

The object of this Bill is to amend the *Births, Deaths and Marriages Registration Act 1995*:

- (a) to provide that certain classes of persons (***restricted persons***), including inmates of correctional centres, persons on remand and forensic patients, may not make an application to change their name unless the supervising authority has approved of the change of name, and
- (b) to provide that the Registrar of Births, Deaths and Marriages (***the Registrar***) may not register the change of name of a restricted person unless that approval has been obtained, and
- (c) to provide that the Registrar must not, during a specified period, register the name of a person who was a serious offender unless the approval of the Commissioner of Corrective Services and the Commissioner of Police has been obtained, and
- (d) to set out the criteria for granting approvals, and
- (e) to provide a right to apply to the Administrative Decisions Tribunal for the review of certain decisions under the new provisions, and
- (f) to provide a right of appeal in relation to certain decisions of the Mental Health Review Tribunal under the new provisions.

The Bill also makes consequential amendments to the *Child Protection (Offenders Registration) Act 2000*, the *Births, Deaths and Marriages Registration Regulation 2011* and the *Mental Health Regulation 2007*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Schedule 1 Amendment of Births, Deaths and Marriages Registration Act 1995 No 62

Schedule 1 [1] defines certain terms used for the purposes of Part 5 of the Act which deals with the registration by the Registrar of name changes of persons.

Schedule 1 [2] inserts a new Division 3 into Part 5 of the Act which contains the following provisions:

Proposed section 31A provides that the proposed Division contains requirements and restrictions that are additional to the other requirements and restrictions of Part 5 and excludes the application of the proposed Division in certain circumstances, such as where a court orders a change of name.

Proposed section 31B defines ***restricted person*** to mean inmates of correctional centres, persons on remand in correctional centres, persons that are subject to certain supervision orders made by a court but are not in custody, persons on parole, periodic detainees, forensic patients and correctional patients (within the meaning of Part 5 of the *Mental Health (Forensic Provisions) Act 1990*). The regulations may include and exclude certain classes of persons from the definition.

Proposed section 31C makes it an offence for a restricted person, or a person acting on behalf of a restricted person, to apply to the Registrar, or to the Registrar's counterpart in another State or Territory, for the registration of a change of the restricted person's name unless the approval of the supervising authority has been obtained. The supervising authority is generally the Commissioner of Corrective Services or, in the case of a forensic patient, the Mental Health Review Tribunal.

Proposed section 31D provides that a supervising authority may give approval for the registration of a restricted person's change of name only if satisfied that the change of name is in all the circumstances necessary or reasonable. The proposed section also specifies circumstances in which the approval must not be given, for example, if it is reasonably likely that it will threaten the security of premises at

Explanatory note page 3

Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2012

Explanatory note

which the person is held, that it is for the purpose of evading or hindering supervision of the person or that the proposed name would be regarded as offensive by a victim of crime or an appreciable sector of the community.

In the case of a forensic patient who is also an inmate, on remand, subject to a supervision order, on parole or a periodic detainee, the Mental Health Review Tribunal must consult with and obtain the concurrence of the Commissioner of Corrective Services to the change of name before giving approval.

Proposed section 31E prevents the Registrar registering a change of name of a restricted person if an approval under the proposed Division has not been given by the supervising authority.

Proposed section 31F prevents the Registrar registering a change of name of a person who is a former serious offender unless the Commissioner of Corrective Services and the Commissioner of Police have approved of the change of name. The restriction will not apply if a 10-year period has passed during which the person has not served a term of imprisonment for an offence.

Proposed section 31G enables the Registrar to alter the Register maintained under section 43 of the Act if a change of name of a person has been registered contrary to the requirements of the proposed Division.

Proposed section 31H enables regulations to be made for the purposes of the proposed Division.

Schedule 1 [3] inserts proposed sections 31I–31L into the Act.

Proposed section 31I provides for supervising authorities and the Commissioner of Corrective Services to provide information on restricted persons and former serious offenders to the Registrar to enable the Registrar to appropriately deal with applications for a change of name by those persons.

Proposed section 31J provides a right of review to the Administrative Decisions Tribunal in relation to certain decisions under the proposed provisions.

Schedule 1 [4] makes a consequential amendment.

Proposed section 31K provides a right of appeal from certain decisions of the Mental Health Review Tribunal under the proposed provisions.

Proposed section 31L enables the Commissioner of Corrective Services or the Commissioner of Police to classify certain information as security sensitive information. Security sensitive information need not be disclosed by those Commissioners when giving reasons for certain decisions under the proposed provisions. Also, the Administrative Decisions Tribunal, when reviewing those decisions, is to ensure that such information is not disclosed without the approval of the Commissioner who made the decision.

Schedule 1 [5] and [6] contain provisions of a savings and transitional nature consequent on the enactment of the proposed Act.

Explanatory note page 4

Births, Deaths and Marriages Registration Amendment (Change of Name) Bill 2012

Explanatory note

Schedule 2 Consequential amendment of other legislation

Schedule 2.1 amends the *Births, Deaths and Marriages Registration Regulation 2011* to prescribe certain exclusions from the definition of **restricted person**.

Schedule 2.2 amends the *Child Protection (Offenders Registration) Act 2000* to make it clear that the requirements of Part 3A of that Act relating to the change of name of a registrable person within the meaning of that Act are in addition to the requirements under proposed Division 3 of Part 5 of the *Births, Deaths and Marriages Registration Act 1995*.

Schedule 2.3 amends the *Mental Health Regulation 2007* to provide for the way in which the Mental Health Review Tribunal is to be constituted when exercising

functions under proposed Division 3 of Part 5 of the *Births, Deaths and Marriages Registration Act 1995*.