



*Status of Children Act 1978*

# **Status of Children Regulation 2012**

**Current as at 1 July 2016**





Queensland

# Status of Children Regulation 2012

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# Status of Children Regulation 2012

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Status of Children Regulation 2012*.

### 2 Commencement

This regulation commences on 1 September 2012.

### 3 Dictionary

The dictionary in schedule 2 defines particular words used in this regulation.

## Part 2 Parentage testing procedure

### Division 1 General

#### 4 Application of pt 2

This part applies for a parentage testing procedure that must be carried out on a person under a parentage testing order.

#### 5 Carrying out parentage testing procedure

(1) A parentage testing procedure must be carried out—

- (a) at an accredited laboratory; and
- (b) under standards of practice that entitle the laboratory to be accredited, by NATA, to carry out the procedures.

- (2) Without limiting subsection (1), the procedures under division 2 must be carried out for a parentage testing procedure.

## **Division 2                      Collecting, storing and testing samples**

### **6                      Only sampler may take sample**

A person must not take a sample from a donor for a parentage testing procedure unless the person is a sampler.

### **7                      Information to be given before sample taken**

- (1) A sampler must not take a sample from a donor unless the deponent for an affidavit for the donor has—
- (a) immediately before the sampler takes the sample from the donor, made the affidavit; and
  - (b) attached a recent photograph of the donor to the affidavit; and
  - (c) signed the deponent's name partly on the photograph and partly on the affidavit in a way that, if the photograph were later removed from the affidavit, the removal would be evident on inspecting the affidavit; and
  - (d) given the affidavit and another recent photograph of the donor to the sampler.
- (2) The photographs mentioned in subsection (1)(b) and (d) must—
- (a) each measure about 45mm by 35mm; and
  - (b) show a full face view of the head and shoulders of the donor against a plain background.
- (3) In this section—

*affidavit* means an affidavit in the approved form.

*deponent*, for an affidavit for a donor, means—

- (a) if the donor is a child who is under 16 years or is a child who is 16 or 17 years with impaired capacity—a person who may consent to the carrying out of the procedure on the donor under section 11(4)(b) of the Act; or
- (b) if the donor is an adult with impaired capacity—a person who may consent to the carrying out of the procedure on the donor under section 11(4)(c) of the Act; or
- (c) otherwise—the donor.

## **8 Collecting blood samples**

- (1) A sampler may take a sample of blood from a donor only with a needle or syringe that—
  - (a) has not been used for any purpose; and
  - (b) is sterilised; and
  - (c) is disposable.
- (2) Before taking the sample of blood, the sampler must ensure the area of the donor's skin into which the needle is to be inserted to withdraw the blood is cleaned with an antiseptic.

## **9 Collecting samples for DNA typing**

- (1) This section applies to the taking of a sample from a donor if the sample is for a parentage testing procedure that is DNA typing.
- (2) A sampler must not take a sample from the donor with a swab unless the swab—
  - (a) has not been used for any purpose; and
  - (b) is sterilised.
- (3) A sampler must not take a sample that is a skin scraping or a hair root from the donor unless—
  - (a) the sampler uses an implement to take the sample; and
  - (b) the implement is sterilised.

(4) In this section—

*sample*, from a donor, means a sample other than a sample of blood from the donor.

## 10 Sealing and labelling container

(1) A sampler must ensure that—

(a) a sample from a donor is placed in a container—

- (i) immediately after the sample is taken; and
- (ii) in the presence of the donor; and

(b) the container—

- (i) has not previously been used for any purpose; and
- (ii) is sealed in a way that, if it were opened after being sealed, the fact would be evident on inspection of the container; and
- (iii) is labelled in the way required under subsection (2).

(2) The container must be labelled in the following way—

(a) if the label, or a part of the label, is removed or writing on the label is altered or erased, the removal of, or the alteration or erasure of the writing on, the label would be evident on inspection of the container;

(b) the particulars on the label are written in ink and include—

- (i) the full name of the donor; and
- (ii) the date of birth and the sex of the donor; and
- (iii) the date and time when the sample was taken;

(c) when paragraph (b) is complied with—the sampler and the donor sign the label in ink.

(3) If the donor is a child who is under 16 years or is a child who is 16 or 17 years with impaired capacity—



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- (a) the procedure mentioned in subsection (1)(a) must be completed in the presence of a person who may consent to the carrying out of the procedure on the donor under section 11(4)(b) of the Act; and
  - (b) the procedure mentioned in subsection (2)(c) is taken to be complied with only if a person who may consent to the carrying out of the procedure on the donor under section 11(4)(b) of the Act signs the label.
- (4) If the donor is an adult with impaired capacity—
- (a) the procedure mentioned in subsection (1)(a) must be completed in the presence of a person who may consent to the carrying out of the procedure on the donor under section 11(4)(c) of the Act; and
  - (b) the procedure mentioned in subsection (2)(c) is taken to be complied with only if a person who may consent to the carrying out of the procedure on the donor under section 11(4)(c) of the Act signs the label.

## **11 Statement by sampler**

After taking a sample from a donor for a parentage testing procedure, the sampler who took the sample must—

- (a) make a statement, in the approved form, that—
  - (i) states the name, occupation and address of the sampler; and
  - (ii) states the date and time the sample was taken from the donor; and
  - (iii) states the name of the donor; and
  - (iv) states the type of sample taken from the donor; and
  - (v) confirms that the sampler has carried out the procedures for the parentage testing procedure in accordance with sections 7 to 10; and
- (b) attach the photograph mentioned in section 7(1)(c) to the statement; and

- (c) sign the sampler's name partly on the photograph and partly on the statement in a way that, if the photograph were later removed from the statement, the removal would be evident on inspecting the statement.

## **12 Requirements for packing and storing sample**

- (1) A sampler must ensure that a sample from a donor must be packed, stored and transported to an accredited laboratory for a parentage testing procedure in a way that—
  - (a) preserves the integrity of the sample; and
  - (b) ensures the carrying out of the parentage testing procedure on the sample will produce the same results as would have been obtained if the parentage testing procedure had been carried out on the sample immediately after collection of the sample.
- (2) The sampler must ensure the following documents for the donor are sent to the laboratory with the sample—
  - (a) the affidavit made under section 7(1)(a);
  - (b) the statement made under section 11.

## **13 Time in which parentage testing procedure must be completed**

- (1) An accredited laboratory that has received a sample from a donor for carrying out a parentage testing procedure must ensure the parentage testing procedure is completed within—
  - (a) if the parentage testing procedure is red cell antigen blood grouping, red cell enzyme blood grouping or testing for serum markers—6 days after the sample is taken; or
  - (b) if the parentage testing procedure is human leucocyte antigen tissue typing—3 days after the sample is taken; or
  - (c) if the parentage testing procedure is DNA typing—a reasonable time after the sample is taken.

- (2) If the parentage testing procedure is red cell enzyme blood grouping or testing for serum markers, subsection (1)(a) is taken to be complied with if a dried sample of the sample is prepared within 6 days after the sample is taken from the donor.

## **Division 3                      Parentage testing procedure reports**

### **14            Relevant person to fill in and sign**

- (1) For section 12(2) of the Act, a relevant person for a parentage testing procedure must fill in and sign the part of the parentage testing procedure report that, under the report, must be filled in and signed by the relevant person.
- (2) In this section—
- relevant person*, for a parentage testing procedure, means—
- (a) the nominated reporter for the parentage testing procedure report; and
  - (b) either of the following—
    - (i) the person who carried out the parentage testing procedure; or
    - (ii) the person under whose supervision the parentage testing procedure was carried out.

## **Part 3                              Miscellaneous**

### **15            Certification of copy of document mentioned in Act, s 27—Act, s 9(1)**

A copy of a document mentioned in section 27 of the Act may be filed in the office of the registrar-general if it is certified as being a true copy of the document by any of the following—

- (a) a justice, commissioner for declarations, or notary public, under a law of the Commonwealth or a State;
- (b) a lawyer;
- (c) another person authorised to administer an oath under a law of the Commonwealth or a State.

## **16 Fees**

The fees payable under the Act are stated in schedule 1.

## **Part 4 Repeal**

### **17 Repeal**

The Status of Children Regulation 2002, SL No. 225 is repealed.

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**Schedule 1      Fees**

section 16

	\$
1 For a document, or a certified copy of a document, mentioned in section 27(1) of the Act—	
(a) for filing (Act, section 9(1))	18.30
(b) for searching an index, including inspecting the document or copy (Act, section 9(2))	22.95

## Schedule 2 Dictionary

### section 3

***accredited laboratory*** means a laboratory accredited by NATA to carry out a parentage testing procedure.

***donor*** means the person required to provide a sample for a parentage testing procedure.

***NATA*** means the National Association of Testing Authorities, Australia.

***sample***, from a donor, means tissue, fluid or other bodily sample from the donor.

***sampler*** means a person who is—

- (a) a doctor; or
- (b) employed to take a sample from a donor by the following—
  - (i) a hospital within the meaning of the *Hospital and Health Boards Act 2011*, schedule 2;
  - (ii) a pathology practice;
  - (iii) a parentage testing practice;
  - (iv) a doctor.

## 1 Index to endnotes

- 2 Key
- 3 Table of reprints
- 4 List of legislation
- 5 List of annotations

## 2 Key

### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
<b>AIA</b>	= <b>Acts Interpretation Act 1954</b>	<b>(prev)</b>	= <b>previously</b>
<b>amd</b>	= <b>amended</b>	<b>proc</b>	= <b>proclamation</b>
<b>amd</b>	= <b>amendment</b>	<b>prov</b>	= <b>provision</b>
<b>t</b>			
<b>ch</b>	= <b>chapter</b>	<b>pt</b>	= <b>part</b>
<b>def</b>	= <b>definition</b>	<b>pubd</b>	= <b>published</b>
<b>div</b>	= <b>division</b>	<b>R[X]</b>	= <b>Reprint No. [X]</b>
<b>exp</b>	= <b>expires/expired</b>	<b>RA</b>	= <b>Reprints Act 1992</b>
<b>gaz</b>	= <b>gazette</b>	<b>reloc</b>	= <b>relocated</b>
<b>hdg</b>	= <b>heading</b>	<b>renu</b>	= <b>renumbered</b>
		<b>m</b>	
<b>ins</b>	= <b>inserted</b>	<b>rep</b>	= <b>repealed</b>
<b>lap</b>	= <b>lapsed</b>	<b>(retro</b>	= <b>retrospectively</b>
		<b>)</b>	
<b>notf</b>	= <b>notified</b>	<b>rv</b>	= <b>revised version</b>
<b>d</b>			
<b>num</b>	= <b>numbered</b>	<b>s</b>	= <b>section</b>

<b>Key</b>	<b>Explanation</b>	<b>Key</b>	<b>Explanation</b>
<b>o in c</b>	= <b>order in council</b>	<b>sch</b>	= <b>schedule</b>
<b>om</b>	= <b>omitted</b>	<b>sdiv</b>	= <b>subdivision</b>
<b>orig</b>	= <b>original</b>	<b>SIA</b>	= <b>Statutory Instruments Act 1992</b>
<b>p</b>	= <b>page</b>	<b>SIR</b>	= <b>Statutory Instruments Regulation 2012</b>
<b>para</b>	= <b>paragraph</b>	<b>SL</b>	= <b>subordinate legislation</b>
<b>prec</b>	= <b>preceding</b>	<b>sub</b>	= <b>substituted</b>
<b>pres</b>	= <b>present</b>	<b>unnum</b>	= <b>unnumbered</b>
		<b>m</b>	
<b>prev</b>	= <b>previous</b>		

### 3 Table of reprints

A new reprint of the legislation is prepared by the Office of the Queensland Parliamentary Counsel each time a change to the legislation takes effect.

The notes column for this reprint gives details of any discretionary editorial powers under the **Reprints Act 1992** used by the Office of the Queensland Parliamentary Counsel in preparing it. Section 5(c) and (d) of the Act are not mentioned as they contain mandatory requirements that all amendments be included and all necessary consequential amendments be incorporated, whether of punctuation, numbering or another kind. Further details of the use of any discretionary editorial power noted in the table can be obtained by contacting the Office of the Queensland Parliamentary Counsel by telephone on 3003 9601 or email [legislation.queries@oqpc.qld.gov.au](mailto:legislation.queries@oqpc.qld.gov.au).

From 29 January 2013, all Queensland reprints are dated and authorised by the Parliamentary Counsel. The previous numbering system and distinctions between printed and electronic reprints is not continued with the relevant details for historical reprints included in this table.

<b>Reprint No.</b>	<b>Amendments included</b>	<b>Effective</b>	<b>Notes</b>
1	none	1 September 2012	



<b>Current as at</b>	<b>Amendments included</b>	<b>Notes</b>
1 July 2013	2013 SL No. 122	
1 July 2014	2014 SL No. 128	
1 July 2015	2015 SL No. 53	
1 July 2016	2016 SL No. 85	

## 4 List of legislation

### Regulatory impact statements

For subordinate legislation that has a regulatory impact statement, specific reference to the statement is included in this list.

### Explanatory notes

All subordinate legislation made on or after 1 January 2011 has an explanatory note.

#### **Status of Children Regulation 2012 SL No. 135**

made by the Governor in Council on 23 August 2012

notfd gaz 24 August 2012 pp 1065–6

ss 1–2 commenced on date of notification

remaining provisions commenced 1 September 2012 (see s 2)

exp 1 September 2022 (see SIA s 54)

Note—The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.  
amending legislation—

#### **Justice Legislation (Fees) Amendment Regulation (No. 1) 2013 SL No. 122**

notfd gaz 28 June 2013 pp 739–47

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2013 immediately after the Uniform Civil Procedure and Another Rule Amendment Rule (No. 1) 2013 (see s 2)

#### **Justice Legislation (Fees) Amendment and Repeal Regulation (No. 1) 2014 SL No. 128 ss 1–2(1), 3 sch**

notfd <www.legislation.qld.gov.au> 27 June 2014

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2014 (see s 2(1))

#### **Justice Legislation (Fees) Amendment Regulation (No. 1) 2015 SL No. 53 pts 1, 48**

notfd <www.legislation.qld.gov.au> 26 June 2015

ss 1–2 commenced on date of notification

remaining provisions commenced 1 July 2015 (see s 2)

**Justice Legislation (Fees) Amendment Regulation (No. 1) 2016 SL No. 85 pts 1, 48**  
notfd <[www.legislation.qld.gov.au](http://www.legislation.qld.gov.au)> 17 June 2016  
ss 1–2 commenced on date of notification  
pt 48 commenced 1 July 2016 (see s 2)

## **5 List of annotations**

### **SCHEDULE 1—FEES**

sub 2013 SL No. 122 s 3 sch; 2014 SL No. 128 s 3 sch; 2015 SL No. 53 s 109; 2016  
SL No. 85 s 107

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