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AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY

BIRTHS, DEATHS AND MARRIAGES REGISTRATION ACT 1997

BIRTHS, DEATHS AND MARRIAGES REGISTRATION REGULATIONS

EXPLANATORY STATEMENT

Circulated by authority of

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BACKGROUND

The Births, Deaths and Marriages Act 1997 was drafted in accordance with a model agreed by the Standing Committee of Attorneys-General to provide for compulsory civil registration of births, deaths and marriages. It also allows for registration of changes of name and sex.

The Act provides that details of the information required to be provided to the Registrar-General for maintenance of the Register will be set by Regulation.

SUMMARY

The Births, Deaths and Marriages Registration Regulations 1998 set out what information is to be provided to the Registrar-General to allow information about births, deaths, marriages, changes of name and changes of sex to be included in the Register. The information required is not very different from that required under the repealed *Registration of Births, Deaths and Marriages Act 1953*. The Regulations are consistent with those which have been made in New South Wales under the corresponding Act based on the model legislation.

DETAILS

Regulation 1 provides for the Regulations to be cited as the Births, Deaths and Marriages Regulations.

Regulation 2 provides for the Regulations to commence on the same day as the substantive provisions of the *Births, Deaths and Marriages Registration Act 1997* (the Act).

Regulation 3 is an interpretation provision.

Regulation 4 sets out the information to be provided in a notification of birth. Under section 5 of the Act the Registrar-General must be notified when a child is born in the ACT. The information required identifies the mother of the child, the sex of the child, the weight of the child, whether it was a multiple birth and whether or not the child was born alive. The date of the birth must be given together with the name of the health professional responsible for the care of the mother at the birth.

Regulation 5 sets out the information about a birth to be included in the Register. Section 11 of the Act requires the Registrar-General to make an entry in the Register about each birth and to include the name of the child and other

information about the child and its parents. The information prescribed by this regulation includes date and place of birth, whether it was a multiple birth, details of both parents and information about other children of the relationship between those same parents. The regulation requires that the name of at least one witness to the birth be included. If possible the name of a doctor, midwife or nurse who witnessed the birth is to be recorded. However, there is no restriction on the number or qualification of witnesses whose names may be included.

Regulation 6 sets out the particulars to be included in an application under section 24 of the Act for change of the record of sex in a birth record on the Register. They include the name and address of the applicant, the applicant's date and place of birth and the names of the applicant's parents. A person cannot apply for registration of a change of sex if that person is married, but the regulation requires information on whether or not the applicant has ever been married and how any such marriage was ended.

Regulation 7 provides that under section 27 of the Act the classes of people who may be issued a birth certificate showing a transsexual person's sex prior to alteration of the birth record are to include the executor or administrator of the transsexual person's estate, the parents of the transsexual person, a guardian of the transsexual person and a spouse or former spouse of the person. The transsexual person and any children of the transsexual person are given access to the original record by section 27 of the Act. In addition a legal practitioner authorised by a person from any of those groups can apply for the certificate on behalf of his or her client.

Regulation 8 specifies legislation from other States and Territories which provides for transsexual persons to register a change of sex. Certificates issued under that legislation to verify that a person has registered a change of sex are recognised under ACT law by virtue of subsection 29(3) of the Act.

Regulation 9 sets out the information to be provided by funeral directors when they provide notification of a death under subsection 37(1). The notification is to be given when arrangements are made for the disposal of human remains. The information required is quite extensive and includes the date and place of death, the sex of the deceased, the date and place of birth of the deceased, the occupation of the deceased, details of any marriages of the deceased, any children of the deceased, the names of the parents of the deceased and the length of his or her residence in Australia. Details of the disposal of the remains are also required, including the name of a witness to the disposal.

Regulation 10 sets out the information required to be provided to the Registrar-General when human remains other than cremated remains are removed from the ACT. The information required is the same as set out in regulation 9. In addition the person arranging the removal must give the date of removal, the purpose of the removal and whether or not the death was reported to the Coroner. If the

remains are removed for anatomical examination the name of the institution where that is to happen must be given.

Regulation 11 sets out the information to be provided to the Registrar-General in circumstances where human remains have not been disposed of within 30 days after death. The information about the deceased is the same as is required under regulation 9. In addition the name, occupation and address of the person who has custody of the remains has to be given.

Regulation 12 sets out the details to be included in the Register when a record is made of a death. The Registrar-General must record the name and the address of the last place the deceased lived, whether or not the death was reported to the Coroner, the way in which the remains were disposed of and where the disposal happened. Personal details about the deceased must also be recorded. These include the date and place of death, the sex of the deceased, the date and place of birth of the deceased, the occupation of the deceased, details of any marriages of the deceased, any children of the deceased, the names of the parents of the deceased and the length of his or her residence in Australia.