



HOUSE OF ASSEMBLY

SESSION OF 2019

(SECOND SESSION OF THE FORTY-NINTH PARLIAMENT)

VOTES AND PROCEEDINGS

No. 5

WEDNESDAY, 10 APRIL 2019

1 The House met at Ten o'clock a.m.

2 ACKNOWLEDGEMENT OF TRADITIONAL PEOPLE. - The Speaker made a statement acknowledging the traditional people of the land.

3 PRAYERS AND REFLECTION. – The Speaker read Prayers.

4 QUESTIONS SEEKING INFORMATION. – In accordance with Standing Order No. 43, Questions without notice were asked.

5 PAPERS. – The Treasurer laid upon the Table of the House the following Papers:-

(1) Duties Act 2001: Duties (Concession Extension) Order 2019 (Statutory Rules 2019, No. 2).

(2) Land Tax Act 2000: Land Tax (Exemption Extension) Order 2019 (Statutory Rules 2019, No. 3).

6 PUBLIC WORKS, PARLIAMENTARY STANDING COMMITTEE ON: REPORT. – Mrs Rylah brought up the following Report of the Parliamentary Standing Committee on Public Works:-

Southern Accommodation Project, Lands Building Redevelopment (Paper No. 21 of 2018).

Ordered, That the said Report be received. (Mrs Rylah)

7 BILL NO. 3. - A Message from the Legislative Council -

MADAM SPEAKER,

The Legislative Council has agreed, without Amendment, to a Bill, intituled - "A Bill for an Act to amend the Electoral Act 2004".

Legislative Council, 4 April 2019.

J. S. WILKINSON, *President.*

8 BILL NO. 47 of 2018. - A Message from the Legislative Council. -

MADAM SPEAKER

The Legislative Council having this day agreed, with Amendments, to a Bill, intituled –

“A Bill for 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”,

now returns the same to the House of Assembly, and requests its concurrence therein.

Legislative Council, 9 April 2019.

J. S. WILKINSON, President

A Motion being made and the Question being proposed - That the said Message be taken into consideration tomorrow. (The Minister for Health)

Amendment proposed (Ms *Haddad*) to leave out “tomorrow” and insert instead “forthwith”.

A debate arose thereupon.

And the Question being put – That the Amendment be agreed to;

The House divided.

AYES 11

Mr *Bacon*
Ms *Butler*
Ms *Dow*
Ms *Haddad*
Mr *O'Byrne*
Ms *O'Byrne*
Ms *O'Connor*
Ms *Standen*
Ms *White*
Dr *Woodruff*
Dr *Broad* (Teller)

NOES 11

Mr *Barnett*
Ms *Courtney*
Mr *Ferguson*
Mr *Gutwein*
Mr *Hodgman*
Mr *Jaensch*
Mrs *Petrusma*
Mr *Rockliff*
Mrs *Rylah*
Mr *Tucker*
Mr *Shelton* (Teller)

PAIRS

Ms *Houston*

Ms *Archer*

SPEAKER GIVES CASTING VOTE. – The Speaker said: “The result of the division is 11 Ayes and 11 Noes. In accordance with Standing Order 167 I have a casting vote. In order to give this legislation the most rigorous debate I cast my vote with the Ayes.”

It was resolved in the Affirmative.

And the Question being put – That the Main Question, as amended, be agreed to;

The House divided.

AYES 11

Mr Bacon
Ms Butler
Ms Dow
Ms Haddad
Mr O'Byrne
Ms O'Byrne
Ms O'Connor
Ms Standen
Ms White
Dr Woodruff
Dr Broad (Teller)

NOES 11

Mr Barnett
Ms Courtney
Mr Ferguson
Mr Gutwein
Mr Hodgman
Mr Jaensch
Mrs Petrusma
Mr Rockliff
Mrs Rylah
Mr Tucker
Mr Shelton (Teller)

PAIRS

Ms Houston

Ms Archer

SPEAKER GIVES CASTING VOTE. – The Speaker said: “The numbers being equal, I vote with the Ayes.”

It was resolved in the Affirmative.

9 BILL NO. 47 of 2018. - The House, according to Order, proceeded to take into consideration the Amendments made by the Legislative Council to the Justice and Related Legislation (Marriage Amendments) Bill 2018.

(In the Committee)

The Chair of Committees took the Chair.

Amendments

Clause 1

Page 5.

Leave out "Marriage".

Insert instead "Marriage and Gender".

Motion made and Question proposed – To disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

And the Question being put;

The Committee divided.

AYES 10

Mr *Barnett*
Ms *Courtney*
Mr *Ferguson*
Mr *Gutwein*
Mr *Hodgman*
Mr *Jaensch*
Mrs *Petrusma*
Mr *Rockliff*
Mrs *Rylah*
Mr *Tucker* (Teller)

NOES 12

Mr *Bacon*
Ms *Butler*
Ms *Haddad*
Ms *Hickey*
Ms *Houston*
Mr *O'Byrne*
Ms *O'Byrne*
Ms *O'Connor*
Ms *Standen*
Ms *White*
Dr *Woodruff*
Dr *Broad* (Teller)

PAIRS

Ms *Archer*

Ms *Dow*

It passed in the Negative.

Amendment agreed to.

Clause 2

Page 5.

Leave out the Clause.

Amendment agreed to.

Clause 6

First Amendment

Page 7, paragraph (a).

Leave out the words "a parent or guardian".

Insert instead "the father, the mother, a parent or a guardian".

Amendment agreed to.

Second amendment

Same page, paragraph (b).

Leave out the words "the parent".

Insert instead "the father, mother or parent".

Amendment agreed to.

Clause 7

Page 7.

Leave out the words "a parent".

Insert instead "the father, the mother, a parent or a guardian".

Amendment agreed to.

Clause 13

First amendment

Page 11, paragraph (a).

Leave out the paragraph.

Insert instead the following paragraphs:

- (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;

- (ba) 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 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;

Motion made and Question proposed – To disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

And the Question being put;

The Committee divided.

AYES 10

NOES 12

Mr *Barnett*
Ms *Courtney*
Mr *Ferguson*
Mr *Gutwein*
Mr *Hodgman*
Mr *Jaensch*
Mrs *Petrusma*
Mr *Rockliff*
Mrs *Rylah*
Mr *Tucker* (Teller)

Dr *Broad*
Ms *Butler*
Ms *Haddad*
Ms *Hickey*
Ms *Houston*
Mr *O'Byrne*
Ms *O'Byrne*
Ms *O'Connor*
Ms *Standen*
Ms *White*
Dr *Woodruff*
Mr *Bacon* (Teller)

PAIRS

Ms *Archer*

Ms *Dow*

It passed in the Negative.

Amendment agreed to.

Second amendment

Page 12, after paragraph (b).

Insert the following paragraph:

(ca) 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 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;

Motion made and Question proposed – To disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

And the Question being put;

The Committee divided.

AYES 10

Mr *Barnett*
Ms *Courtney*
Mr *Ferguson*
Mr *Gutwein*
Mr *Hodgman*
Mr *Jaensch*
Mrs *Petrusma*
Mr *Rockliff*
Mrs *Rylah*
Mr *Tucker* (Teller)

NOES 12

Dr *Broad*
Ms *Butler*
Ms *Haddad*
Ms *Hickey*
Ms *Houston*
Mr *O'Byrne*
Ms *O'Byrne*
Ms *O'Connor*
Ms *Standen*
Ms *White*
Dr *Woodruff*
Mr *Bacon* (Teller)

PAIRS

Ms *Archer*

Ms *Dow*

It passed in the Negative.

Amendment agreed to.

Clause 14

Page 13.

Leave out the Clause.

Amendment agreed to.

Clause 15

Page 13, proposed new subsection (1), paragraph (b).

Leave out "gender".

Insert instead "sex".

Motion made and Question proposed – To disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

And the Question being put;

The Committee divided.

AYES 10

NOES 12

Mr *Barnett*
Ms *Courtney*
Mr *Ferguson*
Mr *Gutwein*
Mr *Hodgman*
Mr *Jaensch*
Mrs *Petrusma*
Mr *Rockliff*
Mrs *Rylah*
Mr *Tucker* (Teller)

Mr *Bacon*
Dr *Broad*
Ms *Butler*
Ms *Haddad*
Ms *Hickey*
Ms *Houston*
Ms *O'Byrne*
Ms *O'Connor*
Ms *Standen*
Ms *White*
Dr *Woodruff*
Mr *O'Byrne* (Teller)

PAIRS

Ms *Archer*

Ms *Dow*

It passed in the Negative.

Amendment agreed to.

Clause 16

Page 14, proposed new subsection (3).

Leave out the proposed new subsection.

Insert instead the following new 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 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.

Motion made and Question proposed – To disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

And the Question being put;

The Committee divided.

AYES 10

NOES 12

Mr Barnett
 Ms Courtney
 Mr Ferguson
 Mr Gutwein
 Mr Hodgman
 Mr Jaensch
 Mrs Petrusma
 Mr Rockliff
 Mrs Rylah
 Mr Tucker (Teller)

Mr Bacon
 Dr Broad
 Ms Haddad
 Ms Hickey
 Ms Houston
 Mr O'Byrne
 Ms O'Byrne
 Ms O'Connor
 Ms Standen
 Ms White
 Dr Woodruff
 Ms Butler (Teller)

PAIRS

Ms Archer

Ms Dow

It passed in the Negative.

Amendment agreed to.

Clause 18

Page 14.

Leave out "of 16 years or over".

Insert instead "who has attained the age of 16 years".

Motion made and Question proposed – To disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

SUSPENSION OF SITTING. - At One o'clock the Chair of Committees left the Chair.
At half-past Two o'clock the Chair of Committees resumed the Chair.

Amendment to Clause 18 further considered.

And the Question being put;

The Committee divided.

AYES 10

NOES 12

Mr Barnett
Ms Courtney
Mr Ferguson
Mr Gutwein
Mr Hodgman
Mr Jaensch
Mrs Petrusma
Mr Rockliff
Mrs Rylah
Mr Tucker (Teller)

Mr Bacon
Dr Broad
Ms Dow
Ms Haddad
Ms Hickey
Ms Houston
Mr O'Byrne
Ms O'Connor
Ms Standen
Ms White
Dr Woodruff
Ms Butler (Teller)

PAIRS

Ms Archer

Ms O'Byrne

It passed in the Negative.

Amendment agreed to.

Clause 19

Page 14, paragraph (a).

Leave out "under the age of 16 years".

Insert instead "who has not attained the age of 16 years".

Motion made and Question proposed – To disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

And the Question being put;

The Committee divided.

AYES 10

NOES 12

Mr *Barnett*
Ms *Courtney*
Mr *Ferguson*
Mr *Gutwein*
Mr *Hodgman*
Mr *Jaensch*
Mrs *Petrusma*
Mr *Rockliff*
Mrs *Rylah*
Mr *Tucker* (Teller)

Dr *Broad*
Ms *Dow*
Ms *Haddad*
Ms *Hickey*
Ms *Houston*
Mr *O'Byrne*
Ms *O'Byrne*
Ms *O'Connor*
Ms *Standen*
Ms *White*
Dr *Woodruff*
Ms *Butler* (Teller)

PAIRS

Ms *Archer*

Mr *Bacon*

It passed in the Negative.

Amendment agreed to.

Clause 20

Page 15.

Leave out the Clause.

Amendment agreed to.

Clause 21

Page 16, proposed new Part 4A.

Leave out the proposed new Part.

Insert instead the following proposed new Part:

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 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 –
 - (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 –
 - (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 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 –
 - (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
 - (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 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 28A(1), (3) or (4) by refusing to register a gender as the registered gender in relation to a person –
- (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 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 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 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 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 –
 does not, except as otherwise provided under the will, 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.

Motion made and Question proposed – To disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

And the Question being put;

The Committee divided.

AYES 10

Mr *Barnett*
 Ms *Courtney*
 Mr *Ferguson*
 Mr *Gutwein*
 Mr *Hodgman*
 Mr *Jaensch*
 Mrs *Petrusma*
 Mr *Rockliff*
 Mrs *Rylah*
 Mr *Tucker* (Teller)

NOES 12

Dr *Broad*
 Ms *Butler*
 Ms *Haddad*
 Ms *Hickey*
 Ms *Houston*
 Mr *O'Byrne*
 Ms *O'Byrne*
 Ms *O'Connor*
 Ms *Standen*
 Ms *White*
 Dr *Woodruff*
 Ms *Dow* (Teller)

PAIRS

Ms *Archer*

Mr *Bacon*

It passed in the Negative.

Amendment agreed to.

Clause 22

Page 25.

Leave out the Clause.

Amendment agreed to.

Clause 23

Page 25.

Leave out all words after "is amended".

Insert instead "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 –
 - (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 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
 - (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 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 (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 –
- (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 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.

Motion made and Question proposed – To disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

And the Question being put;

The Committee divided.

AYES 10

Mr Barnett
Ms Courtney
Mr Ferguson
Mr Gutwein
Mr Hodgman
Mr Jaensch
Mrs Petrusma
Mr Rockliff
Mrs Rylah
Mr Tucker (Teller)

NOES 12

Dr Broad
Ms Butler
Ms Haddad
Ms Hickey
Ms Houston
Mr O'Byrne
Ms O'Byrne
Ms O'Connor
Ms Standen
Ms White
Dr Woodruff
Ms Dow (Teller)

PAIRS

Ms Archer

Mr Bacon

It passed in the Negative.

Amendment agreed to.

Clause 24

Page 26, proposed new subsection (1A).

Leave out "the gender of a person as registered or collected under section 50".

Insert instead "the sex or gender registered in relation to a person".

Motion made and Question proposed – To disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

And the Question being put;

The Committee divided.

AYES 10

Mr Barnett
Ms Courtney
Mr Ferguson
Mr Gutwein
Mr Hodgman
Mr Jaensch
Mrs Petrusma
Mr Rockliff
Mrs Rylah
Mr Tucker (Teller)

NOES 12

Dr Broad
Ms Butler
Ms Haddad
Ms Hickey
Ms Houston
Mr O'Byrne
Ms O'Byrne
Ms O'Connor
Ms Standen
Ms White
Dr Woodruff
Ms Dow (Teller)

PAIRS

Ms Archer

Mr Bacon

It passed in the Negative.

Amendment agreed to.

Clause 32

First amendment

Page 30, paragraph (a).

Leave out the words "the person's parents".

Insert instead "the person's father, mother or parents".

Amendment agreed to.

Second amendment

Same page, paragraph (b).

Leave out the words "person's parents".

Insert instead "person's father, mother or parent".

Amendment agreed to.

Third amendment

Same page, paragraph (c).

Leave out the words "either of the person's parents".

Insert instead "the person's father, mother or either of the person's parents".

Amendment agreed to.

New Clause A

To follow clause 1, in Part 1.

A. 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.

Amendment agreed to.

New Clause B

To follow Clause 11.

B. Section 3A inserted

After section 3 of the Principal Act the following section is inserted:

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
 - (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).

Motion made and Question proposed – To disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

And the Question being put;

The Committee divided.

AYES 10

Mr Barnett
Ms Courtney
Mr Ferguson
Mr Gutwein
Mr Hodgman
Mr Jaensch
Mrs Petrusma
Mr Rockliff
Mrs Rylah
Mr Tucker (Teller)

NOES 12

Dr Broad
Ms Butler
Ms Dow
Ms Haddad
Ms Hickey
Mr O'Byrne
Ms O'Byrne
Ms O'Connor
Ms Standen
Ms White
Dr Woodruff
Ms Houston (Teller)

PAIRS

Ms Archer

Mr Bacon

It passed in the Negative.

Amendment agreed to.

New Clause C

To follow in Part 4, Clause 20

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

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

Motion made and Question proposed – to disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

And the Question being put;

The Committee divided.

AYES 10

NOES 12

Mr *Barnett*
Ms *Courtney*
Mr *Ferguson*
Mr *Gutwein*
Mr *Hodgman*
Mr *Jaensch*
Mrs *Petrusma*
Mr *Rockliff*
Mrs *Rylah*
Mr *Tucker* (Teller)

Dr *Broad*
Ms *Butler*
Ms *Dow*
Ms *Haddad*
Ms *Hickey*
Mr *O'Byrne*
Ms *O'Byrne*
Ms *O'Connor*
Ms *Standen*
Ms *White*
Dr *Woodruff*
Ms *Houston* (Teller)

PAIRS

Ms *Archer*

Mr *Bacon*

It passed in the Negative.

Amendment agreed to.

New Clause D

To follow, in Part 4, Clause 24.

D. Section 54 amended (False Representation)

Section 54 of the Principal Act is amended:

- (a) by renumbering the section as subsection (1); and
- (b) 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
 - (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.

Motion made and Question proposed – to disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon.

And the Question being put;

The Committee divided.

AYES 10

Mr *Barnett*
Ms *Courtney*
Mr *Ferguson*
Mr *Gutwein*
Mr *Hodgman*
Mr *Jaensch*
Mrs *Petrusma*
Mr *Rockliff*
Mrs *Rylah*
Mr *Tucker* (Teller)

NOES 12

Dr *Broad*
Ms *Butler*
Ms *Dow*
Ms *Haddad*
Ms *Hickey*
Mr *O'Byrne*
Ms *O'Byrne*
Ms *O'Connor*
Ms *Standen*
Ms *White*
Dr *Woodruff*
Ms *Houston* (Teller)

PAIRS

Ms *Archer*

Mr *Bacon*

It passed in the Negative.

Amendment agreed to.

New Clause E

To follow in Part 4, clause 24.

E. Transitional provisions

(1) If an application under section 23 of this Act –

- (a) has been, before the gender amendments day, made in relation to a change of name of a person; and
- (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) of this Act as in force after that day.

(2) If an application –

- (a) has been made under section 28A of this Act 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
- (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 of this Act 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) of this Act 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) of this Act as in force after that day; or
 - (ii) if a request, in relation to the application, was not made under section 28D(2) of this Act 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)(c) of this Act as in force after that day.

Motion made and Question proposed – To disagree to the Amendment of the Legislative Council (The Premier);

A debate arose thereupon;

And the Question being put;

The Committee divided.

AYES 10

Mr *Barnett*
Ms *Courtney*
Mr *Ferguson*
Mr *Gutwein*
Mr *Hodgman*
Mr *Jaensch*
Mrs *Petrusma*
Mr *Rockliff*
Mrs *Rylah*
Mr *Tucker* (Teller)

NOES 12

Dr *Broad*
Ms *Butler*
Ms *Haddad*
Ms *Hickey*
Ms *Houston*
Mr *O'Byrne*
Ms *O'Byrne*
Ms *O'Connor*
Ms *Standen*
Ms *White*
Dr *Woodruff*
Ms *Dow* (Teller)

PAIRS

Ms *Archer*

Mr *Bacon*

It passed in the Negative.

Amendment agreed to.

Resolution to be reported.

The House being resumed, Mr *Shelton* reported that the Committee had considered the Amendments to it referred, and had come to a certain Resolution which was read as follows:-

To agree to the Amendments of the Legislative Council.

Resolved, That the said Resolution be agreed to. (The Premier)

10 BILL NO. 47 of 2018. - A Message to the Legislative Council. -

MR PRESIDENT

The House of Assembly doth agree to the Amendments made by the Legislative Council to the Bill intituled-

“A Bill for 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.”.

House of Assembly, 10 April 2019.

SUE HICKEY, *Speaker*.

11 BILL NO. 4. - A Message from the Legislative Council -

MADAM SPEAKER,

The Legislative Council has agreed, without Amendment, to a Bill, intituled - "A Bill for an Act to amend the Motor Accidents (Liabilities and Compensation) Act 1973".

Legislative Council, 10 April 2017.

J. S. WILKINSON, *President*.

12 BILL NO. 12. – The Minister for Health presented -

“A Bill for an Act to amend the Ambulance Service Act 1982, the Food Act 2003, the Mental Health Act 2013, the Pharmacy Control Act 2001, the Poisons Act 1971 and the Public Health Act 1997”.

And Mr *Ferguson* having presented the said Bill, the same was read the First time and made an Order of the Day for tomorrow.

13 BILL NO. 11. – The Minister for State Growth presented -

“A Bill for an Act to assist councils in the Greater Hobart area and the State Government to better collaborate with each other in the making of decisions that will affect strategic land use planning, and the provision of infrastructure, in the Greater Hobart area, and for related purposes”.

And Mr *Gutwein* having presented the said Bill, the same was read the First time and made an Order of the Day for tomorrow.

14 STATEMENT BY SPEAKER. – The Speaker said:- “Honourable Members, given that we have an historic occasion occurring in the House, I will make a brief comment.

I have listened carefully to the debate on the previous Bill in this House and thereafter in the other place and I now provide my reasons for supporting it. This rigorous debate has shown a true parliament in action, where a majority of members of the House of Assembly and a majority of members of the Legislative Council voted in favour of this bill after all the facts were covered in excruciating detail.

Many people spoke to me about this Bill, as I am sure they did with all my parliamentary colleagues, representing passionately held views for and against this bill. I note the passage of this legislation would have been much easier if the Office of Parliamentary Counsel had been made available to members of this House.

I believe wholeheartedly that this Bill removes discrimination of the transgender community and the only unintended consequence would be that a failure to pass this legislation would result in more psychological damage to the transgender community and their families.

This is not a win for any particular political party, rather it grants dignity to the transgender community. Therefore, I record that I supported this amended Bill.”

15 MATTER OF PUBLIC IMPORTANCE: LEGISLATIVE COUNCIL SPECIAL REPORT ON FAILURE TO PROVIDE DOCUMENTS. - Ms *White* in accordance with Standing Orders, moved - That the House take note of the following matter:

Legislative Council Special Report on Failure to Provide Documents.

And the Question being proposed;

16 PAPERS. – The Minister for Health laid upon the table of the House a copy of a letter dated 13 November 2018 from the Minister for Health to the Chair of the Legislative Council Government Administration Sub-Committee A Inquiry into Acute Health Services in Tasmania.

17 MATTER OF PUBLIC IMPORTANCE: LEGISLATIVE COUNCIL SPECIAL REPORT ON FAILURE TO PROVIDE DOCUMENTS. – And the Question being again proposed;

The House resumed the Debate.

And the Question being put;

It was resolved in the Affirmative.

18 SITTING TIMES. - *Ordered*, Pursuant to Sessional Order 18A that for this day's sitting the House not stand adjourned at Six o'clock and that the House continue to sit past Six o'clock. (The Minister for Health)

19 PREMIER'S ADDRESS. - The Order of the Day being read for the resumption of the adjourned debate on the Question proposed on Tuesday, 19 March 2019 - That the Premier's Address be noted.

And the Question being again proposed;

The House resumed the said adjourned debate.

Ordered, That the Debate be adjourned until tomorrow. (The Minister for Resources)

20 BILL NO. 7. - The Order of the Day being read for resuming the adjourned Debate on the Question proposed on Tuesday, 9 April 2019 - That the Workers Rehabilitation and Compensation Amendment (Presumption as to Cause of Disease) Bill 2019 be now read the Second time;

And the Question being again proposed;
The House resumed the said adjourned Debate.

And the Question being put;
Ordered, That the Bill be now read the Second time.

And the Bill was, accordingly, read the Second time, and committed to a Committee of the whole House.
And the Speaker having left the Chair, the House resolved itself into the said Committee.

(In the Committee)

Mrs *Rylah* took the Chair

Clauses 1 to 3 agreed to.

Clause 4 read.

Amendment proposed (Ms *O'Byrne*) by inserting new section 28B after proposed new section 28A:

- (1) The Minister must cause a review of the operation into section 28A to be undertaken and completed as soon as practicable after the end of:
 - (a) the 12 month period from the commencement of the section;
 - (b) each 2 year period after the completion of each previous review of the operation of Section 28A.
- (2) The person who undertakes the review must provide a written report of the review to the Minister as soon as practicable after the review is completed.
- (3) The Minister must cause the written report of the review to be laid before each House of Parliament within 10 sitting days after the report is provided to the Minister.

Question put – That the Amendment be agreed to;

The Committee divided.

AYES 11

Mr *Bacon*
 Dr *Broad*
 Ms *Dow*
 Ms *Houston*
 Mr *O'Byrne*
 Ms *O'Byrne*
 Ms *O'Connor*
 Ms *Standen*
 Ms *White*
 Dr *Woodruff*
 Ms *Butler* (Teller)

NOES 11

Mr *Barnett*
 Ms *Courtney*
 Mr *Ferguson*
 Mr *Gutwein*
 Ms *Hickey*
 Mr *Hodgman*
 Mr *Jaensch*
 Mrs *Petrusma*
 Mr *Rockliff*
 Mr *Shelton*
 Mr *Tucker* (Teller)

PAIRS

Ms *Haddad*

Ms *Archer*

DEPUTY CHAIR OF COMMITTEES GIVES CASTING VOTE. – The Deputy Chair of Committees, Mrs *Rylah* said: “The numbers being equal, I vote with the Noes.”

So it passed in the Negative.

Clause 4 as read agreed to.

Clauses 5 to 6 agreed to.

Title agreed to.

Bill to be reported without Amendment.

The House being resumed, Mrs *Rylah* reported that the Committee had gone through the Bill, and had directed him to report the same to the House without Amendment.

Ordered, That the Bill be now read the Third time.

And the Bill was, accordingly, read the Third time.

21 BILL NO. 7. - A Message to the Legislative Council. -

MR PRESIDENT

The House of Assembly hath passed a Bill, intituled “A Bill for an Act to amend the Workers Rehabilitation and Compensation Act 1988 in relation to post-traumatic stress disorder”,

to which the House desires the concurrence of the Legislative Council.

House of Assembly, 10 April 2019.

SUE HICKEY, *Speaker.*

22 PAPERS. – Dr *Woodruff*, *by leave*, laid upon the Table of the House a document in relation to safety for pedestrians and motorists between Lauderdale Primary and Ringwood Road.

The House adjourned at six minutes past Seven o'clock.

SHANE DONNELLY, *Clerk of the House.*

MEMBERS. - All present during the day except Ms *Archer*.