

South Australia

Sexual Reassignment Regulations 2015

under the *Sexual Reassignment Act 1988*

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1—Short title

These regulations may be cited as the *Sexual Reassignment Regulations 2015*.

2—Commencement

These regulations come into operation on the day on which they are made.

3—Interpretation

In these regulations, unless the contrary appears—

Act means the *Sexual Reassignment Act 1988*;

Minister means the Minister responsible for the administration of the *Health Care Act 2008*;

psychiatrist means a person registered under the *Health Practitioner Regulation National Law* as a specialist in psychiatry;

psychologist means a person who is registered under the *Health Practitioner Regulation National Law* to practise in the psychology profession (other than a student);

quarter means a period of 3 months commencing on 1 January, 1 April, 1 July or 1 October in a year;

register—see regulation 7.

4—Corresponding laws

For the purposes of the Act, each of the following laws, as amended or substituted from time to time, is declared to be a corresponding law:

- (a) *Births, Deaths and Marriages Registration Act 1995* of New South Wales;
- (b) *Births, Deaths and Marriages Registration Act 1997* of the Australian Capital Territory;
- (c) *Births, Deaths and Marriages Registration Act 1996* of the Northern Territory;
- (d) *Births, Deaths and Marriages Registration Act 2003* of Queensland;
- (e) *Births, Deaths and Marriages Registration Act 1996* of Victoria;
- (f) *Births, Deaths and Marriages Registration Act 1999* of Tasmania;
- (g) *Gender Reassignment Act 2000* of Western Australia.

5—Applications for recognition certificates

- (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—
 - (a) be made in the form set out in Form 1 in Schedule 1; and
 - (b) be accompanied by—
 - (i) 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; and
 - (ii) if the application relates to an adult—an affidavit, sworn by a psychiatrist or psychologist, relating to the counselling that the person has received in relation to his or her sexual identity; and
 - (iii) a certified birth certificate; and
 - (iv) a fee of \$84.50.
- (2) A recognition certificate will be in the form set out in Form 2 in Schedule 1.

6—Registration of certificates

For the purposes of section 9(3) of the Act, the prescribed fee is \$50.50.

7—Registers and indexes

- (1) The Registrar must keep a register of reassignments of sex.
- (2) The Registrar must keep an index to the register that enables the Registrar to trace the connection between the entries that are made in the register and the entries that are made or altered in any other register or index under section 9(1)(b) of the Act.
- (3) Only a relevant person may—
 - (a) require that the register, or the index to the register, be searched; or
 - (b) obtain a copy of, or extract from—
 - (i) an entry in the register or the index to the register; or

- (ii) an entry in any other register that identifies the person to whom the entry relates as a person whose sex has been reassigned.
- (4) If the Registrar issues a copy of, or extract from, an entry in a register or index that has been altered by the Registrar under section 9(1)(b) of the Act, the copy or extract must show the entry as altered.
- (5) However, the Registrar may issue a copy of, or extract from, an entry in a register or index that shows an alteration under section 9(1)(b) of the Act on the application of a person who is a relevant person in relation to that entry.
- (6) If the Registrar is satisfied that there is an error, omission or misstatement in an entry on the register, the Registrar may correct the entry and make such consequential alterations to any other registers or indexes as the Registrar thinks fit.
- (7) In this regulation—
relevant person means—
 - (a) a person to whom an entry in a register relates; or
 - (b) if the person to whom an entry in a register relates is a child—the guardian of the child; or
 - (c) a person acting under the authority of an order of the Supreme Court.

8—Regulation of access to reassignment records

- (1) This regulation applies to 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.
- (2) A person must not inspect, copy or remove a record (or any part of a record) to which this regulation applies unless—
 - (a) the person is the person to whom the record relates; or
 - (b) in the case of a record that relates to a child—the person is the guardian of the child; or
 - (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; or
 - (d) the person is a medical practitioner or other person who is treating the person to whom the record relates; or
 - (e) the person is acting under the authority of a medical practitioner who is treating the person to whom the record relates; or
 - (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; or

- (g) the person is acting in the course of official duties as an officer or employee of the administrative unit of the Public Service that is, under a Minister, responsible for the administration of the *Health Care Act 2008*; or
- (h) the person is acting under the authority of the Minister for research purposes; or
- (i) the person is acting under the authority of the South Australian Health Practitioners Tribunal established under the *Health Practitioner Regulation National Law (South Australia) Act 2010*; or
- (j) the person is acting in the course of official duties as a member of a law enforcement or prosecution authority of the State; or
- (k) the person is acting under an authority given by a court or tribunal constituted by law; or
- (l) the person is a magistrate authorised 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 authorised to inspect, copy or remove the record under any Act or law.

Maximum penalty: \$2 000.

9—Periodic returns

- (1) If a person undergoes a reassignment procedure, or part of a reassignment procedure, or receives any associated treatment at a hospital, the hospital must, within 1 month of the end of the quarter in which the procedure or treatment occurs, provide, in a confidential manner, the following information to the Minister in the form of a return approved by the Minister:
 - (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;
 - (f) any other information required as a condition of approval under section 6 of the Act.
- (2) A person must not inspect, copy or remove a return (or a copy of a return) prepared for the purposes of subregulation (1) unless—
 - (a) the person is a medical practitioner or other person who is treating the person to whom the return relates; or
 - (b) the person is acting under the authority of a medical practitioner who is treating the person to whom the return relates; or
 - (c) the person is acting in the course of official duties as an officer or member of the staff of the particular hospital; or

- (d) the person is acting in the course of official duties as an officer or employee of the administrative unit of the Public Service that is, under a Minister, responsible for the administration of the *Health Care Act 2008*; or
- (e) the person is acting under the authority of the Minister.

Maximum penalty: \$2 000.

Schedule 1—Forms

Form 1

Application for issue of recognition certificate under the Sexual Reassignment Act 1988

Name of applicant:

Address of applicant:

If the application is being made on behalf of a child—Name of child:

Name and address of hospital or hospitals at which the relevant reassignment procedure(s) was/were carried out:

Place and date of birth of applicant or, if the application is being made on behalf of a child, of the child:

Date:

Signed:

Address to be used for the purposes of this application:

Note—

This application must be accompanied by—

- 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 to whom the application relates; and
- if the application relates to an adult—an affidavit, sworn by a psychiatrist or psychologist, relating to the counselling that the person has received in relation to his or her sexual identity; and
- a certified birth certificate; and
- the fee prescribed under the *Sexual Reassignment Regulations 2015*.

Form 2

Recognition certificate under the Sexual Reassignment Act 1988

Name of person to whom this certificate relates:

I find—

- that the person named above has undergone a reassignment procedure in South Australia

or

- that the birth of the person named above is registered in South Australia

(General Register of Births Book No Page No).

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

I CERTIFY that is of the sex.

DATED this day of 20

A Magistrate authorised to issue recognition certificates under the Sexual Reassignment Act 1988.

Schedule 2—Revocation of *Sexual Reassignment Regulations 2000*

The *Sexual Reassignment Regulations 2000* are revoked.

Note—

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

Made by the Governor

with the advice and consent of the Executive Council
on 20 August 2015

No 195 of 2015

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