



TASMANIA

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**JUSTICE AND RELATED LEGISLATION  
(MARRIAGE AND GENDER AMENDMENTS) ACT  
2019**

**No. 7 of 2019**

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**JUSTICE AND RELATED LEGISLATION  
(MARRIAGE AND GENDER AMENDMENTS) ACT  
2019**

**No. 7 of 2019**

***An Act to amend the Adoption Act 1988, the Anti-Discrimination Act 1998, the Births, Deaths and Marriages Registration Act 1999, the Civil Liability Act 2002, the Conveyancing and Law of Property Act 1884, the Criminal Code Act 1924 and the Status of Children Act 1974***

**[Royal Assent 8 May 2019]**

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

*Justice and Related Legislation (Marriage and Gender  
Amendments) Act 2019*  
*Act No. 7 of 2019*

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Part 1 – Preliminary

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**PART 1 – PRELIMINARY**

**1. Short title**

This Act may be cited as the *Justice and Related Legislation (Marriage and Gender Amendments) Act 2019*.

**2. Commencement**

- (1) Except as provided by this section, the provisions of this Act commence on the day on which this Act receives the Royal Assent.
- (2) Part 4 commences on a day to be proclaimed, but if that Part has not commenced before 120 days after the day on which this Act receives the Royal Assent, that Part is taken to commence 120 days after the day on which this Act receives the Royal Assent.

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Part 2 – Adoption Act 1988 Amended

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**PART 2 – ADOPTION ACT 1988 AMENDED**

**3. Principal Act**

In this Part, the *Adoption Act 1988*\* is referred to as the Principal Act.

**4. Section 20 amended (Persons in whose favour adoption orders may be made)**

Section 20(3)(b) of the Principal Act is amended by omitting “section 29(3)” and substituting “section 29(2) or (3)”.

**5. Section 29 amended (Consents required to adoption)**

Section 29 of the Principal Act is amended as follows:

- (a) by omitting from subsection (2) “parents were married to each other” and substituting “mother was married to a man”;
- (b) by inserting in subsection (4A) “married to, or” after “mother was”;
- (c) by omitting from subsection (4A) “with” first occurring and substituting “with,”;

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\*No. 41 of 1988

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Part 2 – Adoption Act 1988 Amended

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- (d) by inserting in subsection (4A) “marriage or” after “that”;
- (e) by inserting in subsection (4A)(a) “marriage or” after “in the”.

**6. Section 104 amended (Taking away, &c., adopted child by natural parent)**

Section 104 of the Principal Act is amended as follows:

- (a) by omitting “the father, mother, or a guardian” and substituting “the father, the mother, a parent or a guardian”;
- (b) by omitting “the father, mother,” second occurring and substituting “the father, mother or parent”.

**7. Section 109 amended (Restriction on publication of identity of parties)**

Section 109(1)(c) of the Principal Act is amended by omitting “the father, mother,” and substituting “the father, the mother, a parent or a guardian”.



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Part 3 – Anti-Discrimination Act 1998 Amended

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**PART 3 – ANTI-DISCRIMINATION ACT 1998  
AMENDED**

**8. Principal Act**

In this Part, the *Anti-Discrimination Act 1998*\* is referred to as the Principal Act.

**9. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definition after the definition of *family responsibilities*:

***gender expression*** means any personal physical expression, appearance (whether by way of medical intervention or not), speech, mannerisms, behavioural patterns, names and personal references that manifest or express gender or gender identity;

- (b) by inserting “including gender expression” after “individual” in the definition of *gender identity*;
- (c) by omitting “includes transsexualism and transgenderism” from the definition of *gender identity* and substituting “may

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\*No. 46 of 1998

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Part 3 – Anti-Discrimination Act 1998 Amended

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include being transgender or  
transsexual”;

- (d) by omitting the definition of *intersex*;
- (e) by inserting the following definition after  
the definition of *services*:

*sex characteristics* means a person’s  
physical, hormonal or genetic  
features relating to sex, including  
genitalia and other sexual and  
reproductive anatomy,  
chromosomes, genes, hormones,  
and secondary sex characteristics;

- (f) by omitting “gender;” from paragraph (b)  
of the definition of *transgender* and  
substituting “gender; and”;
- (g) by inserting the following paragraph after  
paragraph (b) in the definition of  
*transgender*:
  - (c) identifies themselves as a member  
of another gender, and lives or  
seeks to live as a member of that  
gender;
- (h) by omitting the definition of  
*transgenderism*;
- (i) by omitting the definition of  
*transsexualism*.

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Part 3 – Anti-Discrimination Act 1998 Amended

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**10. Section 16 amended (Discrimination on ground of attribute)**

Section 16(eb) of the Principal Act is amended by inserting “variations of sex characteristics” after “intersex”.

**11. Section 19 amended (Inciting hatred)**

Section 19 of the Principal Act is amended as follows:

- (a) by omitting from paragraph (d) “group.” and substituting “group; or”;
- (b) by inserting the following paragraph after paragraph (d):
  - (e) the gender identity or intersex variations of sex characteristics of the person or any member of the group.

*Justice and Related Legislation (Marriage and Gender  
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s. 12 Part 4 – Births, Deaths and Marriages Registration Act 1999 Amended

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**PART 4 – BIRTHS, DEATHS AND MARRIAGES  
REGISTRATION ACT 1999 AMENDED**

**12. Principal Act**

In this Part, the *Births, Deaths and Marriages Registration Act 1999*\* is referred to as the Principal Act.

**13. Section 3 amended (Interpretation)**

Section 3 of the Principal Act is amended as follows:

- (a) by inserting the following definitions after the definition of *funeral director*:

***gender*** – see section 3A;

***gender amendments day*** means the day on which Part 4 of the *Justice and Related Legislation (Marriage and Gender Amendments) Act 2019* commences;

***gender declaration*** means a statutory declaration in which the declarant declares that the declarant identifies as being of the gender specified in the declaration and lives, or seeks to live, as a person of that gender;

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\*No. 58 of 1999

*Justice and Related Legislation (Marriage and Gender  
Amendments) Act 2019  
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- (b) by omitting the definition of *sexual reassignment surgery* and substituting the following definition:

***sex characteristics*** means a person's physical, hormonal or genetic features relating to sex, including genitalia and other sexual and reproductive anatomy, chromosomes, genes, hormones, and secondary sexual characteristics;

- (c) by inserting the following definitions after the definition of *Register*:

***registered gender***, in relation to a person, means the registered gender in relation to the person that is registered under section 28C(1) and that has not ceased in accordance with section 28C(7) to be the registered gender in relation to the person;

***registered sex***, in relation to a person, means –

- (a) the sex that is registered under section 16(3) or (4) in relation to the person;  
or
- (b) the sex of the person that was last registered under

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s. 13            Part 4 – Births, Deaths and Marriages Registration Act 1999 Amended

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this Act in relation to the  
person before the gender  
amendments day –

if that sex has not ceased in  
accordance with section 28C(7)  
to be the registered sex in relation  
to the person;

- (d) by omitting the definition of *recognition certificate* and substituting the following definition:

***recognition certificate*** means a  
certificate that –

- (a) is issued under a law of  
another State or a  
Territory that recognises  
that a person may have  
changed sex or gender;  
and
- (b) is issued in respect of a  
person who has changed  
sex or gender; and
- (c) states the sex or gender of  
that person as so changed;
- (e) by inserting the following definitions  
after the definition of *midwife*:

***previous registered gender***, in relation  
to a person, means a gender that  
was the registered gender in

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relation to the person before  
section 28C(7) applied in relation  
to the registered gender;

*previous registered sex*, in relation to a  
person, means a sex that was the  
registered sex in relation to the  
person before section 28C(7)  
applied in relation to the  
registered sex;

**14. Section 3A inserted**

After section 3 of the Principal Act, the  
following section is inserted in Part 1:

**3A. Meaning of, and designation of, gender**

(1) In this Act –

*gender* means –

- (a) male; or
- (b) female; or
- (c) indeterminate gender; or
- (d) non-binary; or
- (e) a word, or a phrase, that is used to indicate a person's perception of the person's self as being neither entirely male nor entirely female and that is prescribed; or

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- (f) a word or phrase that is used to indicate a person’s perception of the person’s self as being neither entirely male nor entirely female.
- (2) For the purposes of the definition of *gender* in subsection (1) –
- (a) a reference, in paragraph (a) of the definition, to “male” is to be taken to be a reference to the male gender; and
  - (b) a reference, in paragraph (b) of that definition, to “female” is to be taken to be a reference to the female gender.
- (3) Without limiting the grounds on which the Registrar may refuse to register a gender in relation to a person, the Registrar may refuse to register, as a gender in relation to a person, a word or phrase (other than a word or phrase specified in or under paragraph (a), (b), (c), (d) or (e)) if the Registrar is of the opinion that the word or phrase is not within paragraph (f) of the definition of *gender* in subsection (1).



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Part 4 – Births, Deaths and Marriages Registration Act 1999 Amended

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**15. Section 15 amended (Obligation to have birth registered)**

Section 15 of the Principal Act is amended by omitting subsection (1) and substituting the following subsection:

- (1) A person responsible for having the birth of a child registered must ensure that a birth registration statement is lodged with the Registrar –
  - (a) within 60 days after the date of the birth; or
  - (b) in the case of a live birth where variations of sex characteristics do not allow for an easy assignment of sex, within 120 days of birth.

Penalty: Fine not exceeding 10 penalty units.

**16. Section 16 amended (Registration)**

Section 16 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) The Registrar, in registering the birth of a person, is to register the sex of the person as being either male or female.
- (4) The Registrar may not change from male to female, or from female to male, the

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s. 17      Part 4 – Births, Deaths and Marriages Registration Act 1999 Amended

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registered sex in relation to a person, except if it is necessary to correct an error made before or at the time the person's sex was first registered in relation to the person.

- (5) The Registrar may only register the sex of a person under subsection (3) or (4) and must not register the sex of a person as any sex other than male or female.
- (6) Nothing in subsection (3), (4) or (5) is to be taken –
  - (a) to prevent a gender being registered under section 28C(1) in relation to a person; or
  - (b) to prevent a registered sex in relation to a person ceasing, in accordance with section 28C(7), to be the registered sex in relation to the person; or
  - (c) to invalidate the registration of a previous registered sex that occurred before the gender amendments day.

**17. Section 17 amended (Registration of parentage details)**

Section 17(1)(a) of the Principal Act is amended by omitting “father and the mother” and substituting “parents”.

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**18. Section 23 amended (Application to register change of adult’s name)**

Section 23 of the Principal Act is amended by omitting “An adult person” and substituting “A person who has attained the age of 16 years”.

**19. Section 24 amended (Application to register change of child’s name)**

Section 24 of the Principal Act is amended as follows:

- (a) by omitting from subsection (3) “if satisfied that the change is in the child’s best interests” and substituting “under subsection (1) if satisfied that the change is consistent with the child’s will and preferences”;
- (b) by inserting in subsection (2) “under subsection (1)” after “one parent”;
- (c) by inserting in subsection (1) “who has not attained the age of 16 years” after “child”.

**20. Section 27 amended (Entries to be made in Register)**

Section 27 of the Principal Act is amended by omitting subsection (3).

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s. 21      Part 4 – Births, Deaths and Marriages Registration Act 1999 Amended

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**21. Part 4A substituted**

Part 4A of the Principal Act is repealed and the following Part is substituted:

**PART 4A – GENDER IDENTITY**

**28A. Registration of gender identity**

- (1) A person who has attained the age of 16 years and whose birth is registered in this State may apply to the Registrar to have a gender, specified in the application, registered in relation to the person.
- (2) An application under subsection (1) by a person to have a gender registered in relation to the person –
  - (a) is to be in the approved form; and
  - (b) is to be accompanied by a gender declaration made by the person; and
  - (c) is to be accompanied by any other document or information that the Registrar reasonably requires, other than a medical certificate, or other medical document, in relation to the sex, sexual characteristics or gender of the person.
- (3) The parents, or guardians, of a person who has not attained the age of 16 years

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and whose birth is registered in this State may apply to the Registrar to have a gender, specified in the application, registered in relation to the person.

- (4) One of the parents, or a guardian, of a person who has not attained the age of 16 years and whose birth is registered in this State may apply to the Registrar to have a gender, specified in the application, registered in relation to the person, if –
- (a) the applicant is the sole parent named in the registration under this Act of the person's birth; or
  - (b) the guardian is the sole guardian of the person; or
  - (c) there is no other surviving parent of the person; or
  - (d) the registration of the gender in relation to the person is approved by a magistrate under section 28B(2)(a).
- (5) An application under subsection (3) or (4) to have a gender registered in relation to a person is to be –
- (a) in the approved form; and
  - (b) accompanied by –

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- (i) if the person is able to make a statutory declaration – a gender declaration made by the person; or
  - (ii) if the person is not able to make a statutory declaration but is able to express the person’s will and preference – a statement from each of the applicants stating that the applicant believes on reasonable grounds that the registration of the gender in relation to the person is consistent with the will and preference of the person; and
  - (c) accompanied by any other document or information that the Registrar reasonably requires, other than a medical certificate, or other medical document, in relation to the sex, sexual characteristics or gender of the person.
- (6) An application under subsection (1), (3) or (4) to have a gender registered in relation to a person who has not attained the age of 18 years may be accompanied by evidence that –

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- (a) the person has undertaken counselling as to –
    - (i) whether or not the application ought to be made; and
    - (ii) the implications of the registration of the gender in relation to the person; and
  - (b) the counselling was provided by a person, chosen by the applicant, who the applicant considers has suitable qualifications, training or experience to provide such counselling.
- (7) An application must not be made under this section in relation to a person within 12 months after a gender has been registered in relation to the person.

**28B. Approval by magistrate of registration of gender**

- (1) A parent, or guardian, of a person who has not attained the age of 16 years may apply to a magistrate to approve the registration of a gender, specified in the application, in relation to the person.
- (2) A magistrate to whom an application is made under subsection (1) to approve the

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registration of a gender, specified in the application, in relation to a person may –

- (a) approve the registration of the gender in relation to the person; or
  - (b) refuse to approve the registration of the gender in relation to the person.
- (3) A magistrate may only approve the registration of a gender in relation to a person if the magistrate –
- (a) is satisfied that the registration of the gender in relation to the person is consistent with the will and preference of the person; or
  - (b) is satisfied that the person is unable to understand the meaning and implications of the registration of the gender in relation to the person.

**28C. Registration of gender**

- (1) The Registrar, after receiving an application made under section 28A(1), (3) or (4) for a gender to be registered in relation to a person –
- (a) must –



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- (i) register the gender as the registered gender in relation to the person by making an entry in the Register specifying the gender to be the registered gender in relation to the person; and
    - (ii) make any other changes to the Register that are necessary to indicate that each previous registered sex, and each previous registered gender, of the person is no longer the registered sex or registered gender in relation to the person; or
  - (b) must refuse to register the gender as the registered gender in relation to the person.
- (2) The Registrar may only register under subsection (1) a gender as the registered gender in relation to a person in accordance with an application made under section 28A(3) or (4) if the Registrar is satisfied that –
- (a) the gender to be registered in relation to the person is consistent with the will and preference of the person; or

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- (b) the person is unable to understand the meaning and implications of the registration of the gender in relation to the person.
- (3) The Registrar may, before determining under subsection (1) an application made under section 28A(1), (3) or (4), require a person who made the application to provide to the Registrar the further documents or information that the Registrar reasonably requires, other than a medical certificate, or other medical document, that relates to the sex, sexual characteristics or gender of the person to whom the application relates.
- (4) Despite subsection (3), the Registrar may, before determining under subsection (1) an application made under section 28A(1), (3) or (4) in relation to a person, require the applicant to provide to the Registrar appropriate evidence of counselling of the person, if –
  - (a) the person has not attained the age of 18 years; and
  - (b) the application is not accompanied by evidence under section 28A(6) of counselling being provided by a person who the Registrar considers is a person with suitable qualifications, training or

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experience to provide such  
counselling.

- (5) For the purposes of subsection (4), appropriate evidence of counselling of the person is evidence that –
- (a) the person has undertaken counselling as to –
    - (i) whether or not the application to register a gender ought to be made; and
    - (ii) the implications of the registration of the gender in relation to the person; and
  - (b) the counselling was provided by a person, agreed to by the Registrar and the applicant, who the Registrar considers has suitable qualifications, training or experience to provide such counselling.
- (6) If the Registrar determines under subsection (1) an application made under section 28A(1), (3) or (4) by refusing to register a gender as the registered gender in relation to a person –

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- (a) the Registrar must record the Registrar's reasons for the refusal; and
  - (b) the Registrar must provide, to the person who made the application, the Registrar's reasons for the refusal; and
  - (c) the person who made the application may make an application under section 53 in relation to the decision.
- (7) If a gender is registered as the registered gender in relation to a person under subsection (1) –
- (a) any registered sex that was previously registered in relation to the person ceases to be the registered sex in relation to the person; and
  - (b) any registered gender that was previously registered in relation to the person ceases to be the registered gender in relation to the person.

**28D. References to sex and gender**

- (1) If there is a registered gender in relation to a person, the person is, for the purposes of, but subject to, any law in

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force in this State, a person of that gender.

- (2) Subject to subsection (3), a reference to a person's sex in any law in force in this State is taken to be, in relation to a person whose birth is registered in this State, a reference to –
- (a) the registered sex, if any, in relation to the person; or
  - (b) the registered gender, if any, in relation to the person.
- (3) In any law in force in this State –
- (a) a reference to the pregnancy of a female, female person or woman includes a reference to the pregnancy of a person of another gender; and
  - (b) a reference to the termination, or attempted termination, of a pregnancy of a female, female person or woman includes a reference to the termination, or attempted termination, of a pregnancy of a person of another gender; and
  - (c) a reference to the fertilisation of a human egg outside of the body of a woman does not include the fertilisation of a human egg

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inside of the body of a person of another gender who has a female reproductive tract; and

(d) a reference to the mother of a child, or a child of a female or a woman, includes a reference to a person of another gender who carried the child in the person's female reproductive tract, or who gave birth to a child, except –

(i) if the person is to be taken by the operation of the *Surrogacy Act 2012* or another law to have ceased to be such a mother; or

(ii) if the person is to be taken by the operation of the *Surrogacy Act 2012* or another law to have ceased to be the child of such a mother; and

(e) an assumption as to the ability of a person to procreate as a female or male is to be determined irrespective of the registered gender of the person.

(4) Despite any other provision of an Act –

(a) if a person in respect of whom there is a registered gender

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requests that a search of the person, that is to be conducted, be conducted by a male or female, a search of the person is not to be taken to be invalid, unauthorised or unlawful by reason only that the search was, in accordance with the request, conducted by a male or female; and

- (b) if a police officer asks a person in respect of whom a search is to be conducted whether the person wishes to have the search be conducted by a male or female, a search of the person is not to be taken to be invalid, unauthorised or unlawful by reason only that the search was, in accordance with the request, conducted by a male or female.
- (5) The registration of the registered gender in relation to a person under section 28C(1) does not affect any relationship of that person arising by consanguinity or by operation of law.
- (6) A person who is entitled as a beneficiary –
- (a) under a will; or
  - (b) under a trust; or
  - (c) otherwise by operation of law –

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does not, except as otherwise provided under the will or trust or by the law conferring the entitlement, forfeit any right or entitlement by reason only of the fact that a registered gender in relation to the person has been registered under section 28C(1).

- (7) Subsection (6) does not operate so as to confer any right or entitlement that would not exist apart from that subsection.

**28E. Recognition of certificates issued outside State**

A person in respect of whom there is a recognition certificate in force is taken to be, for the purposes of, but subject to, any law in force in this State, a person of the sex, or gender, as the case may be, stated in the recognition certificate.

**22. Section 46 amended (Issue of certificate)**

Section 46 of the Principal Act is amended by inserting after subsection (2) the following subsections:

- (3) Subject to subsection (7), information about the sex, or gender, of a person may only be included on a birth certificate if –



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- (a) the information is requested by a person who has attained the age of 16 years and who is the person to whom the certificate relates; or
- (b) if the person to whom the certificate relates has not attained the age of 16 years – if the information is requested by a parent or guardian of the person; or
- (c) if the information is requested by an applicant who is the child of the person to whom the certificate relates, or a member of a class of prescribed persons, and if the Registrar is satisfied that –
  - (i) there is a valid reason for the child or person, respectively, to have access to the information; and
  - (ii) the person to whom the birth certificate relates is unable to consent to the disclosure of the information due to death or incapacity; and
  - (iii) there are unlikely to be negative consequences to

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the person to whom the  
certificate relates.

- (4) An applicant for a birth certificate in relation to a person must, if there is a registered sex in relation to the person –
- (a) request the Registrar not to include on the birth certificate any reference to sex or gender; or
  - (b) request the Registrar to include on the birth certificate the registered sex in relation to the person, without a notation as to each previous registered sex in relation to the person; or
  - (c) request the Registrar to include on the birth certificate the registered sex in relation to the person, with a notation as to each previous registered sex in relation to the person.
- (5) An applicant for a birth certificate in relation to a person must, if there is a registered gender in relation to the person –
- (a) request the Registrar not to include on the birth certificate any reference to the sex or gender of the person; or

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- (b) request the Registrar to include on the birth certificate the registered gender in relation to the person, without a notation as to any other sex or gender in relation to the person; or
  - (c) request the Registrar to include on the birth certificate the registered gender in relation to the person, with a notation as to each previous registered sex, and each previous registered gender, in relation to the person.
- (6) If an application is made to the Registrar for a birth certificate in relation to a person and the applicant –
- (a) has made a request under subsection (4)(a) or (5)(a), the Registrar is not to include on the birth certificate any reference to sex or gender; or
  - (b) has made a request under subsection (4)(b) or (5)(b), the Registrar is to include on the birth certificate the registered sex or registered gender in relation to the person, without a notation as to any other sex or gender; or
  - (c) has made a request under subsection (4)(c) or (5)(c), the

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Registrar is to include on the birth certificate the registered sex or registered gender in relation to the person, with a notation as to each previous registered sex, and each previous registered gender, in relation to the person.

- (7) The Registrar must ensure that, on a birth certificate that is issued, in relation to the birth of a person, in accordance with a request under subsection (4)(b) or (c) or subsection (5)(b) or (c) –
- (a) any denotation of the current registered sex or registered gender of the person by a word or phrase is made without any reference to sex and with a denotation that the word or phrase relates to gender; and
  - (b) any denotation of the previous registered sex, or previous registered gender, of the person by a word or phrase is made without any reference to sex and with a denotation that the word or phrase relates to the previous registered gender of the person.
- (8) If a change of name is registered under Part 4 in relation to a person, a birth certificate issued in relation to the person is to –

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- (a) show the name so registered without any notation or indication that there was another name previously registered in relation to the person; or
  - (b) if a request is made to the Registrar under subsection (9) in relation to the person and the Registrar is not prevented under subsection (10) from complying with the request, show the name so registered with a notation or indication as to each other name that was registered in relation to the person before the change of name was registered.
- (9) An applicant for a birth certificate in relation to a person whose change of name is registered under Part 4 may request the Registrar to issue a birth certificate in relation to the person with a notation or indication as to each other name that was registered in relation to the person before the change of name was registered.
- (10) If the person making a request under subsection (9) in relation to an application for a birth certificate in relation to a person is not the person to whom the birth certificate relates, the Registrar must not comply with the request unless the applicant is the child

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of the person to whom the certificate relates, or a member of a class of prescribed persons, and the Registrar is satisfied that –

- (a) there is a valid reason for the child or person, respectively, to have access to the information; and
- (b) the person to whom the birth certificate relates is unable to consent to the disclosure of the information due to death or incapacity; and
- (c) there are unlikely to be negative consequences to the person to whom the certificate relates.

**23. Section 51 amended (Additional services)**

Section 51 of the Principal Act is amended by inserting after subsection (1) the following subsection:

- (1A) Despite anything contrary in the Act, the Registrar may provide information about the sex or gender registered in relation to a person –
  - (a) in respect of a living person, to a person eligible to make an application under section 44; or

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- (b) in respect of a deceased person born at least 100 years earlier.

**24. Section 54 amended (False representation)**

Section 54 of the Principal Act is amended as follows:

- (a) by inserting the following subsection after subsection (1):

- (2) A person must not, with intention to deceive, produce to another person a birth certificate, a copy of a birth certificate, or a copy of an extract from the Register, issued for the person, that –

- (a) if there is a registered gender in relation to the person –

- (i) shows a previous registered sex, or previous registered gender, in relation to the person; and

- (ii) does not also show the registered gender in relation to the person; or

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(b) if a change of name of the person has been registered –

(i) shows a previous registered name in relation to the person; and

(ii) does not also show the last registered name in relation to the person.

Penalty: Fine not exceeding 100 penalty units or imprisonment for a term not exceeding 2 years, or both.

(b) by renumbering the section as subsection (1).

**25. Section 61A inserted**

After section 61 of the Principal Act, the following section is inserted in Part 9:

**61A. Transitional provisions**

(1) If an application under section 23 –

(a) has been, before the gender amendments day, made in relation to a change of name of a person; and



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- (b) has not been determined before that day –

this Act, as in force after that day, applies in relation to the application and the Registrar is to advise the person that the person may make to the Registrar an application under section 46(9) as in force after that day.

- (2) If an application –

- (a) has been made under section 28A before the gender amendments day; and
- (b) has not been determined before that day –

the application lapses, but the Registrar must return to the applicant any fee paid by the applicant in relation to the application.

- (3) Subsection (4) applies in relation to an application under this Act if –
  - (a) the application is an application for the issue of a birth certificate or of an extract from the Register in relation to the registration of the birth of a person; and
  - (b) the application was made before the gender amendments day; and

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- (c) the application has not been, before that day, determined under this Act by issuing, or refusing to issue, a birth certificate or extract.
- (4) If this subsection applies in relation to an application –
- (a) the application is to be taken to be an application under section 46 as in force immediately after the gender amendments day; and
  - (b) this Act, including section 46, as in force immediately after the gender amendments day, applies in relation to the application; and
  - (c) the applicant is –
    - (i) if a request, in relation to the application, was made under section 28D(2) as in force before the gender amendments day – to be taken to have made, in relation to the application, a request under section 46(4)(b) as in force after that day; or
    - (ii) if a request, in relation to the application, was not made under section 28D(2) as in force before the gender amendments

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day – to be taken to have made, in relation to the application, a request under section 46(4)(c) as in force after that day.

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Part 5 – Civil Liability Act 2002 Amended

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**PART 5 – CIVIL LIABILITY ACT 2002 AMENDED**

**26. Principal Act**

In this Part, the *Civil Liability Act 2002*\* is referred to as the Principal Act.

**27. Section 28D amended (Abolition of action for loss of consortium)**

Section 28D of the Principal Act is amended by omitting “a husband and wife” and substituting “spouses”.

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\*No. 54 of 2002

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Part 6 – Conveyancing and Law of Property Act 1884 Amended

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**PART 6 – CONVEYANCING AND LAW OF PROPERTY  
ACT 1884 AMENDED**

**28. Principal Act**

In this Part, the *Conveyancing and Law of Property Act 1884\** is referred to as the Principal Act.

**29. Section 62 amended (Conveyance by person to himself: Bodies corporate, joint tenancies)**

Section 62(1) of the Principal Act is amended as follows:

- (a) by omitting “wife” first occurring and substituting “spouse”;
- (b) by omitting “husband” second occurring and substituting “spouse”.

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\*No. 19 of 1884

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Part 7 – Criminal Code Act 1924 Amended

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**PART 7 – CRIMINAL CODE ACT 1924 AMENDED**

**30. Principal Act**

In this Part, the *Criminal Code Act 1924*\* is referred to as the Principal Act.

**31. Principal Act amended**

Schedule 1 to the Principal Act is amended as follows:

- (a) by omitting from section 232 “a husband and wife” and substituting “married persons”;
- (b) by omitting from section 297(2) “A husband and wife” and substituting “Married persons”.

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\*No. 69 of 1924

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Part 8 – Status of Children Act 1974 Amended

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**PART 8 – STATUS OF CHILDREN ACT 1974  
AMENDED**

**32. Principal Act**

In this Part, the *Status of Children Act 1974*\* is referred to as the Principal Act.

**33. Section 3 amended (All children to be of equal status)**

Section 3 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “his father and mother” and substituting “the person’s father, mother or parents (or any one of the person’s father, mother or parents)”;
- (b) by omitting from subsection (1) “father and mother” second occurring and substituting “person’s father, mother or parent”;
- (c) by omitting from subsection (4) “his father or mother has” and substituting “the person’s father, mother or either of the person’s parents has”.

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\*No. 36 of 1974

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Part 8 – Status of Children Act 1974 Amended

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**34. Section 5 amended (Presumption of parentage arising from marriage)**

Section 5 of the Principal Act is amended as follows:

- (a) by omitting from subsection (1) “husband” and substituting “spouse”;
- (b) by omitting from subsection (2) “husband” twice occurring and substituting “spouse”;
- (c) by omitting from subsection (3) “husband” and substituting “spouse”.

**35. Section 10C amended (Presumptions as to parenthood)**

Section 10C of the Principal Act is amended as follows:

- (a) by inserting in subsection (1) “to,” after “married”;
- (b) by omitting from subsection (1) “with” first occurring and substituting “with,”;
- (c) by omitting from subsection (1) “her husband or the other party to that relationship” and substituting “that man”;
- (d) by omitting from subsection (1) “husband or other party” and substituting “consenting man”;



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- (e) by omitting from subsection (1A) “is” first occurring and substituting “who is married to, or”;
- (f) by omitting from subsection (1A) “with” first occurring and substituting “with,”;
- (g) by omitting from subsection (1A) “and”;
- (h) by omitting from subsection (5) “subsection (1)” and substituting “subsection (1) or (1A)”;
- (i) by omitting from subsection (5) “husband” and substituting “spouse”.

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Part 9 – Repeal of Act

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**PART 9 – REPEAL OF ACT**

**36. Repeal of Act**

This Act is repealed on the three hundred and sixty fifth day from the day on which it commences.

*[Second reading presentation speech made in:–  
House of Assembly on 18 October 2018  
Legislative Council on 21 March 2019]*