

Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2018

Contents

1.	Short title	2
2.	Commencement	2
3.	Act amended	2
4.	Part 5 Division 1 inserted	2
	Division 1 — Terms used	
	28A. Terms used	2
5.	Part 5 Division 2 heading inserted	4
	Division 2 — General requirements relating to change of name	
6.	Section 29A inserted	4
	29A. Registrar may register change of name despite restrictions	4
7.	Section 30 replaced	5
	30. Application to register change of adult's name	5
	30A. Restrictions on changes of adult's name	5
8.	Section 31 replaced	6
	31. Application to register change of child's name	6
9.	Section 32A inserted	7
	32A. Restriction on changes of child's name	7
10.	Section 34 amended	8
11.	Section 35 amended	9
12.	Sections 35A and 35B inserted	10
	35A. Registrar must inform certain registering authorities	10
	35B. Registrar may inform prescribed public authorities	10
13.	Part 5 Division 3 inserted	11
	Division 3 — Change of name restrictions for restricted persons	
	36A. Terms used	11

**Births, Deaths and Marriages Registration Amendment (Change of Name)
Bill 2018**

Contents

	36B.	Registrar not to register name change without approval	12	
	36C.	Restricted person not to apply to change name	12	
	36D.	Person not to apply to change restricted person's name	13	
	36E.	Approval by supervisory authority	13	
	36F.	Notice of decision by Registrar	14	
	36G.	Supervisory authority to give documents and information	15	
	36H.	Delegation by chief executive officers	15	
14.		Section 54 amended		16

Western Australia

LEGISLATIVE ASSEMBLY

**Births, Deaths and Marriages Registration
Amendment (Change of Name) Bill 2018**

A Bill for

An Act to amend the *Births, Deaths and Marriages Registration Act 1998*.

The Parliament of Western Australia enacts as follows:

s. 1

1 **1. Short title**

2 This is the *Births, Deaths and Marriages Registration*
3 *Amendment (Change of Name) Act 2018*.

4 **2. Commencement**

5 This Act comes into operation as follows —

- 6 (a) sections 1 and 2 — on the day on which this Act
7 receives the Royal Assent;
- 8 (b) the rest of the Act — on a day fixed by proclamation,
9 and different days may be fixed for different provisions.

10 **3. Act amended**

11 This Act amends the *Births, Deaths and Marriages Registration*
12 *Act 1998*.

13 **4. Part 5 Division 1 inserted**

14 At the beginning of Part 5 insert:
15

16 **Division 1 — Terms used**

17 **28A. Terms used**

18 In this Part —

19 *Australian citizen* has the meaning given in the
20 *Australian Citizenship Act 2007* (Commonwealth)
21 section 3;

22 *dangerous sexual offender* means a person subject to a
23 supervision order as defined in the *Dangerous Sexual*
24 *Offenders Act 2006* section 3(1);

25 *detainee* has the meaning given in the *Young Offenders*
26 *Act 1994* section 3;

27 *early release order* has the meaning given in the
28 *Sentence Administration Act 2003* section 4(2);

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

permanent resident has the meaning given in the *Australian Citizenship Act 2007* (Commonwealth) section 3;

prisoner has the meaning given in the *Prisons Act 1981* section 3(1);

reportable offender has the meaning given in the *Community Protection (Offender Reporting) Act 2004* section 3;

required declarant means a person who is any of the following —

- (a) a dangerous sexual offender;
- (b) a detainee;
- (c) a person subject to an early release order;
- (d) a prisoner;
- (e) a reportable offender;
- (f) a supervised offender;
- (g) a supervised young offender;

supervised offender —

- (a) means a person who is subject to an order under which the person is supervised or monitored under the *Sentencing Act 1995*, the *Sentence Administration Act 2003* or the *Young Offenders Act 1994*; but
- (b) does not include a supervised young offender or a person subject to an early release order;

supervised young offender means a person who is the subject of a supervised release order as defined in the *Young Offenders Act 1994* section 3.

s. 5

1 **5. Part 5 Division 2 heading inserted**

2 Before section 29 insert:

3

4 **Division 2 — General requirements relating to change**
5 **of name**

6

7 **6. Section 29A inserted**

8 After section 29 insert:

9

10 **29A. Registrar may register change of name despite**
11 **restrictions**

12 (1) Despite any restriction imposed by this Division, the
13 Registrar may, on application, register a change of a
14 person's name if the Registrar is satisfied that —

15 (a) the change is for the personal protection of the
16 person; or

17 (b) the change is because of the marriage or
18 divorce of the person; or

19 (c) the change is justified by exceptional
20 circumstances.

21 (2) The Registrar may require the applicant to provide
22 evidence to enable the Registrar to be satisfied under
23 subsection (1).

24

1 **7. Section 30 replaced**

2 Delete section 30 and insert:

3

4 **30. Application to register change of adult's name**

5 (1) An adult may apply to the Registrar for registration of
6 a change of the adult's name if —

7 (a) the adult's birth is registered in the State; or

8 (b) the adult was born outside Australia and —

9 (i) the adult is an Australian citizen or
10 permanent resident; and

11 (ii) the adult's birth is not registered in
12 another State; and

13 (iii) the adult has lived in the State for at
14 least 12 consecutive months
15 immediately before the day the
16 application is made.

17 (2) The application must be made in the approved form.

18 (3) The application must contain a declaration by the
19 applicant setting out whether the applicant is, at the
20 time the application is made, a required declarant.

21 **30A. Restrictions on changes of adult's name**

22 (1) The Registrar must not register a change of an adult's
23 name on an application under section 30 if the
24 Registrar is aware that —

25 (a) a change of the adult's name has been
26 registered (whether in this State or in another
27 State) within the period of 12 months
28 immediately before the day the application is
29 made; or

s. 8

- 1 (b) 3 or more changes of the adult's name have
2 been registered (whether in this State or in
3 another State).
- 4 (2) When counting the number of changes of name for the
5 purposes of subsection (1)(b), a change of name made
6 before the applicant becomes an adult must not be
7 counted.
8

9 **8. Section 31 replaced**

10 Delete section 31 and insert:
11

12 **31. Application to register change of child's name**

- 13 (1) The parents or guardian of a child may apply to the
14 Registrar for registration of a change of the child's
15 name if the child's birth is registered in the State.
- 16 (2) The parents or guardian of a child may also apply to
17 the Registrar for registration of a change of the child's
18 name if —
- 19 (a) the child was born outside Australia; and
20 (b) the child is an Australian citizen or permanent
21 resident; and
22 (c) the child's birth is not registered in another
23 State; and
24 (d) either —
- 25 (i) the application is made within
26 12 months after the date of the child's
27 birth and at least 1 of the child's parents
28 or guardians has lived in the State for at
29 least 12 consecutive months
30 immediately before the day the
31 application is made; or

- 1 (ii) the application is not made within
2 12 months after the date of the child's
3 birth and the child has lived in the State
4 for at least 12 consecutive months
5 immediately before the day the
6 application is made.
- 7 (3) An application under subsection (1) or (2) may be
8 made by a child's guardian only if the parents of the
9 child are dead, cannot be found or for some other
10 reason cannot exercise their parental responsibilities
11 for the child.
- 12 (4) An application under subsection (1) or (2) may be
13 made by 1 parent only if —
- 14 (a) the applicant is the sole parent named in the
15 registration of the child's birth under this Act or
16 any other law; or
- 17 (b) the child's other parent has died.
- 18 (5) An application under subsection (1) or (2) must —
- 19 (a) be made in the approved form; and
- 20 (b) contain a declaration by the applicant setting
21 out whether the child is, at the time the
22 application is made, a required declarant.
- 23

24 **9. Section 32A inserted**

25 After section 32 insert:

26

27 **32A. Restriction on changes of child's name**

- 28 (1) The Registrar must not register a change of a child's
29 name on an application under section 31 if a change of
30 the child's name has been registered (whether in this
31 State or in another State) within the period of

s. 10

1 12 months immediately before the day the application
2 is made.

3 (2) Subsection (1) does not apply if the change of the
4 child's name has been registered on an application
5 under section 23 or 33.
6

7 **10. Section 34 amended**

8 (1) Delete section 34(1) and insert:
9

- 10 (1) Before registering a change of name under this
11 Division, the Registrar may require the applicant to
12 provide evidence to establish to the Registrar's
13 satisfaction any of the following —
- 14 (a) the identity and age of the person whose name
15 is to be changed;
 - 16 (b) that all requirements of this Division have been
17 met;
 - 18 (c) that the person whose name is to be changed is
19 not the subject of a pending charge, within or
20 outside the State, of an offence involving fraud
21 or dishonesty and has not been convicted of
22 such an offence;
 - 23 (d) that the change of name is not sought for the
24 purpose of avoiding the payment of a debt;
 - 25 (e) that the change of name is not sought for the
26 purpose of preventing the location or
27 identification of the person whose name is to be
28 changed by —
 - 29 (i) a government department, agency or
30 organisation of this State, another State
31 or the Commonwealth; or
 - 32 (ii) a body or organisation, if the person is
33 required by a written law or a law of

- 1 another State or the Commonwealth to
2 prove their identity to that body or
3 organisation; or
4 (iii) a body or organisation that is required
5 by a written law or a law of another
6 State or the Commonwealth to record
7 the person's identity;
8 (f) that the change of name is not sought for a
9 fraudulent or other improper purpose;
10 (g) if the person whose name is to be changed is a
11 child who is 12 years of age or more, that —
12 (i) the child consents to the change of
13 name; or
14 (ii) the child is unable to understand the
15 meaning and implications of the change
16 of name.
17
18 (2) In section 34(3) delete “if, as a result of the change, the name
19 would become a prohibited name.” and insert:
20
21 if —
22 (a) as a result of the change, the name would
23 become a prohibited name; or
24 (b) the Registrar is not satisfied that any of the
25 matters set out in subsection (1)(a) to (g) have
26 been established.
27

28 **11. Section 35 amended**

29 Delete section 35(3).

s. 12

1 **12. Sections 35A and 35B inserted**

2 After section 35 insert:

3

4 **35A. Registrar must inform certain registering**
5 **authorities**

6 (1) If the Registrar registers a change of a person's name
7 and the person's birth was registered by a registering
8 authority, the Registrar must inform the authority of the
9 change and give the authority sufficient information to
10 identify the person.

11 (2) The Registrar must not comply with subsection (1) if,
12 in the Registrar's opinion, informing the authority of
13 the change of the person's name would pose a risk to
14 the safety of the person.

15 **35B. Registrar may inform prescribed public authorities**

16 (1) In this section —

17 ***public authority*** means —

- 18 (a) a government department, agency or
19 organisation of this State, another State or the
20 Commonwealth; or
- 21 (b) a body, corporate or unincorporate, that is
22 established or continued for a public purpose by
23 this State, another State or the Commonwealth,
24 regardless of the way it is established; or
- 25 (c) a body, corporate or unincorporate, in another
26 country that has similar functions to the
27 functions of the Registrar under this Part.

28 (2) If the Registrar registers a change of a person's name,
29 the Registrar may inform a prescribed public authority
30 of the change and give the authority sufficient
31 information to identify the person.

32

1 **13. Part 5 Division 3 inserted**

2 At the end of Part 5 insert:

3

4 **Division 3 — Change of name restrictions for restricted**
5 **persons**

6 **36A. Terms used**

7 In this Division —

8 ***restricted person*** means a person, other than a
9 reportable offender, who is any of the following —

- 10 (a) a dangerous sexual offender;
- 11 (b) a detainee;
- 12 (c) a person subject to an early release order;
- 13 (d) a prisoner;
- 14 (e) a supervised offender;
- 15 (f) a supervised young offender;

16 Note for this definition:

17 The *Community Protection (Offender Reporting) Act 2004*
18 Part 4A is relevant to changing the name of a person who is
19 a reportable offender.

20 ***supervisory authority*** means —

- 21 (a) for a dangerous sexual offender, the chief
22 executive officer of the department principally
23 assisting in the administration of the *Dangerous*
24 *Sexual Offenders Act 2006* Part 2 Division 1; or
- 25 (b) for a detainee, the chief executive officer as
26 defined in the *Young Offenders Act 1994*
27 section 3; or
- 28 (c) for a person subject to an early release order,
29 the Prisoners Review Board established under
30 the *Sentence Administration Act 2003*
31 section 102(1); or

s. 13

- 1 (d) for a prisoner, the chief executive officer as
2 defined in the *Prisons Act 1981* section 3(1); or
3 (e) for a supervised offender, the chief executive
4 officer of the department principally assisting
5 in the administration of the provision of the Act
6 under which the supervised offender is
7 supervised or monitored; or
8 (f) for a supervised young offender, the Supervised
9 Release Review Board established under the
10 *Young Offenders Act 1994* section 151(1).

11 **36B. Registrar not to register name change without**
12 **approval**

- 13 (1) The Registrar must not register a change of a restricted
14 person's name on an application unless the Registrar
15 has been given a copy of the written approval for the
16 application by the supervisory authority for the person.
17 (2) Subsection (1) does not apply if the Registrar receives
18 an application under section 33.

19 **36C. Restricted person not to apply to change name**

20 A restricted person must not do any of the following,
21 unless the person has obtained the written approval of
22 the supervisory authority for the person —

- 23 (a) apply, under this Act, to the Registrar for
24 registration of a change of the person's name;
25 (b) apply to a registering authority for registration
26 of a change of the person's name.

27 Penalty: imprisonment for 2 years and a fine
28 of \$12 000.

1 **36D. Person not to apply to change restricted person’s**
2 **name**

3 A person (the *applicant*) must not, in respect of a
4 restricted person, do any of the following, unless the
5 applicant has obtained the written approval of the
6 supervisory authority for the restricted person —

- 7 (a) apply, under this Act, to the Registrar for
8 registration of a change of the restricted
9 person’s name;
- 10 (b) apply to a registering authority for registration
11 of a change of the restricted person’s name.

12 Penalty: imprisonment for 2 years and a fine
13 of \$12 000.

14 **36E. Approval by supervisory authority**

15 (1) In this section —

16 *change of name application* means an application
17 proposed to be made by or in respect of a restricted
18 person for the registration of a change of the person’s
19 name.

20 (2) A person may apply to a supervisory authority for
21 approval to make a change of name application.

22 (3) The application for approval must be made in a manner
23 approved by the supervisory authority.

24 (4) A supervisory authority may only approve the making
25 of a change of name application if the authority is
26 satisfied that the change of name is in all the
27 circumstances necessary or reasonable.

s. 13

- 1 (5) A supervisory authority must not approve the making
2 of a change of name application if the authority is
3 satisfied that the change of name is reasonably
4 likely —
- 5 (a) if the restricted person is detained, to have an
6 adverse effect on the security, discipline or
7 good order of the place in which the restricted
8 person is detained; or
- 9 (b) to be regarded as offensive by a victim of crime
10 or a significant sector of the community; or
- 11 (c) to frustrate the administration of any of the
12 following Acts —
- 13 (i) the *Dangerous Sexual Offenders*
14 *Act 2006*;
- 15 (ii) the *Prisons Act 1981*;
- 16 (iii) the *Sentence Administration Act 2003*;
- 17 (iv) the *Sentencing Act 1995*;
- 18 (v) the *Young Offenders Act 1994*.

19 **36F. Notice of decision by Registrar**

- 20 (1) The Registrar must notify the supervisory authority for
21 a restricted person —
- 22 (a) if the Registrar registers a change of the
23 person's name; or
- 24 (b) if the Registrar refuses to register a change of
25 the person's name.
- 26 (2) When notifying a supervisory authority under
27 subsection (1) the Registrar must give the authority
28 sufficient information to identify the restricted person.

1 **36G. Supervisory authority to give documents and**
2 **information**

- 3 (1) If a supervisory authority decides to approve the
4 making of a change of name application under
5 section 36E, the authority must, as soon as is
6 practicable —
- 7 (a) give written approval to the person who wishes
8 to make the application; and
- 9 (b) give a copy of the written approval to the
10 Registrar or if the application is to be made to a
11 registering authority, to the registering
12 authority.
- 13 (2) For the purposes of the Registrar verifying the details
14 of an application to register a change of name each
15 supervisory authority must, if the Registrar requests,
16 give the Registrar the following —
- 17 (a) the name of each restricted person for whom
18 they are the supervisory authority;
- 19 (b) any other name by which the person is, or has
20 previously been, known (of which the
21 supervisory authority is aware);
- 22 (c) the date of birth of the person;
- 23 (d) any other information that may be used to
24 identify the person.

25 **36H. Delegation by chief executive officers**

- 26 (1) A chief executive officer referred to in the definition of
27 *supervisory authority* in section 36A, may delegate to
28 any person any power or duty of the chief executive
29 officer under another provision of this Division.
- 30 (2) The delegation must be in writing signed by the chief
31 executive officer.

s. 14

- 1 (3) A person to whom a power or duty is delegated under
2 this section cannot delegate the power or duty.
- 3 (4) A person exercising or performing a power or duty that
4 has been delegated to the person under this section, is
5 taken to do so in accordance with the terms of the
6 delegation unless the contrary is shown.
- 7 (5) Unless the contrary is shown, it is to be presumed that
8 a document purporting to have been signed by a person
9 as a delegate of the chief executive officer was signed
10 by a person in the performance of a function that at the
11 time was delegated to the person by the chief executive
12 officer.
- 13 (6) Nothing in this section limits the ability of the chief
14 executive officer to perform a function through an
15 officer or agent.
- 16

17 **14. Section 54 amended**

- 18 (1) In section 54(1):
- 19 (a) in paragraph (b) delete “Register.” and insert:
- 20
- 21 Register; or
- 22
- 23 (b) after paragraph (b) insert:
- 24
- 25 (c) verify that information held by a person is the
26 same as the information contained in the
27 Register.
- 28
- 29 (2) In section 54(2) delete “In” and insert:
- 30
- 31 For the purposes of section 54(1)(a) or (b), in
- 32

1 (3) In section 54(3) delete “on which access to the Register, or
2 information extracted from the Register, is to be given under
3 this section,” and insert:

4

5 under subsection (1)

6

7 Note: The heading to amended section 54 is to read:

8

Access to and verification of Register

9
