

TASMANIA

PERINATAL REGISTRY AMENDMENT BILL 2010

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PERINATAL REGISTRY AMENDMENT BILL 2010

*(Brought in by the Minister for Health, the Honourable
Michelle Anne O'Byrne)*

A BILL FOR

**An Act to amend the *Perinatal Registry Act 1994* and the
*Coroners Rules 2006***

Be it enacted by His Excellency the Governor of Tasmania, by
and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Perinatal Registry
Amendment Act 2010*.

2. Commencement

This Act commences on the day on which this
Act receives the Royal Assent.

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Part 2 – Perinatal Registry Act 1994 Amended

**PART 2 – PERINATAL REGISTRY ACT 1994
AMENDED**

3. Principal Act

In this Part, the *Perinatal Registry Act 1994** is referred to as the Principal Act.

4. Long title amended

The long title of the Principal Act is amended by inserting “, **to enable the Council to investigate obstetric and paediatric mortality and morbidity and to give, receive and retain information in respect of such matters**” after “**Morbidity**”.

5. Section 1 amended (Short title)

Section 1 of the Principal Act is amended by omitting “*Perinatal Registry*” and substituting “*Obstetric and Paediatric Mortality and Morbidity*”.

6. Section 3 amended (Interpretation)

Section 3 of the Principal Act is amended as follows:

*No. 31 of 1994

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Part 2 – Perinatal Registry Act 1994 Amended

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- (a) by inserting the following definitions after the definition of “born alive”:

“child death” means the death of a person who has not attained the age of 18 years;

“committee” means a committee established under section 9;

- (b) by inserting the following definition after the definition of “function”:

“information” means any information –

(a) in, or derived from, a document; or

(b) provided orally;

- (c) by inserting the following definition after the definition of “regulations”:

“relevant Minister” means the Minister administering the *Children, Young Persons and Their Families Act 1997* or the Minister administering the *Disability Services Act 1992*, as the case may require;

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Part 2 – Perinatal Registry Act 1994 Amended

7. Section 6 amended (Functions of Council)

Section 6 of the Principal Act is amended by inserting after paragraph (d) the following paragraphs:

- (da) to investigate and report to the Minister, a relevant Minister or the Secretary of its own motion on any matter relating to obstetric and paediatric mortality and morbidity that it considers necessary;
- (db) to communicate to the Minister, or a relevant Minister, the Secretary or a prescribed body, information relating to –
 - (i) a child death, maternal death or late maternal death; or
 - (ii) the morbidity of a child or a woman who is or has been pregnant;

8. Section 6A inserted

After section 6 of the Principal Act, the following section is inserted in Part 2:

6A. Information to coroner

- (1) The Council may, of its own motion or at the request of a coroner, make recommendations and provide information to a coroner that it considers

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relevant to a child death, a maternal death or a late maternal death.

- (2) Neither section 15 nor section 15A precludes a coroner from admitting as evidence information provided to the coroner under subsection (1).

9. Section 7 amended (Powers of Council)

Section 7(a) of the Principal Act is amended by omitting “, or any document in that person’s control,” and substituting “in that person’s control”.

10. Section 8 amended (Delegation)

Section 8 of the Principal Act is amended by omitting “established under section 9”.

11. Section 12 amended (Annual report)

Section 12(2)(a) of the Principal Act is amended by omitting “established under section 9”.

12. Section 15 substituted

Section 15 of the Principal Act is repealed and the following sections are substituted:

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s. 12

Part 2 – Perinatal Registry Act 1994 Amended

15. Confidentiality and use of information

- (1) A person who is or has been a member of the Council, a member of a committee or an employee must not directly or indirectly –

(a) make a record of, or disclose, publish or communicate to any other person, any information gained by or conveyed to the person as such a member or employee; or

(b) make use of any such information –

except to the extent necessary for the performance of the Council's functions or in the exercise of the Council's powers.

Penalty: Fine not exceeding 10 penalty units.

- (2) Information referred to in subsection (1) is not admissible in any proceeding before any court, tribunal, board, Agency (within the meaning of the *State Service Act 2000*) or person.
- (3) The Council, a committee, a member of the Council or a committee or an employee may not be required to disclose or produce the information before any court, tribunal, board, Agency (within the

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meaning of the *State Service Act 2000*) or person if –

- (a) the information was provided to the Council, a committee, a member of the Council or a committee or an employee under this Act; or
 - (b) the information, not being a report referred to in section 12, was produced by the Council, a committee, a member of the Council or a committee or an employee for the purposes of the performance by the Council of its functions or of facilitating that performance or exercise of the Council's powers.
- (4) Notwithstanding subsection (1), a person who is a member of the Council, a member of a committee or an employee may disclose information with the approval of the Council –
- (a) to a medical practitioner, or a registered nurse, enrolled nurse or midwife, concerned in –
 - (i) the care of the pregnant woman and her unborn child; or
 - (ii) the birth of the child; or

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- (iii) the care of the child under the age of 6 months; or
 - (iv) the care of the child born with a congenital abnormality, injury, illness or defect; or
- (b) to a person concerned in research.
- (5) Any information disclosed under subsection (4)(b) must not contain information which enables the identification of any person in respect of whom information is kept in a register, except where the person or the person's parent or guardian has consented in writing to that identification.
- (6) A person to whom information is disclosed under subsection (4) and any person or employee under the control of that person is subject in respect of that information to the same rights, privileges, obligations and liabilities under this section as those to which a member of the Council is subject.
- (7) The *Right to Information Act 2009* does not apply in relation to –
 - (a) any information that was provided to the Council, a committee, a member of the Council or a committee, an employee or a person under this Act; or

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- (b) any information that was produced by the Council, a committee, a member of the Council or a committee, an employee or a person.
- (8) This section does not preclude or otherwise prevent a prescribed person, within the meaning of section 14 of the *Children, Young Persons and Their Families Act 1997*, who is a member of the Council or a committee from complying with his or her obligations under section 14 of that Act.
- (9) If the Council believes, or suspects, on reasonable grounds that an indictable offence has been committed in relation to a child or woman, this section does not preclude or otherwise prevent the Council from reporting that belief or suspicion to the Commissioner of Police.

15A. Restriction on dealing with information

- (1) The Council may, by notice in writing, declare that disclosed information specified in the notice is confidential information.
- (2) For the purposes of subsection (1) –

“disclosed information” means information that is disclosed by the Council, a committee, a member of the Council or a committee or employee in the

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performance or exercise of the Council's, committee's or that person's functions or powers.

- (3) A person who receives or is in possession of information that has been declared by the Council to be confidential information and any person or employee under the control of the first-mentioned person must not, directly or indirectly –

(a) make a record of, or disclose, publish or communicate to any person, that information; or

(b) make use of that information –

except to the extent that it is necessary to perform the obligations of, or carry out the duties of, the office of the person.

Penalty: Fine not exceeding 10 penalty units.

- (4) A person who receives or is in possession of information that has been declared by the Council to be confidential information is not required to produce before any court, tribunal, board, Agency (within the meaning of the *State Service Act 2000*) or person that information or an extract of that information.

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13. Section 17 amended (Duty to provide information requested by Council)

Section 17 of the Principal Act is amended by omitting “, or any document in that person’s control,” and substituting “in that person’s control”.

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Act No. of

s. 14

Part 3 – Coroners Rules 2006 Amended

PART 3 – CORONERS RULES 2006 AMENDED

14. Principal Rules

In this Part, the *Coroners Rules 2006** are referred to as the Principal Rules.

15. Rule 26 amended (Access to coronial records)

Rule 26 of the Principal Rules is amended by inserting after subrule (5) the following subrule:

(5A) A coronial authority may not under this rule of court –

- (a) give a person access to that part of a coronial record; or
- (b) provide a person with a copy of that part of a coronial record –

that contains information provided by the Council, within the meaning of the *Obstetric and Paediatric Mortality and Morbidity Act 1994*, under section 6A of that Act if the information has been declared by that Council under section 15A of that Act to be confidential information.

*S.R. 2006, No. 51

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Part 4 – Miscellaneous

s. 16

PART 4 – MISCELLANEOUS

16. Further amendment of *Coroners Rules 2006* not affected by this Act

Part 3 does not prevent rule 26 or any other provision of the *Coroners Rules 2006* from being amended or rescinded by a later rule.

17. Repeal of Act

This Act is repealed on the ninetieth day from the day on which it commences.