

**2002**

**AUSTRALIAN CAPITAL TERRITORY LEGISLATIVE ASSEMBLY**

**BIRTHS, DEATHS AND MARRIAGES REGISTRATION AMENDMENT  
REGULATIONS 2002**

**Subordinate Law 2002 No SL2002-13**

**EXPLANATORY STATEMENT**

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## BIRTHS, DEATHS AND MARRIAGES REGISTRATION AMENDMENT REGULATIONS 2002

### BACKGROUND

The *Births, Deaths and Marriages Registration Act 1997* was drafted in accordance with a model agreed by the Standing Committee of Attorneys-General to provide for compulsory civil registration of births, deaths and marriages. It also allows for registration of changes of name and sex. Provisions about change of sex on birth records are not uniform across all States and Territories. For a person who has changed from the sex noted on the birth record, it is important that the change be recognised in States and Territories other than the one in which the birth is registered. The *Births, Deaths and Marriages Registration Act 1997* deals with that issue by providing for recognition of documents issued under a law of a State or another Territory that show that a person has undergone sexual reassignment surgery. The relevant laws are those prescribed by regulation. Recently Western Australia and Tasmania have passed laws providing for registration of change of sex. Those laws now need to be included in the *Births, Deaths and Marriages Registration Regulations* so that change of sex documents issued under them can be given effect in the ACT.

### SUMMARY

The *Births, Deaths and Marriages Registration Amendment Regulations 2002* amend the *Births, Deaths and Marriages Registration Regulations 1998*. The amendment is to include in regulation 8 laws of Tasmania and Western Australia about change of sex so as to provide for recognition in the ACT of change of sex documents issued under those laws. Regulation 8 is made under section 29 of the *Births, Deaths and Marriages Registration Act 1997*.

### DETAILS

Regulation 1 provides for the Regulations to be cited as the *Births, Deaths and Marriages Registration Amendment Regulations 2002*.

Regulation 2 provides for the Regulations to commence on the day after the day on which they are notified. From 12 September 2001, ACT legislation has been notified on the electronic legislation register rather than in the government Gazette. The *Legislation Act 2001* provides for notification on the register. Notification involves both a statement on the register that an Act or instrument has been made and publication on the register of the text of the Act or instrument.

Regulation 3 provides that the regulations amend the *Births, Deaths and Marriages Registration Regulations 1998*.

Regulation 4 removes the existing regulation 8(c). It substitutes a new regulation 8(c) and adds regulation 8(d) and regulation 8(e). The effect is to add the *Births, Deaths and Marriages Registration Act 1999* (Tas) and the *Gender Reassignment Act 2000* (WA) to the list of laws prescribed under section 29(3) of the *Births, Deaths and Marriages Registration Act 1998*. As a result there will be laws of five States and Territories prescribed for the purposes of section 29(3). The States and Territories are New South Wales, South Australia, the Northern Territory, Tasmania and Western Australia. This amendment will mean that a person who was born in one of those States or the Northern Territory, undergoes sexual reassignment surgery and successfully applies to have the change of sex recognised in their State or Territory of birth, will be recognised in the ACT as being a person of the sex chosen.