

2016

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**Registration of Deaths Abroad
Amendment Bill 2016**

No. , 2016

(Foreign Affairs and Trade)

***A Bill for an Act to amend the *Registration of
Deaths Abroad Act 1984*, and for other purposes***

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A Bill for an Act to amend the *Registration of Deaths Abroad Act 1984*, and for other purposes

The Parliament of Australia enacts:

1 Short title

This Act is the *Registration of Deaths Abroad Amendment Act 2016*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day after this Act receives the Royal Assent.	
2. Schedule 1	A single day to be fixed by Proclamation. However, if the provisions do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments

Part 1—Amendments

Registration of Deaths Abroad Act 1984

1 Subsection 3(1) (definition of *appoint*)

Repeal the definition.

2 Subsection 3(1) (definition of *registering officer*)

Repeal the definition.

3 Subsection 3(1)

Insert:

relevant State or Territory seal has the meaning given by section 3A.

State or Territory registrar means a person who holds an office or position that has the function of keeping a register of deaths under a law of a State or Territory.

4 After section 3

Insert:

3A Relevant State or Territory seal

For the purposes of this Act:

- (a) if a person holds office as the Registrar, *relevant State or Territory seal*, in relation to the person, means a seal used by the person, under a law of a State or Territory relating to the registration of deaths, in the person's capacity as a State or Territory registrar; and
- (b) if a person is acting as the Registrar, *relevant State or Territory seal*, in relation to the acting Registrar, means a seal used by the acting Registrar, under a law of a State or Territory relating to the registration of deaths, in the acting Registrar's capacity as a State or Territory registrar; and

- (c) if a delegate of the Registrar is a State or Territory registrar, *relevant State or Territory seal*, in relation to the delegate, means a seal used by the delegate, under a law of a State or Territory relating to the registration of deaths, in the delegate's capacity as a State or Territory registrar; and
- (d) if a delegate of the Registrar is an employee in the same State or Territory office or body as the Registrar, *relevant State or Territory seal*, in relation to the delegate, means a seal used by the Registrar, under a law of a State or Territory relating to the registration of deaths, in the Registrar's capacity as a State or Territory registrar.

5 Section 4A

Repeal the section.

6 Sections 5 and 6

Repeal the sections, substitute:

5 Registrar of Deaths Abroad

- (1) There is to be a Registrar of Deaths Abroad.
- (2) The Registrar is to be appointed by the Minister by written instrument.

Note: For reappointment, see section 33AA of the *Acts Interpretation Act 1901*.
- (3) The Minister must not appoint a person to be the Registrar unless:
 - (a) the person is a State or Territory registrar; and
 - (b) the State or Territory concerned, by written notice given to the Minister, agrees to the appointment.
- (4) A notice under paragraph (3)(b) may be given on behalf of a State or Territory by a Minister of the State or Territory.
- (5) The Minister may at any time terminate the appointment of a person as the Registrar.
- (6) Without limiting subsection (5), the Minister must terminate the appointment of a person as the Registrar if the person ceases to be a State or Territory registrar.

- (7) The Registrar may resign his or her appointment by giving the Minister a written resignation.
- (8) The resignation takes effect on the day it is received by the Minister or, if a later day is specified in the resignation, on that later day.

6 Acting Registrar

- (1) The Minister may, by written instrument, appoint a person to act as the Registrar:
 - (a) during a vacancy in the office of Registrar (whether or not an appointment has previously been made to the office); or
 - (b) during any period, or during all periods, when the Registrar:
 - (i) is absent from duty or from Australia; or
 - (ii) is, for any reason, unable to perform the duties of the office.

Note: For rules that apply to acting appointments, see sections 33AB and 33A of the *Acts Interpretation Act 1901*.

- (2) The Minister must not appoint a person to act as the Registrar unless:
 - (a) the person is a State or Territory registrar; and
 - (b) the State or Territory concerned, by written notice given to the Minister, agrees to the appointment.
- (3) A notice under paragraph (2)(b) may be given on behalf of a State or Territory by a Minister of the State or Territory.

7 Subsection 7(1)

Omit “at a place in the Australian Capital Territory approved by the Minister”.

8 Paragraph 8(2)(b)

Repeal the paragraph, substitute:

- (b) a death that may be registered under the law of a State or Territory, unless the State or Territory registrar for that State or Territory has notified the Registrar in writing that the State or Territory registrar will not register the death; or

9 Section 9

Omit “a registering officer” (wherever occurring), substitute “the Registrar”.

10 Section 10

Omit “a registering officer” (wherever occurring), substitute “the Registrar”.

11 Paragraph 12(1)(a)

Omit “a registering officer”, substitute “the Registrar”.

12 Subsection 12(1)

Omit “the registering officer” (wherever occurring), substitute “the Registrar”.

13 Paragraph 12(2)(a)

Omit “a registering officer”, substitute “the Registrar”.

14 Subsection 12(2)

Omit “the registering officer” (wherever occurring), substitute “the Registrar”.

15 Subsection 12(3)

Omit “a registering officer”, substitute “the Registrar”.

16 Section 13 (heading)

Repeal the heading, substitute:

13 Registration of death on basis of knowledge of Registrar

17 Paragraph 13(a)

Omit “a registering officer”, substitute “the Registrar”.

18 Section 13

Omit “the registering officer” (wherever occurring), substitute “the Registrar”.

19 Subsection 14(1)

Omit “(1) A registering officer”, substitute “The Registrar”.

20 Subsection 14(2)

Repeal the subsection.

21 Subsection 15(1)

Omit “a registering officer”, substitute “the Registrar”.

22 Subsection 15(1)

Omit “or registering officer”, substitute “or the Registrar”.

23 Subsection 15(2)

Repeal the subsection, substitute:

- (2) A Certificate of Death Abroad is taken not to have been completed by the Registrar unless and until he or she has:
 - (a) signed the certificate; and
 - (b) sealed the certificate, or caused the certificate to be sealed, with the relevant State or Territory seal.

24 Subsection 15(3)

Omit “the registering officer”, substitute “the Registrar”.

25 Subsection 15(4)

Omit “a registering officer”, substitute “the Registrar”.

26 Section 16

Repeal the section, substitute:

16 Entries in Register

If the Registrar completes a Certificate of Death Abroad under section 15, the Registrar must enter, or cause to be entered, in the Register such of the particulars contained in the certificate as are required by the regulations to be entered.

27 Section 17

Repeal the section, substitute:

17 Signing and sealing documents

- (1) If the Registrar causes (by stamp, machine imprint or some other method authorised by the regulations) a facsimile of:
- (a) the Registrar's signature; and
 - (b) the relevant State or Territory seal;
- to appear on:
- (c) a document (including a Certificate of Death Abroad and an entry in the Register) under this Act; or
 - (d) a copy or extract made under this Act;
- the Registrar is taken to have:
- (e) signed the document, copy or extract; and
 - (f) sealed the document, copy or extract with the relevant State or Territory seal.
- (2) All courts, judges and persons acting judicially must:
- (a) take judicial notice of the relevant State or Territory seal appearing on:
 - (i) a document (including a Certificate of Death Abroad and an entry in the Register) under this Act; or
 - (ii) a copy or extract made under this Act; and
 - (b) in the absence of proof to the contrary, presume the document, copy or extract was duly sealed with the relevant State or Territory seal.

28 After subsection 19(3)

Insert:

- (3A) The Registrar must:
- (a) sign; and
 - (b) seal, or cause to be sealed, with the relevant State or Territory seal;
- each certified copy or extract issued under subsection (3).

29 Subsection 21(8)

Omit "by a registering officer".

30 Subsection 22(2)

Repeal the subsection.

31 Subsection 23(1)

After “stamp”, insert “, relevant State or Territory seal”.

32 Subsection 23(1)

After “signed”, insert “, or sealed”.

33 Subsection 24(3)

Repeal the subsection, substitute:

- (3) A person commits an offence if:
- (a) the person is the Registrar; and
 - (b) the person completes a Certificate of Death Abroad; and
 - (c) the certificate contains information that is false or misleading in a material particular.

(3A) The fault element for paragraph (3)(c) is knowledge.

34 Section 26

Repeal the section, substitute:

26 Delegation by Registrar

- (1) The Registrar may, in writing, delegate all or any of the Registrar’s powers and functions under this Act to:
- (a) an employee in the same State or Territory office or body as the Registrar; or
 - (b) a State or Territory registrar.

Note: Sections 34AA to 34A of the *Acts Interpretation Act 1901* contain provisions relating to delegations.

- (2) The Registrar must not delegate any of the Registrar’s powers and functions to a State or Territory registrar unless the State or Territory concerned, by written notice given to the Minister, agrees to the delegation.
- (3) A notice under subsection (2) may be given on behalf of a State or Territory by a Minister of the State or Territory.

35 Paragraphs 27(1)(a) and (b)

Omit “a registering officer”, substitute “the Registrar”.

36 Paragraph 27(1)(f)

Omit “subsection 22(2)”, substitute “subsection 22(1)”.

37 Subsection 27(2)

Omit “, a delegate of the Registrar, or another registering officer”, substitute “or a delegate of the Registrar”.

Part 2—Application and transitional provisions

38 Principal Act

For the purposes of this Part, *Principal Act* means the *Registration of Deaths Abroad Act 1984* as in force before the commencement of this item.

39 Validation of things purportedly done under the Principal Act

Scope

- (1) This item applies to a thing purportedly done under the Principal Act before the commencement of this item, to the extent that the thing purportedly done would, apart from this item, be invalid because:
- (a) a person was not appointed or validly appointed as the Registrar under subsection 5(1) of the Principal Act; or
 - (b) a person was not appointed or validly appointed to act as the Registrar under section 6 of the Principal Act; or
 - (c) paragraph 8(2)(b) of the Principal Act was not complied with.

Validation

- (2) The thing purportedly done is as valid and effective, and is taken always to have been as valid and effective, as it would have been:
- (a) for paragraph (1)(a)—as if:
 - (i) the person had been validly appointed under subsection 5(1) of the Principal Act; and
 - (ii) subsection 5(2) of the Principal Act had not been enacted; or
 - (b) for paragraph (1)(b)—as if:
 - (i) the person had been validly appointed under section 6 of the Principal Act; and
 - (ii) the words “who is engaged under the *Public Service Act 1999*” had not been included in section 6 of the Principal Act; or
 - (c) for paragraph (1)(c)—as if paragraph 8(2)(b) of the Principal Act had not been enacted.

40 Pending applications for the registration of a death

If:

- (a) before the commencement of this item, an application was made under subsection 10(1) of the Principal Act for the registration of a death; and
- (b) the death was not registered under section 12 of the Principal Act before the commencement of this item; and
- (c) no decision to refuse to register the death under section 12 of the Principal Act was made before the commencement of this item;

the *Registration of Deaths Abroad Act 1984* (as amended by this Act) has effect as if:

- (d) the application had been made to the Registrar (within the meaning of the *Registration of Deaths Abroad Act 1984* (as amended by this Act)) for the registration of the death; and
- (e) the application had been so made immediately after the commencement of this item.

41 Notification that State or Territory registrar will not register death

Paragraph 8(2)(b) of the *Registration of Deaths Abroad Act 1984* (as amended by this Act) applies in relation to a death, whether occurring before, at or after the commencement of this item.

42 Judicial notice of the mark of a stamp etc.

Despite the repeal of subsection 17(5) of the Principal Act by this Schedule, that subsection continues to apply, after the commencement of this item, in relation to:

- (a) a document that came into existence before the commencement of this item; or
- (b) a copy or extract that was made before the commencement of this item;

as if that repeal had not happened.