

SOUTH AUSTRALIA

SEXUAL REASSIGNMENT REGULATIONS, 1988

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LEGISLATIVE HISTORY

REGULATIONS UNDER THE SEXUAL REASSIGNMENT ACT, 1988

Sexual Reassignment Regulations, 1988

being

No. 231 of 1988: *Gaz.* 10 November 1988, p. 1723¹

as varied by

No. 78 of 1998: *Gaz.* 28 May 1998, p. 2338²

¹ Came into operation 15 November 1988: reg. 2.

² Came into operation 1 July 1998: reg. 2.

N.B. The amendments effected to these regulations by Regulation No. 55 of 1999 had not been brought into operation at the date of, and have not been included in, this consolidation.

Citation

1. These regulations may be cited as the *Sexual Reassignment Regulations, 1988*.

Commencement

2. These regulations will come into operation on 15 November, 1988.

Interpretation

3. In these regulations—

"the Act" means the *Sexual Reassignment Act, 1988*.

Applications for recognition certificates

4. (1) An application to a magistrate for the issue of a recognition certificate in respect of a person who has undergone a reassignment procedure must be in the form set out in the first schedule.

(2) The application must be accompanied by—

- (a) an affidavit, sworn by a medical practitioner, relating to the reassignment procedure that has been carried out and any associated treatment that has been provided to the person;
- (b) if the application relates to an adult—an affidavit, sworn by a counsellor, relating to the counselling that the person has received in relation to his or her sexual identity;

and

- (c) a certified birth certificate.

(3) For the purposes of section 7(4) of the Act, a fee of \$48 is prescribed.

(4) A recognition certificate is to be in the form set out in the second schedule.

Registration of certificates

5. For the purposes of section 9(3) of the Act, a fee of \$29 is prescribed.

Registers and indexes

6. (1) The Registrar must keep a Register of Reassignments of Sex.

(2) The Registrar must keep an index to the Register of Reassignments of Sex that enables the Registrar to trace the connection between the entries that are made in that register and the entries that are made or altered in any other register or index pursuant to section 9(1)(b) of the Act.

(3) A person is not entitled—

- (a) to require that the Register of Reassignments of Sex, or the index to that register, be searched;

or

3.

(b) to obtain a copy of, or extract from—

- (i) the Register of Reassignments of Sex, or the index to that register;
- (ii) any entry in any other register that identifies the person to whom the entry relates as a person whose sex has been reassigned,

unless—

- (c) the person is the person whose sex has been reassigned;
- (d) in the case of a child whose sex has been reassigned—the person is the guardian of the child;

or

- (e) the person is acting under the authority of an order of the Supreme Court.

(4) Subject to subregulation (5), if the Registrar is to issue a copy of, or extract from, an entry in a register or index that has been altered by the Registrar pursuant to section 9(1)(b) of the Act, the copy or extract will show the entry as altered.

(5) The Registrar may, on the application of—

- (a) the person whose sex has been reassigned;
- (b) in the case of a child whose sex has been reassigned—the guardian of the child;

or

- (c) a person acting under the authority of an order of the Supreme Court,

issue a copy of, or extract from, a register or index that shows an alteration pursuant to section 9(1)(b) of the Act.

(6) If the Registrar is satisfied that there is an error, omission or misstatement in an entry on the Register of Reassignments of Sex, the Registrar may correct the entry and make such consequential alterations to any other registers or indexes as the Registrar thinks fit.

Regulation of access to reassignment records

7. (1) This regulation applies to any of the following records kept by a hospital or by a person who carries out (or proposes to carry out) a reassignment procedure or who provides (or proposes to provide) associated treatment—

- (a) records relating to the mental condition of a person who proposes to undergo, is undergoing, or has undergone a reassignment procedure;
- (b) records relating to the personal circumstances or lifestyle of such a person;
- (c) records relating to the procedures or treatment that such a person is to undergo, is undergoing, or has undergone.

4.

(2) A person is not entitled to inspect, copy or remove any record (or any part of a record) to which this regulation applies unless—

- (a) the person is the person to whom the record relates;
- (b) in the case of a record that relates to a child—the person is the guardian of the child;
- (c) the person is acting with the consent of the person to whom the record relates or, in the case of a record that relates to a child, the person is acting with the consent of the guardian of the child;
- (d) the person is a medical practitioner or other person who is treating the person to whom the record relates;
- (e) the person is acting under the authority of a medical practitioner who is treating the person to whom the record relates;
- (f) the person is acting in the course of official duties as an officer or member of the staff of the hospital or other place where the record is being kept;
- (g) the person is acting in the course of official duties as a member, officer or employee of the Commission;
- (h) the person is acting under the authority of the Commission for research purposes;
- (i) the person is acting under the authority of the Medical Board;
- (j) the person is a member of the police force or the Crown Law Office and is acting under the authority of the Commissioner of Police or the Crown Solicitor for purposes connected with the investigation of an offence (or an alleged offence);
- (k) the person is acting under an authority given by a court or tribunal constituted by law;
- (l) the person is a magistrate authorized under the Act to issue recognition certificates, or is a person acting under the authority of such a magistrate;

or

- (m) the person is otherwise authorized to inspect, copy or remove the record under any Act or law.

(3) A person who breaches subregulation (2) is guilty of an offence.

Periodic returns

8. (1) In this regulation—

"quarter" means—

- (a) the period of three months commencing on 1 January and ending on 31 March of each year;

5.

- (b) the period of three months commencing on 1 April and ending on 30 June of each year;
- (c) the period of three months commencing on 1 July and ending on 30 September of each year;
- (d) the period of three months commencing on 1 October and ending on 31 December of each year.

(2) Where a person undergoes a reassignment procedure (or any part of a reassignment procedure) or receives any associated treatment at a hospital, the hospital must, within one month of the end of the quarter in which the procedure or treatment occurs, provide (in a confidential manner) the following information to the Commission in the form of a return approved by the Commission—

- (a) the name of the person concerned;
- (b) details of the procedure or treatment;
- (c) the name of any medical practitioner or other person who carried out or supervised the procedure or treatment;
- (d) details of any counselling or other services that were provided in association with the procedure or treatment;
- (e) an assessment, as at the end of that quarter, of the stage that has been reached in the person's treatment;

and

- (f) any other information required by the Commission as a condition of approval under section 6 of the Act.

(3) A person is not entitled to inspect, copy or remove a return (or a copy of a return) prepared for the purposes of subregulation (2) unless—

- (a) the person is a medical practitioner or other person who is treating the person to whom the return relates;
- (b) the person is acting under the authority of a medical practitioner who is treating the person to whom the return relates;
- (c) the person is acting in the course of official duties as an officer or member of the staff of the particular hospital;
- (d) the person is acting in the course of official duties as a member, officer or employee of the Commission;

or

- (e) the person is acting under the authority of the Commission.

6.

(4) A person who breaches subregulation (3) is guilty of an offence.

Offences

9. A person who is guilty of an offence against a provision of these regulations is liable to a penalty not exceeding \$2 000.

FIRST SCHEDULE

SEXUAL REASSIGNMENT ACT, 1988

Application for a Recognition Certificate

I, of
apply (*or* in the case of a child—on behalf of
.....) for a recognition
certificate of reassignment of sex pursuant to section 7 of the *Sexual Reassignment Act, 1988*.

The relevant reassignment procedure(s) was/were carried out at the following hospital(s):

I was born (*or* in the case of a child—The child was born) at on

In support of this application I attach the affidavit(s) and birth certificate required by the *Sexual Reassignment Regulations, 1988*.

DATED the day of, 19

.....
.....
.....
.....

Signature and address to be used for the purpose of
the application

SECOND SCHEDULE

SEXUAL REASSIGNMENT ACT, 1988

Recognition Certificate

Name of person to whom this certificate relates

I find—

*that has undergone a reassignment procedure in South Australia
or

*that the birth of is registered in South Australia
(General Register of Births Book No., Page No.).

I am satisfied that is entitled to a recognition certificate under
the *Sexual Reassignment Act, 1988*.

I CERTIFY that is of the sex.

DATED this day of 1988

.....
A Magistrate authorized to issue recognition
certificates under the *Sexual Reassignment Act, 1988*.

9.

APPENDIX

LEGISLATIVE HISTORY

Regulation 5:

varied by 78, 1998, reg. 3