



Victorian
Law Reform
Commission

Birth registration and birth certificates

REPORT AUGUST 2013

A COMMUNITY LAW REFORM PROJECT



Published by the Victorian Law Reform Commission

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Terms of reference

The Victorian Law Reform Commission will consider and review aspects of the *Births, Deaths and Marriages Act 1996* (Vic). The purpose of this review is to:

- examine the processes for birth registration and obtaining a birth certificate to consider whether they are efficient, effective and accessible to all members of the community, particularly culturally and linguistically diverse (CALD) and Indigenous communities, and the disadvantaged and vulnerable.
- identify practical solutions to problems that may exist in Victorian law and practice with regard to birth registration and obtaining a birth certificate.

In undertaking this review, the Commission will have particular regard to:

- whether the need to apply separately for a birth certificate (in addition to registering a birth) creates a barrier to obtaining a birth certificate, and if so, what can be done to remove or minimise this barrier.
- whether specific criteria should apply to section 49¹ of the Act (which provides for the remission of fees), and if so, what these criteria should be and whether they should be contained in legislation, regulations or a publicly available policy document.

The Commission will consider legislative developments in Australian and international jurisdictions.

The Commission aims to report by 1 June 2013.

May 2012

Preface

One of the Victorian Law Reform Commission's functions is to examine and make recommendations about matters that are of general community concern but involve relatively minor legal change.

The Victorian Law Reform Commission community law reform program enables members of the community to contribute their ideas about how the law could be improved. To identify issues, we ask the public and community groups for suggestions about legal problems that might fit our program.

In 2012 the Commission embarked on discussions with the Castan Centre for Human Rights Law at Monash University. The Centre was concerned about possible barriers to birth registration and obtaining a birth certificate among Victoria's Indigenous community. I acknowledge the work of the Castan Centre.

The Commission decided to look at the issue broadly with application to all vulnerable and disadvantaged groups, including those from culturally and linguistically diverse backgrounds such as newly arrived migrants and refugees.

This report is the result of 12 months work by the community law reform team.

I would like to thank the many people who have given their time and expertise in the construction of this report, including my fellow Commissioners. The Commission met with the Registrar of Births, Deaths and Marriages as well as senior Department of Justice personnel who also made important contributions. I express my especial thanks to Carolyn Gale, Department of Justice Executive Director of Community Operations and Strategy, and Erin Keleher, Director and Registrar of the Victorian Registry of Births, Deaths and Marriages, for their generous assistance in providing significant material to the Commission during its conduct of this review.

I express my thanks to both the Commonwealth and state Departments of Human Services, the Victorian Department of Education and Early Childhood Development, and the Victorian Department of Health for their assistance. I would also like to thank the state and territory registries for their assistance with this review.

The community law reform team conducted extensive consultations and developed this report. I thank the manager, Myra White, and project officer, Tess McCarthy, for their role in facilitating consultations and the research and writing of the report. I also thank other Commission staff, including Merrin Mason and Cynthia Marwood who assisted the team in editing the report and intern Mandy Milner for her research assistance. Our communications manager, Nick Gadd was responsible for production of the report and Vicki Christou and Failelei Siatua provided administrative assistance.

This report on birth registration and birth certificates finalises our community law reform project on this topic. The Commission is pleased to contribute to this area of law and practice by making recommendations for reform.

I commend the report to you.



The Hon P.D. Cummins
Chair, Victorian Law Reform Commission

May 2013

Glossary

The Act	<i>Births, Deaths and Marriages Registration Act 1996 (Vic).</i>
CCOPMM	Consultative Council for Obstetric Paediatric Mortality and Morbidity.
Charter	<i>Charter of Human Rights and Responsibilities Act 2006 (Vic).</i>
Child migrants	Those children sent to Australia from the United Kingdom during the 20 th century under an agreement between the two governments for the migration of children to Australia. They are often referred to as Lost Innocents.
Eligible beneficiary	As defined in section 3 of the <i>State Concessions Act 2004 (Vic)</i> . It identifies individuals entitled to claim concessions. It includes those who have a health care card, pensioner concession card or a Gold Card.
Fee waiver	The Registrar may, at his or her discretion, decide to waive the fee for a birth certificate for applicants in appropriate cases.
Forgotten Australians	A non-legal term used since 2004 to refer to children who were in state care prior to 1968, previously referred to as wards of state.
Health care card and pensioner concession card	Entitles the card-holder to concessions offered by the Australian Government, including reduced-cost medicines under the Pharmaceutical Benefits Scheme and Australian Government-funded medical services as well as access to some state, territory and local government concessions. Eligibility is linked to certain income support payments and a person must meet age, work and residency requirements.
Indigenous	The Commission uses the terms Aboriginal, Indigenous, Koori and Koories throughout this report to describe the traditional inhabitants of Victoria. ¹

1

The Commission notes this terminology is defined in the Victorian Aboriginal Justice Agreement Phase 3. The Victorian Aboriginal Justice Agreement is an agreement between the Victorian Government and the Koori community to work together to improve justice outcomes for Koories: Department of Justice (Victoria), *Victorian Aboriginal Justice Agreement Phase 3: A Partnership Between the Victorian Government and Koori Community* (2013) 7, 9.

Parent pack	Provided to a birth mother prior to discharge from hospital. It contains materials from the Commonwealth Government and is supplemented with materials from various sources, including the Victorian Registry of Births, Deaths and Marriages.
Register	The Victorian Register of Births, Deaths and Marriages contains the record of births occurring in Victoria.
Registrar	The Victorian Registrar of Births, Deaths and Marriages is the role responsible for the registration of all births in Victoria and issue of birth certificates.
Registry	The Victorian Registry of Births, Deaths and Marriages is the operating agency.
Regulations	<i>Births, Deaths and Marriages Registration Regulations 2008 (Vic).</i>
Stolen Generations	Any adult Aboriginal or Torres Strait Islander person separated at a young age from community, family, language, land or culture. Stolen Generations could encompass any number of events related to the removal of children from their family and culture, such as forcible removal, relinquishment at birth (under duress or otherwise), removal by deception, being fostered or adopted. ²
Ward of state	People who grew up in state care prior to 1986. These people were the legal responsibility of the state and lived in orphanages, children's homes or foster care arrangements. They are often referred to as Forgotten Australians.

Executive summary

Introduction

This is the report of the Commission's community law reform review concerning the law of birth registration and birth certificates in Victoria.

Birth registration and birth certificates are fundamental to our effective functioning in society. A birth certificate cannot be issued without the birth first having been registered.

The Commission is concerned that some of the most vulnerable members of our community are facing barriers to registering the birth of their child and accessing a birth certificate.

This report describes, and recommends reforms to, the *Births, Deaths and Marriages Registration Act 1996* (Vic) as well as to some of the policy and practices of the Victorian Registry of Births, Deaths and Marriages.

Background

In 2009, the Castan Centre for Human Rights Law at Monash University held a symposium on Indigenous birth registration and barriers to obtaining a birth certificate, bringing together academics and community legal centres. The Castan Centre was concerned about the number of unregistered births within Victoria, particularly in rural and remote areas where there are large Indigenous populations.

In 2012, the Commission met with the Castan Centre to discuss the possibility of a community law reform project examining issues of birth registration law and practice.

Following this discussion, the Commission developed terms of reference, conducted some preliminary research and at its meeting of 17 May 2012 resolved to conduct the review pursuant to section 5(1)(b) of the *Victorian Law Reform Commission Act 2000* (Vic). That section provides that a function of the Commission is 'to examine, report and make recommendations to the Attorney-General on any matter that the Commission considers raises relatively minor legal issues that are of general community concern'.¹

The Commission's review examines birth registration in a broad context, including looking at whether current Victorian laws and practices are efficient, effective and accessible to all members of the community, with particular reference to Indigenous communities, culturally and linguistically diverse (CALD) communities, and the disadvantaged and vulnerable.

Consultative process

The Commission issued a detailed consultation paper in September 2012 and received 13 written submissions in response.

The Commission undertook 33 consultations across Victoria, travelling to the following regional and rural locations: the Hume region (Mooroopna, Shepparton and Wangaratta); the Mallee (Mildura and Robinvale); East Gippsland (Warragul, Traralgon and Bairnsdale) and the Wimmera (Horsham). In addition the Commission visited a number of metropolitan locations including Flemington, Preston, Dandenong and Springvale.

Participants at these meetings included those from Indigenous communities, CALD backgrounds and organisations representing vulnerable and/or disadvantaged groups. Midwives, maternal and child health nurses, justice service centre staff and representatives of Indigenous and CALD organisations also participated.

Current law and practice

Birth registration is a significant life event. The registration of a birth is the first step in the process of formal recognition of an individual by the state.

Obtaining a birth certificate is a further step in creating an individual's civil law identity. A certificate can only be issued once a birth is registered. Without a birth certificate, a person may not be able to take full advantage of their rights as a citizen. These rights include enrolling at school or to vote, obtaining a passport, a Medicare card (as an adult), driver's licence or tax file number, and accessing various government benefits.

The *Births, Deaths and Marriages Registration Act 1996* (Vic) (the Act) and the *Births, Deaths and Marriages Registration Regulations 2008* (Vic) (the Regulations)² provide the statutory basis for the registration of births in Victoria.

The Act requires that the Registrar be notified of all births occurring in the State of Victoria.³ In addition to this requirement,⁴ other legislation, such as the *Child Wellbeing and Safety Act 2005* (Vic), requires notification of a birth for other purposes. The number of births that are not notified to the Registry is not known, but is likely to be very small. In 2009, 99.4 per cent of births occurred in a hospital, birth centre or at home with a midwife in attendance.⁵ The CEOs of hospitals and midwives have a legislative obligation to provide notice of the birth to the Registry within 24 hours.⁶ There are formal processes in place to ensure they comply with this obligation.

In addition to notification, it is a legal requirement to register the birth of a child born in Victoria.⁷ There is no fee to register a birth. When a child is born in a hospital or birth centre, or the birth is attended by a qualified medical practitioner or midwife, parents are provided with a birth registration statement form.

The parents (or other persons as set out in the Act) must register the birth within 60 days.⁸ The birth registration statement is in two parts and if the parents wish to obtain a birth certificate they must also complete the relevant section and pay the prescribed fee. At present the fee for a standard birth certificate is \$28.60.⁹

2 These regulations came into effect on 28 September 2008 and replaced the previous 1997 regulations.

3 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 12(1).

4 *Child Wellbeing and Safety Act 2005* (Vic) s 42(2).

5 Consultative Council on Obstetric and Paediatric Mortality and Morbidity, *Annual Report for the Year 2009* (2012) 55.

6 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 12(6).

7 *Ibid* s 13.

8 *Ibid* ss 14, 18(1).

9 *Births, Deaths and Marriages Registration Regulations 2008* (Vic) sch 2. The Commission notes that these prices will be subject to review in the 2013–14 financial year.

Three-stage process—birth notification, birth registration and application for a birth certificate



BIRTH

Child born in Victoria

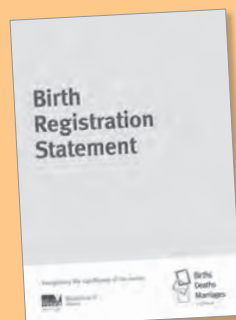
1

STEP ONE NOTIFICATION

Requirement to notify birth by 'responsible person'

Within 21 days of birth

2



STEP TWO REGISTRATION

Requirement to register birth by parents or other 'prescribed persons'

Within 60 days of birth

3



STEP THREE CERTIFICATE

Application for a birth certificate

At the time of birth registration or any time thereafter

The Registrar has the power to remit the whole, or part, of the fee in appropriate cases;¹⁰ however, there are no publicly available guidelines or criteria that describe what attributes an ‘appropriate’ case should have. The Commission has been informed in consultations and submissions that the fee can cause considerable hardship for some vulnerable groups.¹¹ Other barriers may also prevent an individual from registering the birth of their child or applying for a birth certificate at the time of registration.

Timely birth registration occurs for the majority of babies born in the Victorian community.¹² However, this is not the case across all sectors of society and barriers to registration appear to disproportionately affect our most vulnerable community members.¹³

The majority of parents apply for a birth certificate for their child at the time of registration. An application for a birth certificate may also be made because a birth certificate has been lost, stolen or damaged, or because a person only has an extract of birth entry.

Individuals may face difficulties later in life if their birth was not registered, or an application for a birth certificate was not made when they were a child. Reasons for the failure to register a birth or apply for a certificate are varied but include a lack of awareness of the requirement to register, a poor understanding of the importance of registration, the cost of obtaining a birth certificate and other issues such as mental illness or family violence concerns.

Disadvantaged background is a common theme for late registration or non-registration of a birth.

Structure of the report

Chapter 1 provides an introduction, background and overview of some of the history of the project as well as birth registration practices in Victoria.

Chapters 2 and 3 examine the law and practice relating to birth notification and birth registration in Victoria. These chapters also look at selected law and practice in other jurisdictions.

Chapter 4 examines the law and practice relating to obtaining a birth certificate. This chapter draws on submissions and consultations to make recommendations for changes to the law in this area.

Chapter 5 discusses the cost of obtaining a birth certificate. This chapter examines the ability of the Registrar to remit a fee for a birth certificate, examines fees for birth certificates in other jurisdictions and makes recommendations for legislative and policy reform in this area.

Chapter 6 explores barriers to registering births and obtaining birth certificates for vulnerable groups. This includes those from Indigenous communities and CALD backgrounds as well as more generally.

Chapter 7 examines the issue of awareness of, and access to, Registry services and recommends how these could be improved.

Chapter 8 is the conclusion of the Report.

10 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 49.

11 This is discussed in detail in Chapter 5.

12 The Registry provided data to the Commission showing that of 75,417 birth notifications in 2011, some 2683 had not been registered (data as at 2 July 2012). This is discussed in detail in Chapter 3.

13 This is discussed in detail in Chapter 6.

Summary of recommendations

The report makes 26 recommendations.

Three of these recommendations pertain to minor changes to the Act.

Twenty-three of these recommendations pertain to changes to Registry policy and/or practice. These recommendations are practical, straightforward suggestions to make the process of registering a birth and applying for a birth certificate accessible to all members of the Victorian community.

The Commission recommends changes to the way in which the particulars of birth notification are collected and how, and by whom, a birth can be registered. The report also makes a number of recommendations pertaining to situations where family violence may be a barrier to the registration of a birth.

The Commission makes a number of recommendations as to how the birth registration statement could be enhanced to make the process of registration more effective and accessible to all community members. The Commission also recommends the Registrar consider ways to better facilitate birth registration and access to birth certificates for cross-border Indigenous communities.

The Commission also recommends that the Registrar enter into discussions with the Commonwealth Department of Human Services to examine how services may be better streamlined for individuals, as well as how to better promote compliance with both state and federal legislation.

The Commission recommends a number of changes to reduce potential barriers to obtaining a birth certificate at a time other than registration. This includes recommending that the Registrar broaden the category of persons who may certify identity documents as well as the type of proof of identity documents the Registrar will accept to support an application.

The Commission recommends that a fee exemption apply for vulnerable and disadvantaged groups. In order to be entitled to this exemption an applicant would be required to show acceptable proof that they are an 'eligible beneficiary' as defined by section 3 of the *State Concessions Act 2004* (Vic). The Commission further recommends that the power to remit fees be retained within the Act and that guidelines be developed which outline what an appropriate case may be.

Finally, the Commission makes a number of recommendations regarding access and awareness and the needs of vulnerable groups. These include recommending that the Act be amended to include a specific promotional and education function for the Registrar in meeting the objects of the Act.

While a number of these recommendations relate to specific issues of concern to Indigenous and culturally and linguistically diverse communities, improved awareness of the importance of birth registration and accessibility to a birth certificate should benefit all Victorians.

Recommendations

Birth notification

- 1 The Registrar should request the following information in the birth notification:
 - details of the father
 - the Indigenous status of the mother and father
 - details of the next of kin (if known)
 - a contact telephone number (mobile or landline).

Provision of this information should be optional.

Birth registration

- 2 The birth registration statement should include a statement that if a person other than the mother wishes to register a birth in a situation where they believe the mother will not, or cannot register the birth, they should contact the Registrar to find out how this can be done, and what information they will need to provide.
- 3 The Registrar should develop a policy for processing birth registration statements where the applicant is at risk of family violence.

This policy should require the Registry to contact the applicant before contacting the alleged perpetrator if there is any indication on a birth registration statement of a risk of family violence.

- 4 Step 4 of the birth registration statement should be amended to:
 - include a question about whether the applicant fears that family violence may be an issue if the Registry contacts the alleged perpetrator
 - clearly outline what information may be sought from the alleged perpetrator and whether it will appear on the birth certificate
 - note that if potential violence is identified as an issue, the Registry will not include the address of the applicant on the birth certificate, and contact the applicant before contacting the alleged perpetrator.
- 5 The birth registration statement should clearly outline:
 - what information will and will not appear on the birth certificate through the demarcation of mandatory and non-mandatory fields
 - what information is being requested for statistical purposes only.

- 6 The Registry should consider how the work of the Indigenous Access Project could be expanded, to better facilitate birth registration and access to birth certificates for cross-border communities.
- 7 The Registrar should have further discussions with the Commonwealth Department of Human Services on data-matching of birth registration information to promote greater compliance with both state and federal legislation.
- 8 Where the applicant is not an eligible beneficiary, the Registrar should issue an automatic confirmation of registration to the applicant, upon processing a birth registration statement, if no accompanying application for a birth certificate is received. This should occur until such time that it is possible to go online and confirm birth registration.

The confirmation should be an uncertified document for the purpose of acknowledging the registration of birth only.

There should be no fee payable for a confirmation of registration.

Birth certificates

- 9 The Registrar should consider improving the presentation of the proof of identity section of its application for a birth certificate. In particular, the application should make it clear to applicants that other options are available if they do not possess a list 1 identity document.
- 10 The Registrar should broaden the category of people authorised to certify copies of proof of identity documents for the purposes of obtaining a birth certificate, to include those authorised to witness affidavits pursuant to section 123C of the *Evidence (Miscellaneous Provisions) Act 1958* (Vic).
- 11 The birth registration statement should more clearly state that the standard birth certificate is the only document that can be used for official purposes and this certificate should be the first one referred to in the birth registration statement.
- 12 The Registrar should :
 - include more information on the uses of each type of birth certificate on both the birth registration statement and the birth certificate application,
 - consider whether abridged certificates should be discontinued.

Fees

- 13 The *Births, Deaths and Marriages Registration Act 1996* (Vic) should provide that an eligible beneficiary:
 - is exempt from paying a fee imposed for a standard birth certificate
 - may not be entitled to the fee exemption if the birth certificate has previously been issued to the applicant.

'Eligible beneficiary' should have the same meaning as it has in section 3 of the *State Concessions Act 1994* (Vic).

- 14 The Registrar's power to grant a fee waiver in 'appropriate cases' should be retained, to deal with applicants who do not come within the definition of eligible beneficiary but who have an appropriate reason for seeking a fee waiver.

Guidelines should be developed setting out how the Registrar's discretion to waive fees will be exercised.

-
- 15 The guidelines outlining the criteria for the waiver of fees should:
 - be publicly available
 - be contained in Registry publications and on the Registry's website
 - include information about how an individual can apply to the Registrar for a fee waiver.
 - 16 The *Births, Deaths and Marriages Registration Act 1996* (Vic) should be amended to allow for the fee for a birth certificate to be waived in full for a class of people.
 - 17 Information about the Indigenous Access Fund should be readily available to service providers and members of the public.
 - 18 The Registrar should explore the introduction of other payment methods for fees for birth certificates.

Vulnerable groups

- 19 The Registrar should develop memoranda of understanding with relevant organisations assisting members of the Stolen Generations and other Indigenous people to access their records, which cover both birth certificate applications and registry searches.
- 20 The Registrar should consider:
 - moving the information about the translation and interpreter service at the back of the birth registration statement to the front of the form
 - making information about the requirement to register a birth and how to fill in the birth registration statement available in a range of community languages in brochures and on its website.

Awareness and access

- 21 The Registrar should make available appropriate and accessible information outlining the birth registration process, the importance of birth registration and how to apply for a birth certificate.

The birth registration statement should include a prominent statement about the obligation of a parent to register a child and the benefits of obtaining a birth certificate, including listing the important identity documents which can only be obtained on production of a birth certificate.

- 22 The Registrar should:
 - continue to expand its range of forms and education material available online
 - explore the possibility of offering online registration of births.
- 23 The Registrar should:
 - promote greater awareness of the Indigenous Access Team in the Indigenous community
 - consider providing a phone contact point for service providers assisting members of the public with birth registration documents.

- 24 The birth registration statement should contain a note indicating that assistance in filling in the form can be provided at a justice service centre, and that the applicant should go to www.bdm.vic.gov.au to find the nearest centre.
- 25 The Registrar should consider expanding the range of venues where registry applications may be lodged.
- 26 The Registrar's general functions, as set out in section 6 of the *Births, Deaths and Marriages Registration Act 1996* (Vic), should be amended to include the promotion of public awareness of the importance of birth registration through the conduct of education and information programs.

Introduction

- 2 Background**
- 3 History of the registration of births in Victoria**
- 4 Origins of this community law reform project**
- 5 Our process**
- 6 Structure of the report**

1. Introduction

Background

- 1.1 Birth registration is a significant life event. The registration of a birth is the first step in the process of formal recognition of an individual by the state.
- 1.2 Obtaining a birth certificate is a further step in creating an individual's civil law identity. A certificate can only be issued once a birth is registered. A birth certificate has been described as the 'instrument universally recognised as the fundamental evidentiary document establishing personal identification'.¹ Birth certificates are fundamental to our effective functioning as citizens in a developed society. Without a birth certificate, a person may not be able to take full advantage of their rights as a citizen. These rights include:
 - enrolling at school² or to vote
 - obtaining a passport, a Medicare card (as an adult), driver licence or tax file number
 - accessing various government benefits.
- 1.3 In short, birth registration establishes the legal identity of a child by recording their details on the state's Register of Births, Deaths and Marriages (the Register). Documentation of this record is provided by the state in the form of a birth certificate.
- 1.4 Statistical evidence provided to the Commission suggests that timely birth registration occurs for the majority of members of the Victorian community.³ However, this is not the case across all sectors of society and barriers to registration may disproportionately affect our most vulnerable community members.

1 Melissa Castan, Paula Gerber and Andy Gargett, 'Indigenous Australians' Access to Birth Registration Systems: A Breach of International Human Rights Law?' (2011) 17(1) *Australian Journal of Human Rights* 55, 56.

2 In Victoria, it is common school practice to require a birth certificate to enrol a child at school. The Commission understands, however, that the requirement for a birth certificate is not mandated in Department of Education and Early Childhood Development (DEECD) policy or legislation. The DEECD public schools admission policy allows other documents to be submitted as proof of age and identity: Department of Education and Early Childhood Development (Victoria) *Admission* (3 April 2013) <<http://www.education.vic.gov.au>>.

3 The Registry provided data to the Commission showing that from 75,417 birth notifications in 2011, some 2683 had not been registered (data as at 2 July 2012). This is discussed in detail in Chapter 3.

- 1.5 During consultations, the Commission heard accounts of the difficulties people have faced later in life when their birth was not registered or an application for a birth certificate was not made when they were a child.⁴ Reasons for the failure to register a birth, or apply for a certificate, were also discussed. The Commission was informed that some of the reasons for non-registration were:
- lack of awareness of the requirement to register
 - poor understanding of the importance of registration⁵
 - cost of a birth certificate, hence delaying the birth registration itself
 - mental illness, disability or birth trauma⁶
 - family violence concerns.
- 1.6 Disadvantaged background was a common theme for late registration or non-registration of a birth. The Commission also met with some young parents who expressed mixed views on the importance of registration. The issues raised during consultation will be discussed in this report.

History of the registration of births in Victoria

- 1.7 The civil registration of births has been required by statute in Victoria since 1853,⁷ and in all Australian states and territories since 1856.⁸ Prior to this date, churches were responsible for recording details of significant life events such as baptisms, marriages and burials within their jurisdiction.⁹ Churches kept this information in church records or parish registers.
- 1.8 The 1853 Act¹⁰ created the office of the Registrar of Births, Deaths and Marriages, and required the father or mother of any child born to notify,¹¹ and further, register the birth,¹² within 60 days or incur a penalty not exceeding £10.¹³
- 1.9 The purposes of the Registry at the time were stated by the then Acting Registrar-General, W. H. Archer as:
- the prevention of future litigation and the protection of individual rights of property, through having a complete system of registration of births and deaths
 - to develop an understanding of social questions relating to the duration of the life of the child and adult populations and to improve statistical records for the 'general advantage of the inhabitants of Victoria'.¹⁴
- 1.10 While the 1853 Act referred to the registration of all children,¹⁵ Indigenous children were often not registered. In rural areas, the birth of an Indigenous child was more likely to be recorded in mission or station records.¹⁶ There may have been many factors influencing the non-registration of Indigenous births, including fear of child removal policies of the time.¹⁷

4 This is discussed in detail in Chapters 3–6.

5 Consultation 26 (Gippsland East Aboriginal Driver Education Program).

6 Consultations 29 (Horsham Justice Service Centre); 30 (New Mothers Group, Connect Ed, Horsham College).

7 *Registration (Births, Deaths and Marriages) Act 1853* (Imp).

8 Australian Institute of Aboriginal and Torres Strait Islander Studies, *Birth, Death and Marriage certificates: Fact Sheet 5* (February 2001) 1 (AIATSIS).

9 Ibid.

10 *Registration (Births, Deaths and Marriages) Act 1853* (Imp).

11 Ibid s 8.

12 Ibid s 9.

13 Ibid.

14 Victoria, *Victoria Government Gazette*, No 38, 6 July 1853, 943.

15 The Act required only that the 'father or mother of every child born in the said Colony' provide particulars known of the birth to the Deputy Registrar within 60 days: *Registration (Births, Deaths and Marriages) Act 1853* (Imp) s 9.

16 AIATSIS, above n 8.

17 John Chesterman and Brian Galligan, *Citizens without Rights: Aborigines and Australian Citizenship* (Cambridge University Press, 1997) 26. **3**

Fees

- 1.11 Once registration was complete, a deputy registrar granted an original birth certificate free of charge to those persons registering a birth.¹⁸ Fees imposed for searches and birth certificates were first set out in 1887.¹⁹ Fees for late registration were introduced in 1892.²⁰
- 1.12 Fee waivers were introduced in 1952, when the Government Statist was given the power to remit the whole or any part of any fee where it would result in serious hardship.²¹

Origins of this community law reform project

- 1.13 In 2009, the Castan Centre for Human Rights Law at Monash University (the Castan Centre) held a symposium on Indigenous birth registration and barriers to obtaining a birth certificate, bringing together academics and community legal centres.²² The Castan Centre was concerned about the number of unregistered births within Victoria, particularly in rural and remote areas where there are large Indigenous populations.
- 1.14 The Castan Centre speculated that the under representation of Indigenous people in birth registration figures may be due to factors such as:
- lack of confidence in dealing with authorities
 - marginalisation or remoteness from mainstream services
 - poor literacy levels
 - affording low priority to birth registration.²³
- 1.15 To obtain further empirical evidence, the Castan Centre has embarked on a three-year research project examining Indigenous birth registration across four states and territories (Victoria, Queensland, Western Australia and the Northern Territory). This work is funded by an Australian Research Council linkage grant and is being conducted in partnership with eight organisations from a variety of sectors.²⁴
- 1.16 The Commission has examined birth registration in a broader context and has looked at whether the current laws and practices are efficient, effective and accessible to all members of the community, with particular reference to Indigenous people, culturally and linguistically diverse (CALD) communities, the disadvantaged, and vulnerable people.
- 1.17 The Commission is also aware of significant and valuable work over the last few years by the Victorian Registry of Births, Deaths and Marriages (the Registry) and the Department of Justice to improve the level of registration of Indigenous births and to help Indigenous people obtain birth certificates. The Commission has met with the Registry and the Department of Justice during this review to ensure this work is taken into account when developing recommendations. The work done by the Registry and the Department of Justice is to be commended.

18 Victoria, *Victoria Government Gazette*, No 38, 6 July 1853, 943.

19 Victoria, *Victoria Government Gazette*, No 122, 23 December 1887, 3848.

20 Victoria, *Victoria Government Gazette*, No 105, 12 August 1892, 3263.

21 *Registration of Births, Deaths and Marriages Act 1928* (Vic) s 42, as amended by *Registration of Births, Deaths and Marriages Act 1952* (Vic) s 6.

22 Castan Centre for Human Rights Law, *Castan Centre Symposium on Birth Registration and Birth Certificates* (2 August 2011) <<http://www.law.monash.edu.au>>.

23 Castan, Gerber and Gargett, above n 1, 63.

24 Partners include: Victorian Aboriginal Legal Service; Equal Opportunity Commission Western Australia; Department of the Attorney-General Western Australia; Plan Australia; Clayton Utz; Hills Community Support Group; Tangentyere Council, Alice Springs, Northern Territory.

Our process

Consultation paper

- 1.18 The Commission conducted preliminary research to identify issues in the law. This included an examination of the current law and practice in other Australian and international jurisdictions. The Commission then published a consultation paper in September 2012.
- 1.19 The consultation paper set out the Commission’s findings about the current law concerning birth registration and birth certificates in Victoria. It sought submissions on the law and on the questions posed in the paper.
- 1.20 The deadline for submissions was 1 November 2012. However, the Commission accepted a number of submissions after this date.
- 1.21 The Commission then undertook a number of consultations across Victoria and within metropolitan Melbourne. The Commission also spoke with agencies in other Australian jurisdictions, and met with individuals and groups who had been identified as having particular knowledge or experience in the area of birth registration and birth certificates. The Commission was also approached by individuals and groups who wished to be consulted.

Community responses—submissions and consultations

- 1.22 The Commission received 13 submissions, all of which are available on its website and listed in **Appendix A**.
- 1.23 The Commission undertook 33 consultations across Victoria. A list of consultations and locations is provided in **Appendix B**.
- 1.24 The Commission travelled to the following regional and rural locations for consultation: the Hume region (Mooroopna, Shepparton and Wangaratta); the Mallee (Mildura and Robinvale); East Gippsland (Warragul, Traralgon and Bairnsdale) and the Wimmera (Horsham). In addition, the Commission visited a number of metropolitan locations including Flemington, Preston, Dandenong and Springvale.
- 1.25 The terms of reference for this project and the scope of the issues raised in the consultation paper required the Commission to consult with a wide range of stakeholder groups, including those from Indigenous and CALD backgrounds, as well as organisations representing vulnerable and/or disadvantaged groups. This included seeking the views of midwives and maternal and child health nurses, justice service centre staff and representatives of Indigenous and CALD organisations.
- 1.26 In addition, the Commission conducted a number of consultations with groups who may encounter difficulties with birth registration practices, including:
- teenage parents
 - young people known to child protection and/or living in informal or kinship care
 - newly arrived migrants
 - members of the Indigenous community
 - members of new parent groups run by local municipal maternal and child health services.
- 1.27 Finally, the Commission spoke on an informal basis with agencies that have specific knowledge and skills working with particular groups of people such as former wards of state and members of the Stolen Generations. They included: Open Place; MacKillop Family Services’ Heritage and Information Services; and Connecting Home Limited.

Structure of the report

- 1.28** **Chapter 2** examines the law and practice relating to birth notification.
- 1.29** **Chapter 3** examines the law and practice relating to birth registration in Victoria. This chapter also looks at selected law and practice in other jurisdictions. It draws on the consultations and submissions received and proposes legislative reform relating to the registration of births.
- 1.30** **Chapter 4** examines the law and practice relating to obtaining a birth certificate. Again, this chapter draws on submissions and consultations to make recommendations for changes to the law in this area.
- 1.31** **Chapter 5** discusses the cost of obtaining a birth certificate. This chapter examines the ability of the Registrar to remit a fee for a birth certificate, examines fees for birth certificates in other jurisdictions and makes recommendations for legislative and policy reform in this area.
- 1.32** **Chapter 6** explores barriers to registering births and obtaining birth certificates for vulnerable groups. This includes those from CALD backgrounds and Indigenous people as well as more generally.
- 1.33** **Chapter 7** examines the issue of awareness of, and access to, Registry services and makes recommendations for how these could be improved.
- 1.34** **Chapter 8** is the conclusion of the report.

Birth notification

8 Current law

13 Community responses

2. Birth notification

Current law

- 2.1 The *Births, Deaths and Marriages Registration Act 1996* (Vic) (the Act) and the *Births, Deaths and Marriages Registration Regulations 2008* (Vic) (the Regulations)¹ provide the statutory basis for the registration of births in Victoria. The Act requires that the Registry be notified of all births occurring in the State of Victoria.² In addition to the requirement to notify the Registry, other legislation requires notification of a birth to other agencies: see [2.7]–[2.13].
- 2.2 Part 3 of the Act concerns the registration of births,³ and includes the requirement to give notice of a birth to the Registrar.⁴ The notice of the birth differs from the registration of birth. The requirement to register the birth and submit a birth registration statement is covered in Chapter 3.
- 2.3 The Act requires that a responsible person must give notice of any live birth to the Registrar within 21 days of the birth.⁵ The responsible person is:
- the chief executive officer of the hospital (where a child is born in a hospital or brought to hospital within 24 hours after birth)⁶
 - a doctor or midwife responsible for the care of the mother⁷
 - where no medical practitioner was present, any other person in attendance at the birth.⁸
- 2.4 There is provision in the Act for the Registrar to specify what particulars must be provided by a responsible person when giving notice of a birth.⁹ Information provided at the birth notification stage is basic, including details such as date of birth, mother's name and address, sex of the baby, whether it was a multiple birth and whether the child was live or stillborn.¹⁰

1 These regulations came into effect on 28 September 2008 and replaced the previous 1997 regulations.

2 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 12(1).

3 *Ibid* pt 3.

4 *Ibid* div 1, s 12.

5 *Ibid* ss 12(1), (3)(a).

6 *Ibid* s 12(6)(a).

7 *Ibid* s 12(6)(b)(i).

8 *Ibid* s 12(6)(b)(ii).

9 *Ibid* s 12(1).

10 Letter from Erin Keleher, Victorian Registrar of Births, Deaths and Marriages to the Hon P.D. Cummins, Chair, Victorian Law Reform Commission, 21 February 2013.

- 2.5 In the case of a stillbirth, the Act requires that the Registrar be notified within 48 hours of the birth.¹¹ When notice of a stillbirth is given, the person responsible must also give the Registrar a doctor's certificate, in a form approved by the Registrar, certifying the cause of foetal death.¹² The doctor's certificate must be completed by the doctor responsible for the professional care of the mother or the doctor who examined the body of the stillborn child after birth.¹³
- 2.6 The penalty for the failure to give notice of a birth is 10 penalty units.¹⁴

Other legislative requirements for notification of a birth

- 2.7 In addition to the requirement to notify the Registrar under the Act,¹⁵ other legislation requires notification of a birth for other purposes.
- 2.8 The *Child Wellbeing and Safety Act 2005* (Vic)¹⁶ requires notification of births to local councils for the purpose of the continuum of care with local maternal and child health services (MCH).¹⁷
- 2.9 If a child is born in Victoria, but the mother resides outside Victoria, the Secretary to the Department of Education and Early Childhood Development must be notified of the birth.¹⁸
- 2.10 The penalty for failure to provide notification under the *Child Wellbeing and Safety Act* is not more than one penalty unit.¹⁹
- 2.11 The definition of a responsible person for the purpose of birth notification in the *Child Wellbeing and Safety Act* is the same as the definition in the *Births, Deaths and Marriages Registration Act*, as outlined in [2.3].²⁰
- 2.12 The *Public Health and Wellbeing Act 2008* (Vic) requires that the Consultative Council on Obstetric and Paediatric Mortality and Morbidity (CCOPMM) be notified of a birth by the proprietor of a health service where the birth occurred or the attending midwife or medical practitioner, or other responsible person.²¹ The notification must be in an approved form²² and made within the prescribed period of 90 days.²³ The CCOPMM data repository is held by the Victorian Perinatal Data Collection (VPDC) within the Department of Health, and contains a wide range of pre-partum and post-partum birth indicators for babies from 20 weeks gestation to 28 days post partum. The penalty for failing to notify CCOPMM is 10 penalty units.
- 2.13 The information required by each Act differs, and the methods of notification vary. Whether data is submitted by hospitals to the Registry and other agencies electronically or manually will depend largely on the size of the facility and its resources.

11 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 12(3)(b).

12 Ibid s 12(4).

13 Ibid s 12(5).

14 Ibid s 12(1). Penalty units are prescribed by the *Monetary Units Act 2004* (Vic) s 5(3). They are CPI-indexed and for the 2012–13 financial year (until 30 June 2013) are \$140.84 per unit: Office of the Chief Parliamentary Counsel, *Penalty and Fee Units* (19 April 2013) <<http://www.ocpc.vic.gov.au>>.

15 *Child Wellbeing and Safety Act 2005* (Vic) s 42(2).

16 Ibid s 43(1).

17 Department of Human Services (Victoria), *Continuity of Care Protocol: A Communication Protocol for Victorian Public Maternity Services and the Maternal Child Health Service* (2004). Maternal and child health (MCH) was moved from the Department of Human Services (DHS) to the Department of Education and Early Childhood Development (DEECD) in 2007. From 27 August 2007 documents published by DHS with regards to MCH policy and services fall within the remit of DEECD. The Continuity of Care Protocol is currently under review: Department of Education and Early Childhood Development (Victoria), *Policy and Reports* (4 February 2013) <<http://www.education.vic.gov.au>>.

18 *Child Wellbeing and Safety Act 2005* (Vic) ss 43(1)(c), 45.

19 Ibid s 46(1).

20 Ibid s 43(3).

21 *Public Health and Wellbeing Act 2008* (Vic) s 48.

22 Ibid. The Consultative Council on Obstetric and Paediatric Mortality and Morbidity (CCOPMM) is the advisory body to the Minister for Health on maternal, peri-natal and paediatric morbidity and mortality.

23 *Public Health and Wellbeing Regulations 2009* (Vic) reg 11.

Requirement to notify CCOPMM of peri-natal death

- 2.14 If the Registrar is notified of a stillbirth, the Registrar has an obligation to notify CCOPMM and forward to CCOPMM any medical certificate in his or her possession or under his or her control relating to the stillbirth.²⁴ In addition, the Public Health and Wellbeing Act also requires the Registrar to inform CCOPMM, and provide a certificate of death in the case of a neonatal death,²⁵ child death,²⁶ and maternal death.²⁷
- 2.15 The Registrar may also forward, or make available, any medical certificate in his or her possession, or under his or her control, relating to any peri-natal death to the Commonwealth statistician or to the secretary of the Department of Health.²⁸ A peri-natal death means the death of a live-born child within 28 days after the birth or a stillbirth.²⁹

Historical notification of births, stillbirths and peri-natal deaths

- 2.16 Under the *Registration (Births, Deaths and Marriages) Act 1853* (Imp), the father or mother of any child born, or the occupier of every house or tenement in which the birth occurred, was required to give notice of the birth to the deputy registrar of the district within 60 days of the birth.³⁰
- 2.17 If a newborn child was found abandoned, the chief or other constable of the district was required to give notice and information of the child found and of the place where the child was found to the chief registrar or to the deputy registrar of the district.³¹
- 2.18 A person who failed or neglected to give the notice and information, without reasonable cause, was, for every such offence, liable for a sum not exceeding £10.³² The father or mother of every child born, or in the case of the death, absence or inability of the parents, the occupier of the house or tenement in which the child was born, was required, within 60 days of the birth, to provide the information to the deputy registrar according to the best of his or her knowledge and belief of the several particulars required to be known and registered.³³
- 2.19 The prescribed information included the child's date and place of birth, name, and gender.³⁴ The father's full name and occupation, and the mother's name and maiden name were also required to be notified.³⁵ Further, the informant's signature, relation to the child (if any), and residence was included.³⁶
- 2.20 If they refused or, without reasonable cause, neglected to give this information, they were liable to pay a penalty of not more than £10.³⁷
- 2.21 The *Births Notification Act 1930* (Vic) provided additional requirements for the notification of stillbirths, 'in the case of every birth of a child ... whether the child is born alive or dead and whether prematurely or at full time, but shall not apply in the case of the delivery of a non-viable foetus'.³⁸

24 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 49B(1)(a).

25 *Ibid* s 49B(1)(b).

26 *Ibid* s 49B(1)(c).

27 *Ibid* s 49B(1)(d).

28 *Ibid* s 21.

29 *Ibid* s 4.

30 *Registration (Births, Deaths and Marriages) Act 1853* (Imp) s VIII.

31 *Ibid*.

32 *Ibid*.

33 *Ibid* s IX.

34 *Ibid* sch A.

35 *Ibid*.

36 *Ibid*.

37 *Ibid* s IX.

38 *Births Notification Act 1930* (Vic) ss 3(1)–(2). 'Non-viable foetus' was not defined.

- 2.22 Under the Births Notification Act, the municipal clerk of the municipality in which the mother ordinarily resided was to be notified of the birth, in a form prescribed in a schedule to that Act.³⁹ The form required the notifier to indicate whether the child was male or female, and whether she/he was delivered alive, dead, at full term or prematurely.⁴⁰ On receipt of the notice, the municipal clerk was required to send a copy of the notice to the nurse whose duty it was to visit the house to which the notice related.⁴¹
- 2.23 There was a penalty for failing to notify,⁴² and the Births Notification Act specified that the notification was in addition to, and not a substitute for, any requirements for registration of the birth.⁴³

Current practice

- 2.24 When a child is born in a hospital or birth centre, or the birth is attended by a qualified medical practitioner or midwife, a birth report⁴⁴ must be completed. Information about the birth is also entered on the relevant hospital patient database. Many Victorian hospitals use a facility called the Birthing Outcomes System (BOS) to collate and extract data.⁴⁵
- 2.25 On admission to hospital, all patients are issued with a universal record number. This number stays with the patient to enable easy identification and tracking within, and between, hospital systems. Patient details are entered into a Patient Administration System (PAS) of which there are several types used in Victoria.⁴⁶ The BOS system can be pre-populated with information from the relevant hospital PAS or data can be entered directly into the BOS.⁴⁷
- 2.26 The hospital or birthing centre where the birth occurs (or private practitioner in cases of home births) is responsible for sending birth data to different bodies under the statutory reporting requirements discussed in the section above. For the purposes of satisfying the requirement to notify the Registry, information is extracted from the hospital patient database and sent directly to the Registrar either manually or via an electronic transfer of data or secure data exchange.
- 2.27 The CCOPMM, which has statutory responsibility for the administration of the VPDC, must also be notified.⁴⁸ The VPDC receives birth reports either electronically or manually from sites (generally hospitals) or independent midwives who attend home births. This notice is generally provided 30–90 days post partum.⁴⁹

39 Ibid s 4(1).

40 Ibid sch.

41 Ibid s 4(2)(b).

42 Ibid s 4(3).

43 Ibid s 5.

44 A birth report is designed to collect information in relation to the health of the mother and baby. It contains information on obstetric conditions, procedures and outcomes, neonatal morbidity and birth defects relating to every birth in Victoria of 20 weeks gestation or more, or 400 grams or more birth weight. The birth report is used for peri-natal data collection and is completed by all hospitals, birth centres and midwives in private practice, manually or electronically, and submitted via the HealthCollect secure web-based interface at Department of Health (Victoria), *HealthCollect Portal* (6 July 2011) <<https://www.healthcollect.vic.gov.au>> or Consultative Council on Obstetric and Paediatric Mortality and Morbidity, *Forms* (18 March 2013) <<http://www.health.vic.gov.au>>.

45 The Birthing Outcomes System (BOS) is a clinical management information system designed to capture comprehensive details about mother and baby during a pregnancy. One of the main objectives of the system is to 'meet the statutory reporting requirements associated with Birth Registration, Statutory and Perinatal reporting and clinical audit'. BOS has been used by hospitals, midwives and clinicians in conjunction with day-to-day clinical practice since 1990: Management Consultants and Technology Services, *About Us* <<http://www.mcats.com.au/>>.

46 Consultation 22 (MCH Team Meeting, Traralgon).

47 Ibid.

48 *Public Health and Wellbeing Act 2008* (Vic) s 48. The VPDC was established as a population-based surveillance system to collect and analyse information on, and in relation to, the health of mothers and babies, in order to contribute to improvements in their health.

49 *Public Health and Wellbeing Regulations 2009* (Vic) reg 11.

- 2.28 In addition to the Registrar and the CCOPMM, the local municipal authority must be notified of a child's birth.⁵⁰ The local authority is responsible for running MCH centres in its municipality and will notify the centre closest to the address where the child lives.⁵¹ The maternal and child health nurse will then contact the mother in the first instance and offer a health visit within the child's first week at home. In the case of a stillbirth, or a child who has yet to be discharged from hospital, a note to this effect may accompany the notification to ensure contact with the child's parents is appropriate and does not cause further distress.⁵²
- 2.29 It is also current practice that the mother's nominated general practitioner (if there is one) or shared maternity care affiliate (in shared care arrangements) will also be notified. The notification to the general practitioner will usually occur within 48 hours of discharge and be accompanied by a hospital discharge form.
- 2.30 The Commission was advised during consultation with health care professionals that no universal system of birth notification exists. Some sites submit information manually and some electronically, through a secure data exchange.⁵³ The system used is largely determined by the size of the hospital, its available resources, and the sophistication of the hospital's data collection systems.
- 2.31 Information is extracted from the birth report and/or hospital patient databases under different reporting requirements and only to the extent authorised by the relevant legislation. For example, the VPDC requires detailed birth data on labour and birth events, obstetric conditions, procedures and outcomes, neonatal morbidity and birth defects. The majority of data items, of which there are over 100, comply with the Perinatal National Minimum Data Set⁵⁴ and are sent to the National Perinatal Statistics Unit (at the Australian Institute of Health and Welfare) for the *Australia's Mothers and Babies* annual report.⁵⁵
- 2.32 Maternal and child health services provided by the local council collect a limited range of indicators such as: the mother's name, address and telephone number; gestational period and gender of child; what complications, if any, mother or child experienced; whether there was an admission to a special care nursery; mother's Indigenous status; and whether an interpreter may be required.
- 2.33 The Registry currently requires notification of basic information only (as outlined earlier in this chapter). Once a birth registration statement is submitted by one or both parents or another suitably qualified informant, the information is matched to the earlier notification provided by the responsible person. The matching of the notification to the birth registration statement completes the registration process.
- 2.34 All Australian states and territories have largely consistent birth notification, registration and birth certificate legislation.⁵⁶ The National Parliamentary Counsel's Committee refers to this type of uniform legislation as mirror model provisions.⁵⁷ **Appendix E** outlines birth registration and birth certificate law and practice in other Australian jurisdictions.
- 2.35 For comparative purposes **Appendix F** discusses differences in practice in three international jurisdictions—England and Wales, New Zealand and Ontario, Canada.

50 *Child Wellbeing and Safety Act 2005* (Vic) s 43.

51 *Ibid* s 45(a). See also Municipal Association of Victoria, *Maternal and Child Health* <<http://www.mav.asn.au>>.

52 Consultation 32 (Mercy Hospital for Women).

53 Electronic transfer of birth data commenced in 2009, with 80 per cent of health services currently using this mechanism. Birth data is securely submitted to the VPDC either via a computerised hospital system using a secure data exchange portal or via the hard-copy birth report form.

54 The Perinatal National Minimum Data Set is a nationally agreed framework for mandatory collection and reporting at a national level. These core data elements are agreed to by the Statistical Information Management Committee and endorsed by the National Health Information Management Principal Committee. See further information published by the Australian Institute of Health and Welfare on its website <<http://www.aihw.gov.au>>.

55 Australian Institute of Health and Welfare, *Australia's Mothers and Babies 2010* (2012).

56 *Births, Deaths and Marriages Registration Act 1995* (NSW); *Births, Deaths and Marriages Registration Act 1996* (SA); *Births, Deaths and Marriages Registration Act 1996* (Vic); *Births, Deaths and Marriages Registration Act 1997* (ACT); *Births, Deaths and Marriages Registration Act 1998* (WA); *Births, Deaths and Marriages Registration Act 1999* (Tas); *Births, Deaths and Marriages Registration Act 2003* (Qld); *Births, Deaths and Marriages Registration Act 1996* (NT).

57 Parliamentary Counsel's Committee, *Protocol on Drafting National Uniform Legislation* (3rd ed, July 2008).

Births that are not notified

- 2.36 In 2009, over 99 per cent of babies born in Victoria were born in a hospital or birth centre. 0.4 per cent of births were registered as home births attended by a midwife in private practice.⁵⁸ 0.4 per cent of babies were registered as unplanned out-of-hospital births.⁵⁹ These births may not be notified to authorities in the first instance because they may have occurred without an attendant medical practitioner.
- 2.37 While the legislation accounts for mothers and babies who present at a hospital within 24 hours following birth, the process for notification where babies are not admitted to hospital at all, or not until after the 24-hour mandatory notification period, is unclear.
- 2.38 Under the Act, this responsibility falls to a person present at the birth. The Commission is unaware of any person being penalised in practice for failing to notify the appropriate authorities of a birth. In most cases where a child is not born in a hospital or birth centre, the attendant medical practitioner (generally the midwife) will notify the closest hospital or centre of the birth shortly after it occurs.⁶⁰
- 2.39 The number of births that are not notified to the Registry is not known, but is likely to be very small. Most births occur in a hospital, birth centre or at home with a midwife in attendance. In these circumstances there are formal notification processes in place.

Community responses

Particulars required by the Registrar

- 2.40 In the consultation paper, the Commission asked what particulars should be required at the birth notification stage by the Registrar from the responsible person. As noted in the previous section, only basic information is currently required.
- 2.41 Some consultation participants felt that it would assist with statistical collection and highlight anomalies in registration if the Registry required more particulars from hospitals about the mother and child's ethnicity at birth. This could include whether the mother identified as an Indigenous person.⁶¹ It was also suggested that indicators of other ethnicities could be collected.⁶² Respondents acknowledged the sensitivity of raising Indigenous status.⁶³
- 2.42 Others felt that additional particulars required should include the mobile phone number of the mother as well as the next-of-kin details, and/or father's details if known/present at birth.⁶⁴ It was suggested that this information could help the Registry when attempting to follow up a birth that had not been registered within the 60-day timeframe.⁶⁵
- 2.43 The Commission was advised that the advantage of obtaining a mobile phone number was that a residential address will often change, especially in the case of disadvantaged persons who may be in temporary accommodation at the time of the child's birth.⁶⁶ It was noted that a phone number, particularly a mobile phone number, has often been found to be the most reliable form of contact, by nurses and other health care professionals.⁶⁷

58 Consultative Council on Obstetric and Paediatric Mortality and Morbidity, *Annual Report for the Year 2009* (2012) 55.

59 Ibid.

60 Consultation 22 (MCH Team Meeting, Traralgon).

61 Consultations 10 (MCH Team Meeting, Flemington); 21 (MCH Team Meeting, Warragul).

62 Consultations 10 (MCH Team Meeting, Flemington); 26 (Gippsland East Aboriginal Driver Education Program).

63 Consultation 21 (MCH Team Meeting, Warragul).

64 Consultations 21 (MCH Team Meeting, Warragul); 26 (Gippsland East Aboriginal Driver Education Program).

65 Consultation 23 (MCH Team Meeting, Bairnsdale).

66 Consultations 5 (MCH Team Meeting, Shepparton); 22 (MCH Team Meeting, Traralgon).

67 Consultation 21 (MCH Team Meeting, Warragul).

- 2.44 One concern raised in the Commission’s preliminary consultations was that additional reporting requirements may be unreasonably onerous on health care providers. However, the Commission heard in consultations with hospital staff that hospitals already routinely collect a range of patient information on admission (including Indigenous status, mobile phone number and next-of-kin details) and that this information is already available in most hospital online systems.⁶⁸

Commission’s view

- 2.45 The Act currently provides discretion to the Registrar to determine what particulars are required in the birth notification form from the ‘responsible person’.⁶⁹
- 2.46 Providing additional particulars to the Registrar at notification stage would increase the data available about births at the birth event stage rather than waiting for registration, and so capture more detail about those births which are not registered. This data may help in identifying particular groups who are not registering the birth of their child, and who may need additional assistance or targeted programs.
- 2.47 Including a mobile phone number, and details of the father and next of kin, could help the Registry to follow up late registrations.
- 2.48 The Commission would not want the collection of additional particulars to be onerous for health care providers. However, as discussed above at [2.44], much of this information is already routinely collected and could be easily extracted without requiring any changes to hospital admission procedures or existing forms.
- 2.49 The Commission notes that the provision of additional information should be identified as optional, allowing health care providers to leave blank those details which they do not currently collect or that their client has not provided, rather than placing an obligation on the provider to collect additional information.
- 2.50 The Commission notes that in some jurisdictions the particulars required at notification and registration are included in regulations, for example, New South Wales⁷⁰ and the Northern Territory.⁷¹ The Commission does not consider that an obligation to include additional particulars within regulation is warranted at this stage.

Recommendation

1 The Registrar should request the following information in the birth notification:

- details of the father
- the Indigenous status of the mother and father
- details of the next of kin (if known)
- a contact telephone number (mobile or landline).

Provision of this information should be optional.

68 Consultations 10 (MCH Team Meeting, Flemington); 22 (MCH Team Meeting Traralgon).
69 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 12(1).
70 *Births, Deaths and Marriages Registration Regulation 2011* (NSW) regs 4, 5.
71 *Births, Deaths and Marriages Registration Regulations 1996* (NT) regs 2, 3.

Use of notification particulars in the birth registration statement

- 2.51 Several consultation participants suggested that the particulars provided to the Registrar at the time of notification could be used to pre-populate fields in the birth registration statement.⁷² It was suggested that this would help parents in registering the birth of their child and avoid the need for them to provide the same details to both the hospital and the Registrar. Supporters of this approach envisaged a larger range of particulars being extracted from the hospital system, and supplied to the Registrar, in the first instance.
- 2.52 The Commission notes the views expressed during consultations. However, the Commission is of the view that the inclusion of notification particulars to pre-populate fields in the birth registration statement would require significant changes to the way in which the notification and registration system and responsibilities currently operate. As such, the Commission does not make recommendations to this effect.

Verification of the birth for the purpose of registration

- 2.53 During consultations the Commission heard that hospitals are asked to check hospital records by parents, and on occasion the Registry is asked to confirm whether a child was born in the facility. These requests usually relate to births that are known to have occurred some time ago, possibly several years prior, at the hospital but that have not subsequently been registered.⁷³
- 2.54 Staff of the Royal Women's Hospital informed the Commission that they have received calls from parents seeking confirmation of the birth of their child at the hospital for the purpose of obtaining a birth certificate for school enrolment. In these cases, the hospital staff regenerate birth information from the database and supply this to the parents to enable them to complete the birth registration statement.⁷⁴

Birth notification under other legislative schemes and in other jurisdictions

- 2.55 Concerns were raised in some submissions and during consultations about the requirement to notify the local authority of a birth under the Child Wellbeing and Safety Act.⁷⁵ These concerns related to both the particulars required under the legislation and the process for notification. As the Child Wellbeing and Safety Act is not within the terms of reference for this review, the Commission is unable to comment further on the issues raised.

72 Consultations 18 (New Parents Group, Dandenong North); 21 (MCH Team Meeting, Warragul).
 73 Consultations 14 (Mildura Base Hospital); 31 (The Royal Women's Hospital).
 74 Consultation 31 (The Royal Women's Hospital).
 75 Submission 1 (Cathy Arndt).

Birth registration

- 18** **Current law**
- 21** **Current practice**
- 23** **Community responses**

3. Birth registration

Current law

- 3.1 It is a legal requirement to register the birth of a child born in Victoria.¹ There is no fee to register a birth. The definition of birth within the *Births, Deaths and Marriages Registration Act 1996* (Vic) ('the Act') includes a stillbirth.²
- 3.2 The Act grants the Registrar power to determine the form and manner of registration as well as the ability to set particulars.³ The particulars required for registration are set out in the *Births, Deaths and Marriages Registration Regulations 2008* (Vic).⁴ This includes the requirement that the birth registration statement contain details of whether or not the parents are of Aboriginal or Torres Strait Islander origin.⁵
- 3.3 The birth registration statement must state the name of the child.⁶
- 3.4 The Act requires that the parents (or other persons as prescribed in the Act)⁷ lodge a birth registration statement within 60 days of the birth of a child.⁸ The Act also provides that the Registrar must accept statements provided after the end of the 60-day limit.⁹
- 3.5 The penalty for non-registration of a birth within 60 days of the birth is 10 penalty units, which is currently \$1408.¹⁰
- 3.6 The Act also provides for a court to order the registration of a birth or to include registrable information about a birth or a child's parents in the Register, on application by an interested person.¹¹ In addition, a court in another jurisdiction may direct the registration of a birth if it is found that a birth is not registered under the Act or a corresponding law.¹² A court in another jurisdiction may also order that other registrable information be included if incomplete or incorrect.¹³
- 3.7 All other Australian states and territories have a two-step process for registration of a birth and application for a birth certificate. Only Queensland may charge for the registration of the birth itself, and only then, if the registration is late.¹⁴ Birth registration law and practice also vary internationally. Selected examples from other jurisdictions are included in **Appendix F** of this report.

1 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 13.

2 *Ibid* s 4 (definition of 'birth').

3 *Ibid* s 14.

4 *Births, Deaths and Marriages Registration Regulations 2008* (Vic) reg 7.

5 *Ibid* reg 7(n). This is not the same requirement for particulars as required under s 12(1) of the Act at notification stage. As discussed in Chapter 2, at present there are no specified particulars for birth notifications under the Regulations.

6 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 22(1).

7 *Ibid* s 15.

8 *Ibid* ss 14, 18(1).

9 *Ibid* s 18(2).

10 *Ibid* s 18(1); *Monetary Units Act 2004* (Vic) s 11.

11 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 20(1).

12 *Ibid* s 20(2)(a).

13 *Ibid* s 20(2)(b).

14 Queensland charges \$4.00 to register a birth if the registration is submitted after the 60-day limit: See the Schedule of Fees as at 13 July 2012: Registry of Births, Deaths and Marriages (Queensland), *Fees and charges* (9 March 2012) <<http://www.justice.qld.gov.au>>.

Registration of an unidentified abandoned child

- 3.8 The Act requires that a person who has custody of a foundling¹⁵ and who is not the parent be responsible for the registration of the birth.¹⁶ The Victorian Department of Human Services, as a protective intervener,¹⁷ is responsible for ensuring that unidentified abandoned children¹⁸ are appropriately cared for through the child protection service.
- 3.9 When an infant has been abandoned and no parent or other family can be located, the child protection service, after consultation with legal services and the Registry, will register the birth of the child. The registration of the child will require the informant's details to be entered on the birth registration statement, as well as a name to be given to the child.¹⁹

Registration of a child conceived via donor insemination or surrogacy arrangement

- 3.10 For a child conceived via donor insemination or through surrogacy arrangements, additional birth registration requirements apply.
- 3.11 The *Assisted Reproductive Treatment Act 2008* (Vic) (ART Act) regulates assisted reproductive treatment and artificial insemination and makes provision for surrogacy arrangements.
- 3.12 The commencement of the ART Act on 1 January 2010 provided for the Registry to maintain the registers—the Central Register²⁰ and Voluntary Register²¹—which record information about people involved in donor conception and surrogacy arrangements.²² The ART Act amended the Act so that the maintenance of these registers became an object of the Act.²³
- 3.13 The Act requires that donor treatment details be recorded on the child's birth registration statement.²⁴ The registering parent/s²⁵ must specify the name and address of the registered ART provider or doctor who carried out the donor treatment procedure.²⁶ The Registrar is required to mark 'donor conceived' against the birth entry.²⁷
- 3.14 It is the obligation of a mother who has self-inseminated in a private arrangement and her partner, if any, to register the birth of a child.²⁸ The registering parent/s and the donor are required to provide a letter to the Registrar containing additional details including the name and contact details of the donor, along with one proof of identity document and the signature of the donor.²⁹ The donor's details will not appear on the child's birth record or certificate.³⁰

15 'Foundling' is not defined within the Act. A standard usage definition states 'an infant found abandoned; a child without a parent or guardian': Arthur Delbridge, *Macquarie Dictionary* (Revised 3rd ed, 2003) 742.

16 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 15(2).

17 'Protective intervener' includes the Secretary of the Department of Human Services and any member of the Victoria Police: *Children, Youth and Families Act 2005* (Vic) s 181. In practice, the Department takes the lead role as protective intervener in protective matters; the policy and procedure for this is outlined in Victorian Government, *Protecting Children: Protocol between Department of Human Services—Child Protection and Victoria Police* (July 2012) 9.

18 An 'abandoned child' is defined as 'one who is left unattended and without arrangement by a persons or persons unknown', for example, an infant left near the entrance of a hospital with no identifying details: Department of Human Services (Victoria) *Protecting Victoria's Children—Child Protection Practice Manual* 'Unidentified abandoned infants and children', Advice No 1556 (14 January 2013) 1.

19 Department of Human Services (Victoria) *Protecting Victoria's Children—Child Protection Practice Manual* 'Unidentified abandoned infants and children', Advice No 1556 (14 January 2013) 6.

20 *Assisted Reproductive Treatment Act 2008* (Vic) s 53.

21 *Ibid* s 70.

22 *Ibid* s 1(f).

23 Explanatory Memorandum, *Assisted Reproductive Treatment Bill 2008* (Vic); *Births, Deaths and Marriages Act 1996* (Vic) s 3(caa). Many of the changes followed implementation of recommendations contained in the Commission's *Assisted Reproductive Technology and Adoption: Final Report*, Report No 12 (2007).

24 *Births, Deaths and Marriages Act 1996* (Vic) s 17B.

25 The ART Act also made provision for the addition of details of a partner after birth registration: *Births, Deaths and Marriages Act 1996* (Vic) s 17A, as inserted by *Assisted Reproductive Treatment Act 2008* (Vic) s 153. This provides for the inclusion of a woman's female partner on a child's birth records where the original birth entry lists only the birth mother of the child. See also Explanatory Memorandum, *Assisted Reproductive Treatment Bill 2008* (Vic).

26 *Births, Deaths and Marriages Registration Regulations 2008* (Vic) reg 7(h).

27 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 17B(1).

28 *Ibid* s 13.

29 Victorian Registry of Births, Deaths and Marriages, *Self-insemination* (29 October 2012) <<http://www.bdm.vic.gov.au>>.

30 *Ibid*.

- 3.15 Upon application for a birth certificate by a donor-conceived person who has reached 18 years of age, an addendum to the certificate will be issued by the Registrar stating that more information is available about the entry.³¹ The donor treatment details do not appear on the certificate.³²
- 3.16 If the child is born via a surrogacy arrangement, the Act prescribes that the surrogate mother and her partner, if any, register the birth.³³ The surrogate mother is recorded as the mother and her partner, if any, is recorded as the father or parent.
- 3.17 Once a child born to a surrogate has been registered, the commissioning parent/s³⁴ may apply to the County Court of Victoria or the Supreme Court of Victoria³⁵ for a substitute parentage order.³⁶ If the Court approves the application, it will issue a substitute parentage order to the Registry.³⁷ The Registrar must register the surrogacy by entering the prescribed particulars in the Surrogate Birth Register and create a new birth record that shows the commissioning parent/s as the child's parent/s, in accordance with the substitute parentage order.³⁸

Registration of stillbirths

- 3.18 Stillbirths have not always been required to be registered in Victoria. Until 1952, stillbirths were required to be notified, but not registered, under the *Births Notification Act 1930* (Vic).³⁹ The *Registration of Births, Deaths and Marriages Act 1952* (Vic) established registers of stillbirths for the first time.⁴⁰ The definition of the word 'birth' in the *Registration of Births, Deaths and Marriages Act 1928* (Vic) was amended to include 'stillbirth' and 'child' to include 'still-born child'.⁴¹
- 3.19 Incorporating stillbirths into the principal Act placed a requirement on the father or mother of the stillborn child to give notice of the stillbirth to the registrar of the district within 60 days of the stillbirth.⁴²

Registration required for person to receive Commonwealth newborn payments

- 3.20 The *New Tax System (Family Assistance) Act 1999* (Cth) requires that a parent/s must have registered (or applied to register) the birth of their newborn child before they can receive parental leave pay or the baby bonus. The 'Newborn Child Claim for Paid Parental Leave, Family Assistance and Medicare'⁴³ form requires parents to make a declaration stating that they have complied with this legislative requirement.⁴⁴ The form also states that parents may be asked to provide proof of registration.⁴⁵

31 *Births, Deaths and Marriages Act 1996* (Vic) s 17B(2).

32 See page 3 of the birth registration statement (Appendix C).

33 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 13.

34 For a surrogacy arrangement, means the person/s who enter into the surrogacy arrangement for a woman to carry a child on behalf of the person/s: *Assisted Reproductive Treatment Act 2008* (Vic) s 3 (definition of 'commissioning parent').

35 *Status of Children Act* (Vic) s 17(1) (definition of 'court').

36 *Ibid* s 20. This may occur no less than 28 days and no more than 6 months after the birth (other than with leave of the court): at s 20(2).

37 *Ibid* s 31(a).

38 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 19A. See also Victorian Registry of Births, Deaths and Marriages, *Surrogacy* (31 October 2012) <<http://www.bdm.vic.gov.au>>.

39 See Chapter 2 for more discussion.

40 *Registration of Births, Deaths and Marriages Act 1952* (Vic) s 3(1).

41 *Ibid* s 2.

42 *Registration of Births, Deaths and Marriages Act 1928* (Vic) s 9(1), as amended by *Registration of Births, Deaths and Marriages Act 1952* (Vic) s 3(2).

43 Department of Human Services (Commonwealth), *Newborn Child Claim for Paid Parental Leave, Family Assistance and Medicare* (FA100.1301) 5.

44 *Ibid* 17.

45 *A New Tax System (Family Assistance) Act 1999* (Cth) s 36(c).

Current practice

Hospital practice

- 3.21 Where a child is born in a hospital or birth centre, it is common practice for the attending midwife, ward clerk or nurse to provide the mother with the appropriate registration forms to fill in following the birth. Most forms are contained within a ‘parent pack’. The parent pack is in a large envelope provided by the Commonwealth Government⁴⁶ and supplemented with materials from various sources including the Registry. Hospital staff collate these materials, assemble the pack, and provide it to new parents following the birth of their baby. The contents of the pack routinely include:
- a letter congratulating the parents on the birth of their baby⁴⁷
 - the child’s health and development record⁴⁸
 - the birth registration statement form⁴⁹
 - the baby bonus/paid parental leave application
 - other hospital/government forms and information.⁵⁰
- 3.22 For multiple births, one pack is supplied per child. If lost or misplaced, copies of the birth registration statement form can be obtained from the Registry by phone request, in person at the Registry’s city office, or from one of the seven metropolitan or 13 regional justice service centres.⁵¹ The birth registration statement form is not currently available for download online, although the Commission understands this option may be available in the future.⁵² Some hospitals will reissue a birth registration statement on request and in such cases the reissued form may be marked ‘Form 2’.⁵³
- 3.23 The midwife or doctor present at the birth will also provide to the mother the completed and stamped birth statement. This statement must be attached to the birth registration statement form when a parent applies to register a birth. The Commission has heard in consultations that these forms are often misplaced and that they are difficult to have reissued.⁵⁴
- 3.24 Prior to discharge, the midwife or nurse practitioner will prepare a hospital discharge summary sheet. The Victorian Maternity Record produced by the Department of Health contains reference to the main documents to be provided to new mothers prior to discharge from hospital.⁵⁵

46 Department of Human Services (Commonwealth), *Parent Pack: A Guide to Payments and Family Assistance from the Australian Government* (FPRO61.1301).

47 Department of Human Services (Commonwealth), *Congratulations on the Birth of your Child* (FPRO62.1207).

48 This record (now green) replaced the old Child Health ‘Blue Books’ from November 2011. It is provided to hospitals by the Department of Education and Early Childhood Development (Victoria).

49 Provided to hospitals by the Registry, see Appendix C.

50 This includes a ‘New Parent Checklist’ FPR085.1207 provided by the Commonwealth Government, and can include forms/information specific to the delivery hospital (such as a patient satisfaction survey).

51 For a list of justice service centre locations offering Registry services, see Victorian Registry of Births, Deaths and Marriages, *Justice Service Centres—BDM Services at Justice Service Centres* (20 May 2013) <www.bdm.vic.gov.au>. For a full list of justice service centre locations across Victoria, see Department of Justice (Victoria), *Service Locations* (22 May 2013) <<http://www.justice.vic.gov.au>>.

52 Letter from Erin Keleher, Victorian Registrar of Births, Deaths and Marriages to the Hon P.D. Cummins, Chair, Victorian Law Reform Commission, 21 February 2013.

53 There appeared to be mixed practice with regard to the reissue of birth registration statement forms. For example, both the Royal Women’s and the Mercy Hospitals (Consultations 31 and 32) stated that they would reissue an appropriately marked form, while Mildura Base Hospital stated that they no longer did this and referred patients directly to the Registry (Consultation 14).

54 Consultation 10 (MCH Team Meeting, Flemington).

55 The present copy of the form does not specify a birth registration statement: Department of Health (Victoria), *Victorian Maternity Record* (14 August 2012) <<http://www.health.vic.gov.au>>.

Births that occur outside a hospital or birth centre

- 3.25 A midwife, medical practitioner or other responsible person who attends a birth that occurs outside a hospital will be responsible for the notification of that birth as discussed in the previous chapter.⁵⁶
- 3.26 When a birth occurs outside a hospital, unexpectedly, the mother and baby may present at the hospital shortly after for a check-up. The Act prescribes that the hospital will be the party responsible for notification where a mother presents within 24 hours of giving birth.⁵⁷
- 3.27 Women who give birth as part of a home-birth service provided by a local hospital, have an admission status for this purpose.⁵⁸ Women who labour and deliver at home with no complications remain in their home and are not required to come to hospital. In this situation, the hospital midwives provide the requisite forms, including the birth registration statement and Centrelink forms, to the parent/s following the birth of their child, as would occur if the birth had occurred in the labour ward.
- 3.28 It is uncommon for women giving birth to have no engagement with a hospital provider.

Registry practices

- 3.29 The Registry's birth registration statement is in two parts. Part 1 concerns the registration of the birth. Parents have 60 days to return the completed form and there is no fee payable.⁵⁹
- 3.30 Part 2 is an application for the issue of a birth certificate and is discussed in detail in Chapters 4 and 5.⁶⁰
- 3.31 When the Registry receives the birth registration statement, it matches the registration with the earlier birth notification. If the data in both records align, this is considered to be a complete record for the purposes of registering the birth.
- 3.32 Only parents requesting that a birth certificate be issued when they submit the birth registration statement receive confirmation of the registration of the birth. However, the Registry has informed the Commission that a letter confirming registration can be provided on request.⁶¹ The Act makes no provision for the issue of a birth extract.⁶²
- 3.33 It is current practice for the Registry to send a reminder letter to the parent/s of the child (or other responsible parties) when the Registry has not received a birth registration statement within the prescribed 60 days.⁶³
- 3.34 The Registrar advised the Commission that the penalties provided for in the Act for non-registration of births are seldom, if ever, imposed.⁶⁴

56 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 12.

57 *Ibid* s 12(6)(a).

58 For example, the Casey Hospital home birth pilot run by Southern Health: Email from Colleen White, Coordinator Casey Hospital Homebirth, Southern Health, to Myra White, Community Law Reform Manager, Victorian Law Reform Commission, 5 March 2013.

59 See Victorian Registry of Births, Deaths and Marriages, *Register a birth* (15 October 2012) <<http://www.bdm.vic.gov.au>>.

60 The Department of Health (Victoria) website states that 'once registered, a birth certificate will be issued', without identifying the need to apply separately and pay a fee: Department of Health (Victoria), *Having a baby in Victoria* (2 September 2010) <<http://www.health.vic.gov.au>>.

61 Letter from Erin Keleher, above n 52.

62 Prior to 1996, an extract of birth entry was required to be issued to the person who registered the birth within one month of the registration being processed: *Registration of Births, Deaths and Marriages Act 1959* (Vic) s 27.

63 Australian Bureau of Statistics, *Births, Australia, 2011*, Cat No. 3301.0 (8 March 2013) <<http://www.abs.gov.au>> [20].

64 Meeting of Erin Keleher, Victorian Registrar of Births, Deaths and Marriages and Carolyn Gale, Executive Director Community Operations and Safety, Department of Justice with David Jones AM, Acting Chair, Victorian Law Reform Commission and the Hon P.D Cummins, Commissioner, Victorian Law Reform Commission, 25 July 2012.

- 3.35 The Child Health and Development Record includes reminders for maternal and child health nurses to ask parents if they have registered their child's birth at their two-, four- and eight-week visits.⁶⁵
- 3.36 In the case of a stillbirth or neonatal death, the hospital provides the parents with a bereavement pack. The contents of the pack may vary between hospitals, but will always include a birth registration statement form, a Centrelink bereavement payment application and details of support services and information on bereavement and the loss of a child.⁶⁶ Parents of a stillborn child who have not lodged a birth registration statement are not actively pursued but the Registry has advised the Commission that this practice is under consideration.⁶⁷
- 3.37 Parents who have experienced a neonatal death will be contacted by the Registry via telephone in the first instance, and advised what they need to do to satisfy birth registration requirements. The Registry will then follow up with an appropriately worded letter.⁶⁸

Community responses

- 3.38 The Commission received a wide range of responses on the issue of birth registration. In its consultation paper, the Commission asked whether there are existing barriers to registration and asked for suggestions on ways to make the system more accessible, efficient and effective.
- 3.39 Some submissions answered the questions posed in the consultation paper, while others raised issues not previously discussed. Views expressed in submissions and consultations, as they relate to the issue of birth registration, are discussed below. The first two sections examine the general points made in consultation about the importance of birth registration and the associated human rights considerations. The subsequent sections focus on barriers to registration.

The importance of birth registration

- 3.40 Most submissions commented on the importance of birth registration and the need to minimise barriers to ensure that births are registered and that this is done in a timely manner.⁶⁹
- 3.41 Commenting on the evidence presented that there are Victorians whose births have not been registered, the International Commission of Jurists—Victoria (ICJ) called for:
- urgent action to be taken to address what appear[s] to be a preventable and unintended consequence of our system of birth registration, bearing in mind that it is a legal system that is clearly intended to *benefit* rather than disadvantage members of our community.⁷⁰

65 John Symeopoulos, Acting Registrar, 'Registering Victorian Births' (Paper presented at Maternal and Child Health Conference, Melbourne, 14 February 2012) <<http://www.education.vic.gov.au>>; Department of Education and Early Childhood Development (Victoria), *Your Maternal and Child Health Service Visits* (31 October 2012) <<http://www.education.vic.gov.au>>; Consultation 12 (DEECD).

66 Consultations 31 (The Royal Women's Hospital); 32 (Mercy Hospital for Women).

67 Letter from Erin Keleher, above n 52.

68 Ibid.

69 Submissions 5 (The International Commission of Jurists—Victoria); 6 (Law Institute of Victoria);

70 Submission 5 (The International Commission of Jurists—Victoria).

- 3.42 Some submissions also suggested that the obligation to register a birth should rest on both the individual and the state and not the individual alone.⁷¹ Birth registration was characterised as primarily beneficial to the state and therefore largely the responsibility of the state. The Castan Centre noted:

It is in the state's interest to maximise birth registration and certification. Non-registration can lead to incorrect assumptions about the demographic make-up of the Victorian community, and deny the Government demographic data which is essential for good planning and may be of value in determining state/federal funding arrangements. Non-registration at birth and certification problems can also increase the workload and time spent by public servants in unravelling problems in subsequent years. In some cases it may even lead to issues of public safety and an increase in criminal behaviour, if, for example, those whose births are not registered find that they are unable to obtain fundamental essentials of contemporary life, such as a drivers' licence because of difficulty in obtaining certification of their birth or identity.⁷²

- 3.43 These comments highlight the positive outcomes of birth registration for both the individual and the state, and the negative impacts of non-registration. Further, they raise the issue of how much responsibility should rest with the state to facilitate birth registration.
- 3.44 A related aspect of state responsibility—human rights considerations relevant to birth registration—was also raised in a number of submissions.

Human rights considerations

- 3.45 The *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the Charter) contains a number of provisions that may be relevant to birth registration, for example, the right to recognition before the law, which is contained in section 8(1).
- 3.46 While the Charter contains no express right to birth registration, the International Covenant on Civil and Political Rights (ICCPR) does contain this right in article 24(2), which states that 'every child shall be registered immediately after birth and shall have a name'.⁷³
- 3.47 The United Nations Committee on the Rights of the Child (CRC) raised concerns regarding birth registration practices in its recent report on Australia's implementation of the Convention on the Rights of the Child. The Committee stated that it was:

concerned about the difficulties faced by Aboriginal persons in relation to birth registration. In particular...that obstacles to birth registration arising from poor literacy levels, the lack of understanding of the requirements and advantages of a birth registration as well as inadequacies in the support provided by authorities have not been resolved. The Committee further notes with concern that a birth certificate is subject to administrative costs, posing an additional hindrance for persons in economically disadvantaged situations.⁷⁴

71 Consultation 26 (Gippsland East Aboriginal Driver Education Program).

72 Submission 10 (Castan Centre for Human Rights Law—Monash University).

73 *International Covenant on Civil and Political Rights*, opened for signature 16 December 1966, 999 UNTS 171, art 24(2) (entered into force 23 March 1976).

74 Committee on the Rights of the Child, United Nations, *Consideration of Reports Submitted by States Parties Under Article 44 of the Convention, Concluding observations: Australia* CRC/C/AUS/CO/4, 60th session (28 August 2012) para [35]. For earlier statements of the Committee see Chapter 4 para [4.132] n 136 of this report.

- 3.48 The CRC urged a government review of birth registration processes to ensure all children born in Australia are registered at birth, and that procedural barriers do not disadvantage any child. The Committee noted that raising awareness among the Indigenous community about the importance of registration and providing extra support for people who may have literacy issues were paramount. It also urged government to issue a birth certificate, upon the birth of a child, free of charge.⁷⁵ The United Nations Human Rights Council has recently adopted a resolution dedicated to birth registration and the right of everyone to recognition as a person before the law.⁷⁶
- 3.49 A number of submissions cited the Victorian Charter and other international instruments, which they felt obliged the state to ensure birth registration systems are as accessible and inclusive as possible.⁷⁷
- 3.50 The Law Institute of Victoria stated in its submission:
- Birth registration is a fundamental human right, recognised at international law, and supports the right of everyone to recognition as a person before the law, protected in Victoria under s8(1) of the *Charter of Human Rights and Responsibilities 2006*. Under their obligations to respect, protect and fulfil human rights, Australian governments (including the Victorian government), have a responsibility to ensure that birth registration systems are accessible and that procedural barriers do not disadvantage any child.⁷⁸
- 3.51 The Castan Centre noted that:
- International human rights law requires not only that the birth of every child be registered, but also that a birth certificate is issued to the person registering the child's birth.⁷⁹
- 3.52 The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) discussed reform to birth registration law as a way of better realising human rights, stating:
- Reform to the birth registration and certification system will provide an opportunity to promote and protect human rights. This is highly desirable, to meaningfully and respectfully include people who otherwise risk legal invisibility.⁸⁰
- 3.53 The Castan Centre and VEOHRC both argued that the right to birth registration should be included as an express right within the Charter, giving effect to article 24(2) of the ICCPR.⁸¹ The Victorian Government's response to the 2011 review of the Charter indicated that it would seek 'further specific legal advice to inform its decision as to whether to include any of these additional civil and political rights'.⁸²

75 Ibid para [36]. The costs of birth certificates are dealt with in Chapter 5 para [5.70] and following of this report.

76 United Nations Human Rights Council, *Birth Registration and the Right of Everyone to Recognition Everywhere as a Person before the Law*, 19th sess, UN Doc A/HRC/RES/19/9 (3 April 2012). This resolution was adopted by the UN Human Rights Council without vote on 22 March 2012.

77 Submissions 5 (The International Commission of Jurists—Victoria); 6 (Law Institute of Victoria); 7 (VEOHRC); 10 (Castan Centre for Human Rights Law—Monash University); 12 (Liberty Victoria).

78 Submission 6 (Law Institute of Victoria).

79 Submission 10 (Castan Centre for Human Rights Law—Monash University).

80 Submission 7 (VEOHRC).

81 Submissions 7 (VEOHRC); 10 (Castan Centre for Human Rights Law—Monash University).

82 Scrutiny of Acts and Regulations Committee, Parliament of Victoria, *Review of the Charter of Human Rights and Responsibilities Act 2006, Victorian Government Response* (14 March 2012) 5.

Prescribed time to register birth

- 3.54 A number of submissions highlighted issues with the current requirement for parents to register the birth of a child within 60 days. The Act, however, also requires the Registrar to accept registrations after this time.⁸³
- 3.55 Some participants felt that 60 days to register the birth was insufficient following the birth of a child,⁸⁴ particularly if there had been problems with the birth, or medical issues for the child.
- 3.56 The Mercy Hospital advised that in cases where a child is premature or in the neonatal intensive care unit, or the mother is unwell, the hospital will attempt to notify the Registry of the situation, either at the time of the birth notification, or shortly thereafter. The Registry, however, has informed the Commission that it is not routinely made aware of late registrations.⁸⁵ The Mercy Hospital expressed concern that parents may be penalised for the late registration of a child due to reasons beyond their control.⁸⁶
- 3.57 During consultation, the Commission was also told that some religions and/or cultures may require certain obligations to be met in order to name a child.⁸⁷ Those from an Indian background, for example, may need to consult astrological calendars and/or a religious leader to determine the name of the child.⁸⁸ This process can take up to 40 days, leaving little time to submit the birth registration statement.⁸⁹
- 3.58 Another argument for more flexibility with the time limit was to allow time to correct mistakes on the form. One new parent noted that she had her form sent back and that she found it difficult to fill in within the prescribed time without help.⁹⁰
- 3.59 Although the Registrar is required to accept late registrations, some participants expressed the view that if a parent missed the 60-day limit, they could be fearful of being penalised and so might further delay the registration.⁹¹
- 3.60 In contrast, a justice service centre employee noted that in their experience very few people registering a birth after the 60-day limit appeared concerned that they might be fined. Another employee suggested that an incentive, such as a free birth certificate if the registration is done within the time limit, may provide a better motivation for timely registration.⁹²
- 3.61 While some concerns were raised in consultations about the 60-day limit, the Commission understands that the Registry seldom, if ever, penalises parents for late registration.⁹³ Moreover, the Registrar is obliged to accept registrations after the 60-day limit has expired. It is also noted on the birth registration statement that if parents are unable to register the birth of their child within 60 days, they should contact the Registry.
- 3.62 The Commission believes that the current provisions for the time limit and late registration under the Act are adequate. The Commission has been informed by the Registry that the Registry takes a non-punitive approach to enforcement and therefore, in practice, there is little chance a person will be penalised for late registration.⁹⁴

83 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 18(2).

84 Consultation 18 (New Parents Group, Dandenong North).

85 Letter from Erin Keleher, above n 52.

86 Consultation 32 (Mercy Hospital for Women).

87 Consultation 17 (Immunisation session, Flemington).

88 Consultations 6 (Ovens and King health and community workers & co, Wangaratta); 18 (New Parents Group, Dandenong North).

89 Consultation 6 (Ovens and King health and community workers & co, Wangaratta).

90 Consultation 3 (New Parents Group, Mooroopna).

91 Consultations 18 (New Parents Group, Dandenong North); 25 (Young, Pregnant and Parenting Group, Lakes Entrance).

92 Consultations 6 (Ovens and King health and community workers & co, Wangaratta); 10 (MCH Team Meeting, Flemington); 27 (Dandenong Justice Service Centre).

93 Meeting of Erin Keleher, Victorian Registrar of Births, Deaths and Marriages and Carolyn Gale, Executive Director Community Operations and Safety, Department of Justice with David Jones AM, Acting Chair, Victorian Law Reform Commission and the Hon P.D Cummins, Commissioner, Victorian Law Reform Commission, 25 July 2012.

94 Letter from Dr Claire Noone, Acting Secretary, Department of Justice to David Jones AM, Acting Chair, Victorian Law Reform Commission, 1 August 2012.

Requirement to provide the father's or other parent's details on the birth registration statement

- 3.63 In both consultations and submissions, the requirement to provide the details of the father on the birth registration statement was identified as one of the key barriers to timely birth registration.⁹⁵
- 3.64 A number of possible reasons for a mother not wishing to, or being unable to, provide the father's details were identified:
- the father's identity is unknown or uncertain⁹⁶
 - the child was conceived through donor insemination⁹⁷
 - there is a fear of family violence and/or reprisal as a result of providing the father's details⁹⁸
 - the conception was the result of an assault or incest⁹⁹
 - a prior agreement was made with the father that his name would not appear on the Register, and
 - there is a misapprehension that the father's details may be passed on to Centrelink or the Child Support Agency.¹⁰⁰
- 3.65 Where the father's identity is unknown, the mother can submit the birth registration statement without the father's details if she is satisfied that it is not practicable to obtain the signature of the father of the child.¹⁰¹ In addition, the Act enables the Registrar to register the birth with incomplete particulars.¹⁰²
- 3.66 However, the mother will be required to sign a statutory declaration.¹⁰³ The birth registration statement notes that if applicants are unable to provide any details of the other parent, they are required to provide a statutory declaration stating why the parent's details and/or signature are missing, and what attempts have been made to obtain them.¹⁰⁴
- 3.67 Consultations and submissions indicated that women reluctant or unwilling to provide the father's details were concerned with what action the Register may take if:
- the Registrar did not accept her reasons for refusing to provide the father's details
 - the Registrar did not consider her efforts to obtain the father's details as sufficient.

95 Consultations 5 (MCH Team Meeting, Shepparton); 10 (MCH Team Meeting, Flemington); 18 (New Parents Group, Dandenong North); 23 (MCH Team Meeting, Bairnsdale); 27 (Dandenong Justice Service Centre).

96 Consultations 25 (Young, Pregnant and Parenting Group, Lakes Entrance); 28 (Connect Ed, Horsham).

97 Many of these factors were previously stated in the Victorian Law Reform Commission, *Assisted Reproductive Technology and Adoption: Final Report*, Report No 12 (2007) 145.

98 This will be discussed further in the following section.

99 Consultation 31 (The Royal Women's Hospital).

100 Consultations 14 (Mildura Base Hospital); 22 (MCH Team Meeting, Traralgon).

101 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 15(1).

102 *Ibid* s 19(2).

103 *Ibid* s 15(1). The Registrar requires a statutory declaration to be made on the birth registration statement to this effect. This declaration must be to the satisfaction of the Registrar. The birth registration statement requires that the applicant explain why that parent's details and/or signature are missing and what attempts have been made to obtain them. See step 8, Appendix C.

104 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 15(1). See step 8, Appendix C.

- 3.68 The Act states that both parents are jointly responsible for having the child's birth registered and that both must sign the birth registration statement.¹⁰⁵ As at [3.65], the Act permits the Registrar to accept a birth registration statement from one of the parents if satisfied that it is not practicable to obtain the signatures of both parents.¹⁰⁶ Under the Act, the Registrar may request further information to support the birth registration statement at any time before the Registrar registers the birth.¹⁰⁷ The Registrar is also empowered to make inquiries to ascertain the particulars of a registrable event and whether those particulars have been correctly recorded.¹⁰⁸
- 3.69 Read together, sections 15(1) and 18(3) give the Registrar discretion to consider applications on a case-by-case basis. There is no publicly available information on what criteria are applied to decisions about making a request for further information, or a decision to register the birth with incomplete particulars.
- 3.70 The Registrar has advised the Commission that the current Registry practice is to seek details of the father's address from the mother, advising her that her contact details will be masked when a copy of the birth registration statement is sent to the father for his signature.¹⁰⁹ The Registry will also write to the father seeking confirmation that he is the father and request further information about him as well as asking him to sign the statement. The Registry will include the father on the Register if he signs the birth registration statement (see **Appendix C**).¹¹⁰
- 3.71 At present, the birth registration statement states that a father or parent's details must be provided regardless of whether the father or parent is available to sign the form. The Registry requires applicants to provide a daytime phone number for the other parent even if no other information is available.
- 3.72 Concerns were raised during consultations that the requirement to provide reasons for the lack of a father's details or signature in a statutory declaration can be intimidating and distressing. It was also suggested that it was unclear what reasons for not including details, and attempts to obtain them, were acceptable and sufficient.¹¹¹ A number of consultation participants had had the Registry reject a client's birth registration statement because the reasons provided in the statutory declaration were not acceptable.¹¹²
- 3.73 The issue was also of particular concern for Indigenous community members. The Aboriginal Liaison Officer at the Mercy Hospital identified the requirement to provide the father's name on the birth registration statement as the main reason her clients do not submit the statement.¹¹³
- 3.74 Some participants felt that if the father was not willing to sign the form then he should not be on the birth certificate.¹¹⁴ Others felt that further information needed to be provided to applicants as to why and how the Registry would try to follow up with the nominated father.¹¹⁵

105 *Births, Deaths and Marriages Registration Act 1996 (Vic)* s 15(1).

106 *Ibid.*

107 *Ibid* s 18(3).

108 *Ibid* s 42(1).

109 Letter from Erin Keleher, above n 52.

110 *Ibid.*

111 Consultation 14 (Mildura Base Hospital). Email from Molly Williams, Solicitor, North Melbourne Legal Service to Myra White, Community Law Reform Manager, Victorian Law Reform Commission, 11 December 2012.

112 Consultation 4 (Shepparton Justice Service Centre).

113 Consultation 32 (Mercy Hospital for Women).

114 Consultation 14 (Mildura Base Hospital).

115 Consultation 9 (MCH Team Meeting, Wangaratta).

- 3.75 Suggestions from participants to facilitate registration in these circumstances included:
- providing a dedicated Registry phone number in Part 4 of the birth registration statement so that parents with concerns about naming the father can contact the Registry first to seek advice about their options¹¹⁶
 - including a check box in the birth registration statement for the mother to complete, with reasons for not including the father's details, such as 'unknown' or 'unwilling'.¹¹⁷
- 3.76 Both suggestions are considered in more detail in later sections of this chapter. Representatives of the Bairnsdale and Morwell justice service centres said they often fielded enquiries about the requirement to name the father on the birth registration statement.¹¹⁸
- 3.77 The Castan Centre suggested adopting a Queensland practice to make the process less intimidating.¹¹⁹ In Queensland, a parent is allowed to attach a statement, rather than a statutory declaration, explaining why the other parent has not signed the birth registration statement.¹²⁰ The Centre felt this would be 'less likely to be a disincentive to people registering the birth of their children'.¹²¹
- 3.78 While having to provide the father's details was one of the barriers to birth registration most frequently cited during consultation, concerns were also raised that a failure to provide the father's details could potentially disadvantage both the father and the child. The view was expressed that, wherever possible, it was clearly preferable that there be a full birth record for the child, including the father's details.¹²²
- 3.79 The competing interests identified were characterised as a question of a balance of rights, either perceived or actual, among three parties:
- the right of the father to be included on, and sign, the birth registration statement, and by doing so, have his parentage formally acknowledged
 - the right of the child to know who his/her parents are
 - the right of the mother to be free from the fear of reprisal or violence, or not to be forced to acknowledge the father of a child conceived through an assault.¹²³
- 3.80 The Registrar is primarily responsible for balancing these interests, due to his/her wide discretion to decide whether the information provided on the birth registration statement is sufficient, and what subsequent action will be taken to attempt to obtain further information.¹²⁴
- 3.81 The birth registration statement is unclear as to whether the Registrar will accept a registration where a mother includes the father's details but is unable to obtain his signature. The Commission understands that the Registry will pursue all available channels to obtain a signature but will ultimately register the birth if a signature cannot be obtained.¹²⁵
- 3.82 Consultation participants suggested that the form should clearly explain the process the Registry will follow for attempting to obtain the father's signature and what will be recorded on the Register (and birth certificate) if a signature cannot be obtained.¹²⁶

116 See section on family violence and birth registration below. Consultations 11 (Sue Smythe, Robinvale Resource Service Centre); 14 (Mildura Base Hospital).

117 Consultations 5 (MCH Team Meeting, Shepparton); 10 (MCH Team Meeting, Flemington); 21 (MCH Team Meeting Warragul); 24 (Bairnsdale and Morwell Justice Service Centres).

118 Consultation 24 (Bairnsdale and Morwell Justice Service Centres).

119 Submission 10 (Castan Centre for Human Rights Law—Monash University).

120 Registry of Births, Deaths and Marriages (Queensland), *Birth Registration Application* (28 June 2012) <<http://www.justice.qld.gov.au>>.

121 Submission 10 (Castan Centre for Human Rights Law—Monash University).

122 Consultation 11 (Sue Smythe, Robinvale Resource Service Centre).

123 Submission 13 (The Elder Law and Succession Committee of the Law Society of NSW). Consultations 14 (Mildura Base Hospital); 10 (MCH Team Meeting, Flemington); 31 (The Royal Women's Hospital).

124 *Births, Deaths and Marriages Registration Act 1996 (Vic)* s 18(3).

125 Letter from Erin Keleher, above n 52.

126 Consultations 9 (MCH Team Meeting, Wangaratta); 10 (MCH Team Meeting, Flemington).

- 3.83 Finally, consultation participants expressed some concern that there is no explanatory information on the birth registration statement about the options available to a mother who wishes to place a father's details on the birth registration statement but is unable to obtain his cooperation. For example, a man may refuse to cooperate when he refuses to acknowledge paternity. During consultation, it was noted that determining biological parentage for the purpose of placing the father's name on the birth certificate can be time-consuming and expensive.¹²⁷
- 3.84 In contrast, some participants questioned the ease with which a father can assume parentage without being required to demonstrate that he is the child's biological parent if he signs the birth registration statement. In these circumstances, respondents felt that signing a statutory declaration did not provide sufficient proof of parentage.¹²⁸
- 3.85 The issue of legal parentage and how to record this accurately raised many vexed questions during consultations. A complete overview of what parental responsibility entails under Victorian law is contained within one of the Commission's earlier reports.¹²⁹ Legal parentage in the context of donor-conceived children and/or surrogacy arrangements is discussed in Chapter 4.
- 3.86 The suggestions for reforms made in this section with regard to the inclusion or exclusion of a father's or other parent's details on the birth registration statement are addressed under the following sections examining family violence and the particulars of the birth registration statement.

Registration of a birth without the mother's consent

- 3.87 During consultations, the issue of registering the birth of a child without the mother's consent was raised.¹³⁰ In two cases, the father (and/or his family) was aware of the birth of a child he/they believed to be his and there was concern that the child was not registered.¹³¹ In another example, the mother had died without registering her child.¹³²
- 3.88 The Act places an obligation on both parents to register the birth of their child,¹³³ but the birth registration statement refers to the mother and father differently. Step 3 on the statement appears to assume that the mother will be completing the form. Step 4 notes that the father's details must be included regardless of whether he will sign the form. There is no reference on the form to a situation where the mother will not, or cannot, sign the form.
- 3.89 The Registry has informed the Commission that in instances where no details of the mother are provided, the birth notification data will be used by the Registry to identify the mother.¹³⁴
- 3.90 The Registrar can accept a birth registration statement from one parent if satisfied that it is not practicable to obtain the signatures of both parents.¹³⁵ The provision draws no distinction between the mother and father.
- 3.91 The Registrar can also include in the Register information about the identity of a child's parents provided by one parent where the information relates only to the identity of that parent.¹³⁶

127 Consultation 15 (Mildura Justice Service Centre).

128 Consultation 14 (Mildura Base Hospital).

129 Victorian Law Reform Commission *Assisted Reproductive Technology and Adoption: Final Report*, Report No 12 (2007) 112–120.

130 Submission 2 (Jason). Consultations 5 (MCH team meeting, Shepparton); 10 (MCH Team Meeting, Flemington).

131 In one submission, the respondent stated that he had been told by the Registry that he was unable to register the birth of his child without the cooperation and/or consent of the mother. Submission 2 (Jason).

132 Consultation 10 (MCH Team Meeting, Flemington).

133 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 15(1).

134 Letter from Erin Keleher, above n 52.

135 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 15(1).

136 *Ibid* s 16(2)(c).

- 3.92 A person other than a parent can also provide information to the Registrar. The Act allows the Registrar to accept information from a person with knowledge of relevant facts if the Registrar is satisfied that the parents of the child are unlikely, or unable, to lodge a birth registration statement.¹³⁷
- 3.93 Further, the Registrar can include in the Register information about the identity of a child's parents obtained from a person with relevant facts, if both parents are unable to provide the information or are unavailable.¹³⁸
- 3.94 The way the birth registration statement is currently set out is appropriate for the vast majority of applications that will be completed by the mother. On its face, however, it does not appear to allow for a father to register a birth if the mother cannot or will not.

Commission's view

- 3.95 The Registrar has informed the Commission that if he/she receives a birth registration statement signed only by the father, the Registry will request further contact details for the mother to confirm with her that the man is the father and advise her of her obligation to complete the birth registration statement. In situations where the mother and father are completely estranged, the Registry will work through individual circumstances to enable the registration of the birth.¹³⁹
- 3.96 As provided by the Act, and as a matter of principle, the Commission strongly supports the requirement that both parents be jointly responsible for the registration of the birth of their child. In practice, the Commission is aware that the identity of the father may be in dispute and the Registry needs to confirm details with the mother of the child before the birth can be recognised.
- 3.97 The Commission is also aware that there may be other reasons a birth registration statement may be signed only by the father. This may occur where the mother is ill or has died.
- 3.98 The Commission notes that in practical terms, because it is unusual for the Registry to receive an application signed only by the father, it is unlikely to be necessary to change the form significantly to reflect the current practice of the Registry as outlined above. The Commission suggests, therefore, that the Registry consider including a note on the birth registration statement that a father in this situation should contact the Registry for advice prior to submitting the form.

Recommendation

- 2 The birth registration statement should include a statement that if a person other than the mother wishes to register a birth in a situation where they believe the mother will not, or cannot register the birth, they should contact the Registrar to find out how this can be done, and what information they will need to provide.

137
138
139

Ibid s 15(3).
Ibid s 16(2)(b).
Letter from Erin Keleher, above n 52.

Family violence and birth registration

3.99 Family violence and/or intimate partner violence can be a contributing factor to the non-registration of a birth. Studies have shown that family violence can start or increase during pregnancy.¹⁴⁰ As noted above, the issue of family violence was raised in consultations and submissions in relation to the requirement to place the father's name on the birth registration statement.¹⁴¹

3.100 The North Melbourne Legal Service (NMLS), which provides an outreach clinic at the Royal Women's Hospital, raised a number of issues in its submission relating to family violence and birth registration. It stated:

For many women who access our services, there can be confusion and anxiety regarding whether they are required to provide details of their child's father in situations where they may have fears for their safety or that of their children due to family violence. Although registration can proceed on the basis of incomplete particulars, NMLS is of the view that many vulnerable individuals would benefit from more certainty regarding what constitutes an 'other reason' which may be sufficient for the Registrar to proceed with a birth registration in this circumstance.¹⁴²

3.101 Health care providers felt that more clarity could be provided when supporting clients in a family violence situation. For example, the Mercy Hospital suggested that the Registry provide a clear policy and outline of procedure for the notification of births by the hospital where there are also family violence concerns.¹⁴³ The hospital noted that it routinely screens for indicators of family violence on admission, and is often privy to a disclosure made by a relative or the client.

3.102 The Royal Women's Hospital, in conjunction with the NMLS, has established 'Acting on Warning Signs'. The project works with health care professionals to build capacity and expertise in identifying indicators of family violence. Drawing from its experience of working with the hospital, the NMLS suggested that:

when investigating an incomplete form, the Registrar should be required to consider indicators of family violence, including the existence of intervention orders, evidence of criminal convictions, police reports and statutory declarations by witnesses (including social workers and other support workers).¹⁴⁴

3.103 Some consultation participants felt that mothers in family violence situations should be able to submit the birth registration statement without having to note all the father's details. The NMLC noted that it:

supports the right of a child to know both of their parents. However, in our work, we are aware of situations in which to simply list the father on the birth certificate without further support and information provided to the mother would place women and/or their children at serious risk. Accordingly, we submit that the birth registration process should provide women with more information about their rights and entitlements and provide women with further clarity about the process.¹⁴⁵

140 Submission 4 (North Melbourne Legal Service). NMLS refers to the research report by Deborah Walsh and Wendy Weeks, *What a Smile Can Hide: A Report on the Study of Violence Against Women During Pregnancy* (The Royal Women's Hospital, 2004), which considered an extensive literature review of studies on domestic violence in pregnancy. International studies report varying results. The study undertaken by Deborah Walsh and Wendy Weeks 'did not find overwhelming evidence to suggest that violence started or escalated for most women during pregnancy in the sample.' The study did find, however, that 'for the majority of women, a past history of violence in the relationship was a strong indicator for the violence to continue in some form throughout the pregnancy': at 13, 21–32.

141 Consultations 9 (MCH Team Meeting, Wangaratta); 14 (Mildura Base Hospital); 21 (MCH Team Meeting, Warragul); 22 (MCH Team Meeting, Traralgon); 27 (Dandenong Justice Service Centre); 31 (The Royal Women's Hospital); 32 (Mercy Hospital for Women). The Commission also notes that while both parents may engage in family violence, in submissions received and within consultation, participants raised issues about family violence (alleged or otherwise) in relation to the father only. However, the Commission has attempted, where possible, to make recommendations gender-neutral to acknowledge that either gender may be the perpetrator.

142 Submission 4 (North Melbourne Legal Service).

143 Consultation 32 (Mercy Hospital for Women).

144 Submission 4 (North Melbourne Legal Service).

145 Ibid.

- 3.104 In addition to the concerns relating to provision of a father’s details, non-registration of a birth may occur in family violence situations due to concern that an estranged father may attempt to locate the mother following registration, by applying to the Registry for a copy of the birth certificate. Current practice is to include the address details of both parents on the child’s birth certificate. An estranged father could potentially locate a mother and child through the address provided on the child’s birth certificate if the address is still current.

Commission’s view

- 3.105 The Registry has informed the Commission that the inclusion of addresses on the birth certificate is, historically, to reflect information captured on the birth record. The Registry has also informed the Commission that if a parent requested that this detail not be included on the certificate, the Registry could remove it. However, the information would remain on the birth record.¹⁴⁶
- 3.106 The Commission is concerned that the difficulty with the current approach is that few victims of family violence may be aware of the option to request that their address be withheld.
- 3.107 The Commission supports the development of a family violence strategy or plan in conjunction with relevant agencies. A strategy (and the process to develop the strategy) would enable the Registry to direct its services in the most appropriate manner and ensure that it is available to all vulnerable groups, including people who may not register the birth of their child because of family violence.

Recommendation

- 3** The Registrar should develop a policy for processing birth registration statements where the applicant is at risk of family violence.

This policy should require the Registry to contact the applicant before contacting the alleged perpetrator if there is any indication on a birth registration statement of a risk of family violence.

Recommendation

- 4 Step 4 of the birth registration statement should be amended to:
- include a question about whether the applicant fears that family violence may be an issue if the Registry contacts the alleged perpetrator
 - clearly outline what information may be sought from the alleged perpetrator and whether it will appear on the birth certificate
 - note that if potential violence is identified as an issue, the Registry will not include the address of the applicant on the birth certificate, and will contact the applicant before contacting the alleged perpetrator.

Particulars of birth registration statement

3.108 For most people, filling in the birth registration statement following the birth of a child is a relatively straightforward task.¹⁴⁷ A number of participants noted it was far easier than Centrelink forms.¹⁴⁸ However, for those parent/s who may have more complex situations to document, for whom English is not a first language or who have low literacy skills, the form can pose significant problems.¹⁴⁹ Vulnerable groups and awareness and accessibility will be discussed further in Chapters 6 and 7.

3.109 Considerable support was provided in submissions and consultations for changes to the particulars required on the birth registration statement and the layout and accessibility of the form itself. The Castan Centre noted that:

The guiding principle for good registration policy and practice should be to maximise the likelihood of registration occurring. Complexity in forms and processes, the provision of supplementary documentation, which may not be available and onerous requirements for the provision and witnessing of documents, are all likely to decrease compliance with registration processes. Making processes as straightforward as possible and non-intimidating as possible provide an obvious benefit...¹⁵⁰

3.110 A number of consultation participants felt that there was insufficient explanatory material at the front of the birth registration statement, especially relating to the importance of registering a birth and how to do so correctly. For example, they felt the instruction for both parents to initial any changes was not prominent enough.¹⁵¹

3.111 Others noted that there was little point having information about interpreting services at the back of the form.¹⁵² The Castan Centre submitted that the complexity of the form is likely to decrease compliance with registration processes by disadvantaged groups generally.¹⁵³

147 Consultation 10 (MCH Team Meeting, Flemington).

148 Consultation 15 (Mildura Base Hospital); 18 (New Parents Group, Dandenong North).

149 Consultations 1 (Spectrum Migrant Resource Centre); 4 (Shepparton Justice Service Centre); 20 (Dandenong Hospital); 22 (MCH Team Meeting, Warragul); 27 (Dandenong Justice Service Centre).

150 Submission 10 (Castan Centre for Human Rights Law—Monash University).

151 Consultations 3 (New Parents Group, Mooroopna); 10 (MCH Team Meeting Flemington). The 'Instructions for completing this form' section of the new edition birth registration statement form are identical to the old form.

152 Consultations 10 (MCH Team Meeting, Flemington); 27 (Dandenong Justice Service Centre).

153 Submission 10 (Castan Centre for Human Rights Law—Monash University).

- 3.112 The Act permits the Registrar to request additional particulars in the birth registration statement that do not appear on the birth certificate.¹⁵⁴ The Registry notes on the birth registration statement that these items are for ‘statistical purposes, medical research or office use only and will not appear on the birth certificate’.¹⁵⁵ These items are marked on the birth registration statement with an asterisk, but the form does not state whether the asterisk indicates a mandatory field.¹⁵⁶ Some participants felt that the items with an asterisk were optional and so had not completed them.¹⁵⁷
- 3.113 It is unclear from the instructions provided on the birth registration statement whether the Registrar would accept a form that was submitted with incomplete asterisked particulars: for example, the requirement that both parents’ signatures be provided is a field with an asterisk.
- 3.114 The requirement that both parents register the birth is a mandatory component of the form, unless a statutory declaration is provided to the Registry to explain the absence of a signature. With regard to the fields with asterisks, the Castan Centre noted that:
- While there may be value in recording such information, consideration needs to be given to whether such information could be obtained independently of the registration process itself.¹⁵⁸
- 3.115 The Castan Centre cited examples from other jurisdictions, such as the Australian Capital Territory and Queensland, where the birth registration statement is simpler and clearer on what information must be provided for statistical purposes and who needs to provide the information.¹⁵⁹
- 3.116 Concerns were also raised during consultations about particular sections of the birth registration statement. For step 5, participants noted that applicants were often confused about what constituted a ‘registered domestic relationship’.¹⁶⁰ The latest version of the birth registration statement now includes explanatory notes to guide applicants in filling in this section.¹⁶¹
- 3.117 Consultation participants also expressed the view that the information provided to same-sex parents could be improved, both under step 4¹⁶² and particularly step 6, donor treatment details.¹⁶³ This mainly concerned what information was to be provided to the Registrar in cases of self-insemination.¹⁶⁴
- 3.118 The requirement on the birth registration statement to provide an address for the doctor or midwife was also raised during consultations. This point mainly related to the lack of delineation between births that occurred inside a hospital (in which case the hospital details would suffice), to births that occurred outside the hospital (in which case the attendant midwife or medical practitioner’s details would need to be provided).

154 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 50.

155 See ‘Instructions for completing this form’ Appendix C.

156 Consultation 31 (The Royal Women’s Hospital).

157 Consultations 3 (New Parents Group, Mooroopna); 5 (MCH Team Meeting, Shepparton).

158 Submission 10 (Castan Centre for Human Rights Law—Monash University).

159 *Ibid.*

160 Consultation 9 (MCH Team Meeting, Wangaratta).

161 See ‘Relationship details’ Appendix C.

162 Consultation 22 (MCH Team Meeting, Traralgon).

163 Consultation 32 (Mercy Hospital for Women).

164 The Commission notes that instructions are listed on the Registry’s website under self-insemination: Victorian Registry of Births, Deaths and Marriages, *Self-insemination* (29 October 2012) <<http://www.bdm.vic.gov.au>>.

- 3.119 A number of consultation participants noted that as most births occurred in a hospital, this requirement caused confusion, as new parents (and midwives) did not necessarily know that the hospital address would be sufficient, and so may delay submitting the birth registration statement.¹⁶⁵ Health professionals based in hospitals stated that they generally marked this section with the hospital stamp, instead of requiring the midwife present at birth to place his /her personal address details on the form.¹⁶⁶
- 3.120 Finally, a number of participants asked why the details of head circumference, eye colour and length for the newborn child were requested on the statement.¹⁶⁷ The Commission notes that the birth registration statement indicates that the collection of asterisked particulars is for statistical and medical research purposes.

Commission's view

- 3.121 The Commission appreciates the rationale for requesting additional details on the birth registration statement, but is concerned that this may provide, on occasion, a barrier to the registration of the birth.
- 3.122 The Commission is also concerned that there is some confusion as to what particulars will and will not appear on the birth certificate.
- 3.123 For the purpose of clarity, the Commission considers that more information should be provided to applicants about why certain particulars are collected, and how they are used. Moreover, the birth registration statement should clearly state what particulars will appear on the birth certificate and what will not.

Recommendation

- 5 The birth registration statement should clearly outline:
- what information will and will not appear on the birth certificate through the demarcation of mandatory and non-mandatory fields, and
 - what information is being requested for statistical purposes only.

Requirement to provide supporting documents

- 3.124 During the writing of this report, the Registry removed the requirement of the mother and father to provide a copy of a proof of identity document with the birth registration statement (**Appendix C**). The requirement to provide supporting documents, and the person/s who may certify identity documents, is determined by the Registrar as part of his/her general functions, and is not contained within regulations.
- 3.125 One participant group noted that while removing the requirement to provide identity documents may make it easier to register a birth, it seemed to be at odds with the strict criteria relating to the identity documents required to apply for a birth certificate.¹⁶⁸ Further discussion of birth certificates and people who are authorised to certify copies of identity documents is contained in Chapter 4.

165 Consultations 5 (MCH Team Meeting, Shepparton); 13 (New Parents Group, Mildura South); 20 (Dandenong Hospital); 22 (MCH Team Meeting, Warragul); 31 (The Royal Women's Hospital).

166 Consultations 14 (Mildura Base Hospital); 20 (Dandenong Hospital); 31 (The Royal Women's Hospital).

167 Consultations 5 (MCH Team Meeting, Shepparton); 13 (New Parents Group, Mildura South); 21 (MCH Team Meeting, Warragul); 22 (MCH Team Meeting, Traralgon); 31 (The Royal Women's Hospital).

168 Consultation 24 (Bairnsdale and Morwell Justice Service Centres).

- 3.126 Due to the recent changes removing the requirement to supply proof of identity documents, the Commission considers that no further changes are necessary.

Witnessing of birth registration statement

- 3.127 Concerns were also raised about the witnessing of the birth registration statement. The NMLS suggested that the form should clearly state who must witness the form.¹⁶⁹ It was noted that it is common for both midwives and MCH nurses to be asked to witness birth registration statement forms, as new parents often complete the form prior to leaving hospital or bring the form to one of their initial appointments with the MCH service.¹⁷⁰
- 3.128 The concerns raised about witnessing documents do not appear to pose a significant barrier to registration. The Commission did not hear any examples of a birth registration statement being returned on the basis that the witness particulars or signature were incomplete.

Stillbirths and neonatal deaths

- 3.129 The Act places a legal obligation on parents of a stillborn child to complete a birth registration statement within the same prescribed time as a child born alive.¹⁷¹ The obligation also applies to a parent whose child is born alive but who dies within 28 days of birth, called a neonatal death.
- 3.130 The termination of a pregnancy after 20 weeks gestation or delivery of a baby with a body mass of at least 400 grams, who exhibits no sign of respiration or heartbeat, or other sign of life, would be considered to be a stillbirth for the purpose of registering the birth under the Act.¹⁷² The requirement to register a late-term abortion as a birth was raised during consultation.¹⁷³ The Women's Hospital noted that while some women wish to register the birth of a child as part of dealing with the decision to terminate the pregnancy, others may not.¹⁷⁴
- 3.131 Both the Women's and Mercy Hospitals informed the Commission that there are clear guidelines for dealing with 'registrable' (post-20 weeks gestation) and 'un-registrable' births (pre-20 weeks or less than 400 grams).¹⁷⁵
- 3.132 When a stillbirth occurs, the hospital or midwife (if it occurs outside a hospital) will provide the parents with a birth registration statement as well as other documentation, often called a bereavement pack, as referred to earlier in this chapter. The Women's noted that providing a bereavement pack to grieving parents requires sensitive timing and that the hospital will do all it can to assist the parents adjust to their loss, including the option of domiciliary care following discharge.¹⁷⁶
- 3.133 The Mercy Hospital explained that generally in the case of a stillbirth or neonatal death, a social worker will explain the obligation to register the birth to the parents and suggest they take some time to complete the birth registration statement. Follow-up assistance is offered to parents who leave hospital without completing either the statement or Centrelink forms.¹⁷⁷
- 3.134 The birth registration statement supplied to parents of a stillborn child is the same as that given to the parents of a live-born child.

169 Submission 4 (North Melbourne Legal Service).

170 Consultation 16 (MCH Team Meeting, Robinvale).

171 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 13. This is because the definition of birth includes stillbirths under the Act at s 4.

172 Victorian Law Reform Commission, *Law of Abortion: Final Report*, Report No 15 (2008) 52.

173 Consultation 22 (MCH Team Meeting, Traralgon).

174 Consultation 31 (The Royal Women's Hospital).

175 Consultations 31 (The Royal Women's Hospital); 32 (Mercy Hospital for Women).

176 Consultation 31 (The Royal Women's Hospital).

177 Consultation 32 (Mercy Hospital for Women).

- 3.135 The form used until November 2012 had a cover with photographs of smiling babies. During consultation, the Commission heard of the distress caused to some parents by the requirement to complete a form that is designed to reflect the joy and celebration of a live baby.¹⁷⁸ It was suggested that a more appropriately designed form should be provided to parents of a stillborn child.¹⁷⁹ The Registry has responded to the concern expressed during recent awareness-raising activities and has redesigned its birth registration statement form. The new form has a plain front cover and is appropriate for all births (**Appendix C**).
- 3.136 While not posed as a question in the consultation paper, there was also support during consultation for the removal of the mandatory requirement within the Act to register a stillborn child. Some health professionals felt that while registering the birth (and applying for a birth certificate) could provide comfort to some parents who had lost a child, this feeling was not shared by all parents. The suggestion made was that the mandatory requirement to register the birth should be removed and replaced with an ability to register at the parents' discretion.¹⁸⁰
- 3.137 In one consultation, it was suggested that the 'Medical Certificate for Cause of Perinatal Death' notification could be amended or adapted to double as a registration of birth, thereby removing the requirement to fill in the birth registration statement.¹⁸¹
- 3.138 The Commission notes these expressions of community views but as these issues are beyond the scope of its current inquiry it makes no recommendations in relation to them.

Involvement of health professionals in assisting a parent to register the birth of their child

- 3.139 Submissions and consultations supported the greater involvement of health care professionals in helping new parents to understand their rights and obligations about the registration of their child's birth.¹⁸² This included support for enhanced antenatal and postnatal assistance. In some instances, health care professionals assist parents to fill in the birth registration statement prior to the mother and child's discharge from hospital.¹⁸³ It was suggested that if the process of birth registration started antenatally and was reaffirmed postnatally, this would increase registration rates.¹⁸⁴

Antenatal

- 3.140 Some participants suggested that birth registration should be a topic discussed with new parents antenatally, either at one of the mother's appointments with a doctor or midwife or as part of the antenatal education programs run by, or attached to, hospitals and birth clinics.¹⁸⁵ The Commission was informed that some hospitals already include a short segment on the requirement to register a birth in these classes.¹⁸⁶ This is discussed further in Chapter 7.

178 Consultation 31 (The Royal Women's Hospital). The Commission is also aware of a recent campaign launched by a Victorian mother who had experienced a reproductive loss and who sought to have the birth registration statement changed: Susie O'Brien, 'Stillbirth forms changed after mum's ordeal', *Herald Sun* (Melbourne), 18 October 2012.

179 Consultations 20 (Dandenong Hospital); 21 (MCH Team Meeting, Warragul); 22 (MCH Team Meeting, Traralgon); 23 (MCH Team Meeting, Bairnsdale); 24 (Bairnsdale and Morwell Justice Service Centres); 27 (Dandenong Justice Service Centre); 31 (The Royal Women's Hospital); 32 (Mercy Hospital for Women).

180 Consultation 23 (MCH Team Meeting, Bairnsdale).

181 Consultation 32 (Mercy Hospital for Women).

182 Consultations 1 (Spectrum Migrant Resource Centre); 3 (New Parents Group, Mooroopna); 6 (Ovens and King health and community workers & co); 12 (DEECD); 13 (New Parents Group, Mildura South); 26 (Gippsland East Aboriginal Driver Education Program); 27 (Dandenong Justice Service Centre).

183 Consultations 6 (Ovens and King health and community workers & co); 11 (Sue Smythe, Robinvale Resource Service Centre)

184 Consultations 4 (Shepparton Justice Service Centre); 12 (DEECD); 15 (Mildura Justice Service Centre); 24 (Bairnsdale and Morwell Justice Service Centres).

185 Consultations 12 (DEECD); 13 (New Parents Group, Mildura South).

186 Consultations 18 (New Parents Group, Dandenong North); 19 (Vietnamese New Parents Group, Springvale); 20 (Dandenong Hospital).

- 3.141 A number of participants consulted spoke of the general lack of information about what is required of new parents following the birth of a baby. Participants agreed that the antenatal period could be an ideal time for health professionals to engage with parents about their rights and responsibilities.¹⁸⁷

Postnatal

- 3.142 During consultation, it was noted that health professionals are often best placed to know whether clients need help with completing a birth registration statement, including those with low levels of literacy or for whom English is a second language.¹⁸⁸ Others noted that the form could be complicated and overwhelming for young mothers dealing with a newborn child.¹⁸⁹
- 3.143 Many health professionals who frequently deal with disadvantaged groups mentioned that it is not unusual for people in these circumstances to live chaotic lives. Consequently, birth registration, along with engagement with other services, can be problematic.¹⁹⁰
- 3.144 One suggestion to increase the involvement of health professionals included requiring the birth registration statement form to be submitted by the hospital.¹⁹¹ In another consultation, participants discussed the role volunteers could play in assisting new parents to fill in forms either at the hospital or a local community health centre.¹⁹²
- 3.145 Lack of time and resources were cited as the main reasons health professionals are unable to help new parents to answer questions or fill in the birth registration statement. Midwives and nurses in hospitals are often very busy and participants noted that new mothers may only stay one night in hospital before discharge, or as little as six hours for second or subsequent births.¹⁹³
- 3.146 Some health care professionals noted that while they were happy to help clients to fill in the form, they were uncomfortable with witnessing the signatures on the birth registration statement. Some suggested that they did not wish to place their own details on the birth registration statement.¹⁹⁴
- 3.147 The Mercy Hospital noted in consultation that it was their practice not to provide new mothers with a parents' pack until discharge. The rationale for this was to ensure parents did not misplace the forms in the often busy time after birth. Participants interviewed felt that the downside of this approach was that staff could not assist with any of the forms, should parents require it.¹⁹⁵

187 Consultations 12 (DEECD); 13 (New Parents Group, Mildura South).

188 See Chapter 6 for further detail.

189 Consultations 12 (New Parents Group, Mildura South); 20 (Dandenong Hospital).

190 Consultations 5 (MCH Team Meeting, Shepparton); 10 (MCH Team Meeting, Flemington).

191 Consultations 4 (Shepparton Justice Service Centre); 24 (Bairnsdale and Morwell Justice Service Centres).

192 Consultation 10 (MCH Team Meeting, Flemington).

193 Consultation 8 (New Parents Group, Wangaratta).

194 Consultation 20 (Dandenong Hospital).

195 Consultation 32 (Mercy Hospital for Women).

The role of maternal and child health nurses

- 3.148 There was also support from participants for greater involvement of maternal and child health nurses in discussing the issue of birth registration with clients and prompting completion of the birth registration statement. As previously discussed, MCH nurses routinely ask new parents at the two-, four- and eight-week checks whether they have registered the birth of their child.¹⁹⁶ Many participants felt that this discussion could include asking parents whether they required further assistance with the form.
- 3.149 One participant felt that the MCH nurse could have additional copies of the birth registration statement form to provide at the first health check.¹⁹⁷ Another felt that nurses should have a sample birth registration statement to show clients.¹⁹⁸ One participant felt that greater use could be made of the local council SMS appointment service (a service which sends a text message to residents) to remind parents to complete the birth registration statement.¹⁹⁹
- 3.150 Some MCH nurses expressed the view that more information could be provided to nurses about the importance of birth registration and how to convey this to clients.²⁰⁰ However, concerns were raised over the resources and time available to training staff to provide this service.²⁰¹ The Commission was advised that Department of Education and Early Childhood Development (DEECD) provides funding for biannual conferences for MCH nurses, and these could be a convenient time for sharing information about birth registration requirements.²⁰²
- 3.151 The Commission heard that the Enhanced MCH service already plays a role in helping vulnerable clients to register the birth of their child. This service is offered to families who are at risk of poor outcomes and need more intensive support than provided by the mainstream service.²⁰³ This is discussed further in Chapters 6 and 7.

Commission's view

- 3.152 There appears to be scope for the greater involvement of MCH nurses in promoting and assisting with birth registration. The MCH system has a strong take-up rate of 95 per cent for mothers' first appointments after discharge. This provides MCH nurses with an ideally timed opportunity to discuss the issue of birth registration with clients.
- 3.153 Clients who do not wish to engage with mainstream MCH services are directed to other services. For example, if the client identifies as Indigenous, she will be offered a visit from a Koori domiciliary midwife or community health worker. The role of Boorai nurses and the Welcome Baby to Country Project are discussed in Chapter 6.
- 3.154 By way of comparison, the Commission understands that in England registration facilities are provided in some local hospitals or other locations such as children's centres.²⁰⁴ For example, Liverpool City Council permits the registration of births at the Liverpool Women's Hospital or at the Liverpool Register Office.²⁰⁵ Likewise, in Manchester the local Registry sends a registrar to local children's centres to provide a registration service for parents who do not wish, or are unable, to attend the main register office.

196 Consultation 12 (DEECD).

197 Consultations 8 (New Parents Group, Wangaratta); 22 (MCH Team Meeting, Traralgon).

198 Consultation 21 (MCH Team Meeting, Warragul).

199 Consultation 13 (New Parents Group, Mildura South).

200 Consultation 9 (MCH Team Meeting, Wangaratta).

201 Consultation 10 (MCH Team Meeting, Flemington).

202 Consultation 12 (DEECD).

203 Department of Education and Early Childhood Development (Victoria), *Enhanced Service* (9 January 2013)

<<http://www.education.vic.gov.au>>; Consultation 10 (MCH Team Meeting, Flemington).

204 In Manchester, the registrars attend seven Sure Start Centres across the district each week. New parents are asked to make an appointment prior by calling the central registry office. Manchester City Council, *Sure Start Centres where you can Register Births* (2003)

<<http://www.manchester.gov.uk>>; Liverpool Register Office, *Register a birth* <<http://liverpool.gov.uk>>.

205 Liverpool Register Office, *Register a birth* <<http://liverpool.gov.uk>>.

- 3.155 Assistance by dedicated personnel before discharge would have resourcing implications, and the value of such a scheme would need to be weighed against the cost. The Commission raises these approaches from other countries as examples of practices that may improve the rates of birth registration. However, given that the vast majority of Victorian births are registered before the child starts school, the Commission considers that more targeted assistance to disadvantaged groups would be a better use of resources.
- 3.156 The Commission notes the good work already being done by MCH nurses and suggests that some of the points raised above could be considered by the Registry and DEECD in their ongoing collaborative work in relation to birth registration.

Cross-jurisdictional registration

- 3.157 People born in cross-border communities face particular issues in relation to birth registration. In Victoria and New South Wales Indigenous people often live in such communities along the Murray River and often move between jurisdictions.²⁰⁶ In its submission, Legal Aid NSW noted:
- While access to birth registration documents is an issue in many communities, Legal Aid NSW has observed it to be a particular issue in cross-border communities... Accessing the services in other states presents yet another barrier to obtaining birth documents. Literacy and capacity levels in some of these communities can make accessing the complex processes even more difficult.²⁰⁷
- 3.158 During consultation, the Commission heard examples of difficulties encountered by people born near the Victorian/New South Wales border, as well as communities living near or on the Victorian/South Australian border.²⁰⁸ One example from a Victorian service provider follows:
- A 16 year old girl who lives in kinship care does not have a birth certificate. As a result the kinship carer is having difficulty accessing Centrelink support programs for the girl. The girl's mother lives in NSW and also does not have a birth certificate. The kinship carer is unsure if the birth/s have been registered, and if so, in what state.²⁰⁹
- 3.159 Obtaining appropriate identification documents for people born interstate or living near the border can be problematic. In East Gippsland, participants with extensive experience in birth registration matters commented on the frustration of dealing with multiple agencies when trying to help people, often Indigenous people, locate identification documents.²¹⁰
- 3.160 The difficulties of cross-jurisdictional issues prompted one group of consultation participants to suggest that a cohesive national law was required in this area, instead of state-by-state law.²¹¹
- 3.161 The Victorian Registry has an Indigenous Access Team (IAT), which is discussed in more detail in Chapter 6.

206 Consultation 26 (Gippsland East Aboriginal Driver Education Program).
 207 Submission 9 (Legal Aid NSW).
 208 Consultation 30 (New Mothers Group, Connect Ed, Horsham College).
 209 Consultation 2 (Boorai Group, Victorian Aboriginal Health Service).
 210 Consultation 24 (Bairnsdale and Morwell Justice Service Centres).
 211 Consultation 26 (Gippsland East Aboriginal Driver Education Program).

- 3.162 The Commission understands that the Victorian Registry has an agreement with the NSW Registry of Births, Deaths and Marriages to allow NSW permanent residents living in Albury shire,²¹² who have a baby at Wodonga Hospital, to register the birth with the NSW Registry.²¹³ Legal Aid NSW noted, with regard to the Albury/Wodonga arrangement, that:

A similar kind of protocol may be useful to consider for other less advantaged communities Legal Aid NSW would welcome a coordinated, inter-jurisdictional strategy to assist cross-border communities with birth registration and gaining access to birth certificates.²¹⁴

Commission's view

- 3.163 The Commission acknowledges the particular challenges faced by communities living near, or on, state borders. The Commission further notes work undertaken by the Victorian Registry in 2009 on applications for birth certificates, and birth registrations, for Indigenous residents born in other jurisdictions. This work, undertaken as part of the Registry's Indigenous Access Project, accepted some 46 applications on behalf of people born in other states and territories, and forwarded these on to the appropriate state or territory registries for processing.²¹⁵
- 3.164 The Commission commends the Registry on this work and agrees with the suggestion by NSW Legal Aid that assistance should be provided to cross-border communities to help them to obtain birth certificates and register the birth of their children.

Recommendation

- 6 The Registry should consider how the work of the Indigenous Access Project could be expanded, to better facilitate birth registration and access to birth certificates for cross-border communities.**

- 3.165 Further, the Commission notes the current agreement between the NSW and Victorian registries, with regard to Albury residents who deliver at the Wodonga campus of Albury Wodonga Health Services. The Commission understands that this agreement was developed in response to the specific issues facing NSW residents following the closure of maternity facilities at the Mercy Hospital in Albury.²¹⁶ Therefore the Commission makes no further recommendations with regard to the expansion of interstate registration agreements at this stage.

212 See discussion at Parliament of New South Wales, *Interstate Birth Registration* (9 September 2009) <<http://www.parliament.nsw.gov.au>>.
213 Consultation 9 (MCH Team Meeting, Wangaratta).
214 Submission 9 (Legal Aid NSW).
215 Department of Justice (Victoria), *2008–2009 Annual Report* (2009) 175.
216 See discussion at Parliament of New South Wales, *Interstate Birth Registration* (9 September 2009) <<http://www.parliament.nsw.gov.au>>.

Registration, citizenship and access to health and welfare benefits

- 3.166 Neither the birth nor the registration of a birth in Australia confers Australian citizenship. However, if one or both parents of the child are permanent residents, or meet the relevant criteria (as discussed below), they and the child will be entitled to relevant Centrelink and Medicare benefits.
- 3.167 Australian citizenship and entitlement to welfare benefits are determined by other legislative criteria. The requirements of citizenship are set out in the *Australian Citizenship Act 2007* (Cth). The most common way of obtaining citizenship is by being born in Australia and by having a parent who is an Australian citizen or a permanent resident at the time of the birth.²¹⁷ Other ways include:
- if the person is ordinarily resident in Australia in the 10 years following their birth²¹⁸
 - if the person is an adopted person under state law²¹⁹
 - if the person has obtained citizenship by descent²²⁰
 - if the person is a permanent resident who makes application to the Minister for Immigration and Citizenship.²²¹
- 3.168 Entitlement to the baby bonus and paid parental leave scheme requires the applicant, and child in their care, to be an Australian resident,²²² and to meet the income test. Paid parental leave has certain additional work requirements.
- 3.169 A newborn child of up to 52 weeks of age can be added to a parent's Medicare card by the parent filling in the *Newborn child claim for paid parental leave, family assistance and Medicare* form.²²³ If the parent does not meet the income test for the payment, the form can still be used to enrol for Medicare. In the case of a bereavement payment, parents would be required to fill in the claim form for bereavement payment only.
- 3.170 If a child is over 52 weeks of age or is an adult who has not previously enrolled for Medicare, then a Medicare enrolment application is required along with identification, such as a birth certificate.²²⁴ If the person is Indigenous they may choose to fill in a separate enrolment form which accepts more flexible forms of identification (such as a birth extract). For Indigenous people who are unable to show identification, a referee can vouch for the person.²²⁵
- 3.171 The Medicare enrolment application does not make provision for Australian citizens who are resident in Australia and have not been enrolled previously. In the rare case that a person has never been enrolled, is not an Indigenous person, and does not possess an Australian or New Zealand passport, then a birth certificate would be required as proof of identity.
- 3.172 In the case of an unidentified abandoned child, the *Australian Citizenship Act 2007* (Cth) provides that the child is considered an Australian citizen unless the contrary is proven.²²⁶ Therefore, carers of a child in this situation would be able to access Medicare benefits on their behalf.
- 3.173 During consultations, the Commission heard that problems with a parent's residency

217 *Australian Citizenship Act 2007* (Cth) s 11A. The definition of permanent resident in s 5 of the Act includes those who may hold special category or special purpose visas. Special category and special purposes visas are outlined in ss 32 and 33 of the *Migration Act 1958* (Cth).

218 *Australian Citizenship Act 2007* (Cth) s 12.

219 *Ibid* s 13.

220 *Ibid* s 15A.

221 *Ibid* s 21(2).

222 A resident includes: an Australian citizen; the holder of a permanent resident visa; the holder of a special category visa (arrival on a New Zealand passport); or the holder of a particular temporary visa—either a 'partner provisional', 'interdependency', or 'temporary protection' visa: Department of Human Services (Commonwealth), *Baby Bonus* (21 May 2013) <<http://www.humanservices.gov.au>>.

223 Department of Human Services (Commonwealth), *Newborn child claim for paid parental leave, family assistance and Medicare form* (FA100.1301).

224 Department of Human Services (Commonwealth), *Medicare Card* (31 October 2012) <<http://www.humanservices.gov.au>>.

225 A full list of people permitted to provide references as to the identification of an Indigenous applicant is listed under 'No ID—No Worries!': Medicare Australia, *Aboriginal and Torres Strait Islander Medicare enrolment and amendment form* (905.02.08.10) 2.

226 *Australian Citizenship Act 2007* (Cth) s 14.

status in Australia can create barriers to the registration of a birth. The Commission was provided with an example of an itinerant worker giving birth in a regional area, but reluctant to engage with services, including registering the birth of their child or engaging with maternal and child health services, due to concerns about an invalid or expired visa.²²⁷

- 3.174 Immigration, citizenship and access to social and health services, such as Centrelink and Medicare, are within the purview of the Commonwealth. As such, the Commission is unable to make further recommendations about this issue, as it is beyond the scope of the terms of reference for this review.

Registration of birth in order to receive the baby bonus, paid parental leave and/or Medicare card

- 3.175 Consultation participants showed different levels of understanding of the eligibility requirements for Medicare, as well as whether a child needed to be registered for parents to receive the baby bonus or paid parental leave.
- 3.176 As outlined earlier in this chapter, under the *A New Tax System (Family Assistance) Act 1999* (Cth), parents are required to register the birth of their child (or to have applied to register their child) in order to receive the baby bonus or paid parental leave (including the bereavement payment).²²⁸
- 3.177 The application form states that proof of registration may be required for an application to be successful. The Commission was advised that in practice, proof of registration would only be requested in 'rare occurrences where there is evidence to suggest substantial doubt that the person has registered or applied to register their child.'²²⁹
- 3.178 One consultation participant stated that she had been asked to provide proof of registration of the birth of her second child. This participant felt that if this were routinely required, then more people would register their child in a timely manner.²³⁰
- 3.179 Unlike the baby bonus, there is no specific provision within the *Health Insurance Act 1973* (Cth) or the *Human Services (Medicare) Act 1973* (Cth) requiring registration in order to enrol for Medicare alone. However, because a single enrolment form is used for newborns up to 52 weeks of age, the *Newborn child claim for paid parental leave, family assistance and Medicare* form,²³¹ it is possible that an application for Medicare could be delayed if proof of registration was requested in relation to the Centrelink payments. However, as noted above, this occurs rarely.
- 3.180 Views expressed in consultations concerned both enrolment for Medicare and application for benefits. Some participants thought that a Medicare card could not be received without the registration of their child.²³² Others were more concerned about the application for, and receipt of, the baby bonus, citing this as the main reason they had registered their child.²³³ Finally, a number of participants had applied for the baby bonus but had not completed the registration of their child.²³⁴

227 Consultation 5 (MCH Team Meeting, Shepparton).

228 *A New Tax System (Family Assistance) Act 1999* (Cth) s 36(2)(c) and see Department of Human Services (Commonwealth), *Claim for Bereavement Payment* (FA008m.1301).

229 Letter from Barry Sanderson, Deputy Secretary Participation, Families and Older Australians, Department of Human Services (Commonwealth) to the Hon P.D. Cummins, Chair, Victorian Law Reform Commission, 6 December 2012.

230 Consultation 17 (Immunisation session, Flemington).

231 Department of Human Services (Commonwealth), *Newborn child claim for paid parental leave, family assistance and Medicare* (FA100.1301).

232 Consultation 17 (Immunisation session, Flemington).

233 Consultations 8 (New Parents Group, Wangaratta); 20 (Dandenong Hospital).

234 Consultations 9 (MCH Team Meeting, Wangaratta); 28 (Connect Ed, Horsham College).

- 3.181 Several consultation participants felt that proof of registration should be required for newborn payments to be issued.²³⁵ These participants felt that linking Centrelink and birth registration processes would encourage more timely birth registration.²³⁶

Commission's view

- 3.182 One way of providing proof of registration would be for the Commonwealth to have access to state registries. The Commission understands that no disclosure of information or data-matching arrangements of this kind currently exist between the Registry and the Commonwealth Department of Human Services. The Department of Human Services commented:
- While the department has investigated opportunities to assist in increasing birth registrations, including the possibility of data matching with birth registries, the department does not have any existing MoUs with any state or territory registry of births, deaths and marriages in relation to verification of registration of births.²³⁷
- 3.183 The Victorian Registry has advised the Commission that it would consider introducing a data-matching arrangement with the Commonwealth because data matching would promote birth registration and help new parents to receive the baby bonus.²³⁸ The Commission understands that this is a view held by a number of state registries. However, it appears that to date the States and the Commonwealth have been unable to agree on the details of the arrangement.²³⁹
- 3.184 The Commission supports the current legislative requirement to register, or to have applied to register, the birth of a child before the baby bonus or parental leave can be paid.²⁴⁰ The Commission understands that the current system, which requires a declaration and follow-up only in rare cases, allows for efficient application for and receipt of benefit.
- 3.185 The Commonwealth Department of Human Services wishes eligible applicants to have easy access to payments.²⁴¹ It would not, for example, be ideal to implement a system that delayed new parents from receiving their newborn payments or a Medicare card.
- 3.186 However, the Commission is concerned that an opportunity to use the strong incentive of the receipt of newborn payments to encourage register of the birth of a child is not being fully utilised.²⁴² Data matching would appear to provide a benefit to both the state and Commonwealth. Being able to check for registered births would help the Commonwealth meet its goal of ensuring all eligible parents can access payments. For the State, data matching with Centrelink records could flag to the Registry where a potential registration has not occurred and enable follow up by the Registry.
- 3.187 The streamlining of processes between state and federal agencies is discussed in the following section.

235 Consultation 13 (New Parents Group, Mildura South).

236 Consultations 13 (New Parents Group, Mildura South); 18 (New Parents Group, Dandenong North).

237 Letter from Barry Sanderson, above n 229. While no specific data-matching protocol is in place, the Commission has been advised that the Registry has entered into other data-sharing arrangements (unspecified) with the Department of Human Services (Centrelink). No further information regarding the detail of this arrangement was provided to the Commission: Letter from Erin Keleher, above n 52.

238 Meeting of Erin Keleher, Victorian Registrar of Births, Deaths and Marriages and Carolyn Gale, Executive Director Community Operations and Safety, Department of Justice with the Hon P.D. Cummins, Chair, Victorian Law Reform Commission, 6 December 2012.

239 Ibid.

240 *A New Tax System (Family Assistance) Act 1999* (Cth) s 36(2)(c).

241 See letter from Barry Sanderson, above n 229.

242 Consultation 21 (MCH Team Meeting, Warragul).

Recommendation

- 7 The Registrar should have further discussions with the Commonwealth Department of Human Services on data matching of birth registration information to promote greater compliance with both state and federal legislation.

Streamlining processes

- 3.188 There was considerable support in consultations and submissions for streamlining and integrating processes between agencies, both federal and state.²⁴³
- 3.189 Consultation participants highlighted the duplication of time and effort in completing forms and the potential barriers created by multiple reporting requirements, for example, between the Registry and Centrelink, and, in some instances, Medicare.²⁴⁴ Consultation participants questioned why government bodies could not better coordinate services and make the registration process more streamlined.²⁴⁵ Participants supported improved links between state and federal government systems, particularly in the area of birth registration.²⁴⁶ Suggestions included:
- having one form for birth registration and the application for a newborn payment, as discussed above;²⁴⁷
 - greater cooperation between state and federal agencies in the sharing of information with regard to births registered and applications for newborn payments (as discussed in the previous section).²⁴⁸
- 3.190 Other participants went further, suggesting that there should be a more citizen-focused approach to creating identity. This proposal supported the idea that children should receive identity documents together, for example a birth certificate accompanied by a Medicare card.²⁴⁹ Another suggestion was that linking Medicare to registration would 'capture people in the first instance'.²⁵⁰
- 3.191 The australia.gov.au²⁵¹ initiative was highlighted as a better way of linking up a number of services. Participants acknowledged that while this currently only involved a limited number of federal agencies, it could be expanded or adapted to include state-based agencies such as the Registry.²⁵²
- 3.192 The Commission is aware of current discussions at a national level concerning the development of a more integrated approach to birth registration and birth certificates.

243 Consultations 4 (Shepparton Justice Service Centre); 14 (Mildura Base Hospital).

244 Consultations 13 (New Parents Group, Mildura South); 16 (MCH Team Meeting, Robinvale).

245 Consultation 20 (Dandenong Hospital).

246 Consultation 26 (Gippsland East Aboriginal Driver Education Program).

247 Consultation 13 (New Parents Group, Mildura South).

248 Consultations 4 (Shepparton Justice Service Centre); 14 (Mildura Base Hospital); 18 (New Parents Group, Dandenong North).

249 Consultation 4 (Shepparton Justice Service Centre).

250 Consultation 21 (MCH Team Meeting, Warragul).

251 The australia.gov.au site provides a gateway to information and services on around 900 Australian Government websites as well as selected state and territory resources. Most material indexed by this site is created and stored externally to the site and is, therefore, the responsibility of the authoring department or agency. The Department of Finance and Deregulation is responsible for the development and ongoing operation of this site: Australian Government, *About* <<http://australia.gov.au>>.

252 Consultation 31 (The Royal Women's Hospital).

- 3.193 These discussions stem from a project based in Armidale, New South Wales involving the University of New England, Community Mutual²⁵³ and local schools in the area. The project is aimed at raising the profile of birth registration and birth certificate issues. Federal Ministers have agreed in principle to explore options for a more coherent system for birth registration and obtaining birth certificates.²⁵⁴ Further discussion of this work is contained in Chapter 7.
- 3.194 The Commission is aware of examples in other jurisdictions with a federal system of government, that have brought together both state and provincial agencies to enable a streamlined birth registration system. Details of the Canadian system are outlined below.

National birth registration scheme—Canada

- 3.195 Like Australia, Canada has a federal system of government. In 2009, the Canadian federal government and participating provinces, Alberta, British Columbia, Manitoba, Nova Scotia, Ontario, Prince Edward Island, Quebec and Newfoundland and Labrador, launched the national birth registration scheme.²⁵⁵
- 3.196 The Newborn Registration Service (NRS) is a ‘fully electronic application for the birth registration’ of newborns.²⁵⁶ Each province jointly funds the service with the Federal Government and the service amalgamates provincial and federal requirements and services into one application.²⁵⁷ This avoids the requirement of providing similar information to different levels of government in a multitude of application forms.²⁵⁸
- 3.197 The benefit of the NRS, as stated by the Ontario government, is that:
- this partnership results in better customer service, faster processing of applications and improved security and integrity of personal information for Ontario newborns.²⁵⁹
- 3.198 The NRS is a platform which enables parents to apply and register for various government services concurrently in one simple transaction, provided they meet certain criteria (for example, only the mother of the child can make an application for child benefits in Canada).
- 3.199 Specifically, the NRS enables parents to complete their child’s birth registration and apply for the child’s Social Insurance Number in one application.²⁶⁰ In British Columbia and Ontario, the NRS also facilitates the application for a birth certificate.²⁶¹ Additionally, in all participating provinces, except for Newfoundland and Labrador, the application process also enables parents to apply for Canada Child Benefits, including the Canada Child Tax Benefit, the Universal Child Care Benefit and the GST/HST credit.²⁶²
- 3.200 All information provided by parents on the birth registration form is electronically transmitted to the Canada Revenue Agency.²⁶³ The application process is free²⁶⁴ but a fee is payable for a birth certificate.²⁶⁵

253 The Community Mutual Group contains three regional credit unions in the New England and North West regions. The Group is the largest inland community credit union in Australia, with a member base of approximately 70,000 and an asset base of almost \$1 billion: The Community Mutual Group, *About Us* <<https://www.communitymutual.com.au>>.

254 Radio National, ‘Calls for Australian babies to get free birth certificates’, *RN Drive*, 12 February 2013 (Waleed Aly).

255 Government of Canada, *Newborn Registration Service* (11 January 2013) <<http://www.servicecanada.gc.ca>>.

256 ServiceOntario, *Newborn Registration Service* (10 March 2013) <<https://www.orgforms.gov.on.ca>>.

257 Government of Canada, above n 255.

258 Ibid.

259 ServiceOntario, above n 256.

260 Government of Canada, *Having a Baby* (11 January 2013) <<http://www.servicecanada.gc.ca>>.

261 Ibid.

262 Ibid.

263 Ibid.

264 Service Alberta, *Registration of Births* (2013) <<http://servicealberta.gov.ab.ca/779.cfm>>; British Columbia, *Online Birth Registration* <<https://ebr.vs.gov.bc.ca>>; Manitoba, *Fees and Services* <<http://vitalstats.gov.mb.ca>>. Service Nova Scotia and Municipal Relations, *Live Birth Registration* (April 2013) <<http://www.gov.ns.ca>>; Services Québec, *Birth* (15 March 2013) <<http://www.etatcivil.gouv.qc.ca>>; Newfoundland and Labrador, *Bundled Birth Services* (16 April 2013) <<http://www.servicentl.gov.nl.ca>>; ServiceOntario, *Newborn Registration Service* (10 March 2013) <<https://www.orgforms.gov.on.ca>>.

265 British Columbia, *Online Birth Registration* <<https://ebr.vs.gov.bc.ca>>; ServiceOntario, *Newborn Registration Service* (10 March 2013) <<https://www.orgforms.gov.on.ca>>.

- 3.201 The Commission has outlined the Canadian scheme as it provides an example of an integrated model working within a federal system of government not unlike Australia's. The Commission believes there is scope and merit in both state and federal governments exploring the possibility of a similar service working in Australia.
- 3.202 The Commission is unable to provide further comment on what an integrated model may look like in an Australian context, as it is outside the terms of reference of this review.

Birth certificates

- 50** **Current law**
- 51** **Current practice**
- 56** **Community responses**

4. Birth certificates

Current law

- 4.1 A birth certificate is an official document that outlines the particulars of a person's legal identity. It is a document of the birth record and cannot be issued without the birth first being registered. Two of the objectives of the Registry are to provide for:
- access to information in the registers in appropriate cases by government, private agencies and members of the public, from within and outside the State;¹ and
 - the issue of certified and uncertified information from the registers.²
- 4.2 The *Births, Deaths and Marriages Registration Act 1996* (Vic) (the Act) provides for the issue of a certificate confirming particulars contained in an entry, subject to the payment of a prescribed fee. The prescribed fee is set out in *Births, Deaths and Marriages Registration Regulations 2008* (Vic) (the Regulations).³ At present the fee for a standard birth certificate in Schedule 2 of the Regulations is \$28.60.⁴
- 4.3 Victoria is not unique in charging a fee. All Australian jurisdictions charge a fee for a birth certificate, ranging from \$26 to \$50.
- 4.4 The Registrar has the power to remit the whole, or part, of the fee in appropriate cases.⁵ There are no publicly available guidelines or criteria that describe the attributes of an 'appropriate' case. Further discussion on fees in Victoria and other jurisdictions is contained in Chapter 5.
- 4.5 A birth certificate is admissible in legal proceedings as evidence of the facts recorded on it.⁶ Section 47 of the Act requires the Registrar to maintain a written statement of the policies on which information contained in the Register is to be given or denied to a person or agency requesting information. The Registrar must provide a copy of the statement to any person on request.⁷
- 4.6 The Registry's access policy is available on its website and contains advice on who may access restricted records,⁸ as well as the Registry's requirements for access to be granted.⁹ It also notes that the Registrar may reject an application for access to a record if the applicant does not meet the requirements of the access policy.¹⁰

1 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 3(d).

2 *Ibid* 3(e).

3 *Ibid* s 46.

4 *Births, Deaths and Marriages Registration Regulations 2008* (Vic) sch 2.

5 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 49.

6 *Ibid* s 46(2).

7 *Ibid* s 47.

8 Birth records are restricted from public access for 100 years or until the person has passed away, whichever is the later: Victorian Registry of Births, Deaths and Marriages, *Access Policy* (30 October 2012) <<http://www.bdm.vic.gov.au>> ('Access Policy').

9 *Ibid*. The policy has 7 sections and 23 sub-sections of categories of individual/organisation that may access the registers and on what basis access may be provided.

10 *Ibid*.

- 4.7 The Act allows for a person whose interests are affected by a decision of the Registrar to apply to the Victorian Civil and Administrative Tribunal (VCAT) for a review of the decision.¹¹ An application for review must be made to VCAT within 28 days of:
- the day on which the decision is made; or
 - the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of the *Victorian Civil and Administrative Tribunal Act 1998* (Vic) that a statement of reasons will not be given.¹²

Current practice

- 4.8 The majority of parents apply for a birth certificate for their child at the time of registration.¹³ An application for a birth certificate may also be made because a birth certificate has been lost, stolen or damaged, or a person may have only an extract of birth entry (if born prior to 1996) and require a standard birth certificate as proof of identity.
- 4.9 Birth certificates can be issued at any stage after the birth of a child is registered. The process for obtaining a certificate will differ depending on whether the application is made:
- at the same time as the birth registration statement is processed
 - after the birth has been registered, but before the child turns 18
 - when the applicant is an adult (over 18 years of age).
- 4.10 Registry identification requirements will vary depending on the stage at which the application is made. Essentially two types of birth certificate application are discussed in this chapter:
- the Part 2 application at the time the birth registration statement is submitted (**Appendix C**), and
 - the birth certificate application form used in any other circumstance (**Appendix D**).
- 4.11 The Registry provides a range of options for birth certificates. The types of certificate available at the time of registration include:
- a standard birth certificate (to be used as proof of identity)
 - an abridged certificate
 - a commemorative certificate.
- 4.12 A standard or abridged certificate can also be applied for at any time after registration by filling in the birth certificate application form (either hard copy or online). An application for a commemorative birth certificate can be made at the time of the birth registration and a standard certificate is issued at no cost. If a commemorative certificate is applied for at a later time, the same fee applies but no standard certificate is issued.¹⁴ (See **Appendix D**). Other types of birth certificate are also available but are not within the scope of this review.¹⁵

11 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 52(1).

12 *Ibid* s 52(2).

13 Current data available from the Registry does not separate new birth registrations from applications for birth certificates. The Commission is therefore unable to provide accurate data on the numbers of registrations which are accompanied by an application for a birth certificate, and those which are not. The Registry has informed the Commission that despite aggregate figures, the vast majority of applicants who submit a birth registration statement apply for a birth certificate at the same time: Letter from Erin Keleher, Victorian Registrar Births, Deaths and Marriages to David Jones AM, Acting Chair, Victorian Law Reform Commission, 20 August 2012.

14 Victorian Registry of Births, Deaths and Marriages, (15 November 2012) *Commemorative Birth Certificate Application Form* <<http://www.bdm.vic.gov.au>>.

15 These additional certificate options include: a historical certificate; an historical uncertified image; a replaced change of name certificate; and a deed poll certificate. See Appendix D.

- 4.13 While an extract of birth entry was previously sufficient for some identification purposes, this is no longer the case in Victoria or any other Australian jurisdiction.
- 4.14 All other state and territory registries issue standard certified birth certificates and commemorative uncertified certificates. The standard certificate is available separately and is the only version that is certified and therefore useful for identification purposes. The standard and commemorative certificates are available as a package for a prescribed fee (**Appendix E**).
- 4.15 Until August 2008 the NSW Registry issued a birth card.¹⁶ Birth cards were introduced as an alternative to a birth extract. However, they are no longer issued, as they are not considered an acceptable form of identification by other authorities. Those cards already issued remain valid until their expiry date. The cards carried the same information as a birth extract, along with a photograph and signature of the holder. The Department of Foreign Affairs and Trade (Commonwealth) notes that birth cards still in circulation should not be accepted after 1 August 2013.¹⁷

Privacy and fraud prevention

- 4.16 When an application for a birth certificate is made at a time other than the registration of a birth, question 9 of the birth certificate application form asks the applicant to provide reasons for seeking the birth certificate (**Appendix D**).
- 4.17 The Registry has informed the Commission that for the purposes of audit, document verification and identity fraud prevention, an audit database is maintained by the Registry, which captures information relating to:
- the number of certificates issued from a record
 - the type of certificate/s issued
 - the date of issue
 - the names and contact details of all people to whom a certificate/s has been issued.¹⁸
- 4.18 The audit database also captures the reasons provided for the issue of a certificate, such as a lost or stolen certificate. The Registry has informed the Commission that where the Registry:
- detects a pattern of frequently requested certificates or an external agency (Passport office, police or other enforcement agency) advises that the certificate is lost or stolen, the Registry places an alert on the record and refers the matter to its Identity Security Unit for further investigation.¹⁹
- 4.19 If the nominated reason for the application is listed as a stolen certificate, the Registry may request confirmation by police report. No figures are available for how often confirmation requests are made. The application form further notes that:
- If you do not provide all of the information requested, particularly that relating to the reason the document is required and your relationship to the registered person, then you may not be provided with a certified copy of the certificate.
- 4.20 The Commission understands that when deciding whether to issue a birth certificate, the Registry considers who the applicant is (in line with the access policy), their connection to the record and their reason for wanting the certificate.²⁰

16 NSW Registry of Births, Deaths and Marriages, *Frequently Asked Questions* <<http://www.bdm.nsw.gov.au>>.

17 Department of Foreign Affairs and Trade (Commonwealth), *Born in Australia* <<http://www.dfat.gov.au>>.

18 Letter from Erin Keleher, Victorian Registrar of Births, Deaths and Marriages to the Hon P.D. Cummins, Chair, Victorian Law Reform Commission, 21 February 2013.

19 Ibid.

20 Ibid. The Registry makes available online a 'Third party authority form' (AF201202) which enables persons who are not entitled under the Registry's Access Policy, to submit a form which authorises access, provided that it is signed by a person entitled to apply for a certificate: Victorian Registry of Births, Deaths and Marriages, *Third Party Authority Form* (15 November 2012) <<http://www.bdm.vic.gov.au>>.

Determining if the birth is registered

Personal searches of the Register

- 4.21 If a person is unsure whether their birth is registered, they are required to make an application for a birth certificate and attach certified copies of identity documents, as well as payment of the prescribed fee. At present individuals are unable to search the Register online.²¹
- 4.22 There is currently no information on the Registry website advising how a person can go about finding out whether their birth has been registered. This is in contrast to the Tasmanian Registry which explains on its website how a parent can check whether their child's birth has been registered.²²
- 4.23 On receipt of a birth certificate application, the Registry will conduct a search of the Register on the basis of the details provided.²³ The scheduled fee for a search of the Register is \$14.30.²⁴ If no record is found matching the details provided, the Registry will inform the applicant accordingly.
- 4.24 In its submission to the Commission the International Commission of Jurists—Victoria noted that:
- many people were finding negotiating the bureaucratic requirements for obtaining a birth certificate, conducting registry searches to find out whether their birth was actually registered (and under what name) and coming up with the prescribed fee, to be obstacles that were too difficult to overcome.²⁵
- 4.25 The Commission discusses the availability of an exemption from fees for birth certificate applications in Chapter 5. This discussion would also be relevant to a person seeking to establish whether they were registered, as this is essentially the first stage of an application for a birth certificate.
- 4.26 This issue is also discussed in more detail in Chapter 6, in relation to members of the Stolen Generations, former state wards and vulnerable groups.

Verifying registration to a third party

- 4.27 The Registry does not provide any documentation of the receipt of an application for registration, or of the registration itself, apart from the issue of a birth certificate.
- 4.28 If a person does not apply for a certificate at the time of registration, there is nothing provided to them that they can use to prove that the application has been made or that the birth has subsequently been registered.
- 4.29 The Registry will provide a letter of confirmation of the facts of a register entry on request.²⁶ However, no information is provided publicly about this option. The Commission is unaware of whether a fee is charged for this service. The Commission has been advised that the Registry receives several requests each week for this type of confirmation, generally from agencies such as Centrelink, rather than from individuals.²⁷

21 At present only historical search information is available through VicHeritage, and requires payment of the required fee. Birth information is not available to the public for 100 years, or after the death of the person, whichever comes first.

22 Tasmanian Registry of Births, Deaths and Marriages, *Late registrations* (29 November 2012) <<http://www.justice.tas.gov.au>>.

23 In one consultation the Commission was told that it helps to know what jurisdiction the applicant thinks they were born in because if they are unsure, a birth certificate application will need to be sent to each jurisdiction the applicant thinks they may have been born in.

24 *Births, Deaths and Marriages Registration Regulations 2008* (Vic) sch 2.

25 Submission 5 (The International Commission of Jurists—Victoria).

26 Letter from Erin Keleher, above n 18.

27 Ibid. The Registrar informed the Commission that the Registry issued approximately 300 such letters in 2012.

- 4.30 The issue of a confirmation of registration was also raised during consultations,²⁸ usually in the context of a requirement to supply proof of registration when applying for newborn payments from Centrelink.²⁹
- 4.31 Some consultation participants noted that the paper receipt given for the fee paid for the birth certificate application when lodged at the Registry or a justice service centre is often used for such purposes.³⁰ However, in these cases, because a fee was paid, the person would have also intended to apply for a birth certificate. Where a child is registered without an application being made for a birth certificate, there is no fee payable and hence no fee receipt.
- 4.32 There would also be instances where a birth certificate was obtained at the time of registration but is not subsequently available to prove that the birth was registered. A person may wish to have a confirmation of registration without paying a fee to obtain a new birth certificate if the certificate has been lost or stolen. Similarly, where the birth certificate is temporarily unavailable, for example, in a domestic violence situation where one parent may be forced to flee without taking personal documents.

Commission's view

- 4.33 The Commission notes that very few births are registered without an application for a birth certificate being made at the same time. Given that this is a rare event, the Commission considers that there would be minimal resourcing implications for the Registry to provide the applicant with automatic confirmation of receipt of the registration application at the time of registration.
- 4.34 In the vast majority of registrations, the birth certificate provides proof of registration and no further documentation is necessary.
- 4.35 For cases where a person or agency subsequently requires proof of registration, the current system of providing a letter on request appears to be a sufficient response.
- 4.36 However, the Commission is of the view that information about how to obtain such a letter should be more readily available.
- 4.37 The Commission is aware that the Registry intends to provide greater access to Registry services online in the future. It may be possible, for instance, for an individual to go online, and confirm their birth registration.
- 4.38 However, until this time, the Commission recommends that the Registrar, in circumstances where the applicant is not an eligible beneficiary (see Recommendation 13), should confirm the registration of the birth of a child where a birth registration statement is received without an application for the issue of a birth certificate.

28 Consultations 28 (Connect Ed, Horsham); 32 (Mercy Hospital for Women).

29 Consultations 13 (New Parents Group, Mildura South); 15 (Mildura Justice Service Centre).

30 Consultation 15 (Mildura Justice Service Centre).

Recommendation

- 8 Where the applicant is not an eligible beneficiary, the Registrar should issue an automatic confirmation of registration to the applicant, upon processing a birth registration statement, if no accompanying application for a birth certificate is received. This should occur until such time that it is possible to go online and confirm birth registration.

The confirmation should be an uncertified document for the purpose of acknowledging the registration of birth only.

There should be no fee payable for a confirmation of registration.

Obtaining a birth certificate at the time of registration

- 4.39 Parents do not automatically receive a birth certificate by submitting a birth registration statement.
- 4.40 In practice the birth registration application and birth certificate application can be undertaken at the same time. Birth registration statement application forms, which include the Part 2 application for a birth certificate, are given to new mothers prior to discharge from hospital. If a birth occurs outside a hospital, the forms are provided by the attendant midwife or medical practitioner.
- 4.41 Birth certificate applications made at the same time as the birth is registered do not require accompanying identification to be produced. However, a fee is payable with the application.

Obtaining a birth certificate for a child after the birth has been registered

- 4.42 If a child (or parent/legal guardian of a child) wishes to apply for a birth certificate after the birth has been registered, then three forms of identification must be provided with the application:
- list 1: evidence of link between photo and signature³¹
 - list 2: evidence of operating in the community³²
 - list 3: evidence of current residential address.³³
- 4.43 If a person is under 18 years of age, and is unable to submit all three identity documents, a list 2 document can be a:
- Medicare card showing the child's name
 - current school report card or exam certificate.³⁴

31 See *Application for a Victorian Birth Certificate* (November 2012), Appendix C. For example, an Australian driver's licence (or learner permit), Australian Passport, Australian firearm licence or overseas passport. If you cannot provide a document from list 1, you must provide two from list 2 and one from list 3.

32 Ibid. For example, Medicare card, credit card or ATM card, Australian Security guard or crowd controller licence, marriage certificate issued by the Victorian Registry, student or tertiary education identity card, Australian Citizenship Certificate, Standard Birth Certificate issued in Australia, Department of Veterans' Affairs card or Working with Children Check Card.

33 Ibid. For example, utility account, rates notice, bank statement, current lease or tenancy agreement, superannuation fund statement. A Centrelink concession card is now accepted as a list 2 document on the November 2012 birth certificate application. A list 3 document must show the applicant's current residential address, and a list 1 document may also be used as a list 3 document if it shows current residential address.

34 Ibid. The updated Birth Certificate Application Form (November 2012) has removed 'current mobile phone bill' as a substitute identity document for people under 18 who are unable to submit all three identity documents for the purpose of obtaining a birth certificate.

- 4.44 The Registry has additional requirements for a person applying for a birth certificate on behalf of a child for whom they are not the parent or legal guardian, including providing reasons why that person seeks access to the restricted records.³⁵ Further discussion of issues relating to access by third parties is provided later in this chapter.

Obtaining a birth certificate as an adult

- 4.45 If a birth certificate is required when a person is an adult, the requirements for identification are more stringent.
- 4.46 An application form must be submitted with certified copies of identity documents. Alternatively, original identity documents may be produced if the applicant attends a Registry customer service centre or a justice service centre in person. The form lists the identity documents required and sets out how to certify the identity documents. The Registry's website provides further information about proof of identity documents.³⁶
- 4.47 Some people find obtaining identity documents to be a circular process. Some of the documents required to obtain a birth certificate (for example, a driver's licence or passport) often cannot be acquired without first producing a birth certificate. In addition, having to provide proof of a current residential address on at least one piece of identification may pose problems for people who are homeless or have no fixed abode. The specific issues faced by vulnerable people are discussed further in Chapter 6.
- 4.48 The Registry notes on the application form for a birth certificate that a person unable to meet the proof of identity requirements may contact the Registry direct.³⁷

Community responses

The importance of a birth certificate

- 4.49 In previous chapters the Commission outlined that while birth registration is of primary benefit to the state, it is the birth certificate that is important to the individual. A number of submissions focused specifically on this issue. In its submission Legal Aid NSW noted that:

Lack of access to birth documents can have a significant impact on a person's life, limiting their capacity to participate in family, cultural, social and economic activities, their access to employment opportunities and the likelihood that they will come into contact with the criminal justice system.³⁸

- 4.50 The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) argued that birth certificates are essential to the individual in order to exercise their legal rights, be recognised as a person before the law, and participate in vital activities in daily life.³⁹ The Law Institute of Victoria (LIV) also highlighted this issue, stating that:

Birth registration and access to a birth certificate evidencing registration are fundamental to engaging with all aspects of our society and underpins a person's ability, for example, to access government services and benefits, to obtain employment and pay taxes, to obtain a driver licence, to open a bank account, to marry and to apply for a passport. They can also impact native title rights.⁴⁰

35 *Access Policy*, above n 8, 7.23.0: *Primary Carers of a Person under Care*.

36 Victorian Registry of Births, Deaths and Marriages, *Proof of Identity* (15 November 2012) <http://www.bdm.vic.gov.au> ('*Proof of Identity*').

37 The application form is available online at Victorian Registry of Births, Marriages and Deaths <www.bdm.vic.gov.au>.

38 Submission 9 (Legal Aid NSW).

39 Submission 7 (VEOHRC).

40 Submission 6 (Law Institute of Victoria).

4.51 Finally, the Castan Centre contended:

Modern life increasingly brings to the fore demands for the proof of personal identity. Life without a birth certificate is much harder today than it was in the past, and is a necessary adjunct to participation in many important aspects of life – education, participation in the financial system, personal mobility, participation in the work force, and access to a wide range of government services. Without a birth certificate a person’s life and horizons today are severely limited.⁴¹

4.52 During consultation the Commission heard personal accounts of the practical and symbolic importance of a birth certificate. One such story is highlighted below.

Case study

A participant, a member of the Stolen Generations, explained that as a result of removal from his birth mother, and subsequent adoption and multiple name changes, he did not have his birth certificate (either original or amended). Obtaining a copy had been both difficult and traumatic for him.

The participant felt that his lack of a birth certificate presented both a practical and a symbolic barrier to his involvement in the community. The participant felt that a birth certificate was a way to feel a part of the community.⁴²

4.53 The Commission also heard of the experiences of disadvantaged young people without a birth certificate.

Case study

Students from the ConnectEd program in Horsham⁴³ discussed the difficulties they faced in attempting to obtain a tax file number (TFN) from the Australian Taxation Office (ATO). The ATO’s proof of identity requirements state that a person must show a passport, certificate of citizenship or birth certificate as a primary document.⁴⁴ Many vulnerable young people in the program had none of these. Often ConnectEd students did not possess a birth certificate due to parental disengagement or estrangement.⁴⁵

One student said they had been taxed at the highest, default rate, because they did not have a TFN.⁴⁶ The consequences of not having a birth certificate went beyond the students’ inability to obtain a TFN. Some students also discussed their desire to apply for their learner driver permit. They were aware that lack of a birth certificate could prevent them from obtaining the permit.⁴⁷

4.54 The points raised in submissions and the case studies above illustrate the importance that a birth certificate plays in allowing a person to participate fully in the community. The following sections outline some of the barriers members of the community may face in attempting to obtain a birth certificate.

41 Submission 10 (Castan Centre for Human Rights Law—Monash University).

42 Consultation 6 (Ovens and King health and community workers & co, Wangaratta).

43 The Commission met with students and teachers at the ConnectEd Off Campus Program in Horsham. The ConnectEd Program caters for around 55 students at one time. The students who attend the campus are teenagers aged between 11 and 21, who have disengaged from mainstream education. The Commission met with students and a young mothers group.

44 Australian Taxation Office, *Tax File Number—Application or Enquiry for Individuals*, (19 April 2013) <<http://www.ato.gov.au>>.

45 Consultation 28 (ConnectEd, Horsham College).

46 Ibid.

47 Ibid.

Barriers to obtaining a birth certificate—proof of identity

- 4.55 During consultation a number of general barriers to obtaining a birth certificate were raised. Specific points such as the cost of a birth certificate and the methods of payment are discussed in Chapter 5.
- 4.56 The Registry’s stringent proof of identity requirements are founded in concern about identity fraud. However, proof of identity issues were one of the main barriers raised in consultations for people trying to obtain a birth certificate as a teenager or adult. The Castan Centre noted that applicants often struggled to satisfy the Registry’s requirements:
- If people do not obtain a birth certificate at birth, or it requires later replacement, more onerous requirements for proof of identity of the person concerned arise.⁴⁸
- 4.57 As outlined in paragraph [4.42], the birth certificate application form (**Appendix D**) contains three lists from which an applicant must provide evidence. List 1 requires provision of an Australian passport, an Australian driver’s licence (or learner permit), an Australian firearm licence or an overseas passport. To obtain any of these documents in the first instance a birth certificate must usually be provided.⁴⁹
- 4.58 The form notes that the applicant can provide two documents from list 2 if unable to provide a document from list 1.⁵⁰
- 4.59 The Castan Centre noted that:
- Items included in the first list all ultimately require that the person concerned has previously possessed a birth certificate. Items in the second list generally, though not always, also require that the person concerned has previously been issued with a birth certificate. Items in the third list require that the person concerned possess a fixed place of abode.⁵¹
- 4.60 The Castan Centre submitted that there are some inconsistencies on the form that make it confusing. They note that the large print on the form states that an applicant must provide three identity documents, one from each of the three lists. This instruction is contradicted by information under the three defined lists that states that two items from list 2, and one from list 3 may be acceptable if no item from list 1 is available.⁵²
- 4.61 The Castan Centre suggests that people may be deterred well before reaching the information about alternative options. The Castan Centre suggests redesigning the form, to show at the start of the relevant section that there are other options.⁵³
- 4.62 During consultations, the Commission heard that difficulties with proving identity often affect vulnerable and/or disadvantaged groups disproportionately. The Mildura justice service centre, for example, noted that disadvantaged people often have less documentary identification and so struggle to meet requirements for 100 points of identification.⁵⁴ Consultation participants noted that this often becomes a circular problem when the person is also attempting to obtain a copy of their birth certificate.⁵⁵

48 Submission 10 (Castan Centre for Human Rights Law—Monash University).

49 See Department of Foreign Affairs and Trade (Commonwealth), *Application for an Australian Passport* (August 2012); Vic Roads, *Evidence of Identity Documents* (12 February 2013) <<http://www.vicroads.vic.gov.au>>; Victoria Police, *Victorian Firearm Licence Application Form* (8 August 2012). Overseas passport identification requirements are not relevant to this review.

50 *Application for a Victorian Birth Certificate* (November 2012), Appendix D.

51 Submission 10 (Castan Centre for Human Rights Law—Monash University).

52 Ibid.

53 Ibid.

54 Consultation 15 (Mildura Justice Service Centre).

55 Ibid.

- 4.63 Participants involved with the Gippsland East Aboriginal Driver Education Program suggested that more could be done to impress on people the importance of registering a birth and obtaining a birth certificate at the time of birth.⁵⁶ Likewise, the convenor of a young parenting group commented that young people can become discouraged about applying for a birth certificate due to the ‘hurdles that need to be jumped’.⁵⁷ Often the young parent(s) themselves do not have a birth certificate.⁵⁸
- 4.64 The Castan Centre suggests that onerous proof of identity requirements may do more harm than good, impeding more important public aims:
- Proof of identity is demanded increasingly frequently in contemporary Australian society. While birth certificates obviously provide one generally effective means of satisfying such needs, in many bureaucratic situations other forms of documentation may be equally appropriate. Government administrative policies and practices should require no greater “proof” than the situation demands, and, where possible, a wide range of alternatives should be accepted, particularly where Indigenous or other CALD groups are concerned.⁵⁹

Commission’s view

- 4.65 The Commission considered an alternative approach that the Registry could employ to address the barriers faced by some people in meeting the proof of identity requirements.
- 4.66 The Commission notes the Medicare Australia’s *No ID—No Worries* program for Indigenous people provides a flexible approach to proving identity. The Aboriginal and Torres Strait Islander Medicare enrolment and amendment form provides for an approved referee to certify identification documents (if mailing the form). If a person is unable to produce the required proof of identity documents, the approved referee can fill in the proof of identity section on behalf of the applicant.⁶⁰ The approved referee provides a statutory declaration to verify the person’s identity.
- 4.67 While the Commission acknowledges the steps taken by the Registry to ensure the privacy of the data held on its Register, it feels that the Registry could consider alternative methods for vulnerable or disadvantaged groups to satisfy the proof of identity requirements.
- 4.68 The Commission recognises that the issue of identity fraud is of greater significance to the Registry than it possibly is for Medicare, given that a birth certificate is a primary identification document. For this reason, while acknowledging the difficulties some people face, the Commission considers that on balance the need for protection against identity fraud requires the Registry to continue to require a high standard of proof of identity before it will issue a certificate.
- 4.69 The Commission does, however, consider that some minor amendments to the birth certificate application form (including the online birth application facility) could make the requirements clearer, particularly the alternative requirements that apply if no identity document from list 1 is available.

56 Consultation 26 (Gippsland East Aboriginal Driver Education Program).

57 Consultation 25 (Young, Pregnant and Parenting Group, Lakes Entrance).

58 Ibid.

59 Submission 10 (Castan Centre for Human Rights Law—Monash University).

60 An approved referee can be a community elder, medical/health manager/nurse, school principal, permanent Commonwealth employee with five or more years of continuous service, council chairperson, minister of religion, welfare organisation worker. The referee must have known the applicant for six months or confirm who they are by using medical, school or church records: Medicare Australia, *Aboriginal and Torres Strait Islander Medicare enrolment and amendment form* (905.02.08.10).

Recommendation

- 9 The Registrar should consider improving the presentation of the proof of identity section of its application for a birth certificate. In particular, the application should make it clear to applicants that other options are available if they do not possess a list 1 identity document.

Barriers to obtaining a birth certificate—certification of identity documents

- 4.70 Copies of identity documents must be certified before they are submitted to the Registry by post along with the application for a birth certificate. The documents must be certified by a sworn police officer or a justice of the peace (JP) located in a police station.⁶¹ The requirement to certify copies of identity documents was raised in consultations and in submissions as a barrier to obtaining a birth certificate.
- 4.71 Some members of the Indigenous community and other vulnerable people who may have had involvement with the criminal justice system find this requirement confronting.
- 4.72 During consultation, several participants noted that vulnerable groups are often fearful of attending a police station. In the case of the Indigenous community, it was noted that some may be hesitant to enter a police station due to previous experiences with police, current outstanding police matters or anxiety about past government practices.⁶² In their submission, VANISH explained that former wards of state and Forgotten Australians also found this requirement to be an obstacle to obtaining a birth certificate for similar reasons.⁶³
- 4.73 The LIV also expressed concern that the requirement for police to certify copies of documents may pose a barrier for other vulnerable groups, noting:
- that the vast majority of Victorians continue to be required to attend a police station to have copies of identity documents certified by police officers prior to applying for a certificate. The requirement to attend a police station is problematic, because often disadvantaged communities mistrust authorities based on their past experiences and interactions. In our view the Registry's certification requirements are overly narrow and unnecessary and create a barrier for access to some vulnerable groups in Victoria, including Aboriginal and Torres Strait Islander people.⁶⁴
- 4.74 Other submissions also supported this view.⁶⁵ It was further noted that the requirement that a JP be located in a police station was unnecessarily restrictive.⁶⁶ The Castan Centre argued that the Registry places more stringent constraints on the certification of copies of identity documents for the purpose of obtaining a birth certificate than other Australian jurisdictions, discussed further below.⁶⁷

61 *Proof of Identity*, above n 36.

62 Consultation 33 (Link-Up Victoria).

63 Submission 11 (VANISH).

64 Submission 6 (Law Institute of Victoria). Liberty Victoria expressed support for the Law Institute of Victoria submission on the point of identity document certification.

65 See, eg, Submissions 6 (Law Institute of Victoria); 11 (VANISH); 12 (Liberty Victoria). Consultation 26 (Gippsland East Aboriginal Driver Education Program).

66 Submissions 5 (The International Commission of Jurists—Victoria); 6 (Law Institute of Victoria). Consultations 24 (Bairnsdale and Morwell Justice Service Centres); 27 (Dandenong Justice Service Centre).

67 Submission 10 (Castan Centre for Human Rights Law—Monash University).

- 4.75 In the last couple of years the Registry has broadened the category of people who can certify copies of identity documents to include justice service officers located in selected justice service centres.⁶⁸ The application form notes that if submitting in person:
- You must bring your original identity documents or certified photocopies with your application and submit them at our Melbourne Customer Service Centre or at selected Justice Services Centres. To find your nearest JSC, visit www.bdm.vic.gov.au/jsc.
- 4.76 This enables an applicant to bring in their application form and original identity documents in person, and avoids the applicant having to provide pre-certified copies by a sworn police officer.
- 4.77 While the roll-out of Registry functions in selected justice service centres across Victoria will go some way to addressing the barriers identified above, the requirement to have photocopies certified may still pose difficulties for people living in regional and remote areas who do not have access to a justice service centre.
- 4.78 The birth certificate application form (**Appendix D**) does not list the locations of current justice service centres but refers people to the Registry's website. This is not helpful for those without internet access and also requires a further step to be taken by the applicant.
- 4.79 The Commission was also informed that the presence of community correctional services and sheriff's operations in justice service centres may pose a barrier for some people attending the centres.⁶⁹
- 4.80 The Commission notes that most other state and territory registries permit notaries public and legal practitioners to certify proof of identity documents, in addition to sworn police officers and JPs.⁷⁰ The South Australian and Tasmanian Registries of Births, Deaths and Marriages do not require copies of proof of identity documents to be certified in order to apply for a birth certificate. It was suggested in consultations that the differences in registry requirements cause confusion for some people who are transient or live in cross-border communities.⁷¹
- 4.81 It was also noted in one submission that the Commonwealth Department of Immigration and Citizenship has less restrictive certification requirements than the Registry, and lists a broader group of people who may certify documents in support of an application for Australian citizenship.⁷²
- 4.82 There was considerable support for broadening the category of people who can certify copies of documents for birth certificate applications. The LIV submitted that:
- while we acknowledge the Registry's concern to prevent identity fraud, and the need for stringent measures to confirm the identity of persons seeking access to certificates, we submit that risks can be adequately mitigated by broadening the class of persons authorised to certify documents to appropriately qualified persons. The class of persons might include those authorised to certify documents by other state and territory Registries, including legal practitioners.⁷³

68 The roll-out of Registry services in justice service centres is discussed further in Chapter 7.

69 Consultation 26 (Gippsland East Aboriginal Driver Education Program).

70 NSW Registry of Births, Deaths and Marriages, *Application for a Birth Certificate* (March 2012) <www.bdm.nsw.gov.au>; Registry of Births, Deaths and Marriages (Queensland), *Birth certificates* (3 September 2012) <<http://www.justice.qld.gov.au>>; Registry of Births, Deaths and Marriages (Australian Capital Territory), *Application for Certificate* (17 December 2012) <<http://www.ors.act.gov.au>>; Registry of Births, Deaths and Marriages (Northern Territory), *Application Forms* (4 October 2012) <<http://www.nt.gov.au>>; Registry of Births, Deaths and Marriages (Western Australia), *Birth Certificate Application Form* (30 August 2012) <<http://www.bdm.dotag.wa.gov.au>>.

71 Consultation 6 (Ovens and King health and community workers & co, Wangaratta). Cross-border community issues were also discussed in Chapter 3.

72 Submission 10 (Castan Centre for Human Rights Law—Monash University). Australian Government, Department of Immigration and Citizenship (Commonwealth), *Application for evidence of Australian Citizenship: Form 119* (April 2013) 9.

73 Submission 6 (Law Institute of Victoria).

- 4.83 The Castan Centre expressed similar sentiments, particularly in relation to the barrier this issue presents to the Indigenous community in that it:
- is problematic given the widely recognised dysfunctional relationship between some Indigenous people and the police. There seems to be no reasonable explanation why lawyers and others who are recognised as being fit and proper persons to witness affidavits and other legal instruments could not also be authorised to certify copies of identification documents for the BDM Registrar’s purposes.⁷⁴
- 4.84 Members of the East Gippsland Shire Council, Mission Australia and others involved in the Gippsland East Aboriginal Driver Education Program suggested that in order to further assist people, particularly local Indigenous people, the Registry could re-examine its criteria for certifying documents. They felt that this could be broadened to include, for example, school principals, heads of organisations, chief executive officers of co-ops, medical practitioners and lawyers.⁷⁵
- 4.85 Link-Up Victoria suggested that having a justice of the peace available at an Aboriginal Trust office to certify documents would be a good alternative to requiring that a person attend a police station.⁷⁶
- 4.86 The Castan Centre recommended that the list of approved person should be brought into line with those who can witness statutory declarations, which is the approach taken in other jurisdictions.⁷⁷ If this list was considered too broad, the Castan Centre recommended that the list be extended to include those able to witness affidavits pursuant to section 186 of the *Evidence Act 1995* (Cth).⁷⁸
- 4.87 During consultation the Commission heard examples of innovative practice in the Lake Tyers area, where on occasion the local police would certify copies of documents on their regular visits to the Lake Tyers Aboriginal Trust for people who were unable, or unwilling, to attend a police station.⁷⁹ This had the added benefit of helping people who were unable to drive or did not have a driver’s licence.⁸⁰

Commission’s view

- 4.88 The Commission considers that broadening the category of people who can certify copies of proof of identify documents for the purpose of obtaining a birth certificate is warranted. The Commission is of the view that this measure would address some of the most significant barriers faced in obtaining a birth certificate.
- 4.89 The Commission supports the suggestion put forward by the LIV, the Castan Centre and Liberty Victoria that the category of people empowered to certify proof of identity be extended. The Commission is of the view after consideration of the options proposed, that the category of persons should be extended to include those authorised to witness affidavits pursuant to section 123C of the *Evidence (Miscellaneous Provisions) Act 1958* (Vic). This would include legal practitioners able to certify copies of identity documents, a recommendation of both the LIV and Liberty Victoria.

74 Submission 10 (Castan Centre for Human Rights Law—Monash University). See also Andrew Gargett, Paula Gerber, and Melissa Castan, ‘A Right to Birth Registration in the Victorian Charter? Seek and You Shall Not Find.’ (2011) 36(3) *Monash University Law Review* 1.

75 Consultation 26 (Gippsland East Aboriginal Driver Education Program).

76 Consultation 33 (Link-Up Victoria).

77 Submission 10 (Castan Centre for Human Rights Law—Monash University).

78 Ibid. Section 186 of the *Evidence Act 1995* (Cth) provides for swearing of affidavits before any justice of the peace, notary public or Australian lawyer without the issue of any commission for taking affidavits.

79 Consultation 26 (Gippsland East Aboriginal Driver Education Program).

80 Ibid.

- 4.90 The Commission recommends this approach as opposed to, for example, the list of people who can witness statutory declarations pursuant to section 107A of the *Evidence (Miscellaneous Provisions) Act 1958 (Vic)*, as it is more limited.⁸¹ This position may provide a compromise between extending the list more broadly and addressing the very real concerns of the Registry in terms of identity fraud.
- 4.91 The Commission considers that this is a practical solution and a first step in making the process more accessible to vulnerable groups within the Victorian community.

Recommendation

- 10 The Registrar should broaden the category of people authorised to certify copies of proof of identity documents for the purposes of obtaining a birth certificate to include those authorised to witness affidavits pursuant to section 123C of the *Evidence (Miscellaneous Provisions) Act 1958 (Vic)*.

Access to birth certificates for children in, or who have recently left, out-of-home care

- 4.92 A birth certificate may be required for a child who is currently subject to a protection order,⁸² a child who is currently subject to a protection order in out-of-home care, or who has been placed in an informal care or voluntary care arrangement, such as a childcare agreement, by the Department of Human Services.⁸³ A birth certificate may also be required for a child on a permanent care order,⁸⁴ or a young person who has recently left care (up to the age of 21).⁸⁵ A birth certificate may also be required on behalf of a child in care by:
- the Secretary of the Department of Human Services
 - a community service (for example an out-of-home care service) as the delegate of the Secretary, or⁸⁶
 - a suitable person⁸⁷ (such as a kinship carer).
- 4.93 The reasons a custodian or carer may have for requiring a birth certificate on behalf of a child in their care include immunisation, enrolment at child care or school, overseas or interstate travel (for example, a passport application), an application for a learner driver permit, or an application for a tax file number.

81 People who can receive affidavits in Victoria include any judge or the associate to any judge; an Associate Judge of the Supreme Court or Country Court, the Associate to such Associate Judge; a justice of the peace or bail justice; the prothonotary or a deputy prothonotary of the Supreme Court, the registrar or a deputy registrar of the County Court, the principal registrar or a registrar or deputy registrar of the Magistrates' Court; the registrar or an assistant registrar of probates; a senior or ordinary member of VCAT, who, immediately before the commencement of s 8.2.1 of the *Legal Profession Act 2004 (Vic)*, was the registrar or a deputy registrar of the Legal Profession Tribunal; a member or former member of either the House of Parliament of Victoria or the Commonwealth; a public notary; a legal practitioner; a member of the police force of or above the rank of sergeant or for the time being in charge of a police station; a person employed under Part 3 of the *Public Administration Act 2004 (Vic)* with a classification that is prescribed as a classification to which 123C applies; a senior officer of a Council as defined in the *Local Government Act 1989 (Vic)*; a person registered as a patent attorney under Chapter 20 of the *Patents Act 1990 (Cth)*; a fellow of the Institute of Legal Executives (Vic); any officer or person empowered, authorised or permitted by or under any Act of Parliament to take affidavits in relation to the matter in question or in the particular part of Victoria in which the affidavit is sworn and taken: *Evidence (Miscellaneous Provisions) Act 1958 (Vic)* s 123C.

82 The eight protection orders available to the court are contained in the *Children, Youth and Families Act 2005 (Vic)* s 275. Orders which grant parental responsibility to the Secretary or a third party include: a guardianship to the Secretary order; a long-term guardianship to the Secretary; and a permanent care order. All other orders concern custody or supervision arrangements only.

83 *Children, Youth and Families Act 2005 (Vic)* pt 3.5.

84 Ibid pt 4.10.

85 Ibid ss 16(1)(g), 16(4).

86 Ibid s 17.

87 See *ibid* s 148 for the definition of a suitable person for the purpose of Div 3 (long-term child care agreements).

- 4.94 A custodian or carer may face difficulties in obtaining the consent of one or both parents to apply for a birth certificate for a child subject to a child protection order.⁸⁸ While for most purposes the department or agency may rely on the court order or other supporting documents to demonstrate custody arrangements, in some situations a birth certificate may still be required (for example, a passport application). The type of protection order the child is subject to will determine who can apply for the birth certificate on the child's behalf.
- 4.95 A birth certificate is a 'crucial document for young people to prove their identity'⁸⁹ especially when a young person is leaving care. While the Secretary of the Department of Human Services has responsibilities under the *Children, Youth and Families Act 2005* (Vic) to provide or arrange for the provision of services to assist a young person up to the age of 21,⁹⁰ this is dependent on an assessment of need and is not automatic.⁹¹
- 4.96 In preparation for a young person's departure from care, the care-provider will usually try to obtain a range of identity documents on behalf of the child. The idea of portable personal records, or a 'backpack' of identity, collated for children in care was the subject of a recent multi-agency research project examining archiving and record-keeping for children in out-of-home care in Victoria.⁹²
- 4.97 A birth certificate can also play an important role in contributing to a child in care's feelings of belonging and identity. It can be an integral component of the development of a cultural support plan for an Indigenous child.⁹³
- 4.98 Where an application for a birth certificate is made by a government department, welfare agency or carer, the Registry will consider the application on a case-by-case basis, in accordance with the Act and Registry access policy.⁹⁴ The Registry has informed the Commission that in exercising this case-by-case discretion the Registrar considers the best interests of the child.⁹⁵
- 4.99 The Commission understands that when a child who has previously been in out-of-home care applies for a birth certificate they will be subject to the same statutory fees as any other applicant.⁹⁶ Where the department or agency is the applicant, the Commission understands that it will meet the cost of the birth certificate on behalf of the child. For example, the Commission was advised that MacKillop Family Services will pay the fee for a birth certificate on behalf of its clients.⁹⁷

88 Margaret Kertesz, *100+ points of identity—Gathering Young People's History for the Future: Final Report* (March 2011) 12.

89 Ibid 11.

90 *Children, Youth and Families Act 2005* (Vic) ss 16(1)(g), 16(4).

91 Department of Human Services (Victoria), *Protecting Victoria's Children—Child Protection Practice Manual 'Planning for leaving care'*, Advice No 1418 (22 February 2013) ('Planning for leaving care').

92 Margaret Kertesz, *A Backpack of Identity—What Happens to Records when Young People Change Placement?* (January 2012).

93 Child Protection, Placement and Family Services are legally required to prepare a cultural support plan (CSP) for Aboriginal children subject to a guardianship to Secretary order or a long-term guardianship to Secretary order who are placed in out-of-home care. A CSP must set out how the Aboriginal child is to remain connected to their Aboriginal community and culture: *Children, Youth and Families Act 2005* (Vic) s 176; Department of Human Services (Victoria) *Protecting Victoria's Children—Child Protection Practice Manual 'Cultural support plans'*, Advice No 1060 (5 November 2012) 2.

94 Letter from Erin Keleher, above n 18.

95 Ibid.

96 Ibid.

97 Email from Jenny Glare, Manager, Heritage & Information Services, MacKillop Family Services to Tess McCarthy, Project Officer, Victorian Law Reform Commission, 27 March 2013.

Commission's view

- 4.100 The Commission notes the critical role a birth certificate plays in helping form a child's personal identity as well as providing proof of identity for a range of purposes.
- 4.101 The Commission notes that young people leaving care arrangements will often be economically disadvantaged and likely to be experiencing other forms of disadvantage as well. In Chapter 5 the Commission considers the issue of the development of fee waiver criteria, including what categories of individuals may be considered 'appropriate cases' for the purpose of a fee waiver. This chapter also discusses the introduction of an exemption from the payment of fees for people who hold a health care card or pensioner concession card. As research has demonstrated, young adults who have left out-of-home care will often encounter greater levels of financial difficulty including higher levels of unemployment and other disadvantaged outcomes.⁹⁸ Therefore, young people who have left out-of-home care may be entitled to a fee exemption if they possess one or other of the Commonwealth concession cards.

Access to birth certificates for former wards of state and persons in institutional care

- 4.102 Former wards of state are people who grew up in state care prior to 1986.⁹⁹ These people were the legal responsibility of the state and lived in orphanages, children's homes or foster care arrangements.¹⁰⁰ They are often referred to as Forgotten Australians.¹⁰¹ Some wards were adopted out to families while others remained in state care until they came of age.¹⁰² Child migrants (known as Lost Innocents) and Indigenous children removed from their parents (known as members of the Stolen Generations) were often also made wards of state or were placed in institutional care.¹⁰³
- 4.103 Two issues were raised during consultations which related specifically to this group of people and access to birth records, but which the Commission has not considered in the report. The first issue was access to information on the Register about a former ward of state's mother and/or siblings.¹⁰⁴ The second was access by adoptees to their original birth certificates held by the Department of Human Services.¹⁰⁵
- 4.104 The terms of reference for this review aimed to address the legal and practical barriers faced by individuals who do not have a birth certificate. While the Commission notes the importance of the issue of access to original birth certificates for past adoptees and access to birth certificates of family members for former wards, both are outside our terms of reference and therefore not discussed further in this section. The Commission thanks the community for the submissions received on these issues.¹⁰⁶

98 'Planning for leaving care', above n 91.

99 The term 'ward of state' is no longer used for children who are in the care of the state or who have left the care of the state aged 18 years and over. This term was introduced in 1864 via the *Neglected and Criminal Children's Act 1864* (Vic). Changes to the child protection system in the mid-1980s saw the term fall out of general use. Since 2004, a new, non-legal, term 'Forgotten Australian' has been used to refer to children who were in state care during this time: see Senate Community Affairs References Committee, Parliament of Australia, *Forgotten Australians: A Report on Australians who Experienced Institutional or Out-of-home Care as Children* (2004). The change in terminology from the mid-1980s onwards reflects changing attitudes towards having children permanently in state care and the role of the state as a reluctant guardian.

100 Department of Human Services (Victoria), *Former Victorian State Wards: Forgotten Australians* (11 April 2012) <<http://www.dhs.vic.gov.au>>.

101 Senate Community Affairs References Committee, Parliament of Australia, *Forgotten Australians: A Report on Australians who Experienced Institutional or Out-of-home Care as Children* (2004) ('*Forgotten Australians Report*').

102 Under the *Children's Welfare Act 1928* (Vic) the Secretary of the Children's Welfare Department was the guardian of any child admitted to the care of the state until the child reached 18 years of age, or 20 years of age as directed by the Governor in Council at s 25. See also *Forgotten Australians Report*, above n 101. Other resources state that children were released at the age of 15, such as Alliance for Forgotten Australians, *Forgotten Australians: Supporting the Survivors of Childhood Institutional Care in Australia* (2008) 8.

103 Some children placed in care were neither made a ward of state nor adopted. The legal status of these children is unclear and they also may have difficulties accessing their birth certificates.

104 Submission 11 (VANISH).

105 Submissions 3 (Dr Carolyn Woodley); 11 (VANISH).

106 Ibid.

- 4.105 Many former wards of state have limited access to information about their history and family background, and consequently often face difficulties in applying for a birth certificate. Without the knowledge of their past (former wards may have had their names changed), they cannot always fill in an application for a birth certificate without first undertaking research and/or using the services of support agencies such as Open Place and Link-Up or through contacting the Family Information Networks and Discovery (FIND) service located within the Department of Human Services. The Commission was advised by the Department of Human Services that:
- FIND do not directly assist former wards of state to access their birth certificate from the Registry. However, some information contained in records accessed through FIND may assist some former wards of state to confirm their birth details or birth surname.¹⁰⁷
- 4.106 FIND assists people to access personal and family information, records and support about past adoption and wardship.¹⁰⁸ Open Place or Link-Up may act as an intermediary for a former ward of state in contacting FIND, or they may contact FIND directly.¹⁰⁹ Approximately 1200 requests are received each year from former wards of state and adopted people wishing to access their past records.¹¹⁰
- 4.107 Access to birth information and information about family history for former wards of state generally falls under the *Freedom of Information Act 1982* (Vic) (FOI Act). There is no specific legislation governing access to information for former wards, unlike for adoptees, for whom the *Adoption Act 1984* (Vic) provides specific rights to information.¹¹¹
- 4.108 Specific issues raised by consultation participants included:
- obtaining sufficient information to fill in a birth certificate application form for themselves, if they have no details of their parents¹¹²
 - difficulty satisfying Registry proof-of-identity requirements.¹¹³

Commission's view

- 4.109 The Commission deals in Chapter 6 with issues related to the need for multiple registry searches for people who do not know their family background, and the registry requirements around proof of identity.
- 4.110 Further, the Commission notes that, as previously discussed, young people leaving care arrangements and former wards of state will often be economically disadvantaged and likely to be experiencing other forms of disadvantage as well. In Chapter 5 the Commission considers the issue of establishing criteria for exemption from the payment of fees for birth certificate applications. Chapter 5 also considers the application of the fee waiver power and suggests that members of the Stolen Generations, young people who have recently left out-of-home care, former wards of state and people raised in institutional care may be individuals considered to be 'appropriate cases' for the purpose of a fee waiver.

107 Letter from Gill Callister, Secretary, Department of Human Services (Victoria) to the Hon P.D. Cummins, Chair, Victorian Law Reform Commission, 15 April 2013.

108 FIND also provides counselling services to people seeking information from the donor treatment registers managed by the Registry: Letter from Gill Callister, above n 107. See also Department of Human Services (Victoria), *Family Information Networks and Discovery* (FIND) (11 April 2012) <<http://www.dhs.vic.gov.au>>.

109 FIND was established under the *Adoption Act*, which states that there shall be an adoption information service established within the Department of Human Services: *Adoption Act 1984* (Vic) s 102. The Commission was informed by the Department of Human Services (Victoria) that in the last 12 months (as at 15 April 2013) FIND have outposted two FIND case managers to Open Place. This is a joint venture between both programs, recognising the need for supported release as a significant part of receiving information. FIND do not have MoUs in place with Aboriginal Services in Victoria, but the program maintains a Koori agency liaison and practice portfolio and liaises with Aboriginal Services as required on a case-by-case basis: Letter from Gill Callister, above n 107.

110 Ombudsman Victoria, *Investigation into the Storage and Management of Ward Records by the Department of Human Services* (2012) 4. The Commission was informed by the Department of Human Services (Victoria) that FIND also makes referrals to other agencies who provide additional support services to Forgotten Australians: Letter from Gill Callister, above n 107.

111 *Adoption Act 1984* (Vic) pt VI.

112 Submission 3 (Dr Carolyn Woodley).

113 Submission 11 (VANISH).

Commemorative certificates

- 4.111 A commemorative certificate is not a legal document and cannot be used for official purposes or as a recognised proof-of-identity document. Rather, commemorative certificates are documents that:
- celebrate a child’s birth and help preserve family history in a unique and lasting way.¹¹⁴
- 4.112 A commemorative certificate is currently available as a special offer to parents registering the birth of their child.¹¹⁵ The offer includes a commemorative certificate and a standard birth certificate for the cost of \$46.00 (instead of the standard \$28.60). The birth registration statement form states that when ordering a commemorative certificate the applicant will receive a standard certificate at no extra cost and that:
- If you are not satisfied with your commemorative certificate, return it to the Registry and the purchase price will be refunded within 14 days of receipt.
- 4.113 If an applicant wishes to keep the standard birth certificate then a refund is granted minus the cost of the standard certificate (\$17.40 refund). Standard postage is included with a commemorative certificate. Postage is not included if ordering a standard or abridged certificate only.
- 4.114 During consultations it was noted that commemorative certificates are a popular option that are felt to celebrate the birth of a child.¹¹⁶ However, there was some confusion about whether a commemorative certificate could be used as proof of identity.¹¹⁷
- 4.115 The Commission was informed that some people, particularly from CALD backgrounds, may choose the commemorative certificate as they see it as having a higher personal value than the standard certificate. It was reported that often these groups do not appreciate that the commemorative certificate cannot be used for official purposes.¹¹⁸ In recognition of this problem, one justice service centre advised that when receiving a birth registration statement over the counter, they routinely point out to applicants that a commemorative certificate is not a legal document.¹¹⁹
- 4.116 While acknowledging that the birth registration statement does say the commemorative certificate cannot be used for official purposes, some participants felt that the way the birth registration statement portrays the commemorative certificate is problematic.¹²⁰ Some argued that the certificate was displayed more prominently than the standard certificate and did not specify clearly enough what purpose, if any, it served.¹²¹ The Castan Centre indicated that the statement:
- provides little information about the critical importance of possession of a standard birth certificate in a child’s future life. It appears to prioritise the marketing of various forms of commemorative ‘certificates’ (of no practical use) over the only certificate that really matters in practical terms – the standard birth certificate.

114 See Appendix C.

115 A commemorative certificate can also be applied for after the time of registration by filling in a *Commemorative Birth Certificate Application Form* available on the Registry’s website. A different fee scale applies when applying for a commemorative certificate at a time other than registration.

116 Consultations 10 (MCH Team Meeting, Flemington); 18 (New Parents Group, Dandenong North); 19 (Vietnamese New Parents Group, Springvale); 21 (MCH Team Meeting, Warragul).

117 Consultation 3 (New Parents Group, Mooroopna).

118 Consultations 1 (Spectrum Migrant Resource Centre); 10 (MCH Team Meeting, Flemington); 16 (MCH Team Meeting, Robinvale); 19 (Vietnamese New Parents Group, Springvale).

119 Consultation 27 (Dandenong Justice Service Centre).

120 Consultations 2 (Boorai Group, Victorian Aboriginal Health Service); 27 (Dandenong Justice Service Centre).

121 Consultations 9 (MCH Team Meeting, Wangaratta); 22 (MCH Team Meeting, Traralgon); 23 (MCH Team Meeting, Bairnsdale).

4.117 Further, the North Melbourne Legal Service noted that:

Commemorative birth certificates are listed prior to the standard birth certificate. Commemorative birth certificates are more expensive than standard birth certificates. Standard birth certificates are considered official documents. We submit that the standard birth certificate should be listed first and the form should make it clear that this is the official document required for the purposes of applying for a passport, etc. For example, the list could state “standard birth certificate (required as an official document/proof of identity document)”.¹²²

4.118 The Castan Centre agreed with this approach noting:

The birth registration and certification form should clearly differentiate between the sale of commemorative ‘certificates’ and the provision of the most fundamental document of identification for Victorians, i.e. the standard birth certificate.¹²³

Commission’s view

4.119 The Commission recognises the popular nature of commemorative certificates and considers that in offering them, the Registry is providing a product which the community has embraced.

4.120 However, given the views expressed in consultations and submissions, the Commission believes that more could be done to inform applicants of the uses of the commemorative and standard birth certificates. For example, the birth registration statement should clearly state that the standard birth certificate is the only document that can be used for official purposes, and this certificate should be the first one referred to in the birth registration statement.

Recommendation

11 The birth registration statement should more clearly state that the standard birth certificate is the only document that can be used for official purposes, and this certificate should be the first one referred to in the birth registration statement.

Abridged certificates

4.121 An abridged certificate is similar to a standard birth certificate, but it does not include the age, occupation or relationship status of the parents. The Registry notes on the birth registration statement that:

You [the applicant] should check with the authority requesting the birth certificate to confirm whether an abridged birth certificate is acceptable. This certificate is not accepted as a proof of identity document when applying for an Australian passport.¹²⁴

4.122 During consultation, participants questioned the purpose of an abridged birth certificate option on both the birth registration statement and the birth certificate application. Participants did not understand what an abridged certificate was, and what it could be used for.¹²⁵

122 Submission 4 (North Melbourne Legal Service).
123 Submission 10 (Castan Centre for Human Rights Law—Monash University).
124 See ‘Birth Registration Statement’ Appendix C.
125 Consultation 32 (Mercy Hospital for Women).

4.123 The Registry offers an abridged certificate on payment of the prescribed fee. The fee for an abridged certificate is the same as for a standard birth certificate. In its submission the Castan Centre noted that:

It is not made sufficiently clear that these days this ‘abridged’ certificate is likely to be of little, or no, use in official situations, despite the fact that its price is identical to that of a full certificate. In such circumstances it is unclear why the ‘abridged’ option is still provided.¹²⁶

4.124 During consultation, while some participants queried the price of the abridged version and its usefulness, one participant noted that it may be a preferred option for people who did not want all the particulars of a standard birth certificate to be shown, such as relationship details.¹²⁷

4.125 Another participant stated that if the Registry continues to offer an abridged certificate, then a clearer explanation of its uses should be provided on both the birth registration statement and the birth certificate application.¹²⁸

Commission’s view

4.126 The Commission agrees that further information should be provided outlining the uses of each type of birth certificate. Having the same fee for both the standard and the abridged version may send an incorrect message to the community as to the utility of the certificates. The Commission considers that the Registry should review the wording on its forms, website and information material to ensure that applicants understand the uses of each type of certificate.

4.127 The Registry may also wish to consider whether there is any purpose served in continuing to offer abridged certificates, given that they have become increasingly inadequate for most of the purposes for which they were previously used.

Recommendation

12 The Registrar should:

- include more information on the uses of each type of birth certificate on both the birth registration statement and the birth certificate application
- consider whether abridged certificates should be discontinued.

126 Submission 10 (Castan Centre for Human Rights Law—Monash University).
 127 Consultation 32 (Mercy Hospital for Women).
 128 Ibid.

Automatic issue of a birth certificate

- 4.128 At present the registration of a birth and the application for a birth certificate in Victoria are two separate processes. In the consultation paper the Commission asked whether legislation should provide for the automatic issue of a birth certificate once a birth has been registered.¹²⁹ While closely related, the question of whether it is appropriate to charge a fee for a birth certificate is discussed in Chapter 5.
- 4.129 There was support in submissions and during consultations for this proposal.¹³⁰ The reasons provided include:
- it would reduce the need for people to satisfy more rigorous proof-of-identity requirements later on¹³¹
 - a birth certificate is so fundamental that parents should not have to submit a separate application to obtain one.¹³²
- 4.130 Liberty Victoria expressly recommended eliminating the current two-stage process so that a birth certificate is automatically issued upon registration.¹³³
- 4.131 Some submissions highlighted the obligation of the State under the United Nations *Convention on the Rights of a Child* and the *Charter of Human Rights and Responsibilities Act 2006* (Vic) (the Charter) as reason for the automatic issue of a birth certificate upon registration.¹³⁴
- 4.132 The Castan Centre referred in its submission¹³⁵ to General Comment 10 of the United Nations Committee on the Rights of the Child [see also para 3.47] which noted that:
- the Committee wishes to emphasize the fact that it is crucial for the full implementation of article 7 [...] that every child shall be registered immediately after birth to set age-limits one way or another, which is the case for all States parties. A child without a provable date of birth is extremely vulnerable to all kinds of abuse and injustice regarding the family, work, education and labour, particularly within the juvenile justice system. Every child must be provided with a birth certificate free of charge whenever he/she needs it to prove his/her age.¹³⁶
- 4.133 In its submission VEOHRC suggested how the Victorian Charter may be engaged in this context:
- The Charter provides in section 17 that we are entitled to the protection of families and children, including that: (2) Every child has the right, without discrimination, to such protection as is in his or her best interests and is needed by him or her by reason of being a child. Children have access to numerous specialist services including education and health services, for example, enrolment in school or forms of healthcare. Children have special protection within the jurisdiction of the Children’s Court. Without proof of identity, children may not be able to access such services.¹³⁷ This may potentially breach s.17(2) of the Charter.¹³⁸

129 Victorian Law Reform Commission, *Birth Registration and Birth Certificates: Consultation Paper* (2012) 22.
130 Submissions 4 (North Melbourne Legal Service); 7 (VEOHRC); 12 (Liberty Victoria). Consultations 3 (New Parents Group, Mooroopna); 4 (Shepparton Justice Service Centre); 13 (New Parents Group, Mildura South); 14 (Mildura Base Hospital); 22 (MCH Team Meeting Traralgon).
131 Consultation 4 (Shepparton Justice Service Centre).
132 Consultation 23 (MCH Team Meeting, Bairnsdale).
133 Submission 12 (Liberty Victoria).
134 Submissions 7 (VEOHRC); 10 (Castan Centre for Human Rights Law—Monash University); 12 (Liberty Victoria).
135 Submission 10 (Castan Centre for Human Rights Law—Monash University).
136 Committee on the Rights of the Child, United Nations, *General Comment No 10: Children’s Rights in Juvenile Justice*, CRC/C/GC/10, 44th session (25 April 2007) para [39].
137 Andrew Gargett, Paula Gerber and Melissa Castan, ‘A Right to Birth Registration in the Victorian Charter? Seek and You Shall Not Find.’ (2011) 36(3) *Monash University Law Review* 1, 14–15.
138 Submission 7 (VEOHRC).

4.134 VEOHRC further noted that:

The capacity to register a birth lacks meaning unless it is automatically accompanied by certification integral to securing the capacity to exercise our rights as citizens and access the benefits of citizenship. Commentators argue that the right to birth registration implicitly includes the right to a birth certificate. A birth certificate provides substance to the right to birth registration. Birth registration alone does not fully protect a person's human rights without a birth certificate. A certificate is tangible evidence of a government's legal recognition of a child's existence.¹³⁹

4.135 Supporters of the automatic issue of a birth certificate also generally favoured that the first issue of a birth certificate should be free of charge at the time of registration.¹⁴⁰

Commission's view

4.136 The Commission supports the principle of readiness of access to birth certificates for all community members. The Commission acknowledges and respects the high principles enunciated by the United Nations cited above. The Commission acknowledges that the current two-stage process may create a barrier to some vulnerable or disadvantaged groups who are either unaware of the requirement to complete Part 2 of the birth registration statement, or who are unable to meet the cost of a birth certificate at the time of registering the birth.

4.137 Issues concerning vulnerable and disadvantaged groups are considered in Chapter 6, and issues concerning the cost of birth certificates are considered in Chapter 5.

139
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Ibid.
Consultations 3 (New Parents Group, Mooroopna); 5 (MCH Team Meeting, Shepparton); 12 (DEECD); 14 (Mildura Base Hospital); 22 (MCH Team Meeting, Traralgon); 27 (Dandenong Justice Service Centre).

Fees

- 74 Current law and practice
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5. Fees

Current law and practice

- 5.1 The consultation paper posed the question of whether it is appropriate to charge a fee for a birth certificate. As discussed in previous chapters, a fee is charged by the Registry to search the Register and provide a copy of the contents contained within a particular entry. Different types of birth certificate (standard, commemorative, abridged etc, as discussed in Chapter 4) are available for purchase from the Registry, and different fees are charged accordingly.
- 5.2 With the passage of *An Act for Registering Births, Deaths, and Marriages in the Colony of Victoria 1853* (Vic), the colonial administration initially provided free access to birth certificates upon registration.¹ However, in the following year, a schedule of fees was introduced for birth certificates and for searches of the Registry.²
- 5.3 Until 1996 the Registry issued an extract of entry of birth at no cost upon receipt of the registration of birth. A birth extract is no longer accepted as a proof-of-identity document by most government agencies, which generally require a standard birth certificate, or other documentation.
- 5.4 In this chapter the Commission will discuss fees for birth certificates.
- 5.5 To obtain a birth certificate, a person must complete a birth certificate application either at the time of registering the birth or later. Both applications require payment of the prescribed fee.
- 5.6 The current fee for a standard birth certificate in schedule 2 of the Regulations is \$28.60.³ The fee can be paid by cheque or money order, or through the provision of credit card details (Visa, Mastercard and Amex) if applying by post. Justice service centres and the central Registry will accept a cash payment if an applicant visits the centre in person.
- 5.7 The *Births, Deaths and Marriages Registration Act 1996* (Vic) (the Act) by section 49 provides that:
- The Registrar may, in appropriate cases, remit the whole or part of a fee under this Act.
- 5.8 No criteria for remissions are set out in the Act. The power to remit is thus discretionary.

1 Victoria, *Victoria Government Gazette*, No 38, 6 July 1853, 943.

2 Victoria, *Victoria Government Gazette*, No 34, 28 April 1854, 1059. The following fees are listed in the schedule: for a certificate at the time of registration the fee was 5 shillings; for every search the fee was 2 shillings; and for every certificate on search the fee was 5 shillings.

3 *Births, Deaths and Marriages Registration Regulations 2008* (Vic) sch 2.

- 5.9 The Commission was informed by the Registry that the power to remit is seldom used.⁴ The Registry does not produce publicly available guidelines explaining how the Registrar's discretion to waive a fee is exercised. Current legislation differs from earlier statutes, which provided:

The Government Statist may remit the whole or any part of any such fee if in his opinion payment of the whole fee would entail serious hardship.⁵

- 5.10 The provisions in the current Act provide greater discretion to the Registrar to consider cases that may include, but are not restricted to, serious hardship.

Other Australian jurisdictions

- 5.11 As outlined in the consultation paper, most registries in Australia are self-funding in that they derive their overhead and operating costs from the fees they charge for the services and products of the registry (such as certificates).
- 5.12 All Acts (with the exception of Queensland)⁶ have provision for the Registrar, in appropriate circumstances, to waive fees.⁷ The Commission understands that in all jurisdictions fee waivers are seldom granted.
- 5.13 There are, however, examples of natural disaster-related and time-limited fee waivers applying in some jurisdictions. As a response to the Queensland floods in early 2013, the Queensland Registry is providing free replacement life event certificates. The Queensland Registry notes that all life event certificates, regardless of the location of the life event, will be replaced at no cost, thanks to cooperation by other state and territory registries.⁸
- 5.14 The Queensland Registry advises that such arrangements are usually reciprocated on request.⁹ The Commission notes that this practice occurs despite the lack of an explicit provision within the relevant legislation.
- 5.15 Likewise, the Tasmanian Registry has also issued free replacement life event certificates for those affected by the 2013 bushfires in that state.¹⁰ Fee waivers for disaster-related events are also offered by Commonwealth agencies such as the Australian Passport Office. These may be granted to individuals affected by flooding, bushfires and severe weather events.¹¹
- 5.16 In the Northern Territory from July to October 2011 the Registry waived fees for all birth certificates (including issue and name changes) prior to the introduction of the Northern Territory's Enough is Enough alcohol reforms. These reforms required people to show photo ID to purchase take-away alcohol in the Territory.¹² The fee waiver assisted people to obtain a birth certificate, which is the primary document required to obtain photo identification such as a driver's licence, passport, proof-of-age or Ochre Card.¹³

4 Letter from Erin Keleher, Victorian Registrar of Births, Deaths and Marriages to the Hon P.D. Cummins, Chair, Victorian Law Reform Commission, 21 February 2013.

5 *Registration of Births, Deaths and Marriages Act 1928 (Vic)* s 42(4) as amended by the *Registration of Births, Deaths and Marriages Act 1952 (Vic)* s 6. This was reproduced in s 43(4) of the *Registration of Births, Deaths and Marriages Act 1959 (Vic)*.

6 The Queensland Registry has informed the Commission that while not explicit in legislation, the Registrar does have the ability to waive fees, for example, in the case of natural disasters. The Queensland Registrar has also noted that as the accountable officer for the Registry, he has the ability to waive fees more broadly in cases of genuine financial hardship using existing write-off procedures: Email from David John, Registrar-General, Registry of Births, Deaths and Marriages, Department of Justice and Attorney-General (Queensland) to Myra White, Community Law Reform Manager, Victorian Law Reform Commission, 2 April 2013.

7 *Births, Deaths and Marriages Registration Act 1995 (NSW)* s 55; *Births, Deaths and Marriages Registration Act 1996 (SA)* s 49; *Births, Deaths and Marriages Registration Act 1996 (Vic)* s 49; *Births, Deaths and Marriages Registration Act 1997 (ACT)* s 68; *Births, Deaths and Marriages Registration Act 1998 (WA)* s 70; *Births, Deaths and Marriages Registration Act 1999 (Tas)* s 49; *Births, Deaths and Marriages Registration Act 1996 (NT)* s 47.

8 Queensland Registry of Births, Deaths and Marriages, *Free Replacement Certificates* (12 February 2013) <<http://www.justice.qld.gov.au>>.

9 Ibid.

10 Consumer Affairs and Trading (Tasmania), *Q & A Tasmanian Bushfire 2013* (8 January 2013) <<http://www.consumer.tas.gov.au>>.

11 The APO also lists discounted fees for issue of a senior's passport (people aged 75 and over) as well as reduced fees for replacing lost or stolen passports. For details of fee waivers for weather-related events see: Australian Passport Office, *News* <<https://www.passports.gov.au>>.

12 Northern Territory Government, *The Territory Government's Alcohol Reforms* <<http://www.justice.nt.gov.au>>.

13 The Working with Children Clearance and Ochre Card applies to people working or seeking to work in any type of child-related employment across the Northern Territory. Everyone who is issued with a Working with Children Clearance Notice also receives an Ochre Card. The Ochre Card can be carried as proof that a person holds a Working with Children Clearance Notice: Northern Territory Government, *Working with children* <<http://www.workingwithchildren.nt.gov.au>>.

- 5.17 A limited fee waiver is available in Western Australia for people who are legally aided. This waiver also applies to authorised agencies that may require certificates on behalf of clients (for example law enforcement agencies for the purpose of criminal prosecution).¹⁴ The WA concessions website has recently added information on fee waivers for birth certificates and the Registry. This includes information on how people receiving legal aid can apply for a fee waiver.¹⁵
- 5.18 The NSW Registry advertises (to a limited extent) the ability to waive fees for members of the Stolen Generations. No further information is publicly available about waivers or other criteria.¹⁶
- 5.19 At the time of writing the Victorian Registry did not provide publicly available information on the criteria applied to fee waiver applications, but the Commission is aware that it is undertaking a review of its service provision.

International jurisdictions

- 5.20 Varied practices exist in international jurisdictions surveyed. Most require payment of a prescribed fee for the issue of a certified birth certificate at the time of registration. Some jurisdictions issue extracts of birth registration entry on the Register at no cost, effectively providing a receipt of registration, for example, local authorities in England and Wales (see **Appendix F**).
- 5.21 Jurisdictions surveyed also require a fee for replacing a birth certificate. Some limited fee waiver criteria apply, which are discussed in brief below.
- 5.22 In Scotland, the Registrar-General may remit any fee or part of a fee where the payment of the fee is likely to cause hardship to the person by whom it is payable, or where the service in respect of which the fee is payable is performed for research purposes.¹⁷ The Registry will issue an extract of birth (excluding parentage details) free of charge at the time of registration. A full birth certificate costs £10.¹⁸
- 5.23 In New Zealand, the Registrar-General may dispense with the payment of all or any part of any fee payable under the *Births, Deaths, Marriages and Relationships Registration Act 1995* (NZ).¹⁹ Alternatively, the Registry will accept a payment authorisation voucher provided by the New Zealand Ministry for Social Development for applications for birth certificates from eligible individuals.²⁰
- 5.24 In the Republic of Ireland, if a person requires a birth certificate in order to claim a benefit paid by the Department of Social, Community & Family Affairs a reduced fee will be charged.²¹ The current standard fee for a birth certificate in the Republic of Ireland is €10.²² The amount of the reduced fee is not stated.

14 Registry of Births, Deaths and Marriages (WA), 'Delegation of Authority' to deal with the issue of fees pursuant to section 70 of the *Births, Deaths and Marriages Registration Act 1998* (WA): Email from Rohan Quinn, Manager Registration Services and Policy, Registry of Births, Deaths and Marriages (WA) to Myra White, Community Law Reform Manager, Victorian Law Reform Commission, 25 July 2012.

15 ConcessionsWA is an online resource where individuals can search by category, concession card type or people group to find details on rebates, concessions and subsidy schemes provided by the Government of Western Australia: ConcessionsWA, *Registry of Births, Deaths and Marriages—Fee Waiver* <<http://www.concessions.wa.gov.au>>.

16 The website reads 'People applying at the Registry who are affected by the Stolen Generations are given alternative methods to prove their identity and may be eligible for a fee waiver when lodging an application': Registry of Births, Deaths and Marriages (NSW), *Aboriginal & Torres Strait Islander* <<http://www.bdm.nsw.gov.au>>.

17 *Registration of Births, Deaths and Marriages (Scotland) Act 1965* (Scot) asp 49, s 54(1)(a); *Registration of Births, Deaths, Marriages and Divorces (Fees) (Scotland) (No 2) Regulations 1988* (Scot) SI 1997/716, reg 6.

18 Aberdeenshire Council, *Birth Registration* (10 September 2012) <<http://www.aberdeenshire.gov.uk>>.

19 *Births, Deaths, Marriages and Relationships Registration Act 1995* (NZ) s 91(2).

20 Email from Births, Deaths and Marriages (NZ), 15 August 2012. New Zealand Government, Work and Income, *Youth Service Payment Card* <<http://www.workandincome.govt.nz>>.

21 General Register Office (Ireland), *Registering a Birth* <<http://www.groireland.ie>>.

22 General Register Office (Ireland), *Fees* <<http://www.groireland.ie>>.

Community responses

- 5.25 In the consultation paper, the Commission sought views from the community on:
- whether it was appropriate to charge a fee for a birth certificate
 - whether the fee created a barrier to obtaining a birth certificate
 - what criteria should be applied to the grant of a waiver
 - whether a waiver should be available only on a case-by-case basis, or should also be available to classes of people
 - whether the criteria for a waiver should be explicitly stated in legislation or regulations; or contained in a publicly available policy document.
- 5.26 Many consultation participants felt strongly about the issue of fees. Some participants had an in-principle objection to the imposition of a fee. These participants felt that as a birth certificate is required by the state and other entities for many important interactions, no fee should be charged.²³
- 5.27 Other participants felt that while the fee was not a large sum (and did not cause hardship to most applicants), it could be a barrier to those from disadvantaged backgrounds.²⁴

Is it appropriate to charge for a birth certificate?

- 5.28 Many participants during consultation felt that it was inappropriate to charge for a birth certificate issued after the registration of a birth (a first-issue birth certificate).²⁵ Some expressed surprise that they had been required to pay at all, assuming mistakenly, that a birth certificate would be provided at no cost for the first issue to a child.²⁶
- 5.29 The Castan Centre recommended that:
- A free standard birth certificate is issued for all Victorian children on registration of their birth.²⁷
- 5.30 The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) also supported the provision of a birth certificate without a fee being charged,²⁸ as did Liberty Victoria.²⁹
- 5.31 Many consultation participants noted that a birth certificate is required for many legal and practical aspects of everyday life and maintained that it was therefore inappropriate to charge a fee.³⁰
- 5.32 Most respondents who held this view also felt that birth certificates should be free for the first-issue birth certificate only and not subsequent certificates.³¹ For example, one group suggested that if people misplaced a certificate, then subsequent copies should attract a fee.³² Some participants felt that if a first-issue birth certificate were free, it would act as an incentive to registration.³³

23 Consultations 13 (New Parents Group, Mildura South); 23 (MCH Team Meeting, Bairnsdale); 24 (Bairnsdale and Morwell Justice Service Centres); 25 (Young, Pregnant and Parenting Group, Lakes Entrance); 31 (The Royal Women's Hospital); 33 (Link-Up Victoria).

24 Consultations 8 (New Parents Group, Wangaratta); 16 (MCH Team Meeting, Robinvale); 32 (Mercy Hospital for Women).

25 Consultations 1 (Spectrum Migrant Resource Centre); 8 (New Parents Group, Wangaratta); 12 (DEECD); 14 (Mildura Base Hospital); 17 (Immunisation session, Flemington); 18 (New Parents Group, Dandenong North); 20 (Dandenong Hospital); 21 (MCH Team Meeting, Warragul); 22 (MCH Team Meeting, Traralgon); 23 (MCH Team Meeting, Bairnsdale); 32 (Mercy Hospital for Women); 33 (Link-Up Victoria).

26 Consultations 13 (New Parents Group, Mildura South); 17 (Immunisation session, Flemington).

27 Submission 10 (Castan Centre for Human Rights Law—Monash University).

28 Submission 7 (VEOHRC).

29 Submission 12 (Liberty Victoria).

30 Consultations 13 (New Parents Group, Mildura South); 23 (MCH Team Meeting, Bairnsdale); 24 (Bairnsdale and Morwell Justice Service Centres); 25 (Young, Pregnant and Parenting Group, Lakes Entrance); 31 (The Royal Women's Hospital); 33 (Link-Up Victoria).

31 Consultations 13 (New Parents Group, Mildura South); 17 (Immunisation session, Flemington); 23 (MCH Team Meeting, Bairnsdale); 24 (Bairnsdale and Morwell Justice Service Centres); 25 (Young, Pregnant and Parenting Group, Lakes Entrance); 31 (The Royal Women's Hospital).

32 Consultation 19 (Vietnamese New Parents Group, Springvale).

33 Consultation 27 (Dandenong Justice Service Centre).

- 5.33 In other consultations, participants suggested that receipt of a free, first-issue birth certificate could be conditional on an application being received within time, suggesting a 60-day³⁴ or 30-day³⁵ time limit, with late applications attracting a fee.³⁶
- 5.34 Some consultation participants supported the Registry continuing to charge a fee for ‘fancy’ certificates, such as the commemorative birth certificates.³⁷
- 5.35 A similar view was expressed by others who thought that continuing to charge a fee for services such as the commemorative birth certificate would reduce the loss in revenue to the Registry.³⁸ Other consultation participants suggested that the fee for any replacement certificate and/or the commemorative certificate could be increased.³⁹ Participants who supported this approach argued that this would allow the Registry to continue to derive revenue but remove barriers to individuals seeking basic identity documents such as a birth certificate.⁴⁰
- 5.36 A contrasting view was provided by health professionals working in one inner city area. They advocated reducing the cost of a birth certificate or linking it to a concession, such as possession of a health care card or pensioner concession card, instead of providing it without cost. The rationale for this approach was that having some cost to the certificate would make it more meaningful to recipients and therefore they were more likely to value it and keep it safe.⁴¹
- 5.37 Service providers noted that people from culturally and linguistically diverse (CALD) backgrounds sometimes attribute great significance to the purchase of a commemorative certificate for their child, but may not have the financial means to make the purchase. The Commission heard examples of new parents who chose to forgo essential household items in order to pay for a commemorative certificate.⁴²
- 5.38 One new mother from a CALD background told the Commission that her husband had insisted on purchasing a commemorative certificate. As a result, they had been unable to afford the fee at the time of their child’s birth and had delayed the registration until they were able to save the money.⁴³ A late application for a commemorative certificate would also delay the issue of a standard birth certificate, which comes as a package with the purchase of the commemorative certificate [see also 4.111–4.120].

Is the current fee a barrier?

- 5.39 The consultation paper asked whether the current fee created a barrier to obtaining a birth certificate. During consultations, the Commission heard that the current fee can present a barrier for people from disadvantaged backgrounds,⁴⁴ both in obtaining a birth certificate at the time of registration and later in life. In one consultation, justice service officers noted that it is common for people to raise the issue of cost when applying for a certificate.⁴⁵

34 Consultations 14 (Mildura Base Hospital); 15 (Mildura Justice Service Centre); 20 (Dandenong Hospital).

35 Consultation 10 (MCH Team Meeting, Flemington).

36 Consultations 14 (Mildura Base Hospital); 19 (Vietnamese New Parents Group, Springvale); 20 (Dandenong Hospital); 33 (Link-Up Victoria).

37 Consultations 13 (New Parents Group, Mildura South); 14 (Mildura Base Hospital); 17 (Immunisation session, Flemington); 20 (Dandenong Hospital); 22 (MCH Team Meeting, Traralgon); 25 (Young, Pregnant and Parenting Group, Lakes Entrance).

38 Consultation 5 (MCH Team Meeting, Shepparton).

39 Consultations 5 (MCH Team Meeting, Shepparton); 19 (Vietnamese New Parents Group, Springvale).

40 Consultation 5 (MCH Team Meeting, Shepparton).

41 Consultation 10 (MCH Team Meeting, Flemington).

42 Consultation 16 (MCH Team Meeting, Robinvale).

43 Consultation 18 (New Parents Group, Dandenong North).

44 Consultations 2 (Boorai Group, Victorian Aboriginal Health Service); 9 (MCH Team Meeting, Wangaratta); 11 (Sue Smythe, Robinvale Resource Service Centre); 14 (Mildura Base Hospital); 17 (Immunisation session, Flemington); 18 (New Parents Group, Dandenong North); 22 (MCH Team Meeting, Traralgon); 23 (MCH Team Meeting, Bairnsdale); 26 (Gippsland East Aboriginal Driver Education Program); 30 (New Mothers Group, Connect Ed, Horsham College); 31 (The Royal Women’s Hospital); 32 (Mercy Hospital for Women); 33 (Link-Up Victoria).

45 Consultations 24 (Bairnsdale and Morwell Justice Service Centres); 27 (Dandenong Justice Service Centre).

- 5.40 Consultation participants noted that having a new baby is expensive, especially if it involves the loss of, or reduction in, a wage.⁴⁶ The month following the birth of a child, before Centrelink payments are received, can be very difficult.⁴⁷ Some respondents commented that the fee meant that the application would sometimes be delayed until the funds could be found.⁴⁸
- 5.41 One new parent told the Commission that she had left the registration and application for a birth certificate until the end of the 60-day limit in order to try to save money.⁴⁹ Others, particularly younger participants, noted that because of the fee, they had registered the birth of their child but not applied for a birth certificate at the same time.⁵⁰
- 5.42 The issue of late registration was noted by the Castan Centre:
- Given that the provision of a certificate is perhaps the only obvious benefit of registration to a new parent, for people with limited means the cost of obtaining one may have an impact on the extent of compliance with the registration process itself...⁵¹
- 5.43 A number of participants expressed surprise at the cost, noting that \$28.60 seemed a lot for 'a piece of paper'.⁵²
- 5.44 The Commission has considered the views expressed in submissions and during consultations on both the question of the appropriateness of fees and whether the current fee creates a barrier to registration. Before outlining its views on these matters the Commission will consider the issue of a fee exemption and/or waiver. The Commission will then outline its views on all issues considered.

Fee waivers and fee exemptions

- 5.45 As discussed in the above section, the Commission heard considerable evidence that the fee for a birth certificate is a barrier for some people, albeit a small number.
- 5.46 The Act allows the Registrar to remit the whole or part of a fee in appropriate cases.⁵³ The consultation paper noted that while the Act allows the fee for a birth certificate to be waived at the discretion of the Registrar, this discretion is rarely exercised. The paper asked what criteria should be applied to the grant of a fee waiver.
- 5.47 The consultation paper posed this question broadly with application to people applying at the time of registration and to those who may apply at a later date.⁵⁴
- 5.48 Consultations and submissions raised the issues of, and made suggestions in relation to, both fee waivers and fee exemptions. The criteria for both the grant of a fee waiver, and fee exemption will be discussed in the following section.

46 Consultation 19 (Vietnamese New Parents Group, Springvale).

47 Ibid.

48 Consultation 24 (Bairnsdale and Morwell Justice Service Centres).

49 Consultation 18 (New Parents Group, Dandenong North).

50 Consultation 30 (New Mothers Group, Connect Ed, Horsham College).

51 Submission 10 (Castan Centre for Human Rights Law—Monash University).

52 Consultations 17 (Immunisation session, Flemington); 18 (New Parents Group, Dandenong North).

53 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 49.

54 Responses to both situations are discussed in this section.

Criteria for granting a fee waiver or exemption

- 5.49 Many consultation participants suggested that possession of a health care card or a pensioner concession card should be a sufficient criterion for receipt of a fee waiver.⁵⁵
- 5.50 Alternatively, Liberty Victoria, the Law Institute of Victoria (LIV) and Legal Aid NSW suggested that a waiver should apply for those experiencing financial hardship.⁵⁶ LIV suggested, in line with their recommendations to the Victorian Attorney-General for reforms to the waiver of court and tribunal fee provisions,⁵⁷ that in addition to a waiver for financial hardship, there should be specified fee exemption categories, for example, where a person holds a health care card, is in receipt of Youth Allowance or receiving a benefit under ABSTUDY.⁵⁸
- 5.51 The North Melbourne Legal Service supported wide criteria for a waiver, stating that:
- Pursuant to appropriate guidelines in certain cases, marginalised, disadvantaged and impoverished individuals should be eligible to have this fee waived.⁵⁹
- 5.52 Consultation participants pointed out that both courts and utility providers regularly permit fee reductions or exemptions for concession card holders and that the same should apply for a birth certificate. The LIV noted that:
- In many contexts, including court and tribunal fees, fee waiver is available in cases of financial hardship. Waiver of fees is important to ensure that socially and economically disadvantaged people are not precluded from accessing what they otherwise have a right to access as a citizen or resident.⁶⁰
- 5.53 One group of consultation participants noted that those most in need of a fee waiver often lack the capacity or knowledge to apply. These participants felt that it would be fairer and more cost-effective to issue birth certificates without charge at the time of registration for disadvantaged groups.⁶¹

Alternatives for setting out fee waiver or exemption criteria

- 5.54 In the consultation paper the Commission asked whether criteria for a fee waiver should be explicitly stated in legislation or regulations, or set out in a publicly available policy document.

Waivers and exemptions stated in legislation or regulations

- 5.55 A range of agencies, including courts and tribunals, provide full or partial fee waivers with their source in legislation or regulations.
- 5.56 The Magistrates' Court of Victoria provides a fee waiver within the *Magistrates' Court Act 1989* (Vic)⁶² with exemptions and a fee schedule specified in the *Magistrates' Court (Fees) Regulations 2012* (Vic).⁶³
- 5.57 Likewise the County Court of Victoria provides both a fee waiver and fee exemption in legislation.⁶⁴

55 Consultations 1 (Spectrum Migrant Resource Centre); 9 (MCH Team Meeting, Wangaratta); 19 (Vietnamese New Parents Group, Springvale); 27 (Dandenong Justice Service Centre); 30 (New Mothers Group, Connect Ed, Horsham College); 31 (The Royal Women's Hospital).

56 Submissions 6 (Law Institute of Victoria); 9 (Legal Aid NSW); 12 (Liberty Victoria).

57 Law Institute of Victoria, *Streamlining of Waiver of Court and Tribunal Fees Processes in Pro Bono Matters in Victoria: Submission to the Victorian Attorney General* (4 March 2011) <<http://www.liv.asn.au>>.

58 Submission 6 (Law Institute of Victoria).

59 Submission 4 (North Melbourne Legal Service).

60 Submission 6 (Law Institute of Victoria).

61 Consultation 5 (MCH Team Meeting, Shepparton).

62 *Magistrates' Court Act 1989* (Vic) s 22(2).

63 *Magistrates' Court (Fees) Regulations 2012* (Vic) regs 7–8.

64 *County Court Act 1958* (Vic) ss 28(4), 28A.

- 5.58 Both the County and Magistrates' Courts provide fee exemptions only in specific, employment-related cases (such as police officers acting in execution of their duties etc).⁶⁵
- 5.59 Courts within the federal jurisdiction such as the High Court of Australia, the Federal Court, the Federal Magistrates' Court and the Family Court of Australia provide fee exemptions on the basis of a class of people (such as those in possession of a health care card or pensioner concession card) within legislation.⁶⁶
- 5.60 In response to the Commission's consultation paper, the VEOHRC was supportive of a fee waiver set out in regulations or legislation, stating that:
- Costs associated with certification should be minimised by a combination of legislation and policy to facilitate waivers. Legislation could provide for certain categories of automatic waiver, for example if a person is in possession of a health care card, and that the Registrar has a further discretion to waive fees in certain circumstances not covered by the legislation.⁶⁷
- 5.61 The LIV was also supportive of this approach and recommended that:
- The fee waiver power in the *Births, Deaths and Marriages Registration Act 1996* should be elaborated in the *Births, Deaths and Marriages Registration Regulations 2008* to establish explicit criteria for access to a fee waiver.⁶⁸

Waivers detailed in policy documents and forms

- 5.62 While legislation must provide the power to waive a fee, or the categories for a fee exemption, the details of the exercise of such a power or discretion can be more or less specific. In some instances the criteria will be outlined in the legislation and more detail on their interpretation will be provided in policy documents or applications forms. The Victorian Civil and Administrative Tribunal (VCAT) takes this approach.
- 5.63 As in the examples provided in the previous section, provision is made for a fee waiver in the *Victorian Civil and Administrative Tribunal Act 1998 (Vic)*.⁶⁹ The *Victorian Civil and Administrative Tribunal (Fees) Interim Regulations 2012 (Vic)* set out the schedule of fees and the ability of the Principal Registrar to reduce fees in certain circumstances.⁷⁰
- 5.64 The Victorian Civil and Administrative Tribunal Act provides that:
- the Principal Registrar may in any case—
- a) waive or;
- b) if permitted by the regulations, reduce—
- any fee payable under that Act, if he or she considers that the payment of the fee would cause the person responsible for its payment financial hardship or on any other ground prescribed in the regulations.⁷¹
- 5.65 Applicants who wish to apply for a full fee waiver or partial reduction may access the form online and present this to the Principal Registrar.⁷²

65 Ibid s 28A; *Magistrates' Court (Fees) Regulations 2012 (Vic)* reg 7.

66 *High Court of Australia (Fees) Regulation 2012 (Cth)* reg 11; *Federal Court and Federal Magistrates Court Regulation 2012 (Cth)* reg 2.05; *Family Law (Fees) Regulation 2012 (Cth)* reg 2.04.

67 Submission 7 (VEOHRC).

68 Submission 6 (Law Institute of Victoria).

69 *Victorian Civil and Administrative Tribunal Act 1998 (Vic)* s 132.

70 *Victorian Civil and Administrative Tribunal (Fees) Interim Regulations 2012 (Vic)* regs 6–7. These regulations expire on 15 June 2013. The Commission expects that the regulations replacing the interim regulations to come into effect on 1 June 2013, will contain a similar approach to the waiver of fees.

71 *Victorian Civil and Administrative Tribunal Act 1998 (Vic)* s 132(1).

72 Victorian Civil and Administrative Tribunal, *Resources* (27 May 2013) <<http://www.vcat.vic.gov.au>>.

- 5.66 VCAT produces a policy document to provide further explanation of how the fee waiver may be exercised. This document divides those eligible for a waiver into two general categories: those who meet a criterion (such as concession card holder, a young person under 18 or a prisoner); and those who are low-income earners suffering financial hardship.⁷³
- 5.67 VCAT retains discretion to grant or refuse an application for a fee waiver.⁷⁴
- 5.68 There was support in submissions to the Commission for the Registry to produce a policy document (in addition to legislation, or of its own standing) outlining the criteria for a waiver of fees or fee reduction, in a similar manner to VCAT. The LIV supported a policy document being available on the Registry's website⁷⁵ and further suggested that:
- A fee waiver application form should be developed and published on the Registry's website. The form should be simple and easy to use and available in community languages.⁷⁶
- 5.69 In addition to its support for setting out the criteria on which a waiver would be granted within legislation, VEOHRC supported criteria being outlined in a policy document. It noted that:
- A policy could clarify: in what circumstances fees will be waived, for example if people are experiencing financial hardship...⁷⁷

Commission's view

- 5.70 Antecedent to the question of quantum of fee for issue of a standard birth certificate and the questions of remitting such fee for a class of people (exemption) or for individuals on a case-by-case basis (waiver), is the question whether as a matter of principle the state should issue standard birth certificates without cost. The Commission turns to this question.
- 5.71 There are good reasons of principle why the state should issue standard birth certificates without cost. Persons have identity by reason of their existence. However, formal proof of identity is provided by the state. As discussed in this report, formal proof of identity is important in itself, is important to the individual, and is important to the state. In a modern society it can be said that it is the duty of the state to provide that proof as part of its function of care and protection of its citizens. A number of submissions, referred to above,⁷⁸ adopted this in-principle analysis. The Commission considers there is substance in this analysis.
- 5.72 However, the state government uses the fees received from the issue of standard and other birth certificates to fund the operations of the Registry, operations which are both essential to individuals and society and which involve significant administrative cost.
- 5.73 In 2011, there were 75,417 births notified in Victoria and by the middle of 2012 approximately 3.5 per cent remained unregistered.⁷⁹ If it is assumed that 74,000 of these births would have been registered if first-issue birth certificates had been provided without charge, the loss of revenue would have been \$2,116,400.
- 5.74 In government fiscal rectitude and prudence are important considerations. Rightly so.

73 Victorian Civil and Administrative Tribunal, *Waiver of Fees Guidelines* (7 March 2012), 2 <<http://www.vcat.vic.gov.au>>.
74 Ibid.
75 Submission 6 (Law Institute of Victoria).
76 Ibid.
77 Submission 7 (VEOHRC).
78 To a greater or lesser degree at paragraphs [3.49]–[3.51], [4.129]–[4.134].
79 Data provided by the Department of Justice (Victoria) to the Victorian Law Reform Commission, 1 August 2012.

- 5.75 Further, in submissions and consultations there was no claim that the cost of a standard birth certificate was a significant burden on the majority of parents or had harmful consequences. There was, however, clear evidence that that cost was a financial burden for some vulnerable individuals and groups and was an impediment to those people and groups fully functioning in society.
- 5.76 Having carefully considered the issues and balancing the above considerations, the Commission has concluded that the appropriate course is to address the issues of vulnerable people and groups, rather than make holistic recommendations which would involve significant loss of revenue to government—revenue which is applied to the very matters of birth registrations and birth certificates. In that way, the disenfranchisement, disadvantage and sometimes the harm that is occurring in the community are specifically and directly addressed. The Commission’s conclusions are as follows.
- 5.77 The Commission is not convinced that the issues raised pose a significant barrier to the majority of the community. Timely birth registration occurs in the majority of cases. Therefore, the Commission supports the retention of a prescribed fee for the issue of a standard birth certificate.
- 5.78 The Commission, is however, persuaded by the evidence provided in submissions that the current fee can present a barrier for people from disadvantaged or low-income backgrounds. The Commission agrees with the Law Institute of Victoria that:
- people who are not able to pay for a birth certificate should not be precluded from obtaining a birth certificate.⁸⁰
- 5.79 The Commission acknowledges that for that section of the community the effect of not registering the birth or having a birth certificate can pose considerable problems later in life.
- 5.80 The Commission therefore agrees with the view expressed by the majority of participants that it would be appropriate to exempt those suffering financial hardship from paying the appropriate fee.

A fee exemption

- 5.81 The Commission considers that the definition of eligible beneficiary as provided in section 3 of the *State Concessions Act 2004* (Vic)⁸¹ would be an appropriate basis for assessing financial need and for providing a fee exemption. A fee exemption, as supported in submissions, would be administratively simple and not require a case-by-case assessment of financial hardship.
- 5.82 An ‘eligible beneficiary’ as defined under the *State Concessions Act* means a person who during the relevant period:
- (a) is an eligible recipient; or
 - (b) is the holder of a health care card issued under section 1061ZS of the *Social Security Act 1991* of the Commonwealth other than-
 - (i) in respect of a child in foster care; or
 - (ii) a child in respect of whom a carer allowance under section 953 of that Act is payable; or
 - (c) is the holder of a Gold Card, being a card issued to a person who is eligible for treatment under Part V of the *Veterans’ Entitlement Act 1986* of the Commonwealth, other than a dependant (not including the widow or widower) of a veteran; or

(d) belongs to a class or classes of person declared by Order under section 4(1) to be an eligible beneficiary.⁸²

- 5.83 An 'eligible recipient' means a person who during the relevant period is:
- an 'eligible pensioner' (a person who is the holder of a pensioner concession card or a Gold Card holder); or
 - the holder of a Gold Card [definition as per 5.82 above] with the addition of those who are defined as totally and permanently incapacitated veterans under that Act.⁸³
- 5.84 Possession of a health care card or pensioner concession card were criteria strongly supported in submissions and consultations. Using the definition of 'eligible beneficiary' would also have the benefit of linking those entitled to a fee exemption to an existing Victorian statute that has the express object of enhancing 'the quality of life of its more vulnerable members'.⁸⁴
- 5.85 A fee exemption to eligible people would have the added benefit that it would replace the current two-stage process for birth registration and birth certificates. An eligible parent could simply provide supporting documentation, such as a copy of their health care card, with the birth registration statement and a standard birth certificate would be issued automatically. For applications made at a time other than registration, the birth certificate application form (online or otherwise) could explain how supporting documentation is to be provided to the Registry.
- 5.86 Moreover, the Commission is of the view that the Registrar should have the power to refuse an exemption where a birth certificate has previously been issued to an applicant on behalf of the child. This would limit the number of times that the exemption provision could be activated by an applicant in respect of a particular birth certificate and assist to maintain the integrity of the provision.
- 5.87 The Commission considers that a young person applying for a birth certificate who comes within the definition of an eligible beneficiary should be entitled to an exemption, even though his or her birth certificate may previously have been issued to a parent who was exempted from payment. The Commission's recommendation for exemption provides for this situation.
- 5.88 The Commission is of the view that this approach more equitably balances the needs of the most disadvantaged groups in our community, on low or fixed incomes, with the need for financial rigour and prudence by government.

Retention of Registrar's fee waiver power

- 5.89 The Commission agrees with submissions made by the VEOHRC and the LIV that a fee exemption be accompanied by the retention of the Registrar's fee waiver power. This way the fee waiver could cover other appropriate cases such as those who are victims of natural disasters (as currently supported by the Registry), members of the Stolen Generations, young people who have recently left out-of-home care, former wards of state or people raised in institutional care.
- 5.90 If an applicant lost or misplaced a birth certificate issued under the fee exemption provision, then any application for a replacement could be considered on a case-by-case basis under the Registrar's general discretion to waive fees.

82 Ibid. To be considered an eligible beneficiary, the person must be the primary cardholder of the health care card or pensioner concession card, and not listed as a partner or dependent on the card.

83 *State Concessions Act 2004* (Vic) s 3 (definition of 'eligible recipient').

84 Victoria, *Parliamentary Debates*, Legislative Assembly, 14 October 2004, 1056 (The Hon Sherryl Garbutt, Minister for Community Services).

Cost

- 5.91 The Commission notes that its recommendations for statutory exemption and for retention of fee waiver have cost implications if implemented and therefore suggests that the government consider ways to offset these costs against other services and/or products offered by the Registry. For example, the Registrar could consider a modest increase in the scheduled fee for standard birth certificates or an offset in cost from revenue derived from other products and services such as commemorative certificates or both.
- 5.92 Victoria currently has one of the lowest fees for the issue of a standard birth certificate when compared with other states and territories (See **Appendix E**). A modest increase, so long as it accurately reflects the cost of the service to provide the certificate, would be warranted in order to offset the cost of the proposed recommendations.⁸⁵
- 5.93 The Commission considers that this approach—the introduction of a fee exemption and the retention of a fee waiver power—would help meet the needs of the most disadvantaged. This flexibility would be balanced against the continuing requirement of a relatively modest payment from the majority of the population for whom the fee does not appear to represent a barrier to birth registration or replacement of a birth certificate.

Recommendations

- 13 *The Births, Deaths and Marriages Registration Act 1996 (Vic)* should provide that an eligible beneficiary:

- is exempt from paying a fee imposed for a standard birth certificate
- may not be entitled to the fee exemption if the birth certificate has previously been issued to the applicant.

Eligible beneficiary should have the same meaning as it has in section 3 of the *State Concessions Act 1994 (Vic)*.

- 14 The Registrar's power to grant a fee waiver in 'appropriate cases' should be retained, to deal with applicants who do not come within the definition of 'eligible beneficiary' but who have an appropriate reason for seeking a fee waiver.

Guidelines should be developed setting out how the Registrar's discretion to waive fees will be exercised.

85

As of March 2012, approximately 7 per cent of Victorian residents were health care card holders and 16.4 per cent of the population held a pensioner concession card. This equates to 403,114 and 925,145 respectively out of an estimated population of 5,623,492 million. While it is difficult to estimate what the expected uptake of birth certificates may be, not all health care card or pensioner concession card holders would need to apply for a birth certificate in any given year. Further, not all Victorian residents will have been born in Victoria and require a Victorian birth certificate. The Commission is therefore unable to determine accurately what the demand may be for a fee exemption for eligible beneficiaries. Department of Human Services (Commonwealth), *FaHCSIA Electorate Data—March 2012* (20 March 2013) <<http://www.humanservices.gov.au/corporate/publications-and-resources/facts-and-figures/electorate-data/>>. Population data was extracted from Australian Bureau of Statistics, *Australian Demographic Statistics, Sep 2012*, Cat No. 3101.0, 24–27, <<http://www.abs.gov.au>>.

Awareness of fee waivers

- 5.94 During consultations the Commission heard that few participants knew of the existing fee waiver discretion contained within the Act.⁸⁶ Those participants who were aware of the discretion noted that the criteria for applying the waiver were unclear.⁸⁷
- 5.95 Justice service officers noted that clients attending justice service centres are often not aware of the discretion to waive fees.⁸⁸ A number of participants also commented that as there is little or no publicly available information about the waiver, or how to access it, its usefulness is very limited.⁸⁹
- 5.96 The Commission found that little information is available publicly about the ability of the Registrar to waive fees in appropriate circumstances. There was strong support during consultations and in submissions for more publicity about the existence of these mechanisms for fee relief and for developing more transparent criteria for waiving fees for applications for birth certificates.⁹⁰ The North Melbourne Legal Service stated that:
- There should be publicly available guidelines available to individuals to clearly describe what constitutes an ‘appropriate’ case for the purposes of this section.⁹¹
- 5.97 The VEOHRC stated that:
- A public and objective set of criteria for discretion should be available and clearly communicated, to guide both the Registrar and general public about eligibility for fee waiver.⁹²
- 5.98 This would be in accordance with the practice of VCAT, which produces a fee waiver guide, available online, that outlines what factors will be considered when an applicant seeks a fee waiver.⁹³ The guide makes it clear to the public who is eligible to receive a waiver, as discussed in the previous section ‘Waivers detailed in policy documents and forms’.

Commission’s view

- 5.99 One of the objects of this review is to make the process accessible and transparent for the public. While there are several ways to do this, the Commission favours the approach taken by VCAT. The power of the Registrar to remit or waive a fee is stated in the Act, and the criteria upon which a fee will be waived are set out in publicly available guidelines.

Recommendation

- 15 The guidelines outlining the criteria for the waiver of fees should:
- be publicly available
 - be contained in Registry publications and on the Registry’s website
 - include information about how an individual can apply to the Registrar for a fee waiver.

86 Consultation 32 (Mercy Hospital for Women).
87 Consultation 23 (MCH Team Meeting, Bairnsdale).
88 Consultation 27 (Dandenong Justice Service Centre).
89 Consultation 10 (MCH Team Meeting, Flemington).
90 Submissions 4 (North Melbourne Legal Service); 7 (VEOHRC) 12 (Liberty Victoria). Consultations 1 (Spectrum Migrant Resource Centre); 9 (MCH Team Meeting, Wangaratta); 19 (Vietnamese New Parents Group, Springvale); 27 (Dandenong Justice Service Centre); 30 (New Mothers Group, Connect Ed, Horsham College); 31 (The Royal Women’s Hospital).
91 Submission 4 (North Melbourne Legal Service).
92 Submission 7 (VEOHRC).
93 Victorian Civil and Administrative Tribunal, *Waiver of Fees Guidelines* (7 March 2012), 2 <<http://www.vcat.vic.gov.au>>.

Legislative change to underpin a waiver or exemption

- 5.100 The Act allows the Registrar to remit the whole, or part, of a fee in appropriate cases.⁹⁴ The consultation paper asked whether a waiver should be possible only on a case-by-case basis (as is current practice) or whether the law should be changed to allow for classes of people to also qualify for a waiver.
- 5.101 The Commission has recommended the retention of the power to waive fees in appropriate cases. The Commission has also suggested that the guidelines underpinning the waiver should be developed and made publicly available.
- 5.102 The Registry has informed the Commission that it is unable to provide a fee waiver for a class of applicants, based on legal advice as to the interpretation of section 49 of the Act. Instead, the Registrar has discretion to apply a fee waiver only on a case-by-case basis.⁹⁵
- 5.103 Despite the Registry's inability to waive fees for a class of applicants, it has, from time to time, adopted a flexible approach with regard to fee waivers in the instance of a natural disaster as discussed earlier in this chapter. VEOHRC referred to an example of such special arrangements in its submission to the Commission:

In 2009, in response to the victims of the Black Saturday bushfires who had lost all their possessions, the Registrar pursued a flexible policy by creating a simplified form and waiving all fees. It must be acknowledged that an unprecedented natural disaster triggered the government's swift response in this case, however a lack of legal personality is something that Aboriginal people are observed to often be experiencing indefinitely and in many cases, due to causes beyond their control.⁹⁶

Commission's view

- 5.104 The Commission understands that currently very few applications for the birth certificate fee to be waived are received or granted by the Registrar.
- 5.105 Being able to exempt a class of people would allow for an increase in the number of people able to benefit from a fee waiver without requiring the Registrar to consider a large number of additional individual cases. This would also formalise the existing practice of waivers granted to people affected by natural disasters, while leaving room for other classes of people, where deemed appropriate. The Registrar, for example, may wish to waive fees for other classes or groups of applications such as members of the Stolen Generations, young people who have recently left out-of-home care, former wards of state and individuals raised in institutional care.

Recommendation

- 16 The *Births, Deaths and Marriages Registration Act 1996 (Vic)* should be amended to allow for the fee for a birth certificate to be waived in full for a class of people.

94 *Births, Deaths and Marriages Registration Act 1996 (Vic)* s 49.
 95 Letter from Erin Keleher, above n 4.
 96 Submission 7 (VEOHRC).

Deducting birth certificate fee from newborn payment/s

- 5.106 A proposal put forward to the Commission during consultation was that the fee for the birth certificate could be deducted from the first instalment of the baby bonus or paid parental leave.⁹⁷ This proposal would apply only to eligible applicants and require the individual to provide consent to the Registry to seek reimbursement from Centrelink on their behalf.
- 5.107 This proposal would require cooperation between Centrelink and the Registry, as proposed and discussed in Chapter 3. A number of participants noted the difficulty in obtaining state and federal cooperation, but felt that this was a sensible approach as it was not a fee waiver, but a payment via other means.⁹⁸

Commission's view

- 5.108 The Commission acknowledges that a scheme that required the state and federal governments to coordinate payments or reimbursements for eligible persons may incur additional administration costs. This type of scheme would also require significant negotiation and agreement between all relevant state and federal agencies, not only Victoria. Therefore, on balance, the Commission does not see sufficient merit in this proposed arrangement at this time.

The Indigenous Access Fund

- 5.109 The Indigenous Access Fund (IAF) was established in 2010 to provide support for low-income Indigenous people to meet the cost of obtaining a life event certificate. The Registry and the Koori Justice Unit at the Department of Justice established the IAF, which is administered by the Registry. An application for access to the IAF can be made at the Registry or a justice service centre.
- 5.110 Single or multiple certificates may be applied for in the one application (for example, multiple birth, marriage and death certificates for family members or children). Applicants must:
- fill in a birth certificate application form
 - complete a statutory declaration acknowledging their Indigeneity⁹⁹
 - provide proof of low income, such as a health care card or pensioner concession card
 - provide certified copies of proof-of-identity documents.¹⁰⁰
- 5.111 If a person does not have sufficient proof of identity, a proof of identity regional exception form may be filled in.¹⁰¹ The Commission understands that documents provided by Aboriginal cooperatives, such as a letter or statement on letterhead that the person is a known member of the local Indigenous community, are not considered sufficient proof of Indigeneity.
- 5.112 The IAF is not publicly advertised and relies on informal networks for awareness, although

97 Consultations 5 (MCH Team Meeting, Shepparton); 9 (MCH Team Meeting, Wangaratta); 10 (MCH Team Meeting, Flemington); 11 (Sue Smythe, Robinvale Resource Service Centre); 12 (DEECD); 14 (Mildura Base Hospital); 17 (Immunisation session, Flemington); 18 (New Parents Group, Dandenong North); 20 (Dandenong Hospital); 21 (MCH Team Meeting, Warragul); 22 (MCH Team Meeting, Traralgon); 32 (Mercy Hospital for Women).

98 Consultations 4 (Shepparton Justice Service Centre); 9 (MCH Team Meeting, Wangaratta); 12 (DEECD).

99 This has now changed for Link-Up clients, due to an arrangement between the Registry and Link-Up: Meeting of Erin Keleher, Victorian Registrar Births, Deaths and Marriages and Andrew Jackomos, Director, Koori Justice Unit, Department of Justice with the Hon P.D. Cummins, Chair, Victorian Law Reform Commission, 12 March 2013.

100 Victorian Registry of Births, Deaths and Marriages, *Request for Assistance of the Indigenous Access Fund Coversheet/Application* (undated); *Statutory Declaration Pro Forma* (undated); *Regional Proof of Identity Exception Form* (undated). Provided to the Commission in Consultation 4 (Shepparton Justice Service Centre).

101 The Commission understands that the *Regional POI Exception Form* is a document provided to the justice service centres that allows justice officers to provide information about why the client is unable to meet the proof of identity requirements of the standard birth certificate application. If sufficient identity documents from Lists 1, 2 and 3 cannot be produced (as set out in the birth certificate application) then the form allows the client to provide a number of specific 'shared secrets' to provide information about themselves that only they can answer. The form also allows for other supporting information such as a referee, statutory declaration and/or letter from a doctor or professional body.

the Commission understands that justice service officers will draw attention to the IAF if they feel the person may be eligible. The Registry website does not include information about the existence of the IAF, or how to apply to the IAF for support with obtaining a life event certificate. The Registry has informed the Commission that it plans to launch a web page that includes information about the IAF as well as the Indigenous Access Team (to be discussed further in Chapter 6) in the near future.

Awareness of the Indigenous Access Fund

5.113 Awareness of the existence of the IAF was limited. The LIV noted that:

The Indigenous Access Fund is an important initiative. In 2009 it became apparent that many Indigenous people had not applied for a birth certificate because they are unable to pay the fee. The LIV is concerned about the lack of publicity about the Indigenous Access Fund and whether it is in practice providing assistance to eligible people.¹⁰²

5.114 Further discussion of community views pertaining to the operation of the IAF is contained in Chapter 6.

Commission's view

5.115 The Commission considers that since the IAF exists to assist Indigenous people pay the fees for life event certificates, it is essential that everyone who may qualify for assistance knows about the fund and understands how to apply to it.

Recommendation

17 Information about the Indigenous Access Fund should be readily available to service providers and members of the public.

Method of payment for fee

5.116 The issue of fee payment methods was raised during consultations. At present the Registry accepts a cheque, money order or credit card for payments made via post. Cash is accepted at the Registry office and justice service centres.

5.117 One group commented that often people from disadvantaged backgrounds do not have a cheque account or credit card¹⁰³ and that often the same people live from benefit cheque to benefit cheque.¹⁰⁴ It was noted that if these people are not close to a justice service centre or the Registry customer service centre, they will need to purchase a money order from a post office. Standard money orders cost \$8.95,¹⁰⁵ increasing the cost to the applicant of applying for a birth certificate to \$42.00, including postage.

5.118 Participants suggested that other methods of payment could be considered such as BPAY,¹⁰⁶ Paypal, or via Post Billpay through Australia Post.¹⁰⁷ The ability to apply and pay for a life event certificate at selected Australia Post outlets has recently been introduced by the NSW Registry. This arrangement lets applicants pay via a range of options, including EFTPOS and cash.¹⁰⁸

102 Submission 6 (Law Institute of Victoria).

103 Consultations 10 (MCH Team Meeting, Flemington); 21 (MCH Team Meeting, Warragul).

104 Consultation 22 (MCH Team Meeting, Traralgon).

105 Australia Post, *Money Orders* <<http://auspost.com.au>>.

106 Consultation 13 (New Parents Group, Mildura South).

107 Australia Post, *Postbillpay* <<http://www.postbillpay.com.au>>.

108 The Commission notes there is an additional \$21.00 non-refundable processing fee for applications submitted to Australia Post outlets: NSW Registry of Births, Deaths and Marriages, *Australia Post Applications* <<http://www.bdm.nsw.gov.au>>.

Commission's view

- 5.119 The Commission notes the positive feedback received during consultation about the justice service centres and acknowledges that with time, the centres will be used increasingly by members of the community. However, the Commission is still concerned that for people in regional areas or those who are unaware of the local justice service centre, options for payment remain limited.
- 5.120 With this in mind, the Commission considers that the Registry could explore the introduction of other payment methods as part of its expansion into online service provision. The NSW Registry's example of using Australia Post outlets is one option that could be explored by the Victorian Registry.

Recommendation

- 18 The Registrar should explore the introduction of other payment methods for fees for birth certificates.

Vulnerable groups

- 93** **The Indigenous community**
- 101** **Culturally and linguistically diverse communities**
- 106** **Young parents and other vulnerable groups**

6. Vulnerable groups

- 6.1 This chapter explores barriers to birth registration and obtaining a birth certificate for vulnerable groups. The Registry has a general function to maintain and update the Register for the whole of the Victorian community under the *Births, Deaths and Marriages Registration Act 1996* (Vic).¹
- 6.2 As identified in earlier chapters, while the majority of the community completes birth registration in a timely manner, considerable barriers can be encountered by some, particularly disadvantaged and vulnerable groups.
- 6.3 The Commission heard during consultations and from submissions that the sections of the community most likely to experience difficulties with registering a birth and/or accessing a birth certificate include:
- Indigenous people, including members of the Stolen Generations
 - culturally and linguistically diverse (CALD) communities
 - young parents
 - homeless people
 - children in out-of-home care²
 - young adults who have left care out-of-home care
 - former wards of state or those who were raised in institutional care, and
 - members of the community living in low socio-economic circumstances.
- 6.4 The particular issues faced by the Indigenous community, CALD communities, young parents and other vulnerable groups are discussed in this chapter. Issues relating to children currently in out-of-home care, young adults who have left care out-of-home care, former wards of state and those raised in institutional care were discussed in Chapter 4.

The Indigenous community

- 6.5 The terms of reference direct the Commission to consider barriers to birth registration specific to the Indigenous community and to identify practical solutions. As discussed in previous chapters, the origins of this project stemmed from a low rate of Indigenous birth registration in the East Gippsland area. This matter is now the subject of a three-year Australian Research Council inquiry across a number of jurisdictions.³
- 6.6 Barriers to birth registration and obtaining a birth certificate specific to the Indigenous community were raised in a number of consultations and within submissions.⁴ In its submission to the Commission the Castan Centre noted that:
- Aboriginal people may be experiencing problems associated with the birth registration and certification system in contrast to many others in broader society. Available information suggests that the system's legislative and policy framework may operate to indirectly discriminate against Aboriginal people.⁵
- 6.7 One difficulty with identifying Indigenous-specific issues in this area is the lack of available data. As discussed in Chapter 2, the Registrar does not collect particulars of ethnic origin or Aboriginal and Torres Strait Islander status at the time of birth notification. Particulars of Indigenous status are collected at registration. But, if a child is not registered, there is currently no way of determining that child's Indigenous status. Consequently, there is no data to support the considerable amount of anecdotal evidence that Indigenous children are over-represented among those children not registered.

The work of the Victorian Registry with the Indigenous community

- 6.8 Over recent years the Registry has been working to address apparently lower than average birth registration and birth certificate application by Indigenous people. In May and June 2009 Registry staff visited a number of regional locations (Mallee, Hume, Gippsland and Warrnambool) to encourage Indigenous birth registration and to assist with birth certificates.⁶ This work was undertaken in conjunction with the Koori Justice Unit of the Department of Justice and the Mildura Local Indigenous Partnership Project. The Registry continued this work in other regions, developing links with community service providers in multiple regional locations, including Mildura East and Lake Tyers.⁷ These are commendable initiatives.
- 6.9 The Indigenous Access Fund (IAF) was established in October 2010 as an initiative to encourage Indigenous people to apply for life event certificates. The IAF meets the cost of standard certificates for births, deaths and marriages, subject to the criteria being satisfied by the applicant. The establishment of the IAF, and the criteria for access to the fund, were discussed in Chapter 5.
- 6.10 In 2011, an initiative in the Barwon South West region involved the justice bus visiting locations across the region to promote the IAF.⁸

³ This was discussed in Chapter 1.

⁴ Submissions 5 (The International Commission of Jurists—Victoria); 6 (Law Institute of Victoria); 7 (VEOHRC); 9 (Legal Aid NSW); 10 (Castan Centre for Human Rights Law—Monash University); 12 (Liberty Victoria). Consultations 2 (Boorai Group, Victorian Aboriginal Health Service); 6 (Ovens and King community health workers & co, Wangaratta); 12 (DEECD); 14 (Mildura Base Hospital); 15 (Mildura Justice Service Centre); 23 (MCH Team Meeting, Bairnsdale); 26 (Gippsland East Aboriginal Driver Education Program); 31 (The Royal Women's Hospital); 32 (Mercy Hospital for Women); 33 (Link-Up Victoria).

⁵ Submission 10 (Castan Centre for Human Rights Law—Monash University).

⁶ Sixteen sessions were held across regional Victoria in towns including Mildura, Swan Hill, Shepparton, Sale, Bairnsdale, Heywood and Warrnambool. As a result of this outreach work the Registry received 300 applications for birth certificates, and 53 Indigenous births were registered: Department of Justice (Victoria), *Annual Report 2008–09* (2009) 175.

⁷ Department of Justice (Victoria), *Annual Report 2010–11* (2011) 48.

⁸ Ibid.

- 6.11 During consultation the Commission heard favourable comments about work undertaken in the East Gippsland region by the Registry and other local partners to encourage birth registration and obtain birth certificates for community members, particularly members of the Lake Tyers Aboriginal Trust.⁹ The Castan Centre also commented positively on the work undertaken by the Registry in their submission:

We have been heartened by the positive response made by the Victorian Registry of Births, Deaths and Marriages to dealing with Indigenous communities, especially in East Gippsland where the problems faced by such groups was first publicised. The success of programs to increase registration and certification there is to be applauded.¹⁰

- 6.12 As part of this work the Registry has established an Indigenous Access Team (IAT), which aims to provide a coordinated point of contact for enquiries by members of the Indigenous community. The IAT consists of a customer service officer and a Register Data Integrity Coordinator who provide this service in addition to other Registry tasks.¹¹
- 6.13 Although considerable work has been undertaken in this area, little public reference is made to it. The Registry website does not include information about how to apply to the IAF or for additional support with obtaining a life event certificate. As raised in the previous chapter, the Registry has informed the Commission that further information about the team as well as general information about the Registry's work to assist Indigenous community members will be available shortly on its website.¹²

Community responses

- 6.14 As discussed in the previous section, while work has been undertaken by the Registry, issues raised with the Commission during consultation suggest that further work may be needed to fully meet the needs of Indigenous Victorians regarding to access to Registry services.
- 6.15 Submissions to the review highlighted a number of ongoing barriers birth registration for Indigenous people. The VEOHRC identified:
- marginalization from mainstream services, a lack of confidence in engaging with authorities, low literacy levels and a lack of awareness of the benefits of birth registration and the requirements to give effect to it.¹³
- 6.16 The Castan Centre concluded that:
- Rather than any single factor being the cause of comparatively low rates of Indigenous birth registration, it appears that a number of issues operate together to reduce the level of completion of birth registration and certification processes by members of the Victorian Indigenous community. Good socio-legal policy requires that these be dealt with together.¹⁴

9 Consultation 26 (Gippsland East Aboriginal Driver Education Program). This work was undertaken in 2009. According to consultation participants, there has been no further work focusing solely on the Gippsland region since the initial partnership with local organisations to encourage birth registrations and access to birth certificates for Indigenous people.

10 Submission 10 (Castan Centre for Human Right Law—Monash University).

11 Letter from Erin Keleher, Victorian Registrar of Births, Deaths and Marriages to the Hon P.D. Cummins, Chair, Victorian Law Reform Commission, 21 February 2013.

12 Ibid.

13 Submission 7 (VEOHRC).

14 Submission 10 (Castan Centre for Human Rights Law—Monash University).

- 6.17 Other barriers raised during consultations included:
- the cost associated with obtaining a birth certificate and/or searches of the Register¹⁵
 - the requirement to provide additional proof of identity when applying for a birth certificate as an adult¹⁶
 - the requirement to provide the name of the father on the birth registration statement¹⁷
 - lack of transport and isolation preventing access to Registry services.¹⁸
- 6.18 Some of these barriers apply to a range of vulnerable groups but some have specific relevance to the Indigenous community. One such barrier includes a fear of engaging with mainstream health services.¹⁹ Participants noted that due to past removal policies, some Indigenous parents were reluctant to register the birth of their child or engage with mainstream maternal and child health (MCH) and/or hospital services.²⁰ In its submission the VEOHRC, referring to earlier work by the Castan Centre, noted that:
- Discredited policies that permitted Indigenous children to be removed from their parents, creating the Stolen Generations, has [sic] contributed to a hesitance of some families to register births which may trigger memories of intergenerational trauma.²¹
- 6.19 In earlier commentary, the Victorian Aboriginal Legal Service (VALS) noted that its clients may mistrust authority to such an extent that they do not want their details to be recorded on any formal system.²² VALS has also noted that past government policies have led Indigenous people to conclude ‘that it is too difficult to trace their birth certificates’.²³

Victorian implementation of recommendations emerging from the *Bringing Them Home* report

- 6.20 The national report on the Stolen Generations, *Bringing Them Home*²⁴ made a number of recommendations relevant to the experiences of Indigenous people in accessing their own records, including birth certificates. One of the recommendations of the inquiry was that each jurisdiction establish a records taskforce whose roles would include:
- the development of common access guidelines to enable Indigenous people to access their records as appropriate to the jurisdiction and in line with privacy principles
 - advising government generally on access to, and use of, Indigenous records, including personal records
 - advising government on the need to introduce or amend legislation to put these policies and practices into place.²⁵

15 Submissions 9 (Legal Aid NSW); 10 (Castan Centre for Human Rights Law—Monash University). See also Consultations 12 (DEECD); 14 (Mildura Base Hospital); 23 (MCH Team Meeting, Bairnsdale).

16 Consultation 2 (Boorai Group, Victorian Aboriginal Health Service). See also Submissions 5 (The International Commission of Jurists—Victoria); 7 (VEOHRC); 10 (Castan Centre for Human Rights Law—Monash University).

17 Consultation 32 (Mercy Hospital for Women).

18 Submission 9 (Legal Aid NSW). See also Consultation 6 (Ovens and King health and community workers & co, Wangaratta).

19 One participant noted that she had not attended postnatal services as in her experience as an Indigenous woman she was fearful of what they were: Consultation 6 (Ovens and King health and community workers & co, Wangaratta).

20 Submissions 5 (The International Commission of Jurists—Victoria); 10 (Castan Centre for Human Rights Law—Monash University). Consultation 6 (Ovens and King health and community workers & co, Wangaratta).

21 Submission 7 (VEOHRC) citing Castan Centre for Human Rights Law—Monash University, *Report to the UN Committee on the Rights of the Child regarding Australia's Compliance with Article 7 of the Convention on the Rights of the Child* (2011) 2, 3, <<http://www2.ohchr.org>>.

22 Victorian Aboriginal Legal Service Co-operative, *Presentation by Frank Guivarra at Castan Centre for Human Rights Law—Monash University Symposium on Indigenous Birth Registration and Birth Certificates—Potential Legal Solutions* (1 December 2009) 1, <<http://www.law.monash.edu.au/castancentre>>.

23 Ibid.

24 Human Rights and Equal Opportunity Commission, *Bringing Them Home: Report of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families* (1997) ('*Bringing Them Home*') contained 54 recommendations.

25 Ibid 301–302 [recommendation 23].

- 6.21 During consultations, one group of participants referred to the specific minimum access standards of the *Bringing Them Home* inquiry,²⁶ including the right of every person, upon proof of identity only, to view all information relating to himself, or herself, and to receive a full copy of the relevant documents. It was also noted that the inquiry had recommended that no application fee, copying fee or other charge of any kind should be imposed.²⁷
- 6.22 Participants consulted felt that Victoria had not fully implemented the recommendations of the inquiry and that more could be done to consult with Indigenous organisations about meeting their needs in terms of access to Registry services.²⁸
- 6.23 The Victorian response to *Bringing Them Home*, the Koori Records Taskforce (the Taskforce),²⁹ worked to develop a number of resources that would assist Indigenous people and organisations to access records.³⁰ The Taskforce also reported on the progress made in implementing the recommendations of the *Bringing Them Home* report, in the *Victorian Koori Records Taskforce: Final report*.³¹
- 6.24 The Taskforce worked to develop specific common access principles (CAPs) for Victoria, some of which reaffirmed the principles contained in *Bringing Them Home*. The Taskforce's nine CAPs were included as part of a memorandum of understanding (MoU) which Taskforce partner agencies were asked to sign. The Taskforce final report noted that:
- These core Common Access Principles will be fundamental to reducing barriers to better records access to Stolen Generations members across government and non-government recordkeeping agencies.³²
- 6.25 The Taskforce further noted that as part of the implementation of its recommendations the government has funded Connecting Home Limited to provide further support for members of the Stolen Generations, and that:
- part of the implementation of the MoU, Connecting Home anticipates that signatory agencies will formalise these access principles for Stolen Generations members, which will enable easier access to relevant records and information about themselves and their family.³³
- 6.26 The Commission understands that a number of partner agencies have adopted the Taskforce's MoU either formally or informally. The Department of Human Services (DHS) Family Information Networks & Discovery (FIND), for example, provides a no-fee service for Indigenous clients to access records.³⁴ The final Taskforce report noted that discussions with the Registry had concluded that requests from members of the Stolen Generations, while welcome, would be dealt with on a case-by-case basis rather than under a MoU.³⁵
- 6.27 The Registry's approach is different to that taken in, for example, New South Wales and South Australia. Both registries have signed up to MoUs emerging from the recommendations of the *Bringing Them Home* report.³⁶ The Commission understands that the NSW Registry MoU with Link-Up NSW includes support for members of the Stolen Generations who may not possess sufficient identity documents.³⁷

26 Consultation 33 (Link-Up Victoria).

27 Consultation 33 (Link-Up Victoria). *Bringing Them Home*, above n 24, 304 [recommendation 25(1–2)].

28 Consultation 33 (Link-Up Victoria).

29 The Taskforce was established in 2001 as a major initiative of the Victorian Government's response to the *Bringing Them Home* report which recommended each state and territory establish Records Taskforces to help members of the Stolen Generations in tracing their families: Public Record Office Victoria, *Victorian Koori Records Taskforce (2013)* <<http://prov.vic.gov.au>>.

30 Victorian Koori Records Taskforce, *Finding Your Story: A Resource Manual to the Records of the Stolen Generations in Victoria* (2005). To help Stolen Generations members find information on the locations of their records. The Taskforce also published the *Wilam naling... Knowing who you are... Improving Access to records of the Stolen Generations Report* (2006).

31 Victorian Koori Records Taskforce, *Victorian Koori Records Taskforce: Final Report* (2012).

32 Ibid 6.

33 Ibid 23.

34 Ibid 7.

35 Ibid 23.

36 *Bringing Them Home*, above n 24, 301–4 [recommendations 23–25].

37 NSW Registry of Births, Deaths and Marriages, *Aboriginal and Torres Strait Islander* <<http://www.bdm.nsw.gov.au>>.

- 6.28 The Link-Up SA website notes that the MoU with the SA Registry helps caseworkers to find records which may lead to family reunion.³⁸ The purpose of the MoU is to improve access to records and to reduce costs and waiting times.³⁹
- 6.29 The Commission did not have access to the specific MoUs signed in South Australia and New South Wales, and so cannot comment on their effectiveness.
- 6.30 The Victorian Registry considers that section 49 of the Act,⁴⁰ which allows a discretionary fee waiver, can only be applied on a case-by-case basis and not applied to a class of people such as the Stolen Generations.⁴¹ The interpretation of this provision was discussed in Chapter 5.

Commission's view

- 6.31 The Commission notes the recent efforts made by the Registry to work cooperatively with Indigenous organisations and individuals. This includes the recent changes in Registry practice to accept a letter from Link-Up as sufficient proof of Indigeneity for applicants accessing the IAF.
- 6.32 The Commission notes, however, that the IAF is subject to the applicant meeting the financial criteria of possession of a health care or pensioner concession card. This means that, potentially, not all members of the Stolen Generations have access to their records without a fee being charged, as was recommended in the *Bringing Them Home* report.
- 6.33 This situation would be addressed if the Registrar developed guidelines providing for a full fee waiver for members of the Stolen Generations.
- 6.34 The application fee for a birth certificate is made up of two fees: one for the search, and one for the certificate. The Commission was advised by the Registry that if a first search does not reveal sufficient details for a certificate to be issued, further searches of the Register are undertaken without extra charge.⁴² The Registry has indicated that a fee is only payable if the search is successful and a certificate issued.
- 6.35 The Commission is of the view that some of the problems people have in obtaining their birth certificate will be addressed if its recommendations in relation to a fee exemption and fee waiver are implemented. The Commission considers, however, that for the purposes of clarity and in keeping with the recommendation of the Koori Records Taskforce, an MoU between the Registry and agencies assisting Indigenous people, particularly members of the Stolen Generations, would be helpful. The MoU could outline how agencies can access Registry services and on what basis. For example, an MoU between the Registry and Link-Up Victoria could contain a protocol for Registry searches, and when and if a fee will be charged for searches and issue of certificates.
- 6.36 In Chapter 5 the Commission recommended that section 49 of the Act be amended to allow fee waivers to be granted to a class of people. Even without this amendment, however, the Commission believes that a MoU could still provide clarity to relationships between the Registry and organisations assisting Indigenous people to use Registry services.

38 South Australia Link-Up, *Links* (2005) <<http://www.salinkup.com.au>>.

39 South Australia Link-Up, *SA Link-Up* (2005) <<http://www.salinkup.com.au>>.

40 *Births, Deaths and Marriages Registration Act 1996* (Vic) s 49.

41 Letter from Erin Keleher, above n 11.

42 Meeting of Erin Keleher, Victorian Registrar Births, Deaths and Marriages and Andrew Jackomos, Director, Koori Justice Unit, Department of Justice with the Hon P.D Cummins, Chair, Victorian Law Reform Commission, 12 March 2013.

Recommendation

- 19 The Registrar should develop Memoranda of Understanding with relevant organisations assisting members of the Stolen Generations and other Indigenous people to access their records, which cover both birth certificate applications and registry searches.

Awareness-raising activities with the Indigenous community, including operation of, and access to, the IAF

- 6.37 A number of submissions commented specifically about collaborative action the Registry could initiate to raise awareness among the Indigenous community about birth registration. VEOHRC, for example, submitted that:
- The Registrar should collaboratively develop strategies with the Aboriginal community to ensure that families within the Aboriginal community are aware of the benefits associated with registering a birth and being issued with a certificate. The Registrar should consult with the Aboriginal community to develop or expand culturally appropriate solutions to non-certification, for example, supporting birth registration units within regional Aboriginal communities, employing Aboriginal staff, and mobile units regularly accessing remote areas.⁴³
- 6.38 Liberty Victoria recommended that:
- The Registrar of Births, Deaths and Marriages should develop strategies and initiatives to communicate with relevant Aboriginal and other communities to ensure that individuals are aware of the benefits of registering a birth and receiving a birth certificate, and to promote and facilitate the registration process.⁴⁴
- 6.39 The Commission heard of examples of community-based initiatives, including the development of Koori liaison posts in hospitals. For example, the Koori Liaison officer based at the Latrobe Regional Hospital helps new mothers with filling in forms after the birth.⁴⁵ Consultation participants felt that this approach had been successful due to the culturally appropriate and non-judgmental way it was done.⁴⁶
- 6.40 In consultation, one young Koori mother commented that the local Koori Liaison Officer had visited her in hospital after the birth of her child and helped with the paperwork, which she found very helpful.⁴⁷
- 6.41 The Gippsland and East Gippsland Aboriginal Co-operative (GEGAC) was also cited in consultation for its work assisting Indigenous families to obtain birth certificates.⁴⁸ It was noted that young Koori mothers are more likely to go to the local co-op than use mainstream services.⁴⁹
- 6.42 The Commission notes the Victorian Government initiative *Balert Boorron: The Victorian Plan for Aboriginal Children and Young People (2010–2020)*.⁵⁰ The plan aims to improve outcomes for Indigenous children and young people within a human rights framework.⁵¹

43 Submission 7 (VEOHRC).

44 Submission 12 (Liberty Victoria).

45 Consultation 22 (MCH Team Meeting, Traralgon).

46 Ibid.

47 Consultation 30 (New Mothers Group, Connect Ed, Horsham College).

48 Consultations 23 (MCH Team Meeting, Bairnsdale); 24 (Bairnsdale and Morwell Justice Service Centres).

49 Consultation 25 (Young, Pregnant and Parenting Group, Lakes Entrance).

50 Victorian Government, *Balert Boorron: The Victorian Plan for Aboriginal Children and Young People (2010–2020)* (2010) ii ('Balert Boorron').

51 Victorian Government, *Victorian Indigenous Affairs Framework* (2006).

- 6.43 The ‘Welcome Baby to Country Project’, a joint initiative of Barengi Gadjin Land Council, Delkaia Aboriginal Best Start and Horsham Rural City Council, invites new Indigenous parents to a ceremony of welcome near their home that focuses attention on children’s needs and achievement, and also acknowledges the role of carers and families in their growth and development.⁵²
- 6.44 The project was reported to be successful in increasing the engagement of carers and families with relevant support services. It also provided an opportunity to supply information, resources and assistance on children’s needs and health and wellbeing issues.⁵³ It has also been reported that the program encourages and facilitates Aboriginal and Torres Strait Islander birth registration.⁵⁴
- 6.45 During consultations specific issues were raised in relation to the operation and awareness of the IAF. The history and outline of the fund were discussed in Chapter 5.
- 6.46 A number of consultation participants, both Indigenous and non-Indigenous, were not aware of the IAF.⁵⁵ For example, in a consultation with a local Boorai Group (Indigenous new parents/baby group) participants said that they had not heard of the IAF.⁵⁶
- 6.47 Staff from one justice service centre noted that they had received a number of IAF applications, but suggested that this was most likely due to a former member of staff having moved to the local Rumbalara Aboriginal Co-operative.⁵⁷ Another regional justice service centre expressed a similar sentiment, noting a transfer of a staff member to the Mildura Aboriginal Co-operative had resulted in a greater awareness of the IAF.⁵⁸
- 6.48 The Commission heard that not all justice service officers routinely raise the availability of the IAF, as staff reported they wished to be sensitive about making assumptions about a person’s identity.⁵⁹ The Mildura justice service centre, however, noted that its staff will always inquire in a sensitive manner whether the applicant wishes to use the IAF, and then discuss eligibility.⁶⁰
- 6.49 The role of the Registry in promoting awareness of the IAF was raised in submissions and consultations. The LIV, for example, discussed some of the positive awareness-raising activities the Registry has undertaken with Indigenous communities to date.⁶¹ Some health professionals informed the Commission that they had heard about the IAF through word-of-mouth.⁶²
- 6.50 The NSW Registry has an Indigenous Access Program, promoting the value of birth registration and offering registry services by Indigenous staff members on request. Of particular note is the NSW Registry’s information on dealing with identification issues for members of the Stolen Generations and the ability to apply for a fee waiver.⁶³

52 *Balart Boorron*, above n 50, 18.

53 *Ibid.*

54 Victorian Aboriginal Legal Service Co-operative, above n 22, 5.

55 Consultations 9 (MCH Team Meeting, Wangaratta); 13 (New Parents Group, Mildura South).

56 Consultation 2 (Boorai Group, Victorian Aboriginal Health Service).

57 Consultation 4 (Shepparton Justice Service Centre). Rumbalara Aboriginal Co-operative is a community centre in Shepparton providing services including health, family, housing, finance and administration, aged care and disability services and justice programs: Rumbalara Aboriginal Co-operative, *Welcome to Rumbalara* <<http://www.rumbalara.org.au>>.

58 Consultation 15 (Mildura Justice Service Centre).

59 Consultation 24 (Bairnsdale and Morwell Justice Service Centre).

60 Consultation 15 (Mildura Justice Service Centre).

61 Submission 6 (Law Institute of Victoria).

62 Consultation 14 (Mildura Base Hospital).

63 NSW Registry of Births, Deaths and Marriages, *Aboriginal & Torres Strait Islander* <<http://www.bdm.nsw.gov.au>>.

Commission's view

- 6.51 While acknowledging the valuable work already undertaken by the Registry, the Commission is of the view that there is scope for further work to be done to make services more accessible for the Indigenous community. The Registry should continue to build on connections already made in the community through previous awareness-raising activities.
- 6.52 In light of the forthcoming changes to the Registry website and inclusion of publicly available information about the Registry's Indigenous Access Program, the Commission makes no recommendations at this time. It appears that the changes proposed will go some way in addressing the issues raised with the Commission in consultations and submissions.

Birth registration work with the Indigenous community in other jurisdictions: The Minimbah School project

- 6.53 Recent work has been undertaken in Armidale, New South Wales examining the issue of birth registration and birth certificates at a local primary school.
- 6.54 The Minimbah School project had its origins in a financial literacy project run by teaching students at the University of New England (UNE), working in the Students in Free Enterprise (SIFE) program.⁶⁴ SIFE students worked with students at Minimbah School to open their own bank accounts, to promote money management skills. During this process SIFE students discovered that a number of the Minimbah students did not have the requisite primary identification, such as a birth certificate, to open a bank account.⁶⁵
- 6.55 Further research identified approximately 300 local children who had not had their birth registered or did not have a birth certificate. Many of these children were Indigenous. UNE and community partners have now run two registration drives, the first in 2011 and the second in 2012 (across a number of local schools in the region), aimed at ensuring all students have their births registered and have birth certificates.⁶⁶
- 6.56 Legal Aid NSW referred to the Minimbah School project in its submission:
- [i]deally this kind of service would be provided not just in cases where communities have been able to raise funding privately or through ad hoc applications to government, but government would facilitate a low-cost (or no cost) means of providing birth documentation to people in communities across the country.⁶⁷
- 6.57 A delegation from the project has met with Commonwealth ministers to advocate for birth certificates to be issued free of charge upon registration.⁶⁸ On invitation from the federal Member for New England, the delegation visited Canberra in February 2013 to advocate for a National Partnership Agreement between all states and territories at the Council of Australian Governments.⁶⁹

64 Enactus University of New England, *Minimbah Banking Change Project* <<http://blog.une.edu.au>>.

65 Ibid.

66 Representatives from the University of New England and Community Mutual Group, 'Minimbah BDM Sampler' (3 May 2012) <<http://vimeo.com/41475275>>; Submission 9 (Legal Aid NSW). The second drive extended to 3 primary schools in the area and ran from 6–8 November 2012.

67 Submission 9 (Legal Aid NSW).

68 The delegation is also supported by Armidale businesses and community groups and Monash University: The Armidale Express, 'Armidale delegation launches birth certificate campaign' *The Armidale Express* (Armidale, New South Wales), 12 February 2013.

69 Ibid. Tony Windsor MP, 'Armidale delegation launches national campaign for free birth certificates' (Media Release, 12 February 2013); The Northern Daily Leader, 'Armidale delegation wants free birth certificates for every child' *The Northern Daily Leader*, (Tamworth, New South Wales), 12 February 2013.

- 6.58 The Commission notes the Attorney-General for Australia, The Hon Mark Dreyfus QC, recently indicated his intention to raise the profile of the issue, stating that in his view:
- states and territories should look at the possibility of having a fee waiver for people that can't afford a birth certificate, can't afford the fee.⁷⁰
- 6.59 With regard to the proposed fee waiver issue, the Attorney-General noted his intention to raise the issue at the Standing Council on Law and Justice in April 2013.⁷¹ No further information from the meeting has been made publicly available in a communiqué.

Culturally and linguistically diverse communities

- 6.60 Victoria has a diverse population, with many ethnic backgrounds and language groups represented. At the 2011 Australian Bureau of Statistics Census, 26.2 per cent of Victoria's population were born overseas⁷² and 46.8 per cent of Victorians were either born overseas, or have a parent who was born overseas.⁷³ Victorians come from more than 200 countries, speak more than 230 languages and dialects and follow more than 130 religious faiths.⁷⁴ Culturally and linguistically diverse (CALD) communities have a high ratio of young families compared to the general population and many of these families have migrated to Australia in the last 10–15 years.
- 6.61 At present the Act does not require ethnicity particulars to be included on the birth notification or registration. The *Births, Deaths and Marriages Registration Regulations 2008* (Vic) (the Regulations) require that a parent's Indigenous status be included in the birth registration particulars, but no other details of ethnicity are required.⁷⁵ It is therefore difficult to conclude, definitively, whether CALD groups are over-represented in unregistered births, are less likely to obtain a birth certificate at the same time as registration, or have difficulty obtaining a certificate at a later date.⁷⁶
- 6.62 The submission from the Royal Women's Hospital, the largest Australian provider of specialist services to women and newborns, notes that every year '[The hospital] provide 200,000 occasions of care for women from 65 different countries who speak 81 languages and follow 42 religious faiths'.⁷⁷ The submission from the hospital states that:
- the health literacy of culturally and linguistically diverse (CALD) women is typically relatively low because of language and cultural barriers to receiving and exchanging health information.⁷⁸
- 6.63 During consultations the Commission met with service providers, organisations and individuals who serve members of the community from CALD backgrounds, and/or are from a CALD background themselves. Specific issues with regard to accessing health and government services, including the registration of births, were raised. These are discussed further below.

70 Attorney-General and Minister for Emergency Management, The Hon Mark Dreyfus QC MP, *Media conference – Darwin* (4 April 2013) <<http://www.attorneygeneral.gov.au>>.

71 Ibid.

72 This figure does not include the 5.2% of Victorians who did not state their country of birth: Australian Bureau of Statistics, *2011 Census Quick Stats* (30 October 2012) <<http://www.censusdata.abs.gov.au>>. See also Victorian Multicultural Commission, *2011 Census: A Snapshot of our Diversity* (7 January 2013) <<http://www.multicultural.vic.gov.au>>.

73 This figure does not include the 5.6% of Australians who did not state their country of birth: Australian Bureau of Statistics, *2011 Census Quick Stats* (30 October 2012) <<http://www.censusdata.abs.gov.au>>. See also Victorian Multicultural Commission, *2011 Census: A Snapshot of our Diversity* (7 January 2013) <<http://www.multicultural.vic.gov.au>>.

74 Victorian Multicultural Commission, *2011 Census: A Snapshot of our Diversity* (7 January 2013) <<http://www.multicultural.vic.gov.au>>.

75 *Birth, Deaths and Marriages Registration Regulations 2008* (Vic) reg 7(m).

76 The Department of Justice (Victoria), *Cultural Diversity Plan 2012–2016* (2013) recognises that stronger responses are required to key issues, including the need for better data collection processes to improve service delivery for individuals and groups in CALD communities ('Cultural Diversity Plan').

77 The Royal Women's Hospital, *Submission to the Inquiry into Multiculturalism in Australia*, Parliament of Australia, Joint Standing Committee on Migration, Submission 89, 1.

78 Ibid 2.

Services currently provided to people from CALD backgrounds

- 6.64 At present the birth registration statement and birth certificate application forms are available in English, with access to interpreting and translating services highlighted on the back page of both forms in English. The current birth registration statement form (**Appendix C**) notes:
- If you require access to a translation or interpreter service to complete this form, please call the Translating and Interpreting Service (TIS) on 13 14 50 and ask them to contact the Registry on 1300 369 367.⁷⁹
- 6.65 This form provides a translation of the above information in Arabic, Chinese (Traditional), Polish, Russian, Spanish, Turkish and Vietnamese.⁸⁰ The birth certificate application form notes the contact number for TIS, but the information is not provided in any other languages.⁸¹
- 6.66 The Registry website also includes information about the availability of interpreting services for assistance with translating website content. To the Commission's knowledge no Registry material is provided in languages other than English and no Registry programs currently exist that specifically target CALD communities.
- 6.67 Justice service centres that provide Registry services also have access to the TIS.⁸² The Department of Justice has recently produced a guide to justice services for newly arrived communities. While the guide lists the Registry's number under useful information,⁸³ it does not discuss the requirement to register the birth of a child.
- 6.68 More broadly, the Victorian government's maternal and child health (MCH) enhanced services, as discussed in Chapter 3, prioritise access to health services and early intervention for vulnerable families (including CALD and Indigenous mothers).⁸⁴ During consultations the Commission heard an example of one enhanced MCH practitioner who had attended the Registry office with a client from a CALD background to help her to register the birth of her baby.⁸⁵
- 6.69 General MCH services provide support for mothers and babies by facilitating new parent groups. The MCH program includes an optional unit for parents from CALD backgrounds. This unit provides information on support resources for parents from CALD backgrounds.⁸⁶

79 The TIS is provided by the Department of Immigration and Citizenship (Commonwealth) and used by all state and territory registries. The TIS provides a service for people who do not speak English and for English-speakers who need to communicate with them: Department of Immigration and Citizenship (Commonwealth), *About TIS National* <<http://www.immi.gov.au>>.

80 Victorian Registry of Births, Deaths and Marriages, *Birth Registration Statement* (November 2012).

81 Victorian Registry of Births, Deaths and Marriages, *Application for a Victorian Birth Certificate* (November 2012).

82 Justice service centres are managed by the same unit that is responsible for the justice bus service. The Department of Justice (DoJ) has a Language Services Policy and a minimum standard for the provision of language services which requires that DoJ clients be given access to professional interpreting and translating services when they have to make significant decisions about their lives; or when they need essential information to inform decision making: Department of Justice (Victoria), *Language Services Policy and Guidelines for working with Interpreters and Translators* (2006) 6. The *Cultural Diversity Plan 2012–2016* (CDP) has been developed to ensure individuals and communities from CALD backgrounds can access mainstream justice services. The CDP applies to all DoJ business units and regions, and important goals include access to justice information, goods, services, programs and facilities with the intention to deliver a justice system that is accessible to CALD communities. The CDP encourages DoJ business units to ensure people receive the information they need in the way they like to receive it. The CDP further states that DoJ respects diversity and will continue to provide CALD communities with information on how to participate in justice services and how to exercise their rights and responsibilities as residents of Victoria: Department of Justice (Victoria), *Cultural Diversity Plan*, above n 76, 11, 13.

83 Department of Justice (Victoria), *Living in Victoria: A Guide to the Law for Newly Arrived Communities* (2013) 18.

84 Department of Human Services (Victoria), *Enhanced Maternal and Child Health Services Guidelines 2003–2004* (2003). As of 27 August 2007 this document is managed by DEECD.

85 Consultation 10 (MCH Team Meeting, Flemington).

86 Department of Human Services (Victoria), *First Time Parent Group Resource and Facilitation Guide for Maternal and Child Health Nurses* (2001). As of 27 August 2007 this document is managed by DEECD. Birth registration and birth certificates are absent from suggested support resources in this manual. A variety of other Maternal and Child Health resources for parents from CALD backgrounds are available in a number of community languages on the DEECD website: Department of Education and Early Childhood Development (Victoria), *Additional Resources* (13 February 2013) <<http://www.education.vic.gov.au>>.

Community responses

- 6.70 The consultation paper asked the community what barriers people from CALD backgrounds may encounter when registering the birth of their child or applying for a birth certificate. The paper also sought community views on practical solutions to help overcome any identified barriers.
- 6.71 The Commission received a number of submissions that identified issues specific to CALD communities. Community consultation also provided an insight into the difficulties members of CALD communities may have in navigating the birth registration process.
- 6.72 The Commission notes that during consultation it became apparent that significant diversity exists within, and between, CALD communities. This was particularly apparent with regard to knowledge and understanding of the birth registration process, as well as level of English, literacy and the ability to complete a birth registration statement without assistance. The issues identified are discussed below.

Language and literacy

- 6.73 Language barriers were cited as one of the key issues affecting successful birth registration for people in CALD communities.⁸⁷ During consultation, language was often raised in conjunction with issues about literacy and general understanding, and awareness of bureaucratic processes and the rights and responsibilities of Victorian citizens.⁸⁸ Community and government agencies working with CALD communities, as well as midwives, commented that help with completing forms is often requested, noting that it is sometimes very difficult for members of the CALD community to complete the forms independently.⁸⁹
- 6.74 The Spectrum Migrant Resource Centre informed the Commission that people from a CALD background, particularly refugees, can have difficulties navigating government agencies and processes.⁹⁰ The centre suggested that providing forms and guides in several community languages would help remove linguistic barriers.⁹¹
- 6.75 Consultation participants noted that information about translation and interpreting services was on the back page of the birth registration statement. Some suggested that it would be more accessible to people from CALD backgrounds if this information was on the front of the form.⁹² Often a person from a CALD background will take a friend or relative to the justice service centre to help them.
- 6.76 Staff from two justice service centres noted that they often rely on informal networks (friends or relatives of the applicant) or use local agencies such as the Ethnic Council of Shepparton in Hume and the Sunraysia Mildura Ethnic Council in Mildura to assist.⁹³
- 6.77 In one outer metropolitan justice service centre, staff noted they have limited scope to help people who present to the counter with language barriers, due to time limitations and resource constraints. Justice service centre staff use the TIS service when this occurs.⁹⁴

87 Submissions 4 (North Melbourne Legal Service); 7 (VEOHRC). Consultations 1 (Spectrum Migrant Resource Centre); 4 (Shepparton Justice Service Centre); 14 (Mildura Base Hospital); 19 (Vietnamese New Parents Group, Springvale); 20 (Dandenong Hospital); 21 (MCH Team Meeting, Warragul); 27 (Dandenong Justice Service Centre); 32 (Mercy Hospital for Women).

88 Submission 4 (North Melbourne Legal Service); 7 (VEOHRC). Consultations 1 (Spectrum Migrant Resource Centre); 4 (Shepparton Justice Service Centre); 19 (Vietnamese New Parents Group, Springvale); 20 (Dandenong Hospital); 21 (MCH Team Meeting, Warragul); 37 (Dandenong Justice Service Centre).

89 Submission 5 (North Melbourne Legal Service). Consultations 11 (Sue Smythe, Robinvale Resource Centre); 4 (Shepparton Justice Service Centre); 14 (Mildura Base Hospital); 15 (Mildura Base Hospital); 20 (Dandenong Hospital).

90 Consultation 1 (Spectrum Migrant Resource Centre).

91 Ibid.

92 Consultations 10 (MCH Team Meeting, Flemington); 27 (Dandenong Justice Service Centre).

93 Consultations 4 (Shepparton Justice Service Centre); 15 (Mildura Justice Service Centre).

94 Consultation 27 (Dandenong Justice Service Centre).

- 6.78 Agencies who work with people from CALD backgrounds noted that people often prefer to seek assistance from family members or friends rather than call a telephone interpreting service.⁹⁵ Hospitals consulted confirmed this approach. The Royal Women's Hospital and Dandenong Hospital informed the Commission that they rely on a core group of on-site interpreters to meet most of the demand.⁹⁶
- 6.79 The Commission consulted with new parents from CALD backgrounds about language difficulties encountered. In consultation with a group of Vietnamese-speaking new parents, participants noted that poor English-language skills were the main barrier in registering the birth of their child. No parent consulted had used the interpreting services offered by the Registry, preferring to speak with someone they knew or other, unspecified, interpreting services.⁹⁷
- 6.80 Consultation participants suggested a number of ways in which services for people from CALD backgrounds could be improved with regard to language difficulties, including:
- greater on-site assistance for people from CALD backgrounds completing registration documents⁹⁸
 - translation of forms, or explanatory notes, in languages other than English⁹⁹ (for example it was noted that Corrections Victoria offers information about services in other languages),¹⁰⁰ and
 - amendment to the current birth registration statement to include instructions in other languages in text boxes beside the questions.¹⁰¹

Commission's view

- 6.81 The Commission appreciates the resourcing considerations of producing publications, requiring frequent updates, in multiple languages. Therefore, it is the Commission's view that the birth registration statement should remain a publication in English.
- 6.82 However, more information about the requirement to register a birth and how to do so could be made available in a variety of languages. This general information as well as answers to frequently asked questions could be made available on the Registry's website.
- 6.83 The Registry could also offer links to a range of agencies that could provide the assistance required to members of the CALD community. For some communities, lack of literacy skills in their own language is also a barrier.
- 6.84 The Department of Education and Early Childhood Development website provides information about a variety of MCH resources for CALD communities. Resources available for download and links to source documents in community languages include 'Safe sleeping', 'SunSmart information', 'Kindergarten information sheets' and 'Healthy Eating and Play for Toddlers'.¹⁰² The Victorian Electoral Commission also produces enrolment forms in a range of community languages.¹⁰³
- 6.85 By way of further example, the Office of the Public Advocate (Victoria) website makes available online facts sheets in a number of community languages. The fact sheets outline law and policy concerning issues specific to the Office of the Public Advocate.¹⁰⁴

95 Consultations 1 (Spectrum Migrant Resource Centre); 19 (Vietnamese New Parents Group, Springvale).

96 Consultations 20 (Dandenong Hospital); 31 (The Royal Women's Hospital).

97 Consultation 19 (Vietnamese New Parents Group, Springvale).

98 Consultation 27 (Dandenong Justice Service Centre).

99 Consultations 1 (Spectrum Migrant Resource Centre); 19 (Vietnamese New Parents Group, Springvale).

100 Consultation 27 (Dandenong Justice Service Centre). For example, Corrections Victoria, operator of Community Corrections Services, produces a resource for prisoners exiting prison which is translated into Vietnamese: VACRO (Victorian Association for the Care and Resettlement of Offenders) and Department of Justice (Corrections Victoria), *Getting Started: A Guide to Getting Out—Vietnamese* (2011).

101 Consultation 27 (Dandenong Justice Service Centre).

102 Department of Education and Early Childhood Development (Victoria), *CALD Resources* (4 April 2013) <<http://www.education.vic.gov.au>>.

103 Victorian Electoral Commission, *Aids and Assistance for Voters* <<https://www.vec.vic.gov.au>>.

104 See, for eg, Office of the Public Advocate (Victoria), *Vietnamese* (20 Dec 2010) <<http://www.publicadvocate.vic.gov.au>>. Key fact sheets are available in Arabic, Chinese, Croatian, Greek, Italian, Polish, Russian, Serbian, Spanish, Turkish, Vietnamese and Macedonian.

Recommendation

20 The Registrar should consider:

- moving the information about the translation and interpreter service at the back of the birth registration statement to the front of the form, and
- making information about the requirement to register a birth and how to fill in the birth registration statement in a range of community languages available in brochures and on its website.

Awareness and understanding

- 6.86 Closely related to language and literacy issues were general barriers relating to awareness and understanding in CALD communities about the birth registration process.
- 6.87 In its submission, the VEOHRC suggested that people from CALD backgrounds may be less aware of the rights and benefits provided by registration and having a birth certificate than other members of the community.¹⁰⁵ The Commission also heard some cultures may not attach as much importance to documentation, and may be fearful of authority and bureaucratic systems.¹⁰⁶
- 6.88 A number of innovative suggestions were proposed for developing better understanding in the CALD community, particularly among newly arrived migrants and refugees.
- 6.89 One group of consultation participants suggested that volunteers, based in community health centres, could help new parents to fill in forms. Participants referred to an existing program run by the Jesuit Social Services in Collingwood that helps those with limited English and literacy to fill in forms and engage in general English conversation.¹⁰⁷
- 6.90 It was also suggested that, along with provision of information in community languages, the Registry could take a more proactive approach to engaging with new refugee groups, and CALD groups more generally.¹⁰⁸ For example, the Registry could provide more information about issues that may arise if the parent/s do not register their child.¹⁰⁹
- 6.91 Understanding and awareness also affect decisions with regard to birth certificates. As discussed in Chapter 4, it was noted that some members of the CALD community prefer to purchase commemorative birth certificates, and were likely to do so without fully understanding that a commemorative certificate cannot be used for official purposes.¹¹⁰

Cultural awareness

- 6.92 Cultural practices of some CALD communities were also noted during consultation. One group identified naming conventions (such as the order of names on the certificate) or conflict over the child's name as a potential barrier to birth registration.¹¹¹ The Commission notes that the birth registration statement states that 'Parents from multicultural backgrounds can follow traditional rules when naming their child. However, the name provided on this form must be written in English.'¹¹²

105 Submission 7 (VEOHRC).

106 Consultation 20 (Dandenong Hospital).

107 Consultation 10 (MCH Team Meeting, Flemington).

108 Consultations 20 (Dandenong Hospital); 31 (The Royal Women's Hospital).

109 Consultation 20 (Dandenong Hospital).

110 Consultations 1 (Spectrum Migrant Resource Centre); 10 (MCH Team Meeting, Flemington); 19 (Vietnamese New Parents Group, Springvale).

111 Consultation 1 (Spectrum Migrant Resource Centre).

112 See 'Naming your child' Appendix C.

- 6.93 Some specific cultural practices can also mean that there is a delay in registering the birth of a child, for example where there is a need to consult a religious adviser before a name is chosen,¹¹³ as discussed in Chapter 3.
- 6.94 In consultation with one new parents group, the Commission was informed that in some cultures a confinement period is normal for new mothers after the birth of a child. When the parent/s also need help with completing the form, this may make it difficult to complete the registration within the 60-day time limit.¹¹⁴
- 6.95 It was suggested that employing a specific CALD contact at the Registry or providing more specific cultural training for Registry staff could help in dealing with more complicated cases.

Commission's view

- 6.96 While the Commission acknowledges the concerns raised in consultations, it is the Commission's view that the current requirement to register a birth within 60 days is appropriate.
- 6.97 The Commission agrees that cultural awareness training is an important component of service delivery when dealing with the community. The Commission is aware that the Department of Justice provides cultural competency training opportunities for its business units and staff¹¹⁵ and that Registry staff have opportunities to undertake the training offered. In addition, an inclusive guide to employment of people from CALD backgrounds is available.¹¹⁶
- 6.98 The Commission makes no recommendation in relation to the provision of additional training for Registry staff or a specific CALD contact. This consultation feedback has been included to help the Registry plan for its provision of services to CALD communities.

Young parents and other vulnerable groups

- 6.99 The Commission consulted with a number of new parents groups as part of the review,¹¹⁷ including with teenage parents.¹¹⁸ The Commission heard that young parents are more likely than other parent groups to be from a low socio-economic background, to have a history of family disruption or time in care, and to be raising a child as a single parent.¹¹⁹
- 6.100 Young parents are more likely to encounter difficulties in registering the birth of their child due to a number of factors:
- lack of understanding of the importance of birth registration¹²⁰
 - not knowing who the father is, or difficulties in locating the father, in order to sign the birth registration statement¹²¹
 - the often chaotic nature of their lives, with interaction with a number of agencies and support services, family disruption and/or drug and alcohol dependency¹²²

113 Consultations 6 (Ovens and King health and community workers & co, Wangaratta); 10 (MCH Team Meeting, Flemington); 17 (Immunisation session, Flemington); 19 (Vietnamese New Parents Group, Springvale).

114 Consultations 10 (MCH Team Meeting, Flemington); 19 (Vietnamese New Parents Group, Springvale).

115 Department of Justice (Victoria), *Cultural Competency Training @ DoJ Information Sheet* (2010).

116 Department of Justice (Victoria), *Inclusive employment @ DoJ* (January 2011).

117 Consultations 3 (New Parents Group, Mooropna); 8 (New Parents Group, Wangaratta); 13 (New Parents Group, Mildura South); 17 (Immunisation session, Flemington); 18 (New Parents Group, Dandenong North); 19 (Vietnamese New Parents Group, Springvale).

118 Consultations 25 (Young, Pregnant and Parenting Group, Lakes Entrance); 30 (New Mothers Group, Connect Ed, Horsham College).

119 Consultations 5 (MCH Team Meeting, Shepparton); 30 (New Mothers Group, Connect Ed, Horsham College).

120 Consultations 9 (MCH Team Meeting, Wangaratta); 24 (Bairnsdale and Morwell Justice Service Centres); 25 (Young, Pregnant and Parenting Group, Lakes Entrance).

121 Consultations 5 (MCH Team Meeting, Shepparton); 25 (Young, Pregnant and Parenting Group, Lakes Entrance); 30 (New Mother Group, Connect Ed, Horsham College).

122 Consultation 5 (MCH Team Meeting, Shepparton).

- the fee for the birth certificate may be prohibitive¹²³
 - no credit card or cheque book to pay the fee.¹²⁴
- 6.101 Several groups consulted¹²⁵ suggested that the most significant barriers faced by young parents in registering the birth of their child were:
- the lack of understanding of the importance of birth registration
 - the requirement to provide the father’s details, and
 - the requirement to obtain the father’s signature for part 4 of the birth registration statement.
- 6.102 It was suggested that more information, for example a pamphlet outlining the importance and process of birth registration, could be included in the Parent Pack provided at the hospital.¹²⁶ Access and awareness are discussed further in Chapter 7.
- 6.103 During consultation, participants raised concern about barriers faced by other vulnerable groups in registering a birth or obtaining a birth certificate. These groups include people with disabilities, people experiencing homelessness and other young adults.
- 6.104 For example in one consultation, participants noted that the complexity of the birth registration statement and birth certificate application form can create a barrier for people who are sight-impaired or have a cognitive impairment.¹²⁷ Further, VEOHRC recommended that ‘the Registrar should review the birth registration and certification process to ensure that the system is accessible to people with disabilities, including people with intellectual disability’.¹²⁸
- 6.105 One consultation described the difficult situation faced by a client in registering the birth of her child. The client, who had an intellectual disability and low literacy skills, was advised to pursue a DNA parentage test to determine the father of the child. Neither possible father wished to acknowledge paternity. It was reported that the client struggled with the registration process and probably would not have pursued the registration without the assistance of the justice service centre officers and other support services.¹²⁹
- 6.106 Mental health issues, such as postnatal depression, were also cited as a possible barrier to registration. One young mother informed the Commission that she had not registered her now two-year-old, as she had suffered from severe postnatal depression.¹³⁰
- 6.107 Finally, VEOHRC identified homelessness as a potential barrier to birth registration and obtaining a birth certificate. VEOHRC noted that issues surrounding obtaining identity documents to support applications and the costs involved in making applications would likely be significant barriers to homeless people because of their situation.¹³¹

123 Consultation 9 (MCH Team Meeting, Wangaratta).

124 Consultation 10 (MCH Team Meeting, Flemington).

125 Consultations 9 (MCH Team Meeting, Wangaratta); 24 (Bairnsdale and Morwell Justice Service Centres); 25 (Young, Pregnant and Parenting Group, Lakes Entrance).

126 Consultations 12 (DEECD); 20 (Dandenong Hospital).

127 Consultation 4 (Shepparton Justice Service Centre).

128 Submission 7 (VEOHRC).

129 Consultation 29 (Horsham Justice Service Centre).

130 Consultation 30 (New Mothers Group, Connect Ed, Horsham College).

131 Submission 7 (VEOHRC). VANISH also provided an example of a homeless client who encountered the issue of having to produce documentation to the Registry to establish his current address: Submission 11 (VANISH).

Commission's view

- 6.108 The Commission recognises that young parents and other vulnerable groups such as people with disabilities, homeless people and young adults in general may encounter specific barriers to the registration of a birth or to obtaining a birth certificate.
- 6.109 A greater focus on awareness-raising among the community, and service delivery agencies and health professionals should help these groups.
- 6.110 The Registry's commitment to reviewing the way in which it delivers services is also a positive step in making this vital service accessible to all members of the Victorian community, including the most vulnerable. Chapter 7 contains further discussion as to how birth registration and birth certificate issues could be better conveyed to the community, as well as to how the Registry might play a more proactive role in raising awareness and increasing access to services. As such, the Commission makes no specific recommendation here.

Awareness and access

110 Introduction

110 Current practice—awareness

111 Community responses—awareness

114 Current practice—access to services

115 Community responses—access to services

7. Awareness and access

Introduction

- 7.1 Awareness of, and access to, information about birth registration and birth certificates were common themes raised during consultations and within submissions.
- 7.2 In the consultation paper the Commission sought specific views on:
- the level of community understanding of the obligation to register a birth and the right to apply for a birth certificate
 - the adequacy of access to information about birth registration and birth certificates
 - how to improve community awareness of birth registration and birth certificates
 - whether changes to law are needed to include a specific promotional and educative function for the Registry.¹
- 7.3 This chapter will explore how awareness and access can be improved, and whether the *Births, Deaths and Marriages Registration Act 1996* (Vic) (the Act) should be amended to provide that one of the Registrar's general functions is to promote public awareness of the importance of birth registration through education and information programs. This chapter will also discuss whether access to Registry services is adequate.

Current practice—awareness

- 7.4 Despite the fact that the Act does not give the Registry a specific public education function, the Registry undertakes some public awareness-raising activity.
- 7.5 A number of forms and printed information about Registry services are available in hardcopy and on the Registry's website. This includes information on how to register a birth, apply for a birth certificate and correct a birth certificate. The website also includes information on the Donor Treatment Register; information on how to name your child; and a list of frequently asked questions about birth registration.²
- 7.6 Information can be obtained by phoning the Registry. The Registry also provides services to rural and remote communities through the justice bus.
- 7.7 Following the identification in 2008 of barriers to access to birth certificates for members of the Indigenous community, the Registry has undertaken a number of awareness-raising activities directed to that community. The work of the Registry with the Indigenous community was discussed in detail in Chapter 6.

- 7.8 The Commission is aware that maternal and child health (MCH) nurses are another important source of information about birth registration and birth certificates. In Chapter 3, the Commission detailed the work, and potential future work, of midwives, ward clerks and MCH nurses in raising awareness of the requirement to register births.
- 7.9 The Registry supports this work by MCH nurses and advised that Registry staff attended the annual meeting of MCH nurses in 2012 to discuss awareness raising at key MCH baby health checks.³

Community responses—awareness

- 7.10 In the following section the Commission outlines comments and suggestions received in consultations and submissions in response to the four questions posed in our consultation paper.

Ease of access to information about birth registration and obtaining a birth certificate

- 7.11 Written information about birth registration is currently available on the Registry's website as well as on the birth registration statement. The birth registration statement states that a birth certificate:
- is often required for official purposes such as claiming government benefits, enrolling a child in childcare and school, or obtaining a passport.⁴
- 7.12 The Commission heard that some other agencies provide written information about birth registration and birth certificates. The Department of Health has a web page entitled 'Having a baby in Victoria' (discussed in Chapter 3).
- 7.13 Some Victoria Legal Aid and community legal centre publications also raise the issue of birth certificates, including the booklet geared towards young adults called *Am I old enough?*⁵
- 7.14 The Commission heard that many parents access information about birth registration during their engagement with the health system during pregnancy and around the time of the birth of their child.
- 7.15 In practice, a number of agencies, health professionals and public servants have a role in providing information about birth registration to the community.
- 7.16 Information may be provided to women in the antenatal stage of their pregnancy, including at pregnancy support classes. Some hospitals include information about the requirement to register a birth, and the process for doing so, in their classes.⁶
- 7.17 Women should also receive the parent pack (as described in Chapter 3) following the birth of their child in hospital. Midwives or ward clerks may go through, or explain to parents, the contents of the pack prior to discharge. The Commission understands that this advice may (time permitting) include information on the requirement to register the birth.
- 7.18 Parents who have not registered the birth will be reminded of their obligation to register the birth at the two-, four- and eight-week checks by their MCH nurses.
- 7.19 Only if a child is still unregistered 60 days after his or her birth does the Registry send a reminder letter.

3 John Symeopoulos, Acting Registrar, 'Registering Victorian Births' (Paper presented at Maternal and Child Health Conference, Melbourne, 14 February 2014) <<http://www.eduweb.vic.gov.au>>.

4 Victorian Registry of Births, Deaths and Marriages, *Birth Registration Statement* (November 2012). See Appendix C.

5 Victoria Legal Aid, *Am I Old enough? Common Legal Issues for Young People* (2012) <<http://www.legalaid.vic.gov.au>>. The Hume Riverina Community Legal Service also produces a publication titled *Registering the Birth of Your Baby* (2009).

6 These classes are generally delivered during the 2nd to 3rd trimester of pregnancy by public and private hospitals. Consultations 19 (Vietnamese New Parents Group, Springvale); 20 (Dandenong Hospital).

- 7.20 Participants in consultations who had sought information about how to register their child or obtain a birth certificate reported that they had generally done so by visiting the Registry's website, phoning the Registry direct, attending a justice service centre or asking a health professional about what to do next.⁷

Community awareness, rights and obligations

- 7.21 In the consultation paper the Commission asked whether the community was sufficiently aware of the obligation to register a birth and of each person's right to be issued with a birth certificate.
- 7.22 Most consultation participants were aware of the obligation to register the birth of their child, and many had applied for certificates at the same time.⁸
- 7.23 Others were aware of the requirement to register but were unaware, or unconvinced, of the importance of applying for a birth certificate at the time of registration.⁹ Of this group, many noted that other priorities had meant that they had not sought further information at the time of their child's birth about the requirement to register or about applying for a certificate.¹⁰
- 7.24 Participants in a number of groups were unaware that a birth certificate is routinely required for enrolment at kindergarten and/or long-day child care.¹¹ Those who were aware of the importance of a birth certificate noted that it was required for access to many things, including Centrelink services.¹²
- 7.25 Some confusion was expressed about what documents must be completed for a birth certificate application, and the timing of the application. One justice service centre informed the Commission that some clients did not realise that Part 2 of the birth registration statement had to be completed to obtain a birth certificate.¹³ There was also some confusion among new parents about whether it was possible to register a birth and apply for a certificate at different times,¹⁴ with some believing that the birth registration statement and the birth certificate application form needed to be filled out together.¹⁵
- 7.26 In another consultation, health care professionals expressed concern that some parents, particularly vulnerable groups, may not realise that birth registration is the individual's responsibility and not that of the hospital.¹⁶
- 7.27 During consultations the view was expressed that the information currently available is not sufficient to convey to new parents the importance of birth registration and of obtaining a birth certificate.¹⁷

7 Consultations 1 (Spectrum Migrant Resource Centre); 5 (MCH Team Meeting, Shepparton); 14 (Mildura Base Hospital); 15 (Mildura Justice Service Centre); 17 (MCH Team Meeting, Flemington).

8 Consultations 8 (New Parents Group, Wangaratta); 11 (Sue Smythe, Robinvale Resource Service Centre); 13 (New Parents Group, Mildura South); 17 (Immunisation session, Flemington); 19 (Vietnamese New Parents Group, Springvale); 21 (MCH Team Meeting, Morwell); 30 (New Mothers Group, ConnectEd, Horsham).

9 Consultations 4 (Shepparton Justice Service Centre); 8 (New Parents Group, Wangaratta); 12 (DEECD); 13 (New Parents Group, Mildura South); 27 (Dandenong Justice Service Centre); 30 (New Mothers Group, Connect Ed, Horsham College).

10 Consultation 30 (New Mothers Group, Connect Ed, Horsham College).

11 Consultations 6 (Ovens and King health and community workers & co, Wangaratta); 8 (New Parents Group, Wangaratta); 13 (New Parents Group, Mildura South).

12 Consultation 19 (Vietnamese New Parents Group, Springvale).

13 Consultation 24 (Bairnsdale and Morwell Justice Service Centres).

14 Consultation 18 (New Parents Group, Dandenong North).

15 Consultation 19 (Vietnamese New Parents Group, Springvale).

16 Consultation 25 (Young, Pregnant and Parenting Group, Lakes Entrance).

17 Submission 4 (North Melbourne Legal Service). Consultations 8 (New Parents Group, Wangaratta); 9 (MCH Team Meeting, Wangaratta); 13 (New Parents Group, Mildura South); 24 (Bairnsdale and Morwell Justice Service Centres).

Improving community awareness

- 7.28 In the consultation paper the Commission asked what could be done to improve community awareness and what role the Registry should take in this. Specific concerns about raising awareness among the Indigenous community were discussed in the previous chapter.
- 7.29 One suggestion was that the Registry should include a statement about the importance of registering a birth and applying for a birth certificate in a prominent position on the birth registration statement.¹⁸
- 7.30 Several consultation participants suggested that the parent pack could be better used as a resource to increase awareness of the birth registration process. It was noted that a lot of paperwork is provided to parents after the birth of a child and that this is often a chaotic time.¹⁹ Parents may not always realise the importance of the paperwork contained in the pack, as it is often combined with other items, for example baby products and samples.²⁰
- 7.31 Other participants felt that the parent pack should not be the only means of informing new parents about the importance of birth registration and obtaining a birth certificate for their child.²¹
- 7.32 The Mercy Hospital informed the Commission that in order to bring parents' attention to documents in the parent pack they place an adhesive label on the front about the importance of the documents inside. This reminds parents not to discard the material.²²
- 7.33 Consultation participants provided a range of suggestions for improving community awareness:
- A fact sheet outlining why birth registration and obtaining a birth certificate is important.²³
 - A list of community legal centres and other places for new parents to seek further information and advice in complex cases (such as determining parentage).²⁴
 - Flyers and posters (such as the culturally appropriate information produced as part of the 2009 Indigenous Access Project) could be developed as part of a wider, ongoing program of community awareness and promotional activities, including information about the Indigenous Access Fund.²⁵
 - Registry promotional material for justice service centre officers, health care providers and MCH centres to give to new parents.²⁶ For example, a sample birth registration statement could be used as a prompt for MCH nurses for their visits and appointments with parents at the early health checks.²⁷
 - A series of public education advertisements, possibly including television advertisements, that would inform people about the need to register their child's birth and obtain a birth certificate.²⁸
 - A 'pathway' map that outlines the process of applying for a birth certificate to give to new parents.²⁹
 - A teaching resource for schools covering the role and functions of the Registry.³⁰

18 Consultations 8 (New Parents Group, Wangaratta); 10 (MCH Team Meeting, Flemington).

19 Consultations 5 (MCH Team Meeting, Shepparton); 26 (Gippsland East Aboriginal Driver Education Program).

20 Consultations 5 (MCH Team Meeting, Shepparton); 8 (New Parents Group, Wangaratta); 21 (MCH Team Meeting, Warragul).

21 Consultation 20 (Dandenong Hospital).

22 The Mercy Hospital also considers the label important for parents earning a high income who may disregard the contents of the pack because they know their income may make them ineligible for the baby bonus: Consultation 32 (Mercy Hospital for Women).

23 Consultations 12 (DEECD); 20 (Dandenong Hospital).

24 Hume Riverina Community Legal Service, *Registering the Birth of Your Baby* (2009).

25 Consultation 12 (DEECD).

26 Consultations 21 (MCH Team Meeting, Warragul); 33 (Link-Up Victoria).

27 Consultation 21 (MCH Team Meeting, Warragul).

28 Ibid.

29 Consultation 26 (Gippsland East Aboriginal Driver Education Program).

30 Consultation 20 (Dandenong Hospital).

Commission's view

- 7.34 The Commission considers that it is important that the Registry make available appropriate and accessible information about birth registration processes and the importance of obtaining a birth certificate.
- 7.35 This information could be available for download from the Registry's website and brochures could be provided to a range of mainstream and specialist agencies including migrant resource centres and local Indigenous cooperatives.
- 7.36 The Commission considers that including a prominent statement on the birth registration statement about the importance of registering a birth and applying for a birth certificate would be an effective way of reaching almost all new parents.
- 7.37 This could include a statement about the benefits of applying for a birth certificate at the same time as registration, and explaining what a birth certificate is required for, such as getting a driver's licence or passport.

Recommendation

- 21 The Registrar should make available appropriate and accessible information outlining the birth registration process, the importance of birth registration and how to apply for a birth certificate.

The birth registration statement should include a prominent statement about the obligation of a parent to register a child and the benefits of obtaining a birth certificate, including listing the important identity documents which can only be obtained on production of a birth certificate.

Current practice—access to services

- 7.38 Awareness-raising is not the only activity that will improve timely birth registration. Access to services will also affect registration compliance, and decisions about when to apply for a birth certificate.
- 7.39 The Registry, including its customer service centre, is located in Collins Street, central Melbourne. The services include being able to register a birth, apply for a birth certificate or name change, record an adoption or death, submit an intention of marriage notice, register a domestic or caring relationship, and apply for certificates for all these life events. Some services require the applicant to phone the customer service centre in advance to make an appointment before attending in person.³¹
- 7.40 Some Registry services are also available at justice service centres, including:
- lodging birth certificate applications
 - certifying copies of identity documents
 - paying for Registry services.
- 7.41 At present there are 10 metropolitan and 13 regional justice service centres that provide Registry services, as well as a number of mobile justice service centres, called justice buses.³²

31 Victorian Registry of Births, Deaths and Marriages, *Victorian Marriage Registry Booking Form* (15 November 2012) <<http://www.bdm.vic.gov.au>>.

32 Justice service centre locations offering Registry services include: Box Hill; Broadmeadows; Dandenong; Frankston; Lilydale; Moorabbin; Ringwood; Rosebud; Sunshine; Werribee; Bairnsdale; Ballarat; Bendigo; Geelong; Horsham; Mildura; Morwell; Sale; Shepparton; Swan Hill; Wangaratta; Warrnambool and Wodonga: Victorian Registry of Births, Deaths and Marriages, *BDM Services at Justice Service Centres* (20 March 2013) <<http://www.bdm.vic.gov.au>>.

- 7.42 Justice service centre officers are trained to provide Registry services along with performing their other duties. Justice buses provide a range of justice-related services to community members who live outside regional centres.³³
- 7.43 Birth registration and an application for a birth certificate can also be made by post.

Recent Registry initiatives

- 7.44 The Registry is currently reviewing the way it provides its services to the community. This positive step coincides with the publication of this report and other work examining the issue of birth registration nationally. This report is a timely contribution to this parallel work being done at a state and national level.
- 7.45 The Registry notes on its website that it is looking at better ways of delivering its services,³⁴ and indicates that it will be working with the community and service partners to redesign the organisation.³⁵
- 7.46 As part of the review, the Registry is conducting an online survey asking the community for its thoughts and ideas.³⁶ A short video is also available promoting the forthcoming changes and asking for customer feedback.³⁷

Community responses—access to services

- 7.47 This section will examine community suggestions to improve accessibility of Registry services.
- 7.48 As discussed earlier in this chapter, no agency currently has legislative responsibility for the provision of information about the requirement to register a birth or how to apply for a birth certificate.
- 7.49 The Department of Justice website lists birth certificates as one of the most popular website searches, demonstrating that there is clearly community demand for information.³⁸
- 7.50 Some consultation participants were of the view that birth registration needs to be the shared responsibility of the parent/s and a government agency.³⁹ Generally these participants felt that this agency should be the Registry in partnership with other agencies.⁴⁰
- 7.51 Suggestions included an increased role for Registry staff working outside the Registry to support registration and make it easier.⁴¹ For example, The International Commission of Jurists—Victoria noted in its submission that:
- practical measures might include community outreach programs conducted regularly in areas or communities identified as having low registration rates for births.⁴²

33 Department of Justice (Victoria), *Mobile Justice Service Centres* (22 May 2013) <<http://www.justice.vic.gov.au>> (*Mobile Justice Service Centres*).

34 Victorian Registry of Births, Deaths and Marriages, *Design BDM* (12 April 2013) <<http://www.bdm.vic.gov.au>>.

35 Ibid.

36 Ibid.

37 Ibid.

38 Department of Justice (Victoria), *About the Department of Justice* (28 May 2013) <<http://www.justice.vic.gov.au>>.

39 Consultation 26 (Gippsland East Aboriginal Driver Education Program).

40 This was often raised in relation to collaborative work between the Registry and Indigenous organisations: Submissions 7 (VEOHRC); 12 (Liberty Victoria). Consultation 26 (Gippsland East Aboriginal Driver Education Program).

41 Consultations 23 (MCH Team Meeting, Bairnsdale); 26 (Gippsland East Aboriginal Driver Education Program).

42 Submission 5 (The International Commission of Jurists—Victoria).

- 7.52 The Victorian Equal Opportunity and Human Rights Commission (VEOHRC) recommended in its submission that particular focus should be given to developing collaborative strategies with the Indigenous community. Proposed suggestions to increase access to services include:
- supporting birth registration units within regional Aboriginal communities, employing Aboriginal staff, and mobile units regularly accessing remote areas.⁴³
- 7.53 One group suggested that the Registry could host open days, or drop-in sessions at the customer service centre in Melbourne. It was suggested that the Registry advertise these sessions widely via health networks and on the Registry website. These sessions would differ from the traditional counter service queue system and would focus solely on new parents who may need help with filling out the birth registration statement. Registry officers and interpreters could be made available if needed.⁴⁴
- 7.54 Another suggestion was that Registry officials should attend maternity hospitals to help new parents fill out the birth registration statement.⁴⁵ The Commission acknowledges the related security and logistical implications of this suggestion; but includes it as an illustration of the breadth of views presented to the Commission. Making greater use of health professionals, such as MCH nurses, was also suggested, as discussed in Chapter 3.

Online resources

- 7.55 Increased use of online resources, including being able to register a birth online, were points raised during consultation and in submissions.⁴⁶ The Commission is aware that the Registry is exploring the greater use of online resources in the future.⁴⁷
- 7.56 The Registry website currently contains information about Registry products, services, policies and links to relevant legislation.⁴⁸ Only the birth certificate application form is available to download online.
- 7.57 The Registry notes that it is committed to providing a website that meets the needs of all users regardless of language, technological or disability needs.⁴⁹ To this end the Registry notes that the website is written in easy-to-understand English.⁵⁰ The Commission agrees with the Registry that the website is written in plain English and is user-friendly. The Commission further notes that the Registry may make further improvements as a result of its current redesign process and development of online services.
- 7.58 Some jurisdictions in Canada and the U.S. have moved to online birth registration systems,⁵¹ including in some instances the full digitisation of the registration process.
- 7.59 The Florida Department of Health, Office of Vital Statistics, for example, offers an electronic birth registration mechanism that allows a designated hospital birth registry official to register a birth record online, and capture and store any required signatures.⁵²

43 Submission 7 (VEOHRC).

44 Consultation 10 (MCH Team Meeting, Flemington).

45 Consultation 13 (New Parents Group, Mildura South).

46 Submissions 4 (North Melbourne Legal Service); 12 (Liberty Victoria). Consultations 12 (DEECD); 21 (MCH Team Meeting, Warragul); 22 (MCH Team Meeting, Traralgon).

47 Letter from Erin Keleher, Victorian Registrar of Births, Deaths and Marriages to the Hon P.D. Cummins, Chair, Victorian Law Reform Commission, 21 February 2013.

48 Victorian Registry of Births, Deaths and Marriages, *About Us* (21 February 2013) <<http://www.bdm.vic.gov.au>>.

49 The Registry also notes its website is compliant with the Level A Website Content Accessibility Guidelines 1.0 outlined by the World Wide Web Consortium (W3C): Victorian Registry of Births, Deaths and Marriages, *Accessibility* (30 October 2012) <<http://www.bdm.vic.gov.au>>.

50 Non-English speakers are referred to TIS. Ibid. Issues to do with TIS and registry accessibility for CALD communities were discussed in Chapter 6.

51 See discussion in Chapter 3 in relation to the Newborn Registration Service (NRS) available in many Canadian provinces.

52 The birth is registered on the state system, which the birth registrar accesses. The state system is separate to the hospital system and so does not interfere with the hospital's own system. Signatures are captured on a signature pad which is connected to the internet. The Florida Vital Records website notes 'In order for the hospital and state office to ensure a record is filed for every delivery, and that no fraudulent record is filed, the birth registrar will fax the local county vital statistics office a labor and delivery log for reconciliation against the records entered into the database'. Florida Department of Health, Florida Vital Records, *Electronic Birth Registration (EBR)* (11 June 2012) <<http://www.doh.state.fl.us>>.

- 7.60 To obtain a birth certificate a person must submit an application to the State Bureau of Vital Statistics (Florida) with payment included (US\$9) and a copy of a valid picture ID.⁵³ Alternatively, an applicant may order a birth certificate online using an authorised private service, VitalChek.⁵⁴ In order to use this service, the name of the applicant must appear on the birth certificate. The cost of a computer-generated copy of the original birth record is US\$19.⁵⁵
- 7.61 During consultation participants referred to other government services offered online, such as the Australian Bureau of Statistics eCensus.⁵⁶ The ABS notes that the eCensus enables people to complete the Census form online. The aim is to provide a fast, easy and secure option for respondents.⁵⁷
- 7.62 Many participants supported the view that online services improve accessibility.⁵⁸
- 7.63 In its submission, the North Melbourne Legal Service suggested forms be made available routinely for download online.⁵⁹ Others consulted felt that a full range of information, such as fact sheets, should be available for download in a number of different community languages.⁶⁰ It was noted that making documents available for download would greatly increase accessibility for the community as well as for health service providers and community services. This would enable relevant agencies to access forms and information when needed and disseminate these to their clients.⁶¹
- 7.64 It was noted, however, that services should continue to be available in non-electronic forms for those who are not computer-literate or may not have access to the internet.⁶²
- 7.65 The greater use of online systems was also discussed in the context of simplifying registration processes. It was also proposed that online birth notification could become a type of pre-registration, so that details provided at notification stage pre-populated the birth registration statement.⁶³ This issue was discussed in detail in Chapter 2.

Commission's view

- 7.66 The Commission notes the positive steps taken by the Registry to increase the availability of Registry information and services online and encourages an expansion of its online presence.

Recommendation

22 The Registrar should:

- continue to expand its range of forms and education material available online, and
- explore the possibility of offering online registration of births.

53 If applying for a child's birth certificate you must be the parent, guardian or legal representative of the child, or have a court order: Florida Department of Health, Florida Vital Records, *Ordering a Florida Birth Certificate* (26 February 2013) <<http://www.doh.state.fl.us>>.

54 VitalChek is a government-approved service to securely order certified Florida vital records, such as birth, death and marriage certificates: VitalChek, *Florida Vital Statistics Agency Information* (2013) <<https://www.vitalchek.com/>>.

55 VitalChek is a private service and charges an additional processing fee for its service: VitalChek, *Why Order from VitalChek* (2013) <<https://www.vitalchek.com/>>.

56 Consultation 21 (MCH Team Meeting, Warragul).

57 Australian Bureau of Statistics, *About the eCensus* (5 May 2011) <<http://www.abs.gov.au>>.

58 Consultation 12 (DEECD).

59 Submission 4 (North Melbourne Legal Service).

60 Submission 4 (North Melbourne Legal Service). Consultation 1 (Spectrum Migrant Resource Centre).

61 Consultations 14 (Mildura Base Hospital); 18 (New Parents Group, Dandenong North).

62 Consultation 26 (Gippsland East Aboriginal Driver Education Program).

63 Consultation 22 (MCH Team Meeting, Traralgon).

Single contact point at Registry

- 7.67 The Commission heard during consultations that it would improve access for vulnerable groups to have a specific casework officer, employed by the Registry, to help with more complex queries.⁶⁴
- 7.68 Complex enquiries may include those made by members of the Stolen Generations, former wards of state or people raised in institutional care, or simply more complex matters that require greater time and a higher degree of problem-solving.
- 7.69 As discussed in Chapter 6, the Registry has informed the Commission of the work of the Indigenous Access Team. Many participants were not aware of this team. Some consultation participants knew of an individual officer who had in the past dealt with enquiries on behalf of members of the Stolen Generations but did not know that there was a designated access team.⁶⁵
- 7.70 Participants commented that where enquiries concerned members of the Indigenous community, it would be more culturally appropriate to have a Koori person dealing with the enquiries.⁶⁶ Link-Up Victoria suggested that, in addition to a dedicated officer, there could be a 1800 number for Indigenous people to call for direct access to the Indigenous Access Team.⁶⁷
- 7.71 Other participants suggested that there could be a contact number or case officer designated to support a range of identified vulnerable groups such as people from a CALD background.⁶⁸ It was noted that Centrelink often provides contact officers for agencies to ring direct on behalf of specific client groups and that it would be useful if the Registry were able to offer a similar service.⁶⁹
- 7.72 Maternal and child health (MCH) nurses noted that vulnerable mothers, often from CALD backgrounds, often require extra assistance with registering the birth of their child.⁷⁰ It was suggested that it would be helpful if there was a particular worker or team at the Registry who could help in these circumstances. MCH nurses noted that rather than being able to obtain advice on behalf of a client, they were told by Registry staff that the client needed to come in person to the customer service centre.⁷¹ It was noted that these vulnerable mothers may not have the confidence or motivation to attend personally, and so the child may remain unregistered.

Commission's view

- 7.73 The Commission is of the view that the public profile of the Indigenous Access Team should be lifted. As detailed in Chapter 6, participants consulted had little or no awareness of the Indigenous Access Team, or knowledge about the Indigenous Access Fund (IAF). The Commission notes the advice of the Registry that an Indigenous-specific page is being developed for its website. This should provide a central source of information about services available for the Koori community, promoting both the Indigenous Access Team and the IAF.
- 7.74 The Commission considered that the suggestion made by a number of consultation participants of a contact point for service providers who are assisting clients has merit. This may be a way of providing services to vulnerable groups who are otherwise difficult to reach.

64 Consultation 10 (MCH Team Meeting, Flemington).

65 Consultations 2 (Boorai Group, Victorian Aboriginal Health Service); 26 (Gippsland East Aboriginal Driver Education Program).

66 Consultation 33 (Link-Up Victoria).

67 Ibid.

68 Consultation 14 (Mildura Base Hospital).

69 Ibid.

70 Consultation 10 (MCH Team Meeting, Flemington).

71 Ibid.

- 7.75 Given the evidence that health service providers, particularly MCH nurses, are willing to help clients with birth registration issues, it would be cost-effective for the Registry to enhance its capacity to assist these clients by making it easy for them to gain assistance through a contact person or point, available by phone, within the Registry. This could help service providers to quickly resolve issues while they are with a client.

Recommendation

23 The Registrar should:

- promote greater awareness of the Indigenous Access Team in the Indigenous community, and
- consider providing a phone contact point for service providers assisting members of the public with birth registration documents.

Justice service centres

- 7.76 During the consultation period the Commission had the opportunity to visit a number of justice service centres both in regional Victoria and outer metropolitan Melbourne. The Commission also heard positive reports about the roll-out of the justice service centres and how they are providing previously inaccessible justice services to regional areas. For example, VEOHRC in its submission acknowledged the work of the justice service centres, justice bus and outreach by the Registry as a positive step in making Registry services more accessible.⁷²
- 7.77 As previously highlighted, justice service centres and the justice bus⁷³ provide access to a range of justice-related information and services, including Registry functions, Community Correctional Services, Consumer Affairs Victoria, Dispute Settlement Centre of Victoria, Regional Aboriginal Justice Advisory Committee and Sheriff's Operations.⁷⁴ Justice service centres are located throughout regional Victoria.⁷⁵
- 7.78 Individual justice service centres have identified specific gaps in access to justice services within their own communities, and have responded with outreach work in their regions.⁷⁶ For example, in the Mallee/Wimmera the local justice service centre has hosted information stalls at community days, with the goal of increasing community awareness about services available and justice service centre functions.⁷⁷ The Mildura centre has published a promotional flyer for distribution at this type of event that includes information about the IAF as well as other justice services.⁷⁸
- 7.79 During consultations a number of participants expressed the view that due to the infancy of some centres it may take some time before the community is fully aware of the services provided. Some participants were not aware of their local centre.⁷⁹ Those who were aware expressed generally positive views. MCH nurses in Bairnsdale, for example, felt that the justice service centres were a good initiative and very helpful for local people.⁸⁰

72 Submission 7 (VEOHRC).

73 Mobile Justice Service Centres or 'justice buses' are specially designed buses equipped with information areas and private conference rooms with a view to enabling all Victorians to engage in education programs, events and information sessions. Justice buses visit a number of regional and rural locations throughout Victoria. Justice service centres and justice buses are unable to print birth certificates; only the customer service centre in Melbourne has the facilities to print on the certified paper: *Mobile Justice Service Centre*, above n 33.

74 Department of Justice (Victoria), *Service Locations* (25 May 2013) <<http://www.justice.vic.gov.au>>.

75 See above n 32 for justice service centre locations offering Registry services.

76 Consultations 15 (Mildura Justice Service Centre); 29 (Horsham Justice Service Centre).

77 Consultation 15 (Mildura Justice Service Centre).

78 Ibid.

79 Consultations 3 (New Parents Group, Mooroopna); 8 (MCH Team Meeting, Shepparton); 22 (MCH Team Meeting, Traralgon).

80 Consultation 23 (MCH Team Meeting, Bairnsdale).

- 7.80 The Commission heard that Registry services have been successfully streamlined with the other services available at justice service centres, and that centres are in regular contact, via a dedicated hotline, with the Registry customer service centre in Melbourne.⁸¹
- 7.81 Generally, justice service centres commented that enquiries relating to Registry services are increasing.⁸² For example, the Bairnsdale and Morwell centres noted that Registry services are a growing part of justice business across Gippsland.⁸³ Participants agreed that it has helped clients to be able to complete forms at the justice service centre and be given instant feedback.⁸⁴ However, some justice service centres raised concerns in consultations that increasing demand for Registry services may mean the centres are not always able to maintain current service levels within existing funding arrangements.⁸⁵
- 7.82 Justice service centres also noted that most training for Registry services is provided in Melbourne, requiring regional staff to travel.⁸⁶ One suggestion was that in order to enable regional centres to maintain a consistent level of service to clients, Registry staff could visit the regions to provide both initial and refresher training to justice service officers.⁸⁷
- 7.83 The justice service centre model appears to be unique to Victoria.⁸⁸ However, other jurisdictions also offer Registry services from off-site locations,⁸⁹ including New South Wales, where people can apply for a birth, death or marriage certificate through Australia Post outlets.⁹⁰

Commission's view

- 7.84 The Commission notes that the roll-out of Registry services to justice service centres is relatively recent. This probably accounts for the seemingly modest levels of awareness outside the justice sector, for example, among health professionals and midwives, of the services that centres provide.
- 7.85 It may help to raise the profile of the work of the justice service centres, as well as provide signposting for the community, if details of centres' locations, or a link to where these details can be found, were provided on the birth registration statement.
- 7.86 The Commission considers that the approach taken in New South Wales to allow selected Australia Post outlets to accept birth certificate applications also warrants further exploration. Expanding registry services to mainstream providers such as Australia Post may make them even more accessible for marginalised and vulnerable people.

81 Consultations 15 (Mildura Justice Service Centre); 24 (Bairnsdale and Morwell Justice Service Centres).

82 Consultations 4 (Shepparton Justice Service Centre); 15 (Mildura Justice Service Centre); 27 (Dandenong Justice Service Centre).

83 Consultation 24 (Bairnsdale and Morwell Justice Service Centres).

84 Consultation 4 (Shepparton Justice Service Centre).

85 Consultation 24 (Bairnsdale and Morwell Justice Service Centres).

86 Consultation 4 (Shepparton Justice Service Centre).

87 Consultations 4 (Shepparton Justice Service Centre); 15 (Mildura Justice Service Centre); 24 (Bairnsdale and Morwell Justice Service Centres).

88 The Queensland Government offers Smart Service Queensland, a primary point of contact for all Queensland Government services allowing a person to complete transactions or get information. Smart Service Queensland is available online <www.qld.gov.au>, via phone 13 QGOV (13 74 68), or at one of three contact centres (Brisbane CBD, Mt Gravatt and Zillmere). There is also a network of government service counters located in rural and remote communities across Queensland: Queensland Government, *Smart Service Queensland* (12 April 2013) <<http://www.qld.gov.au>>.

89 In New South Wales people can also apply for a birth, death or marriage certificate through participating Government Access Centres, or Fair Trading Centres, or a local courthouse: NSW Registry of Births, Deaths and Marriages, *Certificate applications* <<http://www.bdm.nsw.gov.au>>. In Queensland people apply for a birth certificate at participating local Magistrates Courts, Queensland Government Agent Program (QGAP) office: Queensland Government, *Applying for a birth certificate* (26 March 2013) <<http://www.qld.gov.au>>. In South Australia people can apply for a birth certificate at participating consumer and business services regional locations or at Service SA branches: Government of South Australia, Consumer and Business Services, *Consumer and Business Services Customer Service Centre* (1 August 2011) <<http://www.cbs.sa.gov.au>>.

90 Australia Post, *NSW Birth, Death & Marriage Certificates* <<http://auspost.com.au>>.

Recommendations

- 24 The birth registration statement should contain a note indicating that assistance in filling in the form can be provided at a justice service centre and that the applicant should go to www.bdm.vic.gov.au to find the nearest centre.
- 25 The Registrar should consider expanding the range of venues where registry applications may be lodged.

Registry promotional function

- 7.87 The Act requires the appointment of a Registrar of Births, Deaths and Marriages, who has responsibility for administering the registration system established by the Act.⁹¹ The registration of births in Victoria⁹² and the issue of certified and uncertified information from the registers⁹³ are two of the identified objects in the Act.
- 7.88 One of the Registrar's general functions is to ensure that the Act is administered 'in the way best calculated to achieve the objects of this Act'.⁹⁴ There is, however, no specific function of the Registrar to undertake public education or awareness-raising about the Registry and its objects.⁹⁵
- 7.89 In the consultation paper the Commission asked whether the law should be changed so that the Registry is given a specific promotional function. Responses from participants broadly supported the Registry taking a more active role in awareness-raising.⁹⁶ The International Commission of Jurists—Victoria submitted that:

The role of the RBDM in improving awareness should be addressed at a legislative level by amending the objects clause in the Act and by expressly addressing the issue in s. 6 dealing with the functions of the Registry. The amendments should not only include a statement that the function of the RBDM is to promote the objectives of the Act but that the objectives of the Act are to promote the human rights of the child. The objectives of the Act should explain the importance of birth registration.⁹⁷

91 *Births, Deaths and Marriages Registration Act 1996 (Vic)* ss 5–6.

92 *Ibid* s 3(a).

93 *Ibid* s 3(e).

94 *Ibid* s 6(c).

95 No state or territory has a specific object or function within legislation that provides for the registrar to undertake educational or promotional work about the services or products of the registry: Victorian Law Reform Commission, *Birth Registration and Birth Certificates: Consultation Paper* (2012) 18.

96 Submissions 4 (North Melbourne Legal Service); 6 (Law Institute of Victoria); 7 (VEOHRC); 10 (Castan Centre for Human Rights Law—Monash University); 12 (Liberty Victoria). Consultations 1 (Spectrum Migrant Resource Centre); 3 (New Parents Group, Mooroopna); 10 (MCH Team Meeting, Flemington); 12 (DEECD); 13 (New Parents Group, Mildura South); 14 (Mildura Base Hospital); 15 (Mildura Justice Service Centre); 18 (New Parents Group, Dandenong North); 19 (Vietnamese New Parents Group, Springvale); 20 (Dandenong Hospital); 21 (MCH Team Meeting, Warragul); 42 (Bairnsdale and Morwell Justice Service Centres); 26 (Gippsland East Aboriginal Driver Education Program); 31 (The Royal Women's Hospital); 32 (Mercy Hospital for Women).

97 Submission 5 (The International Commission of Jurists—Victoria).

Commission's view

- 7.90 The Commission considers there is scope to provide for a specific information, community education and promotional function in the Act in order to improve awareness of and accessibility to Registry services. Importantly, this is needed to ensure that every Victorian is aware of their obligations in relation to birth registration and their right to a birth certificate.
- 7.91 The Commission notes that a similar provision can be found in the *Electoral Act 2002* (Vic). Section 8 of the Electoral Act gives the Victorian Electoral Commission (VEC) research, communications and education functions in relation to electoral matters in Victoria. The VEC is required to:
- promote public awareness of electoral matters that are in the general public interest by means of the conduct of education and information programs,⁹⁸ and
 - conduct and promote research into electoral matters that are in the general public interest.⁹⁹
- 7.92 The activities undertaken by the VEC in meeting its obligations under section 8 of the Electoral Act include working with community groups to develop Easy English publications to help people with disabilities or low language and literacy levels understand the electoral process.¹⁰⁰ The VEC has also developed education programs delivered in secondary schools to increase students' engagement in democracy.¹⁰¹
- 7.93 The VEC's work places an importance on identifying low participation groups and researching ways of providing information about electoral matters to the identified groups and to the community more broadly.¹⁰² The community engagement and education work of the Commission focuses on the low participation groups. These groups are the same groups identified as facing potential barriers to access with regard to birth registration and access to a birth certificate, including young people, CALD communities, people with disabilities, Indigenous Victorians, and people experiencing homelessness.¹⁰³
- 7.94 The VEC notes that it has taken different approaches to identified groups, targeting them with tailored information, and to this end, the VEC highlights that community consultation is a key element in ensuring tailored programs or material meet the needs of those particular groups.¹⁰⁴
- 7.95 The Commission considers the responsibility and functions of the VEC as provided for in section 8(f)–(g) of the Electoral Act are an example that could be adapted to provide a suitable information, community awareness-raising and education function in the Act.

Recommendation

- 26 The Registrar's general functions, as set out in section 6 of the *Births, Deaths and Marriages Registration Act 1996* (Vic), should be amended to include the promotion of public awareness of the importance of birth registration through the conduct of education and information programs.

98 *Electoral Act 2002* (Vic) s 8(f).

99 *Ibid* s 8(g).

100 Victorian Electoral Commission, *Annual Report 2007–2008* (2008) 2.

101 See, eg, the VEC's 'Passport to Democracy' resource program designed to engage students with the political process and consider how they can make an impact: Victorian Electoral Commission, *Passport to Democracy* (2013) <<http://www.passport.vec.vic.gov.au>>.

102 Victorian Electoral Commission, above n 100, 22.

103 *Ibid*.

104 *Ibid*.

Conclusion

Conclusion

- 8.1 The Commission at the outset of this report acknowledged the positive initiatives taken by the Victorian Registry of Births, Deaths and Marriages, particularly in recent times. The Commission's recommendations contained in this report, if implemented, would build upon the work done by the Registry and in the Commission's view would enhance that work. Further and significantly, the Commission's recommendations, if implemented, would help secure the fundamental principles we all strive towards of recognising and securing every person's right to be recognised and protected by the law.



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Appendices

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Appendix A—Submissions

No	Submitter / Organisation	Date Received
1	Cathy Arndt	27 September 2012
2	Jason	15 October 2012
3	Dr Carolyn Woodley	25 October 2012
4	North Melbourne Legal Service	31 October 2012
5	The International Commission of Jurists—Victoria	31 October 2012
6	Law Institute of Victoria	1 November 2012
7	Victorian Equal Opportunity and Human Rights Commission	1 November 2012
8	NSW Legislative Council	16 November 2012
9	Legal Aid NSW	16 November 2012
10	Castan Centre for Human Rights Law—Monash University	20 November 2012
11	VANISH	23 November 2012
12	Liberty Victoria	26 November 2012
13	The Elder Law and Succession Committee of the Law Society of NSW	3 December 2012

Appendix B—Consultations

No	Name	Date
1	Spectrum Migrant Resource Centre	25 September 2012
2	Boorai Group, Victorian Aboriginal Health Service	2 October 2012
3	New Parents Group, Mooroopna	3 October 2012
4	Shepparton Justice Service Centre	3 October 2012
5	MCH team meeting, Shepparton	3 October 2012
6	Ovens and King health and community workers & co, Wangaratta	4 October 2012
7	Wangaratta Police	4 October 2012
8	New Mums Group, Wangaratta	4 October 2012
9	MCH team meeting, Wangaratta	4 October 2012
10	MCH team meeting, Flemington	9 October 2012
11	Sue Smythe, Robinvale Resource Service Centre	15 October 2012
12	Department of Education and Early Childhood Development	15 October 2012
13	New Parents Group, Mildura South	16 October 2012
14	Mildura Base Hospital	16 October 2012
15	Mildura Justice Service Centre	17 October 2012
16	MCH team meeting, Robinvale	17 October 2012
17	Immunisation session, Flemington	18 October 2012
18	New Parents Group, Dandenong North	22 October 2012
19	Vietnamese New Parents Group, Springvale	22 October 2012
20	Dandenong Hospital	29 October 2012
21	MCH team meeting, Warragul	31 October 2012
22	MCH team meeting, Traralgon	31 October 2012
23	MCH team meeting, Bairnsdale	1 November 2012
24	Bairnsdale and Morwell Justice Service Centres	1 November 2012

No	Name	Date
25	Young, Pregnant and Parenting Group, Lakes Entrance	1 November 2012
26	Gippsland East Aboriginal Driver Education Program	1 November 2012
27	Dandenong Justice Service Centre	12 November 2012
28	Connect Ed, Horsham College	13 November 2012
29	Horsham Justice Service Centre	13 November 2012
30	New Mothers Group, Connect Ed, Horsham College	13 November 2012
31	The Royal Women's Hospital	21 November 2012
32	Mercy Hospital for Women	27 November 2012
33	Link-Up Victoria	14 January 2013

Appendix C—Birth registration statement

Birth Registration Statement

Recognising the significance of life events



November 2012

Department of
Justice



Births
Deaths
Marriages

VICTORIA

This statement is in three parts

PART ONE Birth Registration

PART TWO Birth Certificate Application

PART THREE Lodgement

Both parents are required by law to complete Part One of the Birth Registration Statement and submit it to the Registry of Births, Deaths and Marriages within 60 days of the birth.

Registering a birth is free.

A birth certificate is not issued automatically.

A birth certificate can be ordered by completing Part Two of this form and paying the fee.

Mail your completed Birth Registration Statement and certificate payment (if applicable) to the Registry using the self addressed envelope provided.

Naming your child

Choosing a name for your child is an important step when registering their birth. While it is a matter of choice for the parents, restrictions may apply.

Parents from multicultural backgrounds can follow traditional rules when naming their child. However, the name provided on this form must be written in English.

If the name of the child is in dispute, a letter explaining the dispute signed by both parents must be submitted with this application.

Please note, the Registrar can refuse to register a name that is offensive, too long, consists of or includes symbols without phonetic significance or is contrary to public interest.

Registration of parents' details

The parents of a child are jointly responsible for registering the child's birth and both must sign the Birth Registration Statement.

If you cannot obtain the details and/or signature of one of the parents, you must attach a statutory declaration addressed to the Registrar which explains:

- why that parent's details and/or signature are missing.
- what attempts have been made to obtain them.

If the parent who signs the Birth Registration Statement does not wish to contact the other parent, they must provide the contact details of the other parent to the Registry. The Registry will then contact the other parent to advise them of their responsibilities.

Privacy and disclosure of information

The Victorian Registry of Births, Deaths and Marriages is responsible for the administration of the *Births, Deaths and Marriages Registration Act 1996*.

The information required on this form is collected under the provisions of this Act which also provides the basis for the registration of a birth and the issuing of a birth certificate.

The information collected and kept in the Register of Births forms part of the State's civil records and becomes a permanent historical record. A birth record is restricted from public access for 100 years.

Information collected in this form may be used for statistical purposes, medical research, community planning, law enforcement and other uses provided by law. Access for approved purposes may be granted to certain government and authorised non-government agencies.

Further information about privacy, disclosure of birth data and how to access or correct a record is available at www.bdm.vic.gov.au

All births must be registered

The birth of a child in Victoria must be registered within 60 days. Under the *Births, Deaths and Marriages Registration Act 1996* penalties apply for failing to register your child's birth or for giving false or misleading information.

Late registrations

If you are unable to register the birth of your child within 60 days, please contact the Registry on 1300 369 367.

Standard birth certificate



Standard birth certificate not shown in full.

A standard birth certificate includes: the child's name, date and place of birth. It also contains the parents' details, including: name, occupation, age, place of birth, relationship status and previous children of the parents' relationship.

Only one standard birth certificate may be issued with this form.

Abridged birth certificate

This certificate is similar to a standard birth certificate, but it does not include the age, occupation or the relationship status of the parents.

You should check with the authority requesting the birth certificate to confirm whether an abridged birth certificate is acceptable. This certificate is not accepted as a proof of identity document when applying for an Australian passport.

Further information is available at www.bdm.vic.gov.au

Instructions for completing this form

- Please use blue or black ink and BLOCK letters.
- Keep each number, letter or X within the boxes, for example:

Correct ✓

SAMPLE

Incorrect ✗

SAMPLE

- Leave answer boxes blank where you have no response or data to enter, for example:

Correct ✓

Incorrect ✗

- - -

- If you need to make an alteration, cross out the mistake and have both parents initial the change.
- Do not use correction fluid or tape.
- Items marked with an asterisk (*) are collected for statistical purposes, medical research or office use only and will not appear on the birth certificate.

Special Offer

Order one or more commemorative birth certificates when registering your child's birth and receive one standard birth certificate at no extra cost.

Commemorative birth certificates

A commemorative birth certificate celebrates a child's birth and helps preserve your family's history in a unique and lasting way. Certificates have been designed by local artists. They are printed on archival quality paper and fit a standard frame of 280mm x 355mm (11" x 14").



Victorian Aboriginal Heritage



Victorian Birds



Victorian Fauna



Victorian Flora



Victorian Footprints



Australian Blue



Australian Pink



Classic

Note. A commemorative birth certificate is not a recognised proof of identity document.

Office Use Only

Registration type

Registration number

Officer number

DR number

PART ONE – Birth Registration

▲ Tear here. ▲ Return this section only. ▼

Note

- Both parents are responsible for registering the birth of a child.
- Penalties may apply if a birth is not registered within 60 days of the birth.
- There is no fee payable when registering a birth.
- Please ensure you complete Part Two of this form if you wish to apply for a birth certificate.

Step 1 – Child's name

Note

- Take time to jointly decide the full name of your child as any alterations after registration may incur a fee.
- Write the child's name as it is to be registered without abbreviations, nicknames, slashes, symbols or brackets. Hyphens (-) are accepted.
- Both parents must initial all changes made on this form.

1. Surname (family name)

2. Given name(s)

Step 2 – Child's details

3. Date of birth

 / /

4. Sex of child

 Male Female

***5. Birth information**

a) Birth weight grams b) Birth length . cm

c) Head circumference . cm d) Eye colour

e) Birth time am/pm – Please circle

6. Was the child born in a hospital or another medical facility?

Yes – Please specify name of hospital or medical facility

Suburb/Town

No – Please specify place of birth

a) Street no. and name

b) Suburb/Town

c) State d) Postcode

7. Was the child one of a multiple birth?

Note. You must complete a separate Birth Registration Statement for each child of a multiple birth.

Yes – What was the birth order of this child (e.g. first of twins or second of triplets)?

of

No

8. Was the child born alive?

Yes No – Please state the gestation period (number of weeks)

***9. Details of the doctor or midwife present at the birth**

a) Name

b) Street no. and name

c) Suburb/Town

d) State e) Postcode

***10. Daytime telephone number**

Step 3 – Mother's details (at the time of child's birth)*11. Title Mrs Ms Miss – Other

12. Surname (family name)

13. Surname at birth (maiden name)

14. Given name(s)

15. Usual occupation

Note

- Position title of current or last occupation held at the time of child's birth (e.g. accountant, project manager, teacher or home duties).
- This information appears on a standard birth certificate.

16. Mother's date of birth / /

17. Place of birth

a) Suburb/Town

b) State (or country if born outside Australia)

*18. If born outside Australia, what year did the mother first arrive in Australia?

*19. Is the mother of Australian Aboriginal or Torres Strait Islander origin?

Yes – Please specify origin

 Aboriginal Torres Strait Islander Both No

20. Residential address

a) Street no. and name b) Suburb/Town c) State d) Postcode *21. Daytime telephone number *22. Email address **Step 4 – Father or parent's details****Note**

- These details must be provided regardless of whether the father or parent is available to sign this form or not.
- A daytime telephone number should be provided even if no other information is available.
- If you cannot provide any details, see instructions at bottom of Step 8.

*23. Title Mr Ms Miss – Other

24. Surname (family name)

25. Surname at birth

26. Given name(s)

27. Usual occupation

28. Father or parent's date of birth / /

29. Place of birth

a) Suburb/Town

b) State (or country if born outside Australia)

*30. If born outside Australia, what year did the father or parent first arrive in Australia?

*31. Is the father or parent of Australian Aboriginal or Torres Strait Islander origin?

Yes – Please specify origin

 Aboriginal Torres Strait Islander Both No

32. Residential address

Note. If father or parent's residential address is the same as the mother's write 'SAME AS MOTHER' in the space provided.

a) Street no. and name b) Suburb/Town c) State d) Postcode *33. Daytime telephone number *34. Email address

Step 5 – Relationship details

35. What is the relationship status of the parents?

Married – Please specify

Date married / /

Suburb/ Town of marriage

State (or country if married outside Australia)

OR

Registered domestic relationship

Note
 A registered domestic relationship is one registered with the Victorian Registry of Births, Deaths and Marriages under the *Relationships Act 2008*.
 A registered domestic relationship;

- is not a marriage;
- is not a de-facto relationship;
- is not a civil union;
- is not a relationship registered for any other purpose.

Date registered / /

OR

None of the above

Complete Step 6 only if the birth resulted from a donor treatment procedure where the donor is not the mother or the father named on this form.

Step 6 – Donor treatment details

Note. If a self-insemination procedure was used visit the Registry's website for further information.

*36. If the child was donor conceived, please specify:

a) Name of clinic/doctor who performed the donor treatment procedure

b) Street no. and name

c) Suburb/Town

d) State e) Postcode

f) Country

Continued overleaf >

Step 7 – Previous children of the mother

Note. Please provide birth details of each child in order of birth (from oldest to youngest). Include legally adopted children. If a child is deceased, enter 'D' in the age box. If the child was not born alive, enter 'SB' in the age box. If there are more children than the space allows please attach a separate sheet with the required details.

37. Are there other children born to or legally adopted by both parents of this child?

Yes – How many children? **No**

1. Given name(s) and surname

Date of birth	/ /	Age
Place of birth – State (or country if born outside Australia)		

2. Given name(s) and surname

Date of birth	/ /	Age
Place of birth – State (or country if born outside Australia)		

3. Given name(s) and surname

Date of birth	/ /	Age
Place of birth – State (or country if born outside Australia)		

4. Given name(s) and surname

Date of birth	/ /	Age
Place of birth – State (or country if born outside Australia)		

5. Given name(s) and surname

Date of birth	/ /	Age
Place of birth – State (or country if born outside Australia)		

*38. Are there any other children previously born to or legally adopted by this child's mother?

Yes – How many children? **No**

1. Given name(s) and surname

Date of birth	/ /	Age
Place of birth – State (or country if born outside Australia)		

2. Given name(s) and surname

Date of birth	/ /	Age
Place of birth – State (or country if born outside Australia)		

3. Given name(s) and surname

Date of birth	/ /	Age
Place of birth – State (or country if born outside Australia)		

Attach payment and supporting documents here.

Step 8 – Declarations

Do not complete this section until you have a witness present.

Both parents must complete and sign this form regardless of their marital or relationship status. Signing this form acknowledges parenthood of the child.

I declare that the information provided in this form is true and correct. I understand that this form remains the property of the State of Victoria and that some or all of the information provided may be disclosed to persons or bodies with adequate entitlement to the information under the *Births, Deaths and Marriages Registration Act 1996* or the Registry's Access Policy.

I understand that it is an offence under section 53 of the *Births, Deaths and Marriages Registration Act 1996* to knowingly make a false or misleading representation and that penalties may apply.

Note

- Parents must sign the declaration in the presence of a witness.
- A witness must be 18 years of age or over and not a parent of the child.
- One person may be the witness for both parents.

*39. Mother's Declaration:

I certify that I have read and understood the declaration above:

a) Mother's signature b) Date

Witness details

Surname (family name)

Given name

Date of birth

Daytime telephone number

c) Witness signature d) Date

*40. Father or parent's Declaration:

I certify that I have read and understood the declaration above:

a) Father or parent's signature b) Date

Witness details

Surname (family name)

Given name

Date of birth

Daytime telephone number

c) Witness signature d) Date

Can't get the details and/or signature of one of the parents?

- You must attach a statutory declaration addressed to the Registrar which explains:
- why that parent's details and/or signature are missing
 - what attempts have been made to obtain them.

Are you in dispute about the child's name?

- Both parents are still required to:
- sign this form
 - attach a letter addressed to the Registrar which explains the dispute.

If you do not require a birth certificate, go to PART THREE

PART TWO – Birth Certificate Application

- Please ensure you have completed Part One (Birth Registration) of this form as a birth must be registered before a birth certificate can be issued.
- Only the person(s) registering the birth of the child may apply for a birth certificate.
- Birth certificate(s) can only be posted to the person(s) registering the birth of the child.

Step 9 – Applying for a birth certificate

Note

- A standard birth certificate is used as a proof of identity document. Keep this certificate safe and secure at all times.
- If you are not satisfied with your commemorative certificate(s), return it to the Registry and the purchase price will be refunded within 14 days of receipt. If you wish to keep the standard birth certificate, a refund will be granted minus the cost of the standard birth certificate.

41. I wish to order the following birth certificate(s):

Office Use Only

Reg No. _____

Exception	Key details	Payment	Type Code	Total \$
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Pos No. _____

	Price*	Quantity	Subtotal
--	--------	----------	----------

Commemorative birth certificates

One standard birth certificate is issued at no extra cost with one or more commemorative certificates ordered when registering your child's birth. Standard postage is included.

Victorian Aboriginal Heritage	\$46.00		\$..
Victorian Birds	\$46.00		\$..
Victorian Fauna	\$46.00		\$..
Victorian Flora	\$46.00		\$..
Victorian Footprints	\$46.00		\$..
Australian Blue	\$46.00		\$..
Australian Pink	\$46.00		\$..
Classic	\$46.00		\$..

Only one standard birth certificate may be issued at time of registration. If you order one or more commemorative birth certificates you will receive one standard birth certificate at no extra cost.

Other birth certificates

Standard birth certificate	\$28.60		\$..
Abridged birth certificate	\$28.60		\$..
Registered Post (Standard and Abridged certificates only) within Australia	\$4.50		\$..

*All prices listed on this form are subject to change. Current fees may be confirmed at www.bdm.vic.gov.au

Total \$

42. Please mail my birth certificate order to:

a) Name

b) Street no. and name

c) Suburb/Town d) State e) Postcode

Step 10 – Payment

43. How do you wish to pay?

Note: Make cheques and money orders payable to Registry of Births, Deaths and Marriages.

Cheque Money order Visa MasterCard Amex Total \$

Name on card Signature of cardholder

Card number Expiry date /

PART THREE – Lodgement

Step 11 – Lodging your Birth Registration Statement

Mail your completed Birth Registration Statement and certificate payment (if applicable) to the Victorian Registry of Births, Deaths and Marriages using the self-addressed envelope provided.

Checklist

Note: Any amendments made to a birth registration after this form has been submitted may incur a fee.

- I have correctly completed all sections in Part One (Birth Registration).
- Both parents have initialled all changes made on the form.
- Both parents have signed the declaration at Step 8.
- If only one parent has signed this form, this parent has attached a statutory declaration addressed to the Registrar stating why only one parent has signed this form.
- The declaration has been witnessed.
- If ordering a certificate, I have correctly completed the relevant sections in Part Two (Birth Certificate Application).
- I have included payment for all birth certificates ordered.

Translation and interpreter service

If you require access to a translation or interpreter service to complete this form, please call the Translating and Interpreting Service (TIS) on 13 14 50 and ask them to contact the Registry on 1300 369 367.

Arabic

إذا كنتم بحاجة إلى استعمال خدمة ترجمة خطية أو شفوية لتعبئة هذه الاستمارة، الرجاء الاتصال بخدمة الترجمة الخطية والشفوية (TIS) على الرقم 13 14 50 والطلب منهم الاتصال بمكتب سجل الولادات والوفيات والزيجات في فيكتوريا على الرقم 1300 369 367.

Chinese (Traditional)

如果你在填寫此表格時需要翻譯服務，請撥翻譯服務處 (TIS) 電話 13 14 50 並要求轉接維州出生、死亡和婚姻登記處電話 1300 369 367。

Polish

Jeśli potrzebujesz skorzystać z usług tłumacza pisemnego lub ustnego w celu wypełnienia tego formularza, prosimy zadzwonić do Telefonicznej Służby Tłumaczy (TIS) na numer 13 14 50 i poprosić o połączenie z Registry pod numerem 1300 369 367.

Russian

Если вам при заполнении этого бланка требуется помощь письменного или устного переводчика, то позвоните в Службу письменного и устного перевода (Translating and Interpreting Service - TIS) по номеру 13 14 50 и попросите работника этой службы позвонить в Отдел регистрации рождений, смертей и браков по номеру 1300 369 367.

Spanish

Si necesita servicios de traducción o de intérprete para completar este formulario, sírvase llamar al 13 14 50, Translating and Interpreting Service (TIS) y pida que lo comuniquen con el 1300 369 367, Registro de Nacimientos, Muertes y Matrimonios de Victoria.

Turkish

Bu formu doldurabilmek için yazılı veya sözlü tercüme ihtiyacı duyuyorsanız, lütfen 13 14 50 numaralı telefondan Yazılı ve Sözlü Tercümanlık Servisini (TIS) arayınız ve sizi 1300 369 367 numaralı telefondan Nüfus Müdürlüğüne (Registry) bağlamalarını isteyiniz.

Vietnamese

Nếu cần sử dụng dịch vụ phiên dịch hay thông dịch để điền đơn này, xin quý vị gọi cho Dịch Vụ Thông Phiên Dịch (TIS) theo số 13 14 50 và nhờ họ gọi cho Sở Hộ Tịch Victoria (Registry) theo số 1300 369 367.

Victorian Registry of Births, Deaths and Marriages

Postal address GPO Box 2182, Melbourne VIC 3001

General enquiries 1300 369 367 (8.30am – 4.30pm, Monday to Friday, except public holidays)

Website www.bdm.vic.gov.au



THIS FORM HAS BEEN PRINTED ON AUSTRALIAN MADE PAPER.

Appendix D—Birth certificate application

<p>Victorian Registry of Births, Deaths and Marriages <i>Births, Deaths and Marriages Registration Act 1996</i></p> <h1>Application for a Victorian Birth Certificate</h1> <p>Instructions. Please use blue or black ink and BLOCK letters.</p>	<p>Office use only</p> <p>\$</p> <table border="1"><tr><td>CC</td><td>MO</td><td>CQ</td><td>NF</td><td>EX</td><td>RM</td></tr><tr><td>C</td><td>NC</td><td>IP</td><td>NP</td><td>DP</td><td>FH</td></tr></table>	CC	MO	CQ	NF	EX	RM	C	NC	IP	NP	DP	FH
CC	MO	CQ	NF	EX	RM								
C	NC	IP	NP	DP	FH								
<p>PART ONE – Your details</p> <p>1. Which certificate do you require?</p> <table border="0"><tr><td><input type="checkbox"/> Standard Birth Certificate</td><td><input type="checkbox"/> Replacement Change of Name Certificate</td></tr><tr><td><input type="checkbox"/> Historical Certificate</td><td><input type="checkbox"/> Abridged Birth Certificate</td></tr><tr><td><input type="checkbox"/> Uncertified (historical) image</td><td><input type="checkbox"/> Deed Poll Certificate</td></tr></table> <p>2. Surname (family name)</p> <input type="text"/> <p>3. Given name(s)</p> <input type="text"/> <p>4. Residential address</p> <p>a) Street no. and name</p> <input type="text"/> <p>b) Suburb/Town</p> <input type="text"/> <p>c) State <input type="text"/> d) Postcode <input type="text"/></p> <p>5. Postal address (if different to above)</p> <p>a) Street no. and name</p> <input type="text"/> <p>b) Suburb/Town</p> <input type="text"/> <p>c) State <input type="text"/> d) Postcode <input type="text"/></p> <p>6. Daytime telephone number</p> <input type="text"/> <p>7. Email address</p> <input type="text"/> <p>8. Whose certificate are you applying for?</p> <p><input checked="" type="checkbox"/> My own <input checked="" type="checkbox"/> Someone else's – please specify (e.g. husband, daughter, son)</p> <input type="text"/> <p>9. Reason certificate is required (e.g. passport, driver licence, school enrolment)</p> <input type="text"/>	<input type="checkbox"/> Standard Birth Certificate	<input type="checkbox"/> Replacement Change of Name Certificate	<input type="checkbox"/> Historical Certificate	<input type="checkbox"/> Abridged Birth Certificate	<input type="checkbox"/> Uncertified (historical) image	<input type="checkbox"/> Deed Poll Certificate	<p>PART TWO – Details of person on certificate</p> <p>10. Surname (family name at birth)</p> <input type="text"/> <p>11. Given name(s)</p> <input type="text"/> <p>Birth details</p> <p>12. Date of birth <input type="text"/></p> <p>Or if unsure, please estimate date of birth</p> <p>From <input type="text"/> To <input type="text"/></p> <p>13. Place of birth</p> <p>a) Suburb/Town</p> <input type="text"/> <p>b) State <input type="text"/> c) Postcode <input type="text"/></p> <p>14. Registration number (if known)</p> <input type="text"/> <p>Parent's details</p> <p>15. Mother's maiden name (surname at birth)</p> <input type="text"/> <p>16. Mother's given name(s)</p> <input type="text"/> <p>17. Father's/Parent's surname (family name)</p> <input type="text"/> <p>18. Father's/Parent's given name(s)</p> <input type="text"/>						
<input type="checkbox"/> Standard Birth Certificate	<input type="checkbox"/> Replacement Change of Name Certificate												
<input type="checkbox"/> Historical Certificate	<input type="checkbox"/> Abridged Birth Certificate												
<input type="checkbox"/> Uncertified (historical) image	<input type="checkbox"/> Deed Poll Certificate												
<p>November 2012</p>													

PART THREE – Proof of identity

PAGE 2

Note

- You must provide proof of your identity if the birth or change of name occurred within the last 100 years or the person is still living.
- If applying for a historical certificate or uncertified historical image (i.e. the birth occurred over 100 years ago), you do not have to prove proof of identity.
- For further information about access to records refer to the Registry's Access Policy at www.bdm.vic.gov.au

19. Whose certificate are you applying for?

19.1 My own certificate or the birth certificate of my child who is under 18 years of age

- You must submit three identity documents of your own, one from each list on page 3.

19.2 The certificate of someone else who is 18 years of age or over

 You must submit:

- three identity documents of your own, one from each list on page 3; and
- a letter from the person named on the certificate (or their next of kin if the person is deceased) which authorises you to access their record. The letter must include the person's address, daytime telephone number and signature; or a letter which establishes your power of attorney; and
- three identity documents of the person named on the certificate (unless you have power of attorney), one from each list on page 3.

If you are applying for the certificate of someone who is under 18 and not your child, please contact the Registry for proof of identity requirements.

PART FOUR – Certificate payment

20. I wish to order the following:

	Price*	Subtotal
Proof of identity required		
Standard Birth Certificate	\$28.60	\$.
Replaced Change of Name Certificate	\$28.60	\$.
Abridged Birth Certificate	\$28.60	\$.
Deed Poll Certificate	\$28.60	\$.
Proof of identity NOT required		
Historical Certificate	\$28.60	\$.
Uncertified (historical) image – you must provide a registration number at Q.14 or the fee for a standard birth certificate applies.*	\$20.00	\$.
Delivery/Collection method (NOTE: you must select ONE only)		
In person**	\$0.00	\$.
OR		
Standard post	\$0.00	\$.
Registered Post (within Australia)	\$4.50	\$.
OR		
Express Post (within Australia)	\$5.50	\$.
		Total \$.

* All prices on this form are subject to change. Current fees may be confirmed at www.bdm.vic.gov.au# You can search the historical indexes for a registration number at www.bdm.vic.gov.au

** Certificates can only be collected in person from our Melbourne Customer Service Centre. All online and mail applications will be delivered using Standard Post if you do not specify your postal delivery method above.

21. How do you wish to pay?

- Cash payments will only be accepted if you apply in person.
- Make cheques and money orders payable to Registry of Births, Deaths and Marriages.
- If paying by credit card, please complete the Credit Card Payment Slip on page 3.

Cash (in person only) Credit Card EFTPOS card Cheque Money Order

PART FIVE – Declaration

22. I certify that I have read and understood the declaration below:

I declare that all statements made in this application are true and correct. I understand that this application remains the property of the State of Victoria and that some or all of the information provided, including documents submitted as proof of identity, may be disclosed to and/or verified with other persons or bodies with adequate entitlement to the information under the *Births, Deaths and Marriages Registration Act 1996* or the Registry's Access Policy. I understand that it is an offence to knowingly make a false or misleading representation in this application or its supporting documents and that penalties may apply.

Signature

Date

Go to Page 4 for lodgement instructions.

BDM2013

Three documents are required, one from each list below

LIST 1 Evidence of link between photo and signature

- Australian driver licence (or learner permit)
- Australian passport
- Australian firearm licence
- Overseas passport

LIST 2 Evidence of operating in the community

- Medicare card
- Credit card or ATM card
- Australian security guard or crowd controller licence
- Marriage Certificate issued by the Victorian Registry
- Student or tertiary identity card
- Australian Citizenship Certificate
- Standard Birth Certificate issued in Australia
- Department of Veterans' Affairs card
- Working with Children Check card

LIST 3 Evidence of current residential address

- Utility account (including gas, water, electricity, mobile or home phone)
- Rates notice
- Centrelink concession card (Pension Concession Card, Health Care Card or Commonwealth Seniors Health Card)
- Bank statement (including passbook, credit, savings or cheque accounts)
- Current lease or tenancy agreement
- Superannuation fund statement

All Applicants please note:

- All documents must be current
- If you cannot provide an identity document from List 1 you must provide two from List 2 and one from List 3
- Your List 3 document must show your current residential address
- A List 1 document can also be used as a List 3 document if it shows your current residential address
- Bank statements, utility accounts, rates notices or superannuation fund statements must have been issued within the last 12 months
- If you submit printed online bank, superannuation or utility statements they must contain an official company letterhead or be stamped and approved by the bank, superannuation fund or utility company.

Under 18 years?

If you are unable to submit all three identity documents, a List 2 document can be a:

- Medicare card showing your name
- Current school report card or exam certificate.

Certifying and submitting your documents

How to certify your identity documents

1. Make a photocopy of each identity document. Make sure the document from List 3 shows the current residential address.
2. Take your original documents and the photocopies to a police station and ask either a sworn member of police or a Justice of the Peace located in the station to certify them.

Submitting in person?

You must bring your original identity documents or certified photocopies with your application and submit at our Melbourne Customer Service Centre or at selected Justice Service Centres (JSC). To find your nearest JSC, visit www.bdm.vic.gov.au/jsc

Submitting by mail?

You must mail certified photocopies of each identity document.

Note

- Do not send original identity documents by mail. These can only be used if you submit your identity documents in person.
- The Registry does not accept identity documents sent via fax or email.
- The Registry does not accept photocopies of identity documents that are expired, uncertified or certified incorrectly.
- Failure to correctly submit your proof of identity documents will delay your application.

Applying from outside Victoria?

If you are applying from other Australian states or territories you may have photocopies of your identity documents certified by a sworn member of police or a Justice of the Peace.

Applying from outside Australia?

If you live outside Australia, you can provide overseas equivalents to Australian identity documents, such as a foreign driver licence.

You may have photocopies of your identity documents certified by an Australian consulate or embassy official, a Notary Public or a local member of police.

If any identity documents are not written in English, you must also provide a certified translation. The Registry will only accept translations by an accredited translator.

If you are unable to meet these requirements please contact the Registry via www.bdm.vic.gov.au or on 1300 369 367.

Credit Card Payment Slip

Card type	<input type="checkbox"/> Visa	<input type="checkbox"/> MasterCard	<input checked="" type="checkbox"/> Amex	Total \$	<input type="text"/>	<input type="text"/>
Name on card	<input type="text"/>					
Card number	<input type="text"/>			Expiry date	<input type="text"/>	<input type="text"/>
Signature of cardholder	<input type="text"/>					

If applying by mail, attach proof of identity, supporting documents and payment here.

PART SIX – Lodgement

PAGE 4

Submit your form, payment, proof of identity (if required) and any supporting documents:

By mail

Victorian Registry of Births, Deaths and Marriages
GPO Box 5220, Melbourne VIC 3001

In person

Victorian Registry of Births, Deaths and Marriages Customer Service Centre or Selected Justice Service Centres (JSCs).
Ground floor, 595 Collins St, Melbourne To find your nearest JSC go to www.bdm.vic.gov.au/jsc
(8.30am – 4.30pm, Monday to Friday, except public holidays)

Checklist

- I have stated the reason I require the certificate at Q.9.
- I have supplied all three identity documents at Part 3 (unless applying for a historical certificate or uncertified image).
- I have signed the declaration at Part 5.

If applying by mail:

- I have had photocopies of my proof of identity documents certified at a Justice Service Centre or by a sworn member of police.
- I have included payment or completed the Credit Card Payment Slip.

If applying for a certificate of someone else (other than your child who is under 18 years of age):

- I have supplied the required three proof of identity documents both for myself and the person whose certificate I am applying for as specified in Q.19.2 or Q.19.3.
- I have supplied the required authority and documents as specified in Q.19.2 or Q.19.3.

FAQs

Can I use this form to change my name?

No. You must complete an Application to Register a Change of Name form, available at the Registry or at www.bdm.vic.gov.au

Can I use this form to register the birth of my child?

No. You must complete a Birth Registration Statement which is available from the Registry.

Which certificate will I need when applying for a driver licence or passport?

You will generally be required to produce a standard birth certificate. A standard marriage certificate issued by the Registry may also be required.

I was married in Victoria and now use my spouse's surname. Do I need a Change of Name certificate to prove this?

No. You need a standard marriage certificate issued by the Registry. Please note, the certificate issued on your wedding day is not a commonly accepted identification document.

What is a Deed Poll certificate?

A Deed Poll certificate was used up to October 1986 as proof of a name change. If you have changed your name by Deed Poll and need proof, you may need to register a name change.

Note. It is best to check with the authority requesting your identification documents before you order a certificate.

Privacy

In line with the *Information Privacy Act 2000*, the Registry is collecting information in this form to determine your eligibility to obtain the requested certificate and to prevent fraud. A copy of the Registry's Privacy Policy is available at www.bdm.vic.gov.au

If you do not provide all of the information requested, particularly that relating to the reason the document is required and your relationship to the registered person, then you may not be provided with a certified copy of the certificate.



Interpreter

If you require access to a translation or interpreter service, please contact the Translating and Interpreting Service (TIS) on 13 14 50 and ask them to contact the Victorian Registry of Births, Deaths and Marriages.

Victorian Registry of Births, Deaths and Marriages

General enquiries 1300 369 367

(8.30am – 4.30pm, Monday-Friday, except public holidays)

Website www.bdm.vic.gov.au



Department of
Justice



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Appendix E—Birth registration and birth certificate law and practice in Australian states and territories

	Victoria	New South Wales	Northern Territory	Queensland	
Act	<i>Births, Deaths and Marriages Registration Act 1996</i> (Vic)	<i>Births, Deaths and Marriages Registration Act 1995</i> (NSW)	<i>Births, Deaths and Marriages Registration Act 1996</i> (NT)	<i>Births, Deaths and Marriages Registration Act 2003</i> (Qld)	
Regulations	<i>Births, Deaths and Marriages Registration Regulations 2008</i> (Vic)	<i>Births, Deaths and Marriages Registration Regulation 2011</i> (NSW)	<i>Births, Deaths and Marriages Registration Regulations 2011</i> (NT)	<i>Births, Deaths and Marriages Registration Regulation 2003</i> (Qld)	
Object (relevant to terms of reference)	Registration of births; the keeping of the register; access to information in the register; issue of certified information; collection and dissemination of statistical information (s 3)	Registration of births, the keeping of the register; access to information in the register; issue of certified information; collection and dissemination of statistical information (s 3)	Registration of births, the keeping of the register; access to information in the register; the issue of certified information; collection and dissemination of statistical information (s 3)	Collection and maintenance of birth register; access to information in the register; issue of certified information; collection and dissemination of statistical information (s 3)	
Functions	No general promotion or education function (s 6) Administer registration system and ensure that it operates efficiently, effectively and economically (s 6(b)) To ensure that this Act is administered in the way best calculated to achieve the objects (s 6))	No general promotion or education function (s 6) Administer registration system and ensure that it operates efficiently, effectively and economically To ensure that this Act is administered in the way best calculated to achieve its objects (s 6(c))	No general promotion or education function (s 6) Administer registration system and ensure that it operates efficiently, effectively and economically To ensure that this Act is administered in the way best calculated to achieve its objects (s 6(c))	No general promotion or education function (s 34(2)) Administer the Act in an efficient, effective and economical way (s 34(2)(b))	
Obligation to notify registry of birth	Yes (s 12)	Yes (s 12)	Yes (s 12)	Yes (s 5)	

	Western Australia	Australian Capital Territory	Tasmania	South Australia
	<i>Births, Deaths and Marriages Registration Act 1998 (WA)</i>	<i>Births, Deaths and Marriages Registration Act 1997 (ACT)</i>	<i>Births, Deaths and Marriages Registration Act 1999 (Tas)</i>	<i>Births, Deaths and Marriages Registration Act 1996 (SA)</i>
	<i>Births, Deaths and Marriages Registration Regulations 1999 (WA)</i>	<i>Births, Deaths and Marriages Regulation 1998 (ACT)</i>	<i>Births, Deaths and Marriages Registration Regulations 2010 (Tas)</i>	<i>Births, Deaths and Marriages Regulations 2011 (SA)</i>
	Registration of births; the keeping of the register; access to information in the register; issue of certified information; collection and dissemination of statistical information (s 3)	Not applicable	Not applicable	Registration of births; the keeping of the register; access to information in the register; issue of certified information; collection and dissemination of statistical information (s 3)
	No general promotion or education function (s 6) Administer registration system and ensure that it operates efficiently, effectively and economically (s 6(b)) To ensure that the Act is administered in the way best calculated to achieve its objects (s 6(c))	No general promotion or education function (s 39) The Registrar-General must maintain a register; the register must contain particulars of each registrable event; information must be indexed in a reasonably accessible way (ss 39(2), (4))	No general promotion or education function (s 5) Administer the registration system and ensure that it operates efficiently, effectively and economically (s 5(b))	No general promotion or education function (s 6) Administer registration system and ensure that it operates efficiently, effectively and economically (s 6(b)) To ensure that the Act is administered in the way best calculated to achieve its objects (s 6(c))
	Yes (s 12)	Yes (s 5)	Yes (s 11)	Yes (s 12)

	Victoria	New South Wales	Northern Territory	Queensland
Time limit for notifying	Within 21 days after the birth (s 12(3)(a))	Within 7 days after the birth (s 12(2)(a))	Within 10 days after the birth (s 12(2))	Within 2 working days after the birth (s 5(3))
Person responsible for notification	<p>If the child was born in a hospital or brought to a hospital within 24 hours after birth, the CEO of the hospital.</p> <p>In any other case, the doctor or midwife responsible for the care of the mother at the birth or who examined the body of the stillborn after the birth; if no doctor or midwife was in attendance at the birth, any other person in attendance at the birth (as applicable) (s 12(6)(c))</p>	<p>If a child was born in a hospital or brought to a hospital within 24 hours after birth, the CEO of the hospital.</p> <p>In any other case, the doctor or midwife responsible for the professional care of the mother at the birth (s 12(5))</p>	<p>If a child was born in a hospital or brought to a hospital within 24 hours of its birth, the CEO of the hospital.</p> <p>For a child born in a prison or mental institution, the CEO of the prison or mental institution; in any other case, the doctor, midwife or health worker responsible for the professional care of the mother at the birth of the child (s 12(6))</p>	<p>If a child was born in a hospital or brought to a hospital within 24 hours after birth, the person in charge of the hospital.</p> <p>In any other case, a doctor present at the birth; or if the doctor was not present, a midwife present at the birth; or if no doctor or midwife was present at the birth, the mother; or if the mother dies or abandons the child, the person who takes physical custody of the child, for eg, a person who discovers the child with the body of the mother (s 5(2))</p>
Particulars required by registrar for notification	<p>The notice must include any particulars required by the Registrar (s 12)</p> <p>Not specified in regulations</p>	<p>The notice must include any particulars required by the Registrar (s 12; reg 4)</p>	<p>The notice must include particulars required by the regulations (12(1); reg 2)</p>	<p>Must give notice in an approved form (s 5)</p> <p>Not specified in regulations</p>
Penalties for failure to notify	10 penalty units (s 12) (currently \$1,408.40)	Maximum of 5 penalty units (s 12(1)) (currently \$550)	Maximum penalty of 8 penalty units (s 12(1)) (currently \$1128)	Maximum penalty of 20 penalty units (s 5(1)) (currently \$2,200)
Obligation to register	Yes (s 13(1))	Yes (s 13(1))	Yes (s 13(1))	Yes (s 6)
Time limit for registering	<p>Within 60 days after the date of birth (s 18(1))</p> <p>The Registrar must accept a birth registration statement after that time (s 18(2))</p>	<p>Within 60 days after the date of the birth (s 16(1))</p> <p>The Registrar must accept a birth registration statement even though it is given after the end of the 60-day period (s 16)</p>	<p>Within 60 days after the date of the birth (s 16(1))</p> <p>The Registrar must accept a birth registration statement even though it is lodged after the end of the 60 day period (s 16(2))</p>	<p>Within 60 days after the date of the birth. The Registrar may accept an application given more than 60 days after the birth if satisfied that the birth happened (s 9(2))</p>

	Western Australia	Australian Capital Territory	Tasmania	South Australia
	Within 1 month after the birth (s 12(2)(a))	Within 7 days after the birth (s 5(2)(b)(i))	Within 21 days after the birth (s 11(3)(a))	Within 7 days after the birth (s 12(2)(a))
	<p>If the child was born in a hospital or brought to a hospital within 24 hours after birth, the CEO or general manager of the hospital.</p> <p>In any other case, the doctor or midwife 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; or if no doctor or midwife was in attendance at the birth, any person in attendance at the birth (s 12(1))</p>	<p>If the child was born in a hospital or brought to a hospital within 24 hours after the birth, the CEO of the hospital.</p> <p>In any other case, the doctor or midwife responsible for the professional care of the mother at the birth (s 5(3))</p>	<p>In the case of a child born in a hospital or brought to a hospital within 24 hours after birth, the CEO of the hospital.</p> <p>In any other case, the medical practitioner or midwife responsible for the professional care of the mother at the birth; or if no medical practitioner or midwife was in attendance at the birth, any other person in attendance at the birth (s 11(6))</p>	<p>In the case of a child born in a hospital or brought to a hospital within 24 hours after birth, the CEO of the hospital.</p> <p>In any other case, the doctor or midwife responsible for the professional care of the mother at the birth (s 12(5))</p>
	<p>Must give notice in an approved form and manner (s 12)</p> <p>Not specified in regulations</p>	A notice must include the particulars prescribed by regulation (s 5(2); reg 4)	<p>A notice must be in a form approved by the Registrar and must include any particulars the Registrar requires (s 11(2))</p> <p>Not specified in regulations</p>	Must give written notification of birth, including the particulars required by regulation (s 12(1); reg 4)
	\$1,000 (s 12(2))	Maximum of 5 penalty units (s 5(1)) (currently \$550)	Maximum of 10 penalty units (s 11(2)) (currently \$1,300)	Maximum penalty: \$1,250 (s 12(1))
	Yes (s 13(1))	Yes (s 7)	Yes (s 12)	Yes (s 13)
	<p>Within 60 days after the date of the birth (s 16(1))</p> <p>The Registrar must accept a birth registration statement even though it is lodged after the end of the 60-day period (s 16(2))</p>	<p>Within 60 days after the day of the birth (s 10(1))</p> <p>The Registrar-General must not refuse to accept a birth registration statement only because it is not lodged within 60 days after the day of the birth (s 9(5))</p>	<p>Within 60 days after the date of the birth (s 15(1))</p> <p>The Registrar must accept a birth registration statement even though it is lodged after the period of 60 days (s 15(2))</p>	<p>Within 60 days after the date of the birth (s 16(1))</p> <p>The Registrar must accept a birth registration statement even though it is lodged after the end of the 60-day period (s 16(2))</p>

	Victoria	New South Wales	Northern Territory	Queensland
Person responsible for registration	<p>The parents of the child or one of the parents if the registrar is satisfied that it is not practicable to obtain the signatures of both parents (s 15(1))</p> <p>If the child is a foundling, the person who has custody of the child (s 15(2))</p>	<p>A child's parents or one of the parents if the Registrar is satisfied that it is not practicable to obtain the signatures of both parents (s 15(1))</p> <p>If a child is a foundling, the person who has custody of the child (s 15(2))</p>	<p>The parents of the child or one of the parents if the Registrar is satisfied that it is impossible, impracticable or inappropriate for the other parent to join (s 15(1))</p> <p>If a child is a foundling, the person who has custody of the child (s 15(2))</p>	<p>Both parents of the child; or only one of the parents if the Registrar is satisfied that certain conditions exist (ss 8(1)(a), (2))</p> <p>If the child was found abandoned as a newborn, the person taking care of the child (s 8(1)(b))</p>
Other registration options	<p>A person not responsible for registration may register a child if the child's parents are unable or unlikely to lodge a birth registration statement and the person lodging the statement has knowledge of the relevant facts (s 15(3))</p>	<p>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: the person lodging the statement has knowledge of the relevant facts, and the child's parents are unable or unlikely to lodge a birth registration statement (s 15(3))</p>	<p>The Registrar may accept a birth registration statement from a person who is not responsible for registering a child's birth if satisfied that the person lodging the statement has knowledge of the relevant facts; and the child's parents are unable or unlikely to lodge a birth registration statement (s 15(3))</p>	<p>The Registrar may accept a birth registration statement from a person who is not responsible for registering a child's birth if satisfied the child's parents are unable, or unlikely, to apply to register the birth; and the person knows the relevant facts (s 8(3))</p> <p>If the Registrar does not receive an application for a birth from one of the above people, the person in charge of the place where the child was born; a person present at the birth; or a person whom the Registrar believes knows the relevant facts may be required by the Registrar to apply to register the birth (s 8(4))</p>

	Western Australia	Australian Capital Territory	Tasmania	South Australia
	<p>A child's parents or one of the parents if the Registrar is satisfied that it is not practicable to obtain the signatures of both parents (for reasons of death, disappearance, ill health, unavailability or the need to avoid unwarranted distress) (s 15(1))</p> <p>If the child is a foundling, the person with responsibility for the long-term care, welfare and development of the child (s 15(2))</p>	<p>A child's parents are responsible for registering a birth (s 8(1))</p> <p>The Registrar-General may accept a birth registration statement that is signed by only one of the parents, if satisfied that it is not practicable to obtain the signature of the other parent; or that does not set out particulars required under subsection (1), if satisfied that it is not practicable to obtain the missing particulars (s 9(2))</p> <p>If a child is a foundling, the person who has custody of the child is responsible (s 8(2))</p>	<p>A child's parents or, one of the parents if satisfied that it is not practicable to obtain the signatures of both parents (s 14(1))</p> <p>If a child is a foundling, the person who has custody of the child (s 14(2))</p>	<p>A child's parents or one of the parents if the Registrar is satisfied that it is impossible, impracticable or inappropriate for the other parent because of death, disappearance, ill-health or unavailability or the need to avoid unwarranted distress or for some other reason (s 15(1))</p> <p>If a child is a foundling, the person who has custody of the child (s 15(2))</p>
	<p>The Registrar may accept a birth registration statement from a person who is not responsible if satisfied the person lodging the statement has knowledge of the relevant facts; and the child's parents are unable or unlikely to lodge a birth registration statement (s 15(3))</p>	<p>The Registrar may accept a birth registration statement from a person who is not responsible if satisfied the person lodging the statement has knowledge of the particulars set out in the statement; and neither of the child's parents is able or likely to lodge a birth registration statement (s 9(4))</p>	<p>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 the person lodging the statement has knowledge of the relevant facts; and the child's parents are unable or unlikely to lodge a birth registration statement (s 14(3))</p>	<p>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 the person lodging the statement has knowledge of the relevant facts; and the child's parents are unable or unlikely to lodge a birth registration statement (s 15(3))</p>

	Victoria	New South Wales	Northern Territory	Queensland	
Particulars required by registrar for registration	Registration statement must be in a manner and form required by the Registrar specifying prescribed particulars (s 14; reg 7)	Birth registration statement must be in a form and manner required by the Registrar, specifying the prescribed particulars (s 14; reg 5)	Birth registration statement must be in a form approved by the Registrar containing the prescribed information (s 14; reg 3) The NT birth registration form goes beyond that required in the regulations and includes additional questions on birth place of parents and whether the marriage is a traditional Aboriginal marriage	A birth registration application must be in an approved form (s 9(1)) A regulation may prescribe information to be contained in a particular approved form or certificate (s 56)	
Fee for registration	Nil	Nil	Nil	Nil if registration occurs within 60 days of the birth. If after 60 days \$4.00 fee (sch 3 of Regulations)	
Penalties for failure to register	10 penalty units (s 18) (currently \$1,408.40)	Maximum penalty of 10 penalty units (s 16(1) (currently \$1100)	Maximum penalty of 8 penalty units (s 16(1)) (currently \$1128)	Maximum penalty of 20 penalty units (s 8 (1)) (currently \$2,200)	
Application process	Application made on prescribed form or on part 2 of the birth registration statement It is possible to apply for a standard birth certificate or commemorative certificate online however a person must post or submit in person certified proof of identity documents	Application made using a prescribed form Ability to apply by post or in person	An applicant must complete an application for a birth certificate in the approved form Ability to apply by post or in person and to apply for a commemorative certificate online	An applicant must complete a birth certificate application form Ability to apply by post or in person	
Ability to issue birth certificate	S 46(1)	S 49(1)	S 44(1)	S 44(1)	
Issue of a birth 'extract'?	No	No	No	No	

	Western Australia	Australian Capital Territory	Tasmania	South Australia
	A birth registration statement must be in an approved form (s 14) Not specified in regulations	The Registrar-General must register a birth by making in the register an entry that includes the prescribed particulars (s 11; reg 6)	A birth registration statement must be in a manner and form approved by the Registrar (s 13) Not specified in regulations	A birth registration statement must be in a form approved by the Registrar containing the information required by regulation (s 14; reg 6)
	Nil	Nil	Nil	Nil
	\$1,000 (s 16(1))	Maximum penalty of 5 penalty units (s 10(1)) (currently \$550)	Maximum penalty of 10 penalty units (s 15(1)) (currently \$1,300)	Maximum penalty of \$1,250 (s 16(1))
	Application made using a prescribed form Ability to apply by post or in person	Application made using an approved form Ability to apply by post, in person or online	Application made using a prescribed form Ability to apply by post or in person	Application made using a prescribed form Ability to apply by post, in person or online
	S 57(1)	S 45(1)	S 46(1)	S 46(1)
	No	No	No	No

	Victoria	New South Wales	Northern Territory	Queensland	
Review of Registrar's decision	Application to VCAT (s 52)	Application to the Administrative Decisions Tribunal (s 56)	Application to the Supreme Court (s 48)	Application to QCAT (s 49)	
Fee for a standard birth certificate	\$28.60	\$48.00	\$26.00	\$39.00	
Power to remit fees (fee waiver)	The Registrar may, in appropriate cases, remit the whole or part of a fee under this Act (s 49)	The Registrar may, in appropriate cases, remit the whole or part of a fee under this Act (s 55)	The Registrar may, in appropriate cases, remit the whole or part of a fee under this Act or the whole or part of a fee payable to the Registrar under any other Act (s 47)	Not applicable	
Proof of identity requirements	An applicant must provide three certified identity documents from a prescribed list	An applicant must provide three forms of certified current identification from a prescribed list	An applicant must provide one primary source of ID or two secondary sources of ID from a prescribed list The Registrar will accept proof of Aboriginality from Aboriginal organisations or an Ochre card	An applicant must provide three forms of documentation from the lists The Registrar has the discretion to accept an application without the specified proof of identity documents	
Policies and practices of the Registrars of Births, Deaths and Marriages	Access Policy (s 47(1)); Proof of Identity policy; 2009 Aboriginal Community Information Sessions	Access to Information Policy (s 53(1)); Certificate Replacement Policy; Refunds Policy Interpreter services advertised on website Indigenous Access Program and different ID requirements for stolen generation (MoU with Link-Up to assist clients) and may be entitled to fee waivers	Access Policy (s 45(1)); Identification Requirements Policy	Certificate Access Policy (s 45(20); Customer Service Charter	

	Western Australia	Australian Capital Territory	Tasmania	South Australia
	Application to State Administrative Tribunal (s 67(1))	Application to ACT Civil and Administrative Tribunal (s 55)	Application to the Magistrates Court (Administrative Appeals Division) (s 53)	Application to the Magistrates Court (s 50)
	\$44.00	\$40.00	\$44.64	\$43.50
	The Registrar may remit the whole or part of a fee under this Act if the Registrar considers that in the circumstances it is appropriate to do so (s 70)	The Registrar-General may, if satisfied that it is appropriate to do so, refund, or remit the payment of, any fee or part of a fee (s 68)	The Registrar may, in appropriate cases, remit the whole or part of a fee under this Act (s 49)	The Registrar may, in appropriate cases, remit the whole or part of a fee under this Act (s 49)
	An applicant must provide one, two or three identity documents depending on the category of document relied on	An applicant must provide three forms of certified current identification from a prescribed list	An applicant must provide one document from one prescribed list, or two documents from another prescribed list	An applicant must provide one of two options from a prescribed list, or two from a prescribed list
	Access Policy (s 58(1)); Identification Requirements Policy	Certificate Access Policy (s 46(1)); Birth registration for Aboriginal and Torres Strait Islander Persons flyer; Practice Manual	Access to Register Entries Policy (s 47(1))	Access Policy; Proof of Identity Policy (s 47(1))

Appendix F—Current law and practice in selected international jurisdictions

England and Wales

- 1.1 The civil registration of births in England and Wales began in 1837.¹ The requirement to give notice of a birth in England is contained in section 269 of the *National Health Service Act 2006* (UK)² and the *National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013* (UK).
- 1.2 In Wales, the Minister for Health and Social Affairs has responsibility for the National Health Service (NHS).³ Birth notification requirements are provided for in separate, but effectively mirror provisions, in the *National Health Service (Wales) Act 2006* (UK)⁴ and the *National Health Service (Notification of Births and Deaths) Regulations 1982* (UK).⁵
- 1.3 Birth registration requirements are contained in a separate Act and accompanying regulations—the *Births and Deaths Registration Act 1953* (UK); the *Registration of Births and Deaths Regulations 1987* (UK)⁶; and the *Registration of Births and Deaths (Welsh Language) Regulations 1987* (UK).⁷ This Act also establishes the ability to apply for a birth certificate.⁸
- 1.4 In both of these jurisdictions, it is the duty of a child's father and any person in attendance upon the mother to give notice of the birth, within six hours, to the relevant body (in England) or local health board (in Wales) of the area in which the birth takes place.⁹ 'Relevant body' in England includes the board, local authority or clinical commissioning group.¹⁰ Failure to notify the relevant body or local health board within 36 hours of a birth, on a prescribed form,¹¹ can attract a penalty.¹²
- 1.5 NHS hospitals routinely give notice of births to the local government authority (for example, the local council) registry closest to where the mother resides.¹³ Notice is also given to the NHS Numbers for Babies Central Issue Service (NN4B CIS).¹⁴ Birth notification

1 HM Government, Economic Secretary to the Treasury (2002), *Civil Registration Vital Change: Birth, Marriage and Death Registration in the 21st Century*, Civil Registration White Paper CM5355, 9.

2 The *National Health Service Act 2006* (UK) c 41, s 269 replaced the provisions in the *National Health Service Act 1977* (UK) c 49, s 124 on 1 March 2007.

3 Responsibility for the National Health Service in Wales was passed to the Minister for Health and Social Affairs as part of devolution in 1999.

4 *National Health Service (Wales) Act 2006* (UK) c 42, s 200.

5 The *National Health Service (Notification of Births and Deaths) Regulations 1982* (UK) SI 1982/286 were revoked in relation to England by the *National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013* (UK) SI 261 Pt 3 (as of April 1, 2013). They remain in force for Wales.

6 *Registration of Births and Deaths Regulations 1987* (UK) SI 1987/2088, sch 2, form 1.

7 *Registration of Births and Deaths (Welsh Language) Regulations 1987* (UK) SI 1987/2089.

8 *Births and Deaths Registration Act 1953* (UK), 2 Eliz 2, c 20, s 30.

9 *National Health Service Act 2006* (UK) c 41, s 269(4); *National Health Service (Wales) Act 2006* (UK) c 42, s 200(4).

10 *National Health Service and Public Health (Functions and Miscellaneous Provisions) Regulations 2013* (UK) SI 261, reg 9.

11 *National Health Service Act 2006* (UK) c 41, s 269(6); *National Health Service (Wales) Act 2006* (UK) c 42, s 200(6).

12 *National Health Service Act 2006* (UK) c 41, s 269(8); *National Health Service (Wales) Act 2006* (UK) c 42, s 200(8). The penalty cannot exceed level one of the standard scale, this has been set since 1 October 1992 at £200: *Criminal Justice Act 1982* (UK) c 48, s 37.

13 London Borough of Lewisham, *Registering a Birth* (2013) <<http://www.lewisham.gov.uk>>.

14 Since 2002, an electronic notification of each birth has been sent to this Central Issuing System so that the National Health Service number for the baby can be generated and a small set of data recorded about the birth. This includes the gestational age at birth and the baby's ethnicity. As of 1 April 2013 the NHS *Connecting for Health* service, which hosted the CIS was subsumed by the Health and Social Care Information Centre: <www.hscic.gov.uk>.

has been recognised by the United Kingdom Government as a ‘vital component’ of the civil registration system:

The notification provides the evidence that a birth has taken place and helps in verifying that all births are registered, thus guarding against fraudulent registrations and avoiding duplicate registrations. To deliver electronic registration of births, these notifications will need to be provided electronically by the Health Authority where the birth occurred. Information contained in a notification, including the child’s NHS number, will form a ‘marker’ record and be matched against the information given by the parent(s) when registering the birth and naming the child.¹⁵

- 1.6 After notification, births must be registered within 42 days.¹⁶ The registration of a birth is free of charge.¹⁷
- 1.7 A birth notification paper will be provided to new parents upon discharge from hospital or from the attendant midwife at the birth. Parents may choose to bring this form with them when registering the birth.¹⁸
- 1.8 A parent may register the birth prior to leaving hospital (if the facility is available),¹⁹ or at the local government authority registry where the baby was born.²⁰ If the parents do not reside within the district where the baby was born, or have moved, they can register at any office within England or Wales.²¹
- 1.9 If, after 42 days, the birth has not been registered, the registrar may require qualified persons with information regarding the birth to come forward and register the birth.²² There are separate provisions within the legislation for births registered after 12 months.²³
- 1.10 When registering a birth, the particulars required include the date and place of birth; the full name and gender of the child; the father’s full name, place of birth and occupation; the mother’s full name, maiden name, place of birth and usual address; and any informant’s full name, qualification and usual address.²⁴
- 1.11 Particular provisions apply to the inclusion of the father on registration documents if the child was born to parents who were not married at the time of the birth.²⁵
- 1.12 The Act provides for the registrar to provide the informant (generally a parent) with a certificate of the registration at the time of registration on request.²⁶ Parents can use this confirmation document when seeking child benefits²⁷ or other services.

15 HM Government, Economic Secretary to the Treasury (2002) *Civil Registration Vital Change: Birth, Marriage and Death Registration in the 21st Century*, Civil Registration White Paper CM5355, 14.

16 *Births and Deaths Registration Act 1953* (UK), 2 Eliz 2, c 20, ss 2–3. Amendments pending *Welfare Reform Act 2009* (UK) c 24, Sch 6(1) para 3(4) (prospective—date to be appointed).

17 *Births and Deaths Registration Act 1953* (UK), 2 Eliz 2, c 20, s 5.

18 See, eg, London Borough of Lewisham, *Registering a Birth* (2013) <<http://www.lewisham.gov.uk>>; London Borough of Waltham Forest, *Register a birth* (2013) <<http://www.walthamforest.gov.uk>>.

19 For example, Liverpool City Council permits the registration of births at the Liverpool Women’s Hospital: Liverpool City Council, *Register a birth* (2013) <<http://www.liverpool.gov.uk>>.

20 In Manchester the local Registry sends a registrar to the local children’s centre to provide a registration service for parents who do not wish, or are unable, to attend the main Registry office: Manchester City Council, *Sure Start Centres where you can Register Births* (2013) <<http://www.manchester.gov.uk>>.

21 GOV.UK, *Register a birth* (2 April 2013) <<https://www.gov.uk>>.

22 *Births and Deaths Registration Act 1953* (UK), 2 Eliz 2, c 20, s 4.

23 *Ibid* s 7.

24 *Registration of Births and Deaths Regulations 1987* (UK) SI 1987/2088, sch 2, form 1.

25 *Births and Deaths Registration Act 1953*, 2 Eliz 2, c 20, s 10. This Act provides for a number of ways that the details of the father can be included on the registration documents when parents are unmarried, including by completing a statutory declaration as to acknowledgement of parentage. Even where the father’s details are not included, they may be later included by re-registering the birth: Directgov, *Government, citizens and rights* (22 August 2012) <<http://www.direct.gov.uk>>. Amendments pending *Welfare Reform Act 2009* (UK) c 24, Sch 6(1), para [11] (prospective—date to be appointed).

26 *Births and Deaths Registration Act 1953* (UK), 2 Eliz 2, c 20, s 12.

27 Child Benefit is a non-means-tested, tax-free payment that parents or carers of a child may claim. The rate for each child depends on the birth order. It is £20.20 for the first or only child and £13.20 for subsequent children. It is paid directly into a bank account every four weeks or sometimes more frequently if the person receives other social security benefits.

- 1.13 If a birth is registered at the local government authority registry, a short birth certificate can be issued immediately after registration. This certificate will show the name, sex and date of birth of the child.²⁸ There is no charge for this certificate. If a child is registered in an area other than where the birth occurred, the registrar receiving the declaration of birth will forward the registration on to the appropriate registrar and a short birth certificate will be issued and mailed to the parent's home address from that local authority.
- 1.14 A full, certified copy of a birth certificate is only issued on payment of a prescribed fee.²⁹ This full birth certificate includes further information, such as the parents' details. This form of certificate is required for more formal identity proof, for example, in passport applications.³⁰
- 1.15 Fees for a full, certified copy of a birth certificate vary depending on whether the certificate is applied for at the same time as the birth is registered or at a later stage.³¹ Whether the application is made to the Registrar General, superintendent registrar or local registrar will also affect the fee payable³²
- 1.16 A full, certified birth certificate can be applied for online to the Registrar General at the Central Registry Office. This costs £9.25 (approximately AUD \$13).³³
- 1.17 A full birth certificate can also be issued by a local registrar at the time of registration. This costs £4 (approximately AUD\$6),³⁴ while a full certificate issued at a time other than registration may cost between £7 and £10 (approximately AUD\$10–15).

Tell Us Once service

- 1.18 Tell Us Once is a free government initiative offered in England and Wales, designed to decrease the administrative burden involved in notifying government departments, organisations and local authorities of a birth or death.³⁵ Tell Us Once is a voluntary service offered by most local authorities.
- 1.19 If a parent/s elects to use the Tell Us Once service, the local registry office will tell government departments and local council services about the birth on the parents' behalf. This includes the Department for Work and Pensions, Housing Benefit and Council Tax Benefit offices, Children's Services and HM Revenue and Customs.³⁶
- 1.20 If a parent/s wishes to claim child benefit, they must take the completed child benefit form to their registration appointment. The local registry will stamp and date the form and send it to the Department for Work and Pensions which can speed up the application process.³⁷
- 1.21 Recent evaluations of the scheme have been positive.³⁸ Both government agencies and new parents have reported time and financial savings associated with using the service.³⁹
- 1.22 Tell Us Once is an example of the greater streamlining of government services possible in a non-federated model.

28 See, eg, The Royal Borough of Kensington and Chelsea, *Registering a birth* (2012) <<http://www.rbkc.gov.uk>>.

29 *Births and Deaths Registration Act 1953* (UK), 2 Eliz 2, c 20, ss 30–32.

30 GOV.UK, *Apply for your first adult passport* (21 March 2013) <<https://www.gov.uk>>.

31 Westminster Council, *Frequently asked questions* (2013) <<http://www.westminster.gov.uk>>

32 *Births and Deaths Registration Act 1953* (UK), 2 Eliz 2, c 20, ss 30–33.

33 *Ibid* s 30. General Register Office, *Certificate ordering service* (12 April 2012) <<http://www.gro.gov.uk>>.

34 See, eg, Hammersmith and Fulham, *Registering a birth* (29 March 2013) <<http://www.lbhf.gov.uk>>; Wandsworth Council, *Register a birth* (2013) <<http://www.wandsworth.gov.uk>>.

35 GOV.UK, *Tell Us Once* (22 March 2013) <<https://www.gov.uk/tell-us-once>>. See also, for example, North Yorkshire County Council, *Birth—tell us once* (10 May 2012) <<http://www.northyorks.gov.uk>>.

36 North Yorkshire County Council, *Birth—tell us once* (10 May 2012) <<http://www.northyorks.gov.uk>>.

37 *Ibid*.

38 See, for example, Government Computing, *The benefits of Tell Us Once* (16 December 2011)

<<http://central-government.governmentcomputing.com>>.

39 *Ibid*.

New Zealand

- 1.23 The law concerning birth notification and birth registration is found in the *Births, Deaths, Marriages and Relationships Registration Act 1995* (NZ). This Act covers notification, registration and the application for a birth certificate.
- 1.24 All births in New Zealand must be notified and registered.⁴⁰ A preliminary birth notice must be submitted to a registrar within five working days of a birth.⁴¹ A birth notice must include the length of gestation, the child's weight and the mother's contact details.⁴²
- 1.25 The notice must be submitted to Births, Deaths and Marriages (Whānautanga, matenga, mārenatang) by:
- the occupier of a hospital, if the birth occurs in a hospital, or
 - a doctor or midwife who is present at the birth, or, if neither is present, the occupier of the premises where the birth occurred or where the mother is admitted immediately after the birth.⁴³
- 1.26 A *Notification of Birth for Registration* form must be completed and signed by both parents as soon as is reasonably practicable after the birth.⁴⁴ However, a form signed only by one parent can be accepted in certain circumstances, including if a registrar is satisfied that requiring one or other parent to sign the form would cause unwarranted distress.⁴⁵ These forms should be provided by the hospital or midwife shortly after the birth and, if not, can be obtained through the Registry.
- 1.27 A person who notifies a registrar of the birth of a child must specify a name for the child.⁴⁶
- 1.28 The *Notification of Birth for Registration* form contains similar particulars to Victoria's birth registration statement. However, additional particulars are required, including the ethnic group of the child, and the citizenship or residency status of the mother and father.⁴⁷ The form must be submitted to the Registrar at Births, Deaths and Marriages.
- 1.29 If birth is not registered within the specified time period, the Registry will issue automatic reminder notices to the parents 28 and 42 days after the birth notice is received.⁴⁸ Births may also be registered more than two years after the birth occurred, but only with the approval of the Registrar-General.⁴⁹ There is no fee to register a birth or for late registration.
- 1.30 An application for a birth certificate can be made by filling out a prescribed form.⁵⁰ It is possible to apply for a birth certificate at the same time as registering a birth. Of the 63,307 births that were registered in 2011, Births, Deaths and Marriages estimates that over 85 per cent were accompanied by an application for a birth certificate.⁵¹

40 *Births, Deaths, Marriages and Relationships Registration Act 1995* (NZ) s 5.

41 *Ibid* s 5A(4).

42 Statistics New Zealand, *Information about the births*, <<http://www2.stats.govt.nz>>.

43 *Births, Deaths, Marriages and Relationships Registration Act 1995* (NZ) ss 5A(2)–(3).

44 *Ibid* s 9(1).

45 *Ibid* s 9(2).

46 *Ibid* s 19(1).

47 Statistics of New Zealand, *Information about the births* <<http://www2.stats.govt.nz>>.

48 Email from Alison Ainsworth, Business Support Officer, Births, Deaths and Marriages to Myra White, Community Law Reform Manager, Victorian Law Reform Commission, 6 August 2012.

49 *Births, Deaths, Marriages and Relationships Registration Act 1995* (NZ) s 16.

50 *Ibid* s 67. The *Request for New Zealand Birth Certificate or Printout* is available on The Department of Internal Affairs (New Zealand) website at <<http://www.dia.govt.nz>>.

51 Email from Alison Ainsworth, above n 48.

- 1.31 The Registrar cannot issue a birth certificate without payment of the prescribed fee.⁵² The current fee is \$26.50 NZD (approximately AUD \$20.50).⁵³ No fee waiver is provided under the Act, although the Act does provide for the Registrar to ‘dispense with the payment of all or any part of any fee payable’ under the Act, or to refund all or any part of a fee paid.⁵⁴

Ontario Province, Canada

- 1.32 The notification and registration of births in Ontario is regulated by the *Vital Statistics Act*, RSO 1990, c V.4.
- 1.33 The Act requires that a person who attends a birth of a child in Ontario shall give notice of the birth in the manner specified by the regulations.⁵⁵ In practical terms, notice of a birth must be given first by a legally qualified medical practitioner attendant at the birth, and secondly by the child’s parent/s.
- 1.34 Each legally qualified medical practitioner or midwife who attends the birth must give notice of the birth, unless notice has already been given.⁵⁶ If both the medical practitioner and midwife fail to notify of the birth, a nurse or other person in attendance at the birth must notify the Registrar-General.⁵⁷ This notification, in the form of the *Notice of Live Birth*,⁵⁸ must be mailed or delivered to the Registrar-General or submitted electronically within two business days of the birth.⁵⁹
- 1.35 Following notification of the birth, the Act requires parental certification of the birth in the manner prescribed in the regulations.⁶⁰ The duty of certification requires the parents of the child to make and certify a statement (the *Statement of Live Birth* form)⁶¹, and mail or deliver the statement, or submit it electronically, within 30 days of the birth of the child.⁶² Ontario is a participating province in the National Birth Registration Service. This online, multi-agency birth registration service was discussed in detail in Chapter 3 of this report.
- 1.36 A person acting on behalf of a parent of a child may make and certify the statement if:
- both parents are incapable, or
 - the child’s mother is incapable, and
 - the child’s father is unacknowledged by or unknown to the mother and there is no other parent of the child.⁶³
- 1.37 If no certification is received in the required time, the Registrar-General may complete, certify and register a statement.⁶⁴
- 1.38 Following the Registrar-General’s receipt of and approval of statements giving notice of a birth and certifying a birth, registration of the child’s birth is complete.⁶⁵ The Registrar-General may refuse to register the birth until satisfied that the information provided accurately states the facts.⁶⁶ The registration of a child’s birth is free of charge.⁶⁷

52 *Births, Deaths, Marriages and Relationships Registration Act 1995* (NZ) s 72.

53 Births, Deaths and Marriages (NZ), *Forms, Fees and Information Brochures* (2011) <<http://www.dia.govt.nz>>.

54 *Births, Deaths, Marriages and Relationships Registration Act 1995* (NZ) s 90.

55 *Vital Statistics Act*, RSO 1990, c V.4, s 8.

56 *Vital Statistics Act*, O Reg 357/11, RRO 1990, Reg 1094, s 1(1).

57 *Ibid*.

58 Service Ontario, *Newborn Registration Service* (10 March 2013) <<https://www.orgforms.gov.on.ca>>.

59 *Vital Statistics Act*, O Reg 357/11, RRO 1990, Reg 1094, s 1(3).

60 *Vital Statistics Act*, RSO 1990, c V.4, s 9(1).

61 ServiceOntario, *What is a birth registration?* (14 November 2012) <<http://www.ontario.ca>>.

62 *Vital Statistics Act*, O Reg 357/11, RRO 1990, Reg 1094, s 2(4).

63 *Ibid* s 2(8).

64 *Ibid* s 2(11).

65 *Vital Statistics Act*, RSO 1990, c V.4, s 9(3); *Vital Statistics Act*, O Reg 357/11, RRO 1990, Reg 1094, s 2(17).

66 *Vital Statistics Act*, RSO 1990, c V.4, s 9(4).

67 ServiceOntario, *Register your newborn baby* (2 April 2013) <<http://www.ontario.ca>>.

- 1.39 If the registration of a birth has not taken place within one year from the date of birth, any person may apply for the registration of the birth.⁶⁸ Such an application requires payment of the prescribed fee and must be submitted along with a complete and certified statement in a prescribed form, a statutory declaration in an approved form and certain identification evidence.⁶⁹
- 1.40 Following this, provided the Registrar is satisfied that the application is made in good faith, the evidence provided is correct and sufficient and the regulations have been complied with, they must register the birth.⁷⁰
- 1.41 Where a person fails to perform their duties of notification and certification within the time limit, they will be guilty of an offence. This is the case regardless of whether any other person has given notice or registered a birth.⁷¹ The person is guilty of an offence for the failure to perform his or her duty and is liable for separate offences for each successive period of prescribed time during which the failure to perform continues.⁷²
- 1.42 A person who fails to give notice or to register or furnish documentation or particulars relating to a birth may be liable to a fine of up to CAD\$50,000.⁷³ This does not apply to a father who has reasonable grounds for believing he is not the child's real father.⁷⁴
- 1.43 A parent may apply online for a short-form (CAD\$25) or a long-form birth certificate (CAD\$35).⁷⁵

68 *Vital Statistics Act*, O Reg 357/11, RRO 1990, Reg 1094, s 4(1).

69 *Ibid* s 4(2).

70 *Ibid* s 4(3).

71 *Vital Statistics Act*, RSO 1990, c V.4, s 11.

72 *Ibid* s 11.

73 Being the fine for an individual. A corporation may be liable for up to CAD \$250,000: *Vital Statistics Act*, RSO 1990, c V.4, s 55(1).

74 *Vital Statistics Act*, RSO 1990, c V.4, s 55(2).

75 ServiceOntario, *Register your newborn baby* (2 April 2013) <<http://www.ontario.ca>>.

