



## Changing Your Name

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## Introduction

Upon birth in Queensland, a person's name is registered with the Registry of Births, Deaths and Marriages. A person may wish to change either their given names or surname later for a variety of reasons. They might dislike their original name, might want to adopt a more pronounceable name, or someone might simply wish to distance themselves from their former name.

People are generally legally entitled to change their name to any name they wish, as long as the new name they are taking is not used with an intention to defraud another person. The law also places limits on the right of people to formally take on a prohibited name (e.g. a name that might be considered offensive). The changing of name is regulated by the *Births, Deaths and Marriages Registration Act 2003* (Qld) (BDMR Act).

A person's name can be changed in a variety of ways:

- informally, simply by using a new name
- informally, as a result of marriage
- informally, as a result of divorce
- formally, in limited circumstances, by court order
- formally, by lodging a form with the Queensland Registry of Births, Deaths and Marriages or another relevant interstate registry.

Special provisions apply in relation to changing the name of a minor (a person under the age of 18 years).

## Informal Methods of Changing Your Name

### Assuming and using a new name

A person over the age of 18 years is entitled to change their name by simply assuming and using the name they wish to adopt. This is perfectly legal.

This informal process, while easy and inexpensive, does have some significant disadvantages. An informally assumed new name is not registered with the Registry of Births, Deaths and Marriages, and a new or amended birth certificate cannot be obtained that reflects the assumed new name.

Most government departments, banks and similar institutions, and some employers may require evidence of a person's identity. The types of proof generally required (e.g. a birth certificate, driver licence or passport) will not, however, reflect the new name. In such cases, the bank, government department or other institution may refuse to deal with the person under their informally assumed new name.

Parents may change a child's name informally by simply calling the child by another name. The assumed new name, however, will not be legally recognised and has the same effect as an adult simply assuming a new name.

The informal assumption of a new name is therefore really only suitable for those instances where a person wishes to be known by friends and family under the new name on an everyday basis, but does not object to their formal registered name being used for official purposes (e.g. obtaining a passport or driver licence, or opening a bank account).

## **Assumption of spouse's surname upon marriage**

There is no legal obligation upon anyone to adopt their spouse's name upon marriage.

Where a woman does adopt her husband's surname, no formal process is required. Generally, all that is required is that she needs to produce a copy of her marriage certificate as evidence that she has adopted her husband's surname. Most government departments, banks and other institutions will generally amend their records to reflect the new surname. If a hyphenated surname is chosen, it will generally be necessary to formalise the process as explained below.

## **Divorce**

After divorce, a woman may continue to use her former husband's name or revert to her maiden name. Generally, when reverting to her maiden name, banks, government departments and other institutions will require production of the woman's registry-issued birth certificate (as evidence of her original surname) and a copy of the decree nisi (divorce certificate) as evidence that the marriage has ended.

It is also possible in some cases after marriage or divorce to organise and obtain a change of name certificate from the Queensland Registry of Births, Deaths and Marriages if required.

## **Formal Methods of Changing a Person's Name**

A change of name for people whose birth or adoption was registered in Queensland or overseas, but are now living in Queensland, can be formalised by registering a change of name in the Change of Name Register, which is maintained by the Births, Deaths and Marriages Registry. Another option is to register the notation of a change of name made by another legal process or existing deed poll on the Birth or Adoption Register. The Magistrates Court (and in some child matters the Family Court) can also make certain orders in relation to name changes.

## **Other states and territories**

Anyone whose birth or adoption is registered in another state or territory and who wishes to formally change their name will need to comply with the legal requirements of the state in which they were born or adopted. As a first step, they should contact the Births, Deaths and Marriages Registry (or its equivalent) of the relevant state or territory in order to determine their requirements for making name changes.

## **Transsexuals**

Following gender reassignment surgery, it is possible for an adult who has had their birth or adoption registered in Queensland to have their sexual reassignment noted in the Birth or Adoption Register. Any new birth certificate issued will then show the change of sex after sexual reassignment surgery

and will note that the birth has been re-registered. An adult applying to make the application to note their sexual reassignment must use the approved application form and provide:

- two statutory declarations from doctors verifying that the surgery occurred (or, in some cases, a recognition certificate, which is a certificate issued under the law of another state that identifies the sex reassignment)
- identification documents showing that the adult has changed their name
- evidence showing that they are not married (ss 22–23 BDMR Act).

In order to have a child's sexual reassignment surgery noted on the Birth or Adoption Register, it is normally necessary for both parents to make the application. In some very limited circumstances, it is possible for one parent or the child's guardian to make the application. It is necessary to have two statutory declarations from doctors or a recognition certificate verifying that the surgery occurred (s 23 BDMR Act).

## Children

A child's parent(s) or guardian can apply to process the name change for the child, although normally the child's consent must be obtained if the child is 12 or more years of age (ss 17–18 BDMR Act).

## General Application Process to Change a Person's Name

### Forms

An application for a change of name must be prepared in a format acceptable to the Registry of Births, Deaths and Marriages, and the applicants' signatures must be witnessed.

Form 4a is the application form used to register a change of name of an adult on the Change of Name Register. Form 4c is used for a child under 18 years of age. Three forms of appropriate identification of the applicant must be attached to the application form. If the forms of identification are photocopies, a qualified witness must certify them as being a correct copy of the document. Photo identification normally is required. In some situations, the Births, Deaths and Marriages Registry may request other documents to verify other information contained in the application. If a person was born outside of Australia, evidence of birth (a birth certificate) and evidence that the person ordinarily resides in Queensland (and normally has done so for one year) is required. If the person is a minor over 12 years of age, their consent for the change of name is normally required. If a child is unable to consent, then further advice should be sought from the registry about making the application.

The fee to apply to register a change of name for an adult or child is \$165.60. Changing a child's first name within one year of the child's birth is \$19.65.

Name changes of adult names and surname changes of children normally can only be made once in every one-year period, unless the Magistrates Court has ordered otherwise. A child's first names can only be changed once before the child turns 1 year of age (if their birth or adoption was registered in Queensland), and then only once more before the child turns 18 years of age (ss 13, 21 BDMR Act), unless the court approves otherwise). The Registry of Births, Deaths and Marriages may refuse to

register a person's change of name in limited circumstances. The court's approval may also be required to allow a child's change of name where only one parent or guardian makes the application.

A Form 5 is used to note a change of name on the Birth or Adoption Register where a person's birth or adoption has already been registered in Queensland, but the person has changed their name either under the law of another state or through a different legal process, such as a deed poll.

## Notification to authorities

After a person's name has been changed, that person should take care to notify the following authorities:

- the Department of Transport and Main Roads, Licensing Branch, if the person has a driver licence
- the local council and the Office of State Revenue, if the person owns a house
- the Commonwealth Department of Foreign Affairs and Trade, if the person has a passport. The person will need to complete an application to have a new passport issued in their new name
- the Australian Taxation Office
- the Land Titles Office within the Department of Natural Resources and Mines, if the person owns land and wishes the title to be recorded in their new name. A request to register the new name on the title and a declaration/certificate as to the identity of the person concerned must be prepared. A fee applies.

If people need to deal with other government departments and institutions (e.g. Centrelink, banks and schools), they should also be notified of a name change.

## Documents

Obtaining copies of standard birth certificates from the Births, Deaths and Marriages Registry involves payment of a fee of \$43.50. A commemorative certificate costs \$57. Priority preparation of the document and any search fees involve additional costs. The registry will only release certificates or certificate extracts to people who are entitled to documents—normally the people named on the document or their immediate family members. Reasons for the request of the document and proof of the identity of the person requesting the document must be provided to the registry. Further information about the process is available directly from the registry.

## Registration of the Birth of a Child

After a child is born in Queensland, a Birth Registration Form must be completed and promptly lodged with the Registry of Births, Deaths and Marriages (s 6 BDMR Act). If the parents are not married to each other, both parents must normally sign the declaration on the form to ensure the father's details are recorded on the birth certificate. Where the father is unknown or uncooperative, the birth may be registered without showing the name of the father. This can have implications for other family law disputes.

A child's natural father may be added to a child's birth certificate at a later date by both parents completing the necessary form at the Registry of Births, Deaths and Marriages. There are penalties for registering false information and for failing to register a birth (ss 8, 50 BDMR Act).

## Impact of the Surrogacy Act

The *Surrogacy Act 2010* (Qld) (Surrogacy Act) makes altruistic surrogacy arrangements in Queensland lawful, but it remains unlawful for anyone to enter into a commercial (fee-paying) surrogacy arrangement. Payment of the birth mother's reasonable expenses (e.g. medical fees) associated with the surrogacy is all that is allowed. The birth parents of a child born under a surrogacy arrangement are obliged to register the child's birth in accordance with s 18 of the Surrogacy Act.

## Disputed surname for a child

The BDMR Act allows both parents to apply to enter the child's surname in the register. The child's name can be registered under:

- the father's surname
- the mother's surname
- a surname formed by combining the surnames of mother and father in any separated order or joined by a hyphen.

When parents cannot agree, the Magistrates Court (or the Family Court or Federal Circuit Court) may determine disputes between parents. The Family Court or Federal Circuit Court can make an order restraining a parent from using or allowing the use of any other surname.

The Family Court has laid down some guiding principles. The best interests of the child is paramount, so the likely effect that the use of a given or proposed name may have on the child must be considered, as well as the effect on the child's relationship with each parent. The court will not assume that the father's surname will prevail. The court will consider a number of factors, including:

- the child's welfare
- any confusion about identity and embarrassment suffered by the child
- the effect on the child's relationship/contact with the father
- the short and long-term effects of name changes
- the degree to which a child identifies with a particular name.

The court will not normally intervene in these matters unless a change has been made without the second parent's consent, and the change does not promote the child's best interests. A court will also not necessarily always entertain the use of a hyphenated name as a compromise.

## Registration of a child's name upon adoption

Upon legal adoption, a new birth certificate is issued showing the child's new name.

# Legal Notices

## Disclaimer

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