

Births, Deaths and Marriages Registration Regulation 2015

Explanatory notes for SL 2015 No. 81

made under the

Births, Deaths and Marriages Registration Act 2003

General Outline

Short title

Births, Deaths and Marriages Registration Regulation 2015

Authorising law

Section 56 of the *Births, Deaths and Marriages Registration Act 2003*

Policy objectives and the reasons for them

The objects of the *Births, Deaths and Marriages Registration Act 2003* (the Act) are to provide for:

- a) the collection and maintenance, in registers kept by the Registrar-General of Births, Deaths and Marriages (the Registrar), of information about-
 - (i) births, deaths, marriages, adoptions, changes of name and reassignments of sex; and
 - (ii) changes of parentage under the *Surrogacy Act 2010*; and
 - (iii) any other matters that the Registrar is required to keep under other legislation; and
- b) access, in appropriate cases, to information in a register maintained for those purposes; and
- c) the issue of certified and uncertified information from a register; and
- d) the collection and dissemination of statistical information.

Section 56 of the Act provides that the Governor in Council may make regulations under the Act. The section further provides that a regulation may-

- a) impose a penalty of not more than 20 penalty units for a contravention of a provision of a regulation; and
- b) prescribe information to be contained in a particular approved form, certificate, extract or register; and
- c) prescribe information to be contained on the Registrar's seal; and
- d) prescribe the way in which a register is to be corrected; and
- e) prescribe information that a court may consider when deciding or changing a child's name; and

- f) prescribe fees for the Act; and
- g) prescribe an area of the State to be a registry district.

The *Births, Deaths and Marriages Registration Regulation 2003* (2003 Regulation) deals with a number of procedural matters essential to support the effective operation of the Act. The prescribed matters include:

- a) information and documents to confirm a person's identity for certain matters under the Act;
- b) information and documents that must be submitted to support applications for the registration of births, changes of name, deaths and registered relationships under the *Relationships Act 2011*;
- c) the circumstances in which the Registrar may require proof of parentage under section 10 of the Act;
- d) information Queensland courts must include in orders directing the registration of certain births and deaths;
- e) documents required for registering or noting a change of name;
- f) information the Magistrates Court may consider when approving the change of a child's name under section 17 of the Act;
- g) information and documents that must be submitted to support the noting of the reassignment of a person's sex in the register;
- h) particulars to be stated in a court order for the registration of a death;
- i) who may be supplied with certain superseded information (known as a 'closed entry') from the register;
- j) particulars that must be recorded in the register for births, changes of name, deaths, registered relationships and terminations of such relationships;
- k) the process for correcting the register when errors are detected;
- l) documents that can not be obtained from the Registrar;
- m) information that must be included in a certificate, commemorative certificate or extract relating to a birth, change of name, marriage, death or registered relationship;
- n) information that must not be included in a certificate, commemorative certificate or extract relating to a birth;
- o) fees payable under the Act;
- p) creation and description of registry districts within Queensland;
- q) setting the time periods within which the Registrar may refuse applications for information in the register (information relating to events prior to these periods is known as 'historical information' and can be supplied by the Registrar); and
- r) prohibited names.

Under section 54 of the *Statutory Instruments Act 1992* and section 3(2) of the *Statutory Instruments Regulation 2012*, the 2003 Regulation will expire on 31 August 2015.

The *Births, Deaths and Marriages Registration Regulation 2015* (2015 Regulation) remakes the 2003 Regulation as it is essential to support the effective operation of the Act. Only limited changes have been made to the 2003 Regulation to remove outdated references to registry districts and repealed legislation, and to reflect contemporary drafting practices.

The 2015 Regulation will commence on 1 September 2015.

Achievement of policy objectives

The objective of the 2015 Regulation is achieved by the remaking of the 2003 Regulation with limited changes to remove outdated references to registry districts and repealed legislation, reflect contemporary drafting practices and setting a commencement date of 1 September 2015.

Consistency with policy objectives of authorising law

The 2015 Regulation is consistent with the policy objectives of the Act.

Inconsistency with policy objectives of other legislation

The 2015 Regulation is not inconsistent with policy objectives of other legislation.

Benefits and costs of implementation

The 2015 Regulation will ensure that regulations remain in place which are essential to support the effective operation of the Act.

There are no anticipated implementation costs associated with the implementation of the 2015 Regulation.

Consistency with fundamental legislative principles

The 2015 Regulation does not conflict with the fundamental legislative principles.

Consultation

The Office of Best Practice Regulation (OBPR) was consulted and advised that the sunset review of the 2003 Regulation sufficiently meets the requirements in the Treasurer's Regulatory Impact Statement Guidelines and no further analysis was required.

The views of the Registrar-General of Births, Deaths and Marriages were taken into account in finalising the 2015 Regulation. The Registrar supported the remake of the 2003 Regulation.

As the 2003 Regulation only deals with procedural matters required to support the effective operation of the Act and given the 2003 Regulation is remade in substantially the same terms, public consultation on the remake of the 2003 Regulation was not necessary.