

2013

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Births, Deaths and Marriages Registration Amendment Bill 2013

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Births, Deaths and Marriages Registration Amendment Bill 2013

A Bill for

An Act to amend the *Births, Deaths and Marriages Registration Act 1997*, and for other purposes

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

- 1 **1 Name of Act**
- 2 This Act is the *Births, Deaths and Marriages Registration*
3 *Amendment Act 2013*.
- 4 **2 Commencement**
- 5 This Act commences on the 30th day after its notification day.
- 6 *Note* The naming and commencement provisions automatically commence on
7 the notification day (see [Legislation Act](#), s 75 (1)).
- 8 **3 Legislation amended**
- 9 This Act amends the *Births, Deaths and Marriages Registration*
10 *Act 1997*.
- 11 *Note* This Act also amends other legislation (see sch 1).
- 12 **4 Dictionary**
13 **Section 2, note 1**
- 14 *substitute*
- 15 *Note 1* The dictionary at the end of this Act defines certain terms used in this
16 Act, and includes references (*signpost definitions*) to other terms
17 defined elsewhere in this Act.
- 18 For example, the signpost definition ‘*reviewable decision*, for part 8
19 (Notification and review of decisions)—see section 53.’ means that the
20 term ‘reviewable decision’ is defined in that section for part 8.
- 21 **5 Sections 9 and 10**
- 22 *omit*
- 23 60 days
- 24 *substitute*
- 25 6 months

1 **6 Application to register change of child's name**
2 **Section 19 (5)**

3 *omit*

4 the child's guardian

5 *substitute*

6 a person with parental responsibility for the child

7 **7 Definitions for pt 4**
8 **Section 23**

9 *omit*

10 **8 Application to alter register to record change of sex**
11 **Section 24 (1) (c), except notes**

12 *substitute*

13 (c) the person believes their sex to be the sex nominated in the
14 application (the *altered sex*), and—

15 (i) has received appropriate clinical treatment for alteration
16 of the person's sex; or

17 (ii) is an intersex person.

18 **9 Section 24 (2)**

19 *substitute*

20 (2) The parents of, or a person with parental responsibility for, the child
21 may apply to the registrar-general for alteration of the record of the
22 child's sex in the registration of the child's birth if—

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

- 1 (b) the parents, or person with parental responsibility, believe on
2 reasonable grounds that alteration of the record of the child's
3 sex is in the best interests of the child; and
- 4 (c) the child—
- 5 (i) has received appropriate clinical treatment for alteration
6 of the child's sex; or
- 7 (ii) is an intersex person.

8 **10 Section 25**

9 *substitute*

10 **25 Evidence in support of application**

- 11 (1) An application under section 24 for alteration of the record of the
12 sex of a person who is at least 18 years old must be accompanied
13 by—
- 14 (a) a statutory declaration by a doctor, or a psychologist, certifying
15 that the person—
- 16 (i) has received appropriate clinical treatment for alteration
17 of the person's sex; or
- 18 (ii) is an intersex person; and
- 19 (b) documents confirming that the person was born in the Territory
20 or has had their birth registered in the Territory; and
- 21 (c) any other documents and information that are prescribed.
- 22 (2) An application under section 24 for alteration of the record of the
23 sex of a child must be accompanied by—
- 24 (a) a statement signed by the parents of, or a person with parental
25 responsibility for, the child stating that alteration of the record
26 of the child's sex is in the best interests of the child; and

- 1 (b) a statutory declaration by a doctor, or a psychologist, certifying
2 that the child—
- 3 (i) has received appropriate clinical treatment for alteration
4 of the child's sex; or
- 5 (ii) is an intersex person; and
- 6 (c) documents confirming that the child was born in the Territory
7 or has had their birth registered in the Territory; and
- 8 (d) any other documents and information that are prescribed.
- 9 (3) In this section:
- 10 *psychologist* means a person registered under the *Health*
11 *Practitioner Regulation National Law (ACT)* to practise in the
12 psychology profession (other than as a student).

13 **11 Sections 27 and 28**

14 *omit*

15 transsexual

16 **12 Section 29**

17 *substitute*

18 **29 Entitlement not affected by change of sex**

19 A person who has an entitlement under a will, trust or territory law
20 does not lose the entitlement only because the person's sex has been
21 altered on the register, unless the will, trust or territory law provides
22 otherwise.

1 **13 Section 65**

2 *substitute*

3 **65 Certificate evidence**

4 (1) A certificate or other instrument that purports to state information
5 obtained by the registrar-general under this Act or the repealed Act
6 is evidence of the matters stated in it if it purports—

7 (a) to be signed and sealed by the registrar-general; or

8 (b) to have attached to it, or be otherwise authenticated by, a
9 facsimile of the registrar-general's signature and seal produced
10 by a stamp, machine imprint or any other method authorised by
11 regulation.

12 (2) An interstate recognition certificate is, for the purposes of any
13 territory law, evidence that the person mentioned in it is of the sex
14 stated in the certificate.

15 (3) In this section:

16 *interstate recognition certificate* means a certificate issued under a
17 corresponding law.

18 **14 Dictionary, note 2**

19 *insert*

- 20 • intersex person

21 **15 Dictionary, new definition of *parental responsibility***

22 *insert*

23 *parental responsibility*, for a child or young person—see the
24 [Children and Young People Act 2008](#), section 15.

- 1 **16** Dictionary, definitions of *sexual reassignment surgery*
2 and *transsexual person*
3 *omit*

1 **Schedule 1 Other amendments**

2 **Part 1.1 Births, Deaths and Marriages**
3 **Registration Regulation 1998**

4 **[1.1] Section 4 (1)**

5 *omit*

6 section 5 (3)

7 *substitute*

8 section 5 (2) (a)

9 **[1.2] Section 4 (1) (b)**

10 *substitute*

11 (b) if the sex of the child is determinable—the sex of the child;

12 **[1.3] Section 5 (b)**

13 *substitute*

14 (b) if the sex of the child is determinable—the sex of the child;

15 **[1.4] Section 7**

16 *substitute*

17 **7 Issue of birth certificates—Act, s 27 (2) (c)**

18 The following people are specified:

19 (a) a parent of, or person with parental responsibility for, the
20 person;

21 (b) an executor or administrator of the estate of the person;

- 1 (c) a lawyer authorised by a person mentioned in—
2 (i) paragraph (a) or (b); or
3 (ii) the [Act](#), section 27 (2) (a) or (b).

4 **[1.5] Section 8**

5 *omit*

6 **Part 1.2 Legislation Act 2001**

7 **[1.6] Section 169B**

8 *substitute*

9 **169B References to *intersex people***

10 An *intersex person* is a person who has physical, hormonal or
11 genetic features that are—

- 12 (a) not fully female or fully male; or
13 (b) a combination of male or female; or
14 (c) not female or male.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 28 November 2013.

2 Notification

Notified under the [Legislation Act](#) on 2013.

3 Republications of amended laws

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

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