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Government

**Access
Canberra.**

Access Canberra Births, Deaths and Marriages Access Policy

Access Canberra
Chief Minister, Treasury Economic Development Directorate

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Part 1 – Scope

This policy defines the exercise of discretion by the Registrar-General when allowing access to, or searches of a register under sections 42 and 43 of the *Births, Deaths and Marriages Registration Act 1997* (the Act).

The Registrar-General is permitted to refuse an application under section 42(4) and 43(3) of the Act if they believe that the person does not have an adequate reason for wanting access or a search. With regard to marriage and other registered relationship searches or certificates, the provisions are stronger in that only parties to the marriage or registered relationship may apply. In certain cases a person who is authorised by one of the parties to the marriage or registered relationship may apply.

The purpose of this policy is to establish consistent approach in the treatment of applications for searches and certificates.

The Registrar-General, or a delegated officer, may make decisions on any unusual case that may fall outside the scope of this policy, taking into account the merits of the individual case.

Part 2 – General Principles

Sections 42(2) and 43(3) of the Act provide for access and searches subject to a sufficient reason being stated.

In determining what constitutes a sufficient reason, the prime concern is that adequate care needs to be discharged in the interests of the privacy of the subject. The following criteria needs to be applied:

- the applicant's relationship to the subject;
- the age of the records; and,
- the content of the records.

The applicant's relationship to the subject is the primary criterion in determining what constitutes a sufficient reason. Recognising that the subject has an unfettered right of access to their own certificate, the right of access in all other cases diminishes by the degree the applicant is removed from the subject.

This policy is a listing in terms of relationship rather than being a list of sufficient reasons, and as a result, all application forms require applicants to state their relationship to the subject.

Recognising that the sensitivity of personal information and the chances of its fraudulent use diminishes with time, the Registrar-General allows less restricted access to certificates where:

- births occurred more than 100 years ago;
- deaths occurred more than 30 years ago; and,
- marriages occurred more than 75 years ago.

The content of the records dictates to what degree the primary criterion of the applicant's relationship to the subject will apply. The more sensitive the information on the records, the greater the restriction on access, thus unqualified unrestricted access to birth certificates is only allowed to the subject or their parents, if the subject is under 18 years of age, whereas in the case of death certificates there is a greater range of persons who qualify.

Access to marriage certificates is more restricted. The content of a marriage record includes personal information on both parties. Allowing access even on the basis of a close family relationship of the applicant to one of the parties may raise privacy concerns for the other party unless both parties are deceased.

Section 44 of the Act requires the Registrar-General to protect the details of a person named in a register from unreasonable intrusion into their privacy.

Part 3 - BIRTH INFORMATION AND CERTIFICATES

For Birth Certificates containing a change of name, refer to section on "Change of Name Certificates"

Type of Access	Applicant	Access Rule
Historical	<i>Family</i>	Unrestricted over 100 years ago, but must demonstrate family link.
Family	<i>Registered person</i>	No restriction.
	<i>Parent</i>	No restriction where registered person is aged less than 18 years. Where person is 18 years or over, the same restrictions as for 'Other Agent' apply.
	<i>Non parental legal custodian or guardian</i>	No restriction where registered person is aged less than 18 years. Where person is 18 years or over, the same restrictions as for 'Other Agent' apply. Must produce documents establishing custody or guardianship.
	<i>Other family</i>	The same restrictions as for 'Other Agent' apply.
Deceased Estate Matters	<i>Executor or administrator; Trustee</i>	Testator or intestate deceased must be named. Letters of administration and/or copies of will to be supplied.
Welfare	<i>Accredited church, government or other non-government welfare agency or community services or equivalent (interstate or local)</i>	Must be acting in the interests of and with the authority of the registered person.
Law Enforcement	<i>Any government body dealing in law enforcement (eg police, courts)</i>	Police, State or Federal, or NCA in pursuance of an investigation or preparation of a prosecution or pursuant to a valid warrant or court order. All law enforcement agencies may be allowed access on approval by Registrar-General or delegate in accordance with relevant privacy law & exemptions.
Consular	<i>Consulate office or foreign legation</i>	The same restrictions as for 'Other Agent' apply.
Statutory Access	<i>Any government body having access under federal or state legislation</i>	Must provide details, and meet requirements of relevant statutory provisions authorising access.
Government Body	<i>Any government body</i>	Must provide adequate reason for wanting the information and details on the use of the information. The Registrar-General or delegate may, despite any other provisions of this policy, disclose information if they consider it reasonable in all the circumstances.
Implied Agent	<i>Solicitor</i>	Must be acting for person entitled to certificate under 'Family' or 'Deceased Estate Matters' and subject to same requirements. Must provide supporting documents, or a declaration or solicitor's letter stating they are acting for the eligible person.
Other Agent	<i>Any person with required written authority or registered power of attorney</i>	Written authority from or registered power of attorney for person entitled to certificate under 'Family' or 'Deceased Estate Matters' and subject to same requirements.

Part 4 - DEATH INFORMATION AND CERTIFICATES

Type of Access	Applicant	Access Rule
Historical	<i>Family</i>	Unrestricted over 30 years ago, but must provide evidence of family link.
Family	<i>Spouse (includes domestic partner if named on certificate), Parent, Child</i>	No restriction but must provide evidence of relationship if not named on certificate.
	<i>Non parental legal custodian or guardian</i>	No restriction, but must provide documents establishing custody or guardianship.
	<i>Other relatives/ Ex spouse</i>	Not entitled without written authority of spouse, parent or child of deceased, or evidence that certificate is needed to establish some legal right or entitlement.
Deceased Estate Matters	<i>Executor or administrator; Trustee</i>	Testator or intestate deceased must be named. Letters of administration and/or copies of will to be supplied.
Welfare	<i>Accredited church, government or other non-government welfare agency or community services or equivalent (interstate or local)</i>	Must be acting in the interests of the spouse, parent or child of deceased.
Benefit	<i>Credit/Insurance Company</i>	To write off debt or for insurance policy – extract only issued. To enable payment of benefits to kin or other beneficiary.
	<i>Superannuation Trust Fund</i>	To effect entitlement for next of kin or other beneficiary.
Law Enforcement	<i>Any government body dealing in law enforcement (eg police, courts)</i>	Police, State or Federal, or NCA in pursuance of an investigation or preparation of a prosecution or pursuant to a valid warrant or court order. All law enforcement agencies may be allowed access on approval by Registrar or delegate in accordance with relevant privacy law & exemptions.
Consular	<i>Consulate office or foreign legation</i>	Country of origin of the deceased.
Statutory Access	<i>Any government body having access under federal or state legislation</i>	Must provide details, and meet requirements of relevant statutory provisions authorising access.
Government Body	<i>Any government body</i>	Must provide adequate reason for wanting the information and details on the use of the information. The Registrar-General or delegate may, despite any other provisions of this policy, disclose information if they consider it reasonable in all the circumstances.
Implied Agent	<i>Solicitor</i>	Must be acting for person entitled to certificate under 'Family' or 'Deceased Estate Matters' and subject to same requirements. Must provide supporting documents, or a declaration or solicitor's letter stating they are acting for the eligible person.
	<i>Funeral Director</i>	Must be acting for person entitled to certificate under 'Family' or 'Deceased Estate Matters' and subject to same requirements.
Other Agent	<i>Any person with required written authority or power of attorney</i>	Written authority from or registered power of attorney for person entitled to certificate under 'Family' or 'Deceased Estate Matters' and subject to same requirements.

Part 5 – MARRIAGE AND OTHER REGISTERED RELATIONSHIPS INFORMATION AND CERTIFICATES

Type of Access	Applicant	Access Rule
Historical	Family	Unrestricted over 75 years ago, but must demonstrate family link and provide evidence that both parties are deceased.
Family	(One of) the parties to the marriage/relationship	No restriction.
	Child of the marriage or registered relationship	Written authority of one of the parties to the marriage or registered relationship, or evidence that both parties are deceased.
	Other family	The same restrictions as for 'Other Agent' apply.
Deceased Estate Matters	Executor or administrator; Trustee	Testator or intestate deceased must be named. Letters of administration and/or copies of will to be supplied.
Welfare	Accredited church, government or other non-government welfare agency or community services or equivalent (interstate or local)	Must be acting in the interests of and with the authority of one of the parties to the marriage or registered relationship, or a child of the marriage or registered relationship where evidence that both parties are deceased is provided.
Law Enforcement	Any government body dealing in law enforcement (eg police, courts)	Police, State or Federal, or NCA in pursuance of an investigation or preparation of a prosecution or pursuant to a valid warrant or court order. All law enforcement agencies may be allowed access on approval by Registrar-General or delegate in accordance with relevant privacy law & exemptions.
Consular	Consulate office or foreign legation	The same restrictions as for 'Other Agent' apply.
Statutory Access	Any government body having access under federal or state legislation	Must provide details, and meet requirements of relevant statutory provisions authorising access.
Government Body	Any government body	Must provide adequate reason for wanting the information and details on the use of the information. The Registrar-General or delegate may, despite any other provisions of this policy, disclose information if they consider it reasonable in all the circumstances.
Implied Agent	Solicitor	Must be acting for person entitled to certificate under 'Family' or 'Deceased Estate Matters' and subject to same requirements. Must provide supporting documents, or a declaration or solicitor's letter stating they are acting for the eligible person.
Other Agent	Any person with required written authority or power of attorney	Written authority from or registered power of attorney for person entitled to certificate under 'Family' or 'Deceased Estate Matters' and subject to same requirements.

Part 6 - CHANGE OF NAME INFORMATION AND CERTIFICATES

This section also applies to Birth Certificates containing a change of name and applies to changes of name registered under the *Births, Deaths and Marriages Registration Act 1997*.

Type of Access	Applicant	Access Rule
Family	<i>Registered person</i>	No restriction.
	<i>Parent</i>	No restriction where registered person is aged less than 18 years. Where person is 18 years or over, the same restrictions as for 'Other Agent' apply.
	<i>Non parental legal custodian or guardian</i>	No restriction where registered person is aged less than 18 years. Where person is 18 years or over, the same restrictions as for 'Other Agent' apply. Must produce document establishing custody or guardianship
Deceased Estate Matters	<i>Executor or administrator; Trustee</i>	Testator or intestate deceased must be named. Letters of administration and/or copies of will to be supplied.
Welfare	<i>Accredited church, government or other non-government welfare agency or community services or equivalent (interstate or local)</i>	Must be acting in the interests of the registered person.
Law Enforcement	<i>Any government body dealing in law enforcement (eg police, courts)</i>	Police, state or federal, or NCA in pursuance of an investigation or preparation of a prosecution or pursuant to a valid warrant or court order. All law enforcement agencies may be allowed access on approval by Registrar or delegate in accordance with relevant privacy law & exemptions.
Consular	<i>Consulate office or foreign legation</i>	Country of origin of the registered person, or of one of the parents of a person aged less than 18 years. Must produce written authority of the registered person, or of one of the parents of a person aged less than 18 years.
Statutory Access	<i>Any government body having access under federal or state legislation</i>	Must provide details, and meet requirements of relevant statutory provisions authorising access.
Government Body	<i>Any government body</i>	Must provide adequate reason for wanting the information and details on the use of the information. The Registrar-General or delegate may, despite any other provisions of this policy, disclose information if they consider it reasonable in all the circumstances.
Implied Agent	<i>Solicitor</i>	Must be acting for person entitled to certificate under 'Family' or 'Deceased Estate Matters' and subject to same requirements. Must provide supporting documents, or a declaration or solicitor's letter stating they are acting for the eligible person.
Other Agent	<i>Any person with required written authority or power of attorney</i>	Written authority from or registered power of attorney for person entitled to certificate under 'Family' or 'Deceased Estate Matters' and subject to same requirements.