



New South Wales

Births, Deaths and Marriages Registration Amendment (Transgender) Regulation 1996

under the

Births, Deaths and Marriages Registration Act 1995

His Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Births, Deaths and Marriages Registration Act 1995*.

J W SHAW

Attorney General

Explanatory note

The *Transgender (Anti-Discrimination and Other Acts Amendment) Act 1996* contains amendments to the *Births, Deaths and Marriages Registration Act 1995* that provide for the legal recognition of a person's change of sex. As a result of these amendments, a person who has undergone sexual reassignment surgery may apply to the Registrar of Births, Deaths and Marriages for alteration of the record of the person's sex in the registration of the person's birth. Once the record of the person's sex is altered under the Act, a birth certificate issued for the person must show the person's sex in accordance with the record as altered, and the person is, for the purposes of the law of this State, a person of the sex as so altered.

The object of this Regulation is to prescribe certain matters as a consequence of these amendments to the Act. This Regulation:

- provides that an application to alter the Register to record a change of sex must be accompanied (in addition to the statutory declarations by 2 doctors verifying that the applicant has undergone sexual reassignment surgery) by a statement by each doctor that he or she sighted proof of the applicant's identity [see proposed clause 9A],

1996 No 480

Births, Deaths and Marriages Registration Amendment (Transgender) Regulation 1996

Explanatory note

- enables certain persons (eg law enforcement officers) to apply for an old birth certificate for a transgender person (ie a birth certificate that shows the transgender person's sex before the record of the person's sex was altered) [see proposed clause 9B],
- prescribes the *South Australian Sexual Reassignment Act 1988* in relation to interstate recognition certificates for transgender persons (this amendment will enable a person to whom a certificate has been issued under that Act to be legally recognised in this State as a person of the sex as stated in the certificate) [see proposed clause 9C].

This Regulation is made under the *Births, Deaths and Marriages Registration Act 1995*, including sections 32C, 32F, 321 and 62 (the general regulation making power).

Births, Deaths and Marriages Registration Amendment (Transgender) Regulation 1996

1 Name of Regulation

This Regulation is the *Births, Deaths and Marriages Registration Amendment (Transgender) Regulation 1996*.

2 Commencement

This Regulation commences on 1 October 1996.

3 Amendment of Births, Deaths and Marriages Registration Regulation 1996

The *Births, Deaths and Marriages Registration Regulation 1994* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Schedule 1 Amendment

(Clause 3)

Part 2A

Insert after Part 2:

Part 2A Provisions relating to change of sex

9A Application to alter Register to record change of sex

For the purposes of section 32C (b) of the Act, the following documents are prescribed as documents that must accompany an application under section 32B of the Act:

- (a) a signed statement by each of the 2 doctors (or medical practitioners) referred to in section 32C (a) of the Act declaring that the doctor or practitioner concerned sighted proof of the applicant's identity when making the statutory declaration referred to in that section,
- (b) documentary proof, to the Registrar's satisfaction, of the applicant's identity.

9B Persons who can apply for old birth certificate

- (1) For the purposes of section 32F of the Act, the following persons are prescribed as persons who may apply to the Registrar for a birth certificate for a person (the ***transgender person***) the record of whose sex has been altered under Part 5A of the Act that shows the transgender person's sex before the record was so altered:
 - (a) the executor or administrator of the transgender person's estate,
 - (b) a parent of the transgender person,
 - (c) a spouse (or former spouse) of the transgender person,

-
- (d) an officer or person acting on behalf of any of the following law enforcement agencies:
- (i) the Police Service, or the police force of another State or Territory,
 - (ii) the Australian Federal Police,
 - (iii) the New South Wales Crime Commission,
 - (iv) the National Crime Authority,
 - (v) the Office of the Director of Public Prosecutions of this State, of another State or a Territory, or of the Commonwealth,
 - (vi) the Independent Commission Against Corruption.

9C Prescribed interstate laws

For the purposes of section 321 of the Act (Effect of alteration of register and interstate recognition certificates), the *Sexual Reassignment Act 1988* of South Australia is prescribed.