



Births, Deaths, Marriages, and Relationships Registration (Registering Nominated Sex) Regulations 2023

Cindy Kiro, Governor-General

Order in Council

At Wellington this 6th day of June 2023

Present:

Her Excellency the Governor-General in Council

These regulations are made under section 144(1) of the Births, Deaths, Marriages, and Relationships Registration Act 2021—

- (a) on the advice and with the consent of the Executive Council; and
- (b) on the recommendation of the Minister of Internal Affairs after meeting the requirements of section 144 of that Act.

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Regulations

1 Title

These regulations are the Births, Deaths, Marriages, and Relationships Registration (Registering Nominated Sex) Regulations 2023.

2 Commencement

These regulations come into force on 15 June 2023.

3 Interpretation

In these regulations, unless the context otherwise requires,—

Act means the Births, Deaths, Marriages, and Relationships Registration Act 2021

practising certificate—

- (a) in relation to a qualifying counsellor, means a practising certificate issued in accordance with—
 - (i) the rules (or equivalent) and policies of the New Zealand Christian Counsellors Association; or
 - (ii) the constitution (or equivalent) and policies of the New Zealand Association of Counsellors Incorporated; and
- (b) in relation to a registered social worker, has the meaning given in section 4 of the Social Workers Registration Act 2003; and
- (c) in all other cases, means—
 - (i) an annual practising certificate issued by the relevant authority under section 26(3) or 29(4) of the Health Practitioners Competence Assurance Act 2003; or
 - (ii) an annual practising certificate deemed to have been issued by the relevant authority under section 191(2) of that Act; or
 - (iii) an interim practising certificate issued by the relevant authority under section 31 of that Act

qualifying counsellor means a counsellor who holds a current practising certificate

registered medical practitioner means a person who—

- (a) is, or is deemed to be, registered with the Medical Council of New Zealand as a practitioner of the profession of medicine; and
- (b) holds a current practising certificate

registered nurse means a person who—

- (a) is, or is deemed to be, registered with the Nursing Council of New Zealand as a practitioner of the profession of nursing whose scope of practice permits the performance of registered nurse functions; and

(b) holds a current practising certificate

registered nurse practitioner means a person who—

(a) is, or is deemed to be, registered with the Nursing Council of New Zealand as a practitioner of the profession of nursing whose scope of practice permits the performance of nurse practitioner functions; and

(b) holds a current practising certificate

registered psychologist means a person who—

(a) is, or is deemed to be, registered with the Psychologists Board as a practitioner of the profession of psychology; and

(b) holds a current practising certificate

registered psychotherapist means a person who—

(a) is, or is deemed to be, registered with the Psychotherapists Board as a practitioner of the profession of psychotherapy services; and

(b) holds a current practising certificate

registered social worker means a person who—

(a) is registered as a social worker under the Social Workers Registration Act 2003; and

(b) holds a current practising certificate

scope of practice, in relation to a registered nurse or a registered nurse practitioner, means their scope of practice under the Health Practitioners Competence Assurance Act 2003.

4 Transitional, savings, and related provisions

The transitional, savings, and related provisions (if any) set out in Schedule 1 have effect according to their terms.

5 Registration of nominated sex

An application for registration of an eligible person's nominated sex under section 24(1)(a) of the Act, or of an eligible child's nominated sex under section 25(1)(a) of the Act, may specify "non-binary" as the nominated sex of the eligible person or the eligible child (as the case may be).

6 Suitably qualified third parties

This regulation specifies the following types of person for the purposes of the definition of suitably qualified third party in section 4 of the Act:

(a) a qualifying counsellor:

(b) a registered medical practitioner:

(c) a registered nurse:

(d) a registered nurse practitioner:

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- (e) a registered psychologist:
- (f) a registered psychotherapist:
- (g) a registered social worker:
- (h) in relation to an eligible 16- or 17-year-old under section 24(1)(c)(ii) of the Act, a person who has known the eligible 16- or 17-year-old for 12 months or longer:
- (i) in relation to an eligible child under section 25(1)(c) of the Act, a person who has known the child for 12 months or longer.

Schedule 1 Transitional, savings, and related provisions

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Part 1 Provisions relating to these regulations as made

There are no transitional, savings, or related provisions in these regulations as made.

Rachel Hayward,
Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 15 June 2023, provide that—

- “non-binary” may be specified as the nominated sex of an eligible person or eligible child for the purposes of section 24(1)(a) or 25(1)(a) of the Births, Deaths, Marriages, and Relationships Registration Act 2021 (the **Act**); and
- the following types of person are a suitably qualified third party (provided they are 18 years old or older) who can provide the letter of support required under section 24(1)(c)(ii) or 25(1)(c) of the Act in relation to an application for registration of a nominated sex:
 - a qualifying counsellor:
 - a registered medical practitioner:
 - a registered nurse:
 - a registered nurse practitioner:
 - a registered psychologist:
 - a registered psychotherapist:
 - a registered social worker:
 - in relation to an eligible 16- or 17-year-old under section 24(1)(c)(ii) of the Act, a person who has known the eligible 16- or 17-year-old for 12 months or longer:
 - in relation to an eligible child under section 25(1)(c) of the Act, a person who has known the child for 12 months or longer.

Regulatory impact statement

The Department of Internal Affairs produced a regulatory impact statement on 2 November 2022 to help inform the decisions taken by the Government relating to the contents of this instrument.

A copy of this regulatory impact statement can be found at—

- <https://www.dia.govt.nz/Resource-material-Regulatory-Impact-Statements-Index>
- <https://treasury.govt.nz/publications/informationreleases/ris>

Issued under the authority of the Legislation Act 2019.

Date of notification in *Gazette*: 8 June 2023.

These regulations are administered by the Department of Internal Affairs.