
PO 13 Change of Name

This policy describes Part 5 of the *Births, Deaths & Marriages Registration Act 1995* (NSW) requirements for registering a change of name.

Essential Summary

This policy:

- identifies the eligibility requirements for change of an adult's name,
- identifies the eligibility requirements for change of a child's name,
- describes the requirements to disclose criminal record(s),
- describes the restrictions on the number of changes of name,
- identifies the exceptions to certain restrictions,
- describes the Registrar's power to seek evidence before registering a change of name,
- describes the change of name Register,
- identifies additional requirements and restrictions set out in the *Child Protection (Offenders Registration) Act 2000* in relation to change of name of registrable persons,
- identifies Restricted Persons and Former Serious Offenders, and describes the restrictions and requirements for applications made by or on behalf of these people, and
- describes the Registrar's power to correct the change of name register under section 31G of the *Births, Deaths & Marriages Registration Act 1995* (NSW).

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1 Scope

This policy establishes guidelines to the change of name requirements set in Part 5 of the *Births, Deaths & Marriages Registration Act 1995* (NSW).

The Registrar's discretion to exempt (for exceptions to) certain change of name restrictions is not impeded by this policy.

The Manager and Compliance Officers make decisions on individual cases and make recommendations to the Registrar.

How to register a change of name is excluded from this document and is described in the procedures.

2 Purpose

This policy is available to ensure that consistent decisions are made when change of name applications are being assessed.

This policy provides information for clients regarding the requirements to register a change of name.

3 Definitions

Act means the *Births, Deaths & Marriages Registration Act 1995*.

Applicant means the person who applies for or requests something

Application date is when the application is received by the Registry

Adult means a person of the age of 18 or over.

Change of name includes an addition, omission or substitution of a name

Change of name register means the register containing particulars about the change of name.

Child means a person under the age of 18.

Former serious offender means a person who was a serious offender but is no longer a serious offender.

Person is an individual, whether an adult or child

Prohibited name means a name that:

- (a) is obscene or offensive, or
- (b) could not practicably be established by repute or usage:
 - (i) because it is too long, or
 - (ii) because it consists of or includes symbols without phonetic significance, or
 - (iii) for some other reason, or
- (c) includes or resembles an official title or rank, or
- (d) is contrary to the public interest for some other reason.

Register means the register containing particulars of each registrable event required under the Act or another law.

Registrable offence means an offence under the *Child Protection (Offenders Registration) Act 2000* that is:

- (a) a Class 1 offence, or
- (b) a Class 2 offence, or
- (c) an offence that results in the making of a child protection registration order.

Registrable person is a person whom a court at any time sentenced in respect of a registrable offence, and includes a corresponding registrable person.

Registrar means the Registrar of the NSW Registry of Births Deaths & Marriages

Registration date is when a registrable event is registered

Registry means the NSW Registry of Births Deaths & Marriages

Supervising authority means:

- a) the Mental Health Review Tribunal, or
- b) the Commissioner of Corrective Services, or
- c) a supervising authority prescribed by the regulations.

4 Eligibility for change of name

A person's eligibility to change their name is set out in sections 27 and 28 of the Act.

A person is eligible to apply to the Registrar to change their name if:

- a) the person's birth is registered in New South Wales, or
- b) the person was born overseas, their birth is not registered in Australia and they have been resident in New South Wales for at least 3 consecutive years before the date of the application.

5 Change of name for a child

The requirements for a change of name for a child are set out in section 28 and 29 of the Act.

5.1 Application made by one parent

The application can only be made by one parent if:

- a) the applicant is the sole parent named on the birth certificate, or
- b) the other parent on the birth certificate is deceased, or
- c) a court approves the proposed change of name.
- d) a court orders the Registrar to register the child's name.

Where a court orders the Registrar to register the child's name, only the standard certificate fee will apply.

If a court order states the proposed change of name, the name must be registered as per the court order.

5.2 Application made by person other than the parent

The application can be made by a person who is not the parent, if an Australian court has allocated:

- a) parental responsibility for the child, or
- b) specific aspects of parental responsibility for the child so long as the making of the application is not outside the scope of the aspects allocated.

If the Department of Family and Community Services apply to register a change of name for a child, the following is required:

- completed change of name form and associated fees
- covering letter outlining the circumstances surrounding the application
- copy of the Minute of Care order (proof of parental responsibility)
- employee identification card of the Caseworker responsible
- identification documents for the child

5.3 Birth certificate

If the child was born outside of NSW, the parents must provide a birth certificate for their child to prove they are the birth parents.

If a birth certificate cannot be provided, a court order is required.

5.4 Consent

A child that is 12 years of age or over must sign the change of name application and their signature must be witnessed by a person who is 18 years old or over, and not be a parent or the person with parental responsibility.

6 Criminal record

The requirements to disclose a criminal record is set out in section 29A of the Act.

Applicants must disclose whether they have been convicted of a criminal offence that is punishable by imprisonment for 12 months or more.

Parents or the person with parental responsibility of the child must also disclose whether the child has been convicted of a criminal offence that is punishable by imprisonment for 12 months or more.

An offence that is punishable by imprisonment for 12 months or more does not mean that a person has been sentenced to this period of time for the offence. It relates to the maximum penalty that could be received for that offence.

It is an offence to give false or misleading information in an application.

All applications must be referred to a Compliance officer for assessment if; a person has been convicted of a criminal offence, is reluctant to disclose a criminal record, the information received is insufficient for the authorised person to make a decision or for some other reason has not given consent to the Registrar checking with the NSW Police Force, as to whether they have been convicted of a criminal offence.

6.1 Conviction

Section 10 of the *Crimes (Sentencing Procedure) Act 1999* outlines the dismissal of charges and conditional discharge of an offender.

6.2 Relevant offence

An offence in New South Wales or another jurisdiction if committed in New South Wales is punishable by imprisonment for 12 months or more.

6.3 National police checks

A criminal record check cannot be carried out without the consent of the applicant or the parents or the person with parental responsibility for the child.

A Compliance Officer will request a national police check with NSW Police.

Refer to QRC 042 National Police Check for change of name for information on determining when to order a National Police Check.

7 Restrictions on frequency of changes of name

The restrictions imposed on the frequency of a change of name are set out in section 29B of the Act.

A person cannot register more than three changes of name.

A person cannot register more than one change of name in a period of 12 months immediately preceding the date of the application.

8 Exceptions to change of name restrictions

Exceptions can be made to certain change of name restrictions and are set out in section 29C of the Act.

The Registrar may register a change of name of a person whose birth was registered interstate, if satisfied that there is a current protection order made for the person or the person's children from domestic violence.

The Registrar may register a change of name of a person who has not been resident in New South Wales for at least the last 3 years, or has registered a change of name within 12 months or has registered three or more change of name, if:

- a) the Registrar is satisfied that the reason for the proposed change of name warrants the registration of the change of name, or
- b) without limiting paragraph (a), the Registrar is satisfied that the proposed change of name is sought for the protection of the person, the person's children or anyone else associated with the person, or
- c) the proposed change of name is because of the marriage of the person, or
- d) the District Court has approved the proposed change of name on application under section 28(4).

8.1 Approval

A person may submit a request in writing to be exempt from an imposed restriction.

All applications that require the Registrar's approval are to be referred to a Compliance Officer for assessment. The Compliance Officer may request further information from the applicant if required, prior to submitting to the Registrar for a decision.

9 Application for change of name

The requirements for registering a change of name are set out in section 30 of the Act.

The Registrar is authorised to seek further information in order to establish a person's identity and age, and to ensure the change of name is not sought for a fraudulent or other improper purpose.

If the Registrar considers the proposed name to be prohibited, the application to register a change of name may be refused.

9.1 Incomplete applications

If an application is incomplete, the applicant will be advised in writing of the outstanding requirement(s).

9.2 Applications referred to compliance

The Compliance officer may need to contact other agencies and/or Government departments to confirm a person's identity.

9.3 Former name(s)

The Registry records all names a person has ever used and declared in the application.

It is up to the discretion of the Amendments officer to accept documents that link a person's name(s) and/or documents that show when a person used a particular name.

If a person has established an identity in a name other than they are legally known as, this must be recorded as a former name. This includes all variations to a name that has been used and the applicant has provided documentary evidence including utility bills.

9.4 Identification and residency documents

It is up to the discretion of the Amendments officer to accept a person's proof of identification documents.

The Registry does not accept bank statements from financial institutes as proof of identification or residency.

It is up to the discretion of the Amendments officer to accept the documents to prove a person's current residential address and/or to prove a person has resided in New South Wales for three consecutive years.

9.5 Withdrawals

If a person wishes to withdraw their change of name application, they must send a written or email request stating they no longer require the change of name. The standard certificate and postage handling fee only will be refunded to the applicant.

9.6 Fee waiver

If an applicant wishes for the change of name fee to be waived, they must put their request in writing, via post or email, outlining the reason for the request.

The Team Leader Amendments will write a submission to the Registrar for consideration.

10 Register

The Register contains the actual information recorded in the change of name registration. The information required is set out on section 31 of the Act, which includes:

- (a) the sex and date and place of birth of the person
- (b) the full name of the person immediately before the change of name,
- (c) the full name first given to the person after birth and any other name shown on the person's birth registration,
- (d) any other former names of the person,
- (e) the new full name of the person,
- (f) the full names of the parents of the person (as at the date of the person's birth or registration of the person's birth).

10.1 Person born in NSW

If the applicant request for the new name to be noted on their birth record the name at birth is replaced with the new name and an endorsement is added stating any previously registered name(s) and other names the person has been formerly known by.

If the applicant does not wish for the new name to be noted on their birth certificate, an endorsement will be added to the birth record indicating that a change of name has been registered.

Any previous birth certificates issued to a person are no longer valid once a new change of name is registered.

10.2 Person born overseas

Applicants who are born overseas will be issued with a change of name certificate.

Any previous changes of name certificates issued to a person are no longer valid once a new change of name is registered.

11 Restrictions for certain persons

The requirements for registering a change of name for a restricted person, registrable person or former serious offender are set out in section 31B to 31F of the Act.

If a person applies to register a change of name and there is a restriction imposed on them, the application is to be referred to a Compliance officer.

All applications for a person with an imposed restriction must meet the requirements set out in Part 5 of the Act.

11.1 Restricted person

The Registrar is unable to register a change of name under section 31E of the Act until the supervising authority has given written approval to the making of the application.

A restricted person must obtain written approval from the supervising authority to apply to register a change of name.

It is an offence for a restricted person to make an application to register a change of name without seeking permission of the Commissioner of Police prior to the application.

A search of the restricted database in Lifelink is conducted for all change of name applications that are received by the Registry.

The Registrar is required under section 31E(2) to notify the supervising authority in writing of the decision to register or refuse to register a change of name of a restricted person.

The Registrar is required under section 31E(3) to notify the Commissioner of Police in writing when the Registrar registers the name of a person who is a restricted person and a registrable person.

11.2 Registrable person

The requirements for a change of name of a registrable person are set out in section 19E of the *Child Protection (Offenders Registration) Act 2000*.

It is an offence for a registrable person to make an application to register a change of name without seeking written permission of the Commissioner of Police prior to the application.

The Commissioner of Police is required to give the Registrar a copy of the written notice of approval.

11.3 Former serious offender

The Registrar must not register a change of name of a former serious offender unless the Commissioner of Corrective Services and Commissioner of Police have given written approval to the making of the application.

The Registrar is not required under section 31F(2) to obtain approval of the Commissioner of Police if the Commissioner has given approval under Part 3A of the *Child Protection (Offenders Registration) Act 2000* to the making of the application.

12 Correct the Register

The Registrar has the power under section 31G of the Act to correct the Register if a change of name of a person has been registered against the requirements set out in Part 5 of the Act.

13 Miscellaneous

13.1 Information-sharing

The requirements of information-sharing between relevant authorities and the Registrar are set out in section 31I of the Act.

The supervising authority is required to provide the Registrar the information as to the identity of each restricted person including:

- name and any previous names the person has been known,
- date and place of birth,
- and the residential address

If the Registrar has previously been notified by the authority that a person is a restricted person, the supervising authority must notify the Registrar as soon as practical after a person ceases to be a restricted person.

The information that is to be provided to the Registrar in relation to a former serious offender is set out in section 31I(2) of the Act.

13.2 Administrative review

A person may apply to the Civil and Administrative Tribunal for an administrative review of the decision made by the supervising authority (other than the Mental Health Review Tribunal), Commissioner of Corrective Services or Commissioner of Police to refuse the making of the change of name application of the person.

13.3 Appeals from decisions

The requirements for a restricted person to appeal a decision of the Mental Health Review Tribunal are set out in section 31K of the Act.

A restricted person may appeal to the Forensic Division of the Mental Health Review Tribunal or Supreme Court.

13.4 Protection of information

The prevention of the disclosure of security sensitive information is set out in section 31L of the Act.

14 References

Births, Deaths and Marriages Registration Act 1995 (NSW)

Births, Deaths and Marriages Registration Regulation 2011 (NSW)

Child Protection (Offenders Registration) Act 2000

Crimes (Sentencing Procedure) Act 1999

(End)

15 Document Information

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