



Australian Capital Territory

Births, Deaths and Marriages Registration Amendment Act 2024

A2024-9

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Australian Capital Territory

Births, Deaths and Marriages Registration Amendment Act 2024

A2024-9

An Act to amend the *Births, Deaths and Marriages Registration Act 1997* and the *Births, Deaths and Marriages Registration Regulation 1998*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Part 1 Preliminary

1 Name of Act

This Act is the *Births, Deaths and Marriages Registration Amendment Act 2024*.

2 Commencement

- (1) This Act (other than sections 4 to 7, 12, 24 and 27) commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

- (2) Sections 4 to 7, 12, 24 and 27 commence on a day fixed by the Minister by written notice.

Note A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see [Legislation Act](#), s 77 (1)).

- (3) If sections 4 to 7, 12, 24 and 27 have not commenced within 12 months beginning on this Act's notification day, they automatically commence on the first day after that period.

- (4) The [Legislation Act](#), section 79 (Automatic commencement of postponed law) does not apply to sections 4 to 7, 12, 24 and 27.

3 Legislation amended

This Act amends the *Births, Deaths and Marriages Registration Act 1997* and the *Births, Deaths and Marriages Registration Regulation 1998*.

Part 2 Births, Deaths and Marriages Registration Act 1997

4 Section 16 heading

substitute

16 Addition or alteration of details of parentage after registration of birth

5 New section 16 (1A) to (1C)

insert

- (1A) On application, the registrar-general must alter any of the following information about a child's parent in the register after registration of the child's birth:
- (a) the name of a parent whose change of name is registered under this Act or a corresponding law;
 - (b) the words used to describe a parent's relationship with the child.
- (1B) An application to alter information may be made by—
- (a) both parents; or
 - (b) 1 parent if—
 - (i) the information is about the parent and the registrar-general is satisfied that the other parent—
 - (A) is dead or cannot join in the application because the other parent cannot be found or for any other reason; or
 - (B) does not dispute the correctness of the information; or

- (ii) the only alteration is to use the word ‘parent’ to describe the parent’s relationship with the child.
- (1C) However, if the child is at least 14 years old, the registrar-general must not alter the information unless—
- (a) the registrar-general is satisfied that the child consents to the alteration; or
 - (b) the only alteration is to use the word ‘parent’ to describe either or both parent’s relationship with the child.

6 Section 16 (2)

after

addition

insert

or alteration

7 Section 16 (5)

omit

**8 Application by parent to register change of child’s name
New section 19 (2) (aa)**

insert

- (aa) the applicant is the only person with parental responsibility for decisions about the child’s name until the child is 18 years old; or

9 Section 19 (2), new examples*insert***Examples—par (aa)**

- all aspects of parental responsibility are allocated to only the applicant by operation of a parenting order under the *Family Law Act 1975* (Cwlth)
- parental responsibility for making decisions about major long-term issues are allocated to only the applicant by operation of a parenting order under the *Family Law Act 1975* (Cwlth)
- long-term care responsibility has been transferred to only the applicant under the *Children and Young People Act 2008*

**10 Application by young person to register change of given name
Section 19A (b)***omit*

16 years old

substitute

14 years old

11 Section 19A (b) (i)*omit*

and the application is made to better reflect their gender identity

**12 Change of name entries in register
New section 21 (4)***insert*

- (4) Also, a birth certificate issued by the registrar-general for the person must not show the person's former name if—
- (a) the person's name was changed under subsection (2) (a) (i) (A);
and

- (b) any of the following people requests, in writing, that the person's former name not be shown:
 - (i) the person;
 - (ii) if the person is a child—a parent of, or a person with parental responsibility for, the person;
 - (iii) a person prescribed by regulation; and
- (c) the registrar-general is satisfied that the request is made to protect a person's privacy; and
- (d) for a request that relates to a child who is at least 14 years old—the registrar-general is satisfied that the child either consents to the request or cannot understand the meaning or implications of the request.

Note Section 27 deals with showing a person's sex on a birth certificate.

13 Application to alter register to record change of sex Section 24 (1) (a)

omit

16 years old

substitute

14 years old

14 Section 24 (1) (c), except notes

substitute

- (c) the person believes their sex to be the sex nominated in the application.

15 Section 24 (2) (c)

omit

16 New section 24 (3) (aa)

insert

- (aa) the applicant is the only person with parental responsibility for decisions about the child's sex until the child is 18 years old; or

17 Section 24 (3), new examples

insert

Examples—par (aa)

- all aspects of parental responsibility are allocated to only the applicant by operation of a parenting order under the *Family Law Act 1975* (Cwlth)
- parental responsibility for making decisions about major long-term issues are allocated to only the applicant by operation of a parenting order under the *Family Law Act 1975* (Cwlth)
- long-term care responsibility has been transferred to only the applicant under the *Children and Young People Act 2008*

18 Section 25

substitute

25 Evidence in support of application

An application under section 24 must be accompanied by—

- (a) documents confirming that the person was born in the ACT or has had their birth registered in the ACT; and
- (b) for an application under section 24 (2)—a statement that the applicant believes that altering the record of the child's sex is in the best interests of the child; and
- (c) any other documents and information prescribed by regulation.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

19 Section 27*substitute***27 Showing information about sex on birth certificate**

- (1) The registrar-general may issue a birth certificate for a person that includes information about the person's sex.
- (2) However, information about a person's sex must not be included on a birth certificate if—
 - (a) any of the following people requests, in writing, that the information not be included on the certificate:
 - (i) the person;
 - (ii) a parent of, or a person with parental responsibility for, the person; and
 - (b) for a request that relates to a child who is at least 14 years old—the registrar-general is satisfied that the child either consents to the request or cannot understand the meaning or implications of the request.
- (3) If the registrar-general issues a birth certificate that includes information about the sex of a person whose record of sex has been altered, the birth certificate—
 - (a) must show the person's record of sex as altered; and
 - (b) must not show any word or statement to the effect that the person's record of sex has been altered.
- (4) However, the registrar-general may issue a birth certificate that includes information about a person's sex before, or both before and after, the alteration of the person's record of sex if any of the following people requests, in writing, that the information be included:
 - (a) the person;

- (b) a child of the person;
- (c) a person prescribed by regulation.

Note Section 21 deals with showing a person's former name on a birth certificate after registering a change of name.

**20 Application for recognised details certificate
Section 29A (1) (a)**

omit

16 years old

substitute

14 years old

21 Section 29A (1) (d)

substitute

- (d) the person believes their sex to be the sex nominated in the application.

22 Section 29A (2) (d)

omit

23 Section 29B

substitute

29B Evidence in support of application for recognised details certificate

An application under section 29A must be accompanied by—

- (a) documents confirming that—
 - (i) the person to whom the application relates is domiciled or resident in the ACT; and

- (ii) the person's birth is registered in a place other than the ACT; and
- (b) for an application under section 29A (2)—a statement signed by the parents of, or a person with parental responsibility for, the child stating that a recognised details certificate for the child is in the best interests of the child; and
- (c) any other documents and information prescribed by regulation.

Note It is an offence to make a false or misleading statement, give false or misleading information or produce a false or misleading document (see [Criminal Code](#), pt 3.4).

24 **New division 4.3**

insert

Division 4.3 Nominating sex in applications under this part

29DA Nominating sex in applications under this part

- (1) A person making an application under this part (an *applicant*) may nominate the sex of a person in the application by stating the nominated sex using any term other than a prohibited sex descriptor.
- (2) The registrar-general must ensure an application allows an applicant to state the nominated sex of a person using any term other than a prohibited sex descriptor.

Examples

- 1 an electronic interactive form used for altering the record of a person's sex shows a blank space in which the person may state their nominated sex
- 2 a paper form used to apply for a recognised details certificate includes an open-text field in which the applicant may state their nominated sex

(3) In this section:

prohibited sex descriptor means a term describing a person's sex that—

- (a) is obscene or offensive; or
- (b) could not practically be established by repute or usage—
 - (i) because it is too long; or
 - (ii) because it consists of or includes symbols without phonetic significance in the English language; or
 - (iii) for any other reason.

**25 Application by young person for leave to apply for change of given name or sex etc
Section 29E (1)**

omit

16 years old

substitute

14 years old

26 Dictionary, definition of *birth certificate*

omit

section 27 (2)

substitute

section 27

Part 3 Births, Deaths and Marriages Registration Regulation 1998

27 Registration of births Section 5 (2)

omit

of the parents of

substitute

parent's relationship with

28 Section 7

substitute

7 Showing information about sex on birth certificate—Act, s 27 (4) (c)

The following people are prescribed:

- (a) a parent of, or person with parental responsibility for, the person;
- (b) an executor or administrator of the estate of the person;
- (c) a lawyer authorised by a person mentioned in—
 - (i) paragraph (a) or (b); or
 - (ii) the [Act](#), section 27 (4) (a) or (b).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 20 September 2023.

2 Notification

Notified under the [Legislation Act](#) on 28 March 2024.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Births, Deaths and Marriages Registration Amendment Bill 2024, which originated in the Legislative Assembly as the Births, Deaths and Marriages Registration Amendment Bill 2023 and was passed by the Assembly on 21 March 2024.

Clerk of the Legislative Assembly

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