to the provisions of this Act.

SCHEDULE 2*Amendment of Coroners Act 1975***Interpretation**

1. In this schedule—

"principal Act" means the *Coroners Act 1975*.

Amendment of s. 12—Jurisdiction

2. Section 12 of the principal Act is amended by inserting after paragraph (b) of subsection (1) the following paragraph:

- (c) the death of a person in an aircraft during a flight or on a vessel during a voyage to a place of disembarkation in the State;

Insertion of s. 28b

3. The following section is inserted in Part IV of the principal Act before section 29:

Interpretation

28b. In this Part—

"disposal" of human remains means—

- (a) cremation of the remains; or
- (b) burial of the remains (including burial at sea); or
- (c) placing the remains in a mausoleum or other permanent resting place; or
- (d) placing the remains in the custody of an educational or scientific institution for the purpose of medical education or research; or
- (e) removal of the remains from the State (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);

"human remains" means the body of a dead person or a still born child;

"still-born child" means a child of at least 20 weeks' gestation or, if it cannot be reliably established whether the 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, after birth but does not include the product of a procedure for the termination of pregnancy.

Amendment of s. 30—Authorisation for disposal of human remains

4. Section 30 of the principal Act is amended by striking out "A burial order may be issued by a coroner" and substituting "The coroner may issue an authorisation for the disposal of human remains".

Amendment of s. 31—Offence to fail to notify death

5. Section 31 of the principal Act is amended—

- (a) by inserting after subsection (1) the following subsection:

(1a) If the person notifying a coroner or police officer under subsection (1) is a medical practitioner who was responsible for the medical care of the deceased or who examined the body of the deceased after death, he or she must, at the same time, notify the coroner or police officer of his or her opinion as to the cause of death.

Penalty: Division 6 fine.;

- (b) by inserting after subsection (5) the following subsection:

(5a) If a person dies in an aircraft during a flight or on a vessel during a voyage to a place of disembarkation in the State, the person in charge of the aircraft or vessel, as the case may be, must, immediately after the arrival of the aircraft or vessel at the place of disembarkation in the State, report the death, or cause the death to be reported, to a coroner.

Penalty: Division 6 fine.;

(c) by striking out from subsection (6) "subsection (4) or (5)" and substituting "subsections (4), (5) or (5a)".

Insertion of ss. 31A and 31B

6. The following sections are inserted after section 31 of the principal Act:

Coroner to make finding as to cause of death

31A. If a coroner is notified of a death under this Act or is inquiring into the cause of a death under this Act (whether in the course of an inquest or an inquiry for the purpose of determining whether or not an inquest is necessary or desirable), the coroner must make a finding as to the cause of the death.

Information to be provided before disposal of remains

31B. A person must not dispose of human remains or cause human remains to be disposed of unless he or she has received—

- (a) if the remains are to be cremated—a cremation permit issued under section 5 of the *Cremation Act 1891*;
- (b) in any other case—
 - (i) a certificate of the cause of death, under section 36 of the *Births, Deaths and Marriages Registration Act 1995* or, if the remains are the remains of a still-born child, a doctor's certificate under section 12 of that Act;
 - or
 - (ii) an authorisation for the disposal of human remains from the coroner.

Penalty: Division 6 fine or division 6 imprisonment.

SCHEDULE 3

Amendment of Cremation Act 1891

Interpretation

1. In this schedule—

"principal Act" means the *Cremation Act 1891*.

Amendment of s. 1A—Interpretation

2. Section 1A of the principal Act is amended—

(a) by inserting after the definition of "crematorium" the following definition:

"medical practitioner" means a person registered as a medical practitioner under the *Medical Practitioners Act 1983*;

(b) by striking out the definition of "registrar" and substituting the following definition:

"registrar" means the Registrar of Births, Deaths and Marriages or a Deputy Registrar of Births, Deaths and Marriages.

Amendment of s. 5—Issue of cremation permit

3. Section 5 of the principal Act is amended by striking out subsection (1) and substituting the following subsections:

(1) The registrar may, on application by a person in a form approved by the registrar, issue the applicant with a cremation permit in the prescribed form.

(1a) The registrar must not issue a permit under this section unless the application is accompanied by—

(a) certificates from—

(i) two medical practitioners (one of whom was responsible for the deceased's medical care immediately before death or examined the body of the deceased after death); or

(ii) one medical practitioner who has completed a *post mortem* examination of all the vital organs of the deceased,

certifying that the deceased died from natural causes; or

(b) an authorisation for the disposal of the deceased's remains issued by a coroner.

(1b) A medical practitioner must not give a certificate under this section if a coroner or a police officer is required to be notified of the death under the *Coroners Act 1975*.

Maximum penalty: \$1 000

Amendment of s. 8—Attorney-General may forbid cremation, etc.

4. Section 8 of the principal Act is amended by inserting ", a coroner" after "Attorney-General".