

Births, Deaths and Marriages Registration Regulation 2022

Explanatory notes for SL 2022 No. XXX

made under the

Births, Deaths and Marriages Registration Act 2022

General Outline

Short title

Births, Deaths and Marriages Registration Regulation 2022

Authorising law

Section 131 of the *Births, Deaths and Marriages Registration Act 2022*

Policy objectives and the reasons for them

The *Births, Deaths and Marriages Registration Regulation 2022* (2022 Regulation) repeals and replaces the *Births, Deaths and Marriages Registration Regulation 2015* (2015 Regulation) in line with changes brought about by the *Births, Deaths and Marriages Registration Act 2022* (2022 Act).

The 2022 Regulation ensures that registration services remain relevant, modern, and contemporary to support the effective operation of the 2022 Act by the Registry of Births, Deaths and Marriages.

In particular, the 2022 Regulation:

- removes duplicative, unnecessary and overly prescriptive provisions in relation to the registration of key life events;
- ensures registrable information reflects a contemporary understanding of family and relationship structures;
- supports the new framework for children under 16 to alter their record of sex on the relevant child register or obtain a recognised details certificate established under the 2022 Act;
- provides guidance to the Magistrates Court or Childrens Court about the factors to be considered in determining whether a change of name is in a child's best interests;
- establishes persons who may access information from a closed entry;

- sets the periods at which point information about certain life events becomes historical information;
- supports improved birth registration rates, particularly for Aboriginal and Torres Strait Islander people; and
- prescribes fees payable under the 2022 Act.

Achievement of policy objectives

The 2022 Regulation will repeal and remake the 2015 Regulation.

Registration of key life events

The 2022 Regulation removes overly prescriptive application and certificate requirements and, in its place, prescribes particulars to be entered or noted on the register in relation to life events.

Schedule 1 of the 2022 Regulation establishes the prescribed particulars for: births (Part 1), changes of name (Part 2), marriages (Part 3), civil partnerships (Part 4) and deaths (Part 5).

The 2022 Regulation also omits the list of prescribed identity documents that need to be produced when a person makes certain applications to the registrar. In its place, applicants will be required to satisfy the registrar of the person's identity (and the details of how a person establishes their identity will be set at an operational level).

Reflecting contemporary family and relationship structures

Of particular note, Schedule 1 in the 2022 Regulation:

- enables the registration of older half-siblings on a person's birth registration;
- enables the recognition of a de facto partner as part of a deceased person's death registration;
- enables the recognition of a child's parents being in a de facto relationship as part of the child's birth registration; and
- refers to a person's 'birth name' as a prescribed particular for certain events (rather than 'maiden name').

Supporting the effective operation of alteration of sex and recognised details certificate framework for children under 16

Part 5 of the 2022 Act establishes a framework for a child under 16 to alter their record of sex on the relevant child register or obtain a recognised details certificate (if born outside Queensland).

To support the effective operation of this framework, the 2022 Regulation:

- prescribes the information required for an assessment performed by a developmentally informed practitioner; and
- prescribes the types of persons that are considered developmentally informed practitioners for the purposes of an assessment.

The following types of persons are prescribed as a developmentally informed practitioner for the purposes of Part 5 of the 2022 Act:

- Medical practitioners;
- Persons registered under the Health Practitioner Regulation National Law to practise in the psychology, occupational therapy and nursing (within the registered nurse division) professions;
- Speech pathologists who are eligible for practising membership of the Speech Pathology Association of Australia;
- Social workers who are members of the Australian Association of Social Workers Ltd;
- Persons who are registered on the Australian Register of Counsellors and Psychotherapists; and
- School guidance officers with certain qualifications.

Change of name framework

The 2022 Regulation prescribes matters the Magistrates Court or Childrens Court may consider when approving the change of child's name (for example, the child's views on the change of name or whether the proposed change is an affirmation or expression of the child's sex).

Supporting improved birth registration rates

The 2022 Regulation removes the late birth registration fee (which is unique to Queensland) as it is a potential barrier for birth registration and, historically, has only been charged on very rare occasions.

Birth registration is a human right of all Queenslanders which must be encouraged and promoted as it is vital for the creation of identity, entry to the workforce, access to education and health care and for population data.

Fees

Schedule 2 of the 2022 Regulation sets out the fees payable under the 2022 Act.

Section 18 of the 2022 Regulation provides an express power which will enable the registrar to waive, wholly or partly, payment of a fee as well as refund all or part of a fee paid.

In determining whether to waive a fee, the registrar may have regard to whether:

- the applicant is experiencing financial hardship;
- the provision of the service would improve the applicant's circumstances; or
- the waiver is otherwise desirable in the circumstances.

Consistency with policy objectives of authorising law

The 2022 Regulation is consistent with the policy objectives of the 2022 Act.

Inconsistency with policy objectives of other legislation

The 2022 Regulation is not inconsistent with policy objectives of other legislation.

Benefits and costs of implementation

Costs associated with operational changes to support the implementation of the 2022 Regulation will be met from within existing resources.

Consistency with fundamental legislative principles

The 2022 Regulation is consistent with fundamental legislative principles.

Consultation

The Department of Justice and Attorney General undertook extensive targeted consultation with key LGBTIQ+, advocacy, legal and health stakeholders during development of the 2022 Act and 2022 Regulation.

The Office of Best Practice Regulation in the Queensland Productivity Commission was consulted regarding the proposed changes and noted the changes would not add to the burden of regulation or result in significant adverse impacts. As a result, no further regulatory impact analysis was required under the *Queensland Government Guide to Better Regulation*.