



LEGISLATIVE COUNCIL

SESSION OF 2019

(SECOND SESSION OF THE FORTY-NINTH PARLIAMENT)

VOTES AND PROCEEDINGS

No. 6

THURSDAY, 4 APRIL 2019

1 COUNCIL MEETS.— The Council met at 9.30 o'clock in the forenoon and the President read Prayers.

2 BILL NO. 47 OF 2018.— The Order of the Day was read for the further consideration in Committee of the Justice and Related Legislation (Marriage Amendments) Bill 2018.

And the President having left the Chair, the Council resolved itself into the said Committee.

(In the Committee)

Mr *Gaffney* in the Chair.

Clause 21 as read further considered, Amendment proposed (Ms *Forrest*)

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.

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.

Amendments proposed to be made to the main proposed Amendment proposed. (Ms Armitage)

First amendment

Page 6 of the proposed amendments, proposed new Part 4A, proposed s 28A, new subsection (2), after paragraph (b).

Insert the following paragraph:

- (ca) 2 certificates –
 - (i) one of which is issued by a medical practitioner and one of which is issued by a psychiatrist within the meaning of the *Mental Health Act 2013*; and
 - (ii) each of which certifies that, in the opinion of the person issuing the certificate, the person to whom the application relates genuinely identifies as a member of the gender that is specified in the certificate.

Second amendment

Page 8 of the proposed amendments, proposed new Part 4A, proposed s 28A, new subsection (5), after paragraph (b).

Insert the following paragraph:

- (ca) 2 certificates –
 - (iii) one of which is issued by a medical practitioner and one of which is issued by a psychiatrist within the meaning of the *Mental Health Act 2013*; and

- (iv) each of which certifies that, in the opinion of the person issuing the certificate, the person to whom the application relates genuinely identifies as a member of the gender that is specified in the certificate.

The Question being put, That the Amendments proposed to be made to the main proposed Amendment be agreed to,

Council divided.

AYES 4

NOES 10

Ms Armitage
Mr Armstrong
Mr Dean (Teller)
Ms Rattray

Mr Farrell
Mr Finch (Teller)
Ms Forrest
Mr Gaffney
Mrs Hiscutt
Ms Howlett
Ms Lovell
Ms Siejka
Mr Valentine
Mr Willie

So it passed in the Negative.

Amendment made to the main proposed Amendment. (*Mr Dean*)

Proposed new Part 4A, proposed new Section 28A, after subsection (6).

Insert the following:

(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.

The Question being put, That the main proposed Amendment by inserting new Subsection 28A, as amended, be agreed to,

Committee divided.

AYES 8

NOES 6

Mr Farrell
Mr Finch
Ms Forrest
Mr Gaffney
Ms Lovell (Teller)
Ms Siejka
Mr Valentine
Mr Willie

Ms Armitage
Ms Armstrong
Mr Dean
Mrs Hiscutt
Ms Howlett (Teller)
Ms Rattray

It was resolved in the Affirmative.

Proposed Amendment, proposed new section 28B, further considered.

The Question being put, That the main proposed Amendment by inserting new Subsection 28B be agreed to.

It was resolved in the affirmative.

Clause as amended, further considered.

Amendment, proposed new section 28C, further considered.

The Question being put, That the main proposed Amendment by inserting new subsection 28C be agreed to,

Committee divided.

AYES 8

NOES 6

Mr *Farrell*

Ms *Armitage*

Mr *Finch*

Mr *Armstrong*

Ms *Forrest*

Mr *Dean*

Mr *Gaffney*

Mrs *Hiscutt*

Ms *Lovell*

Ms *Howlett* (Teller)

Ms *Siejka*

Ms *Rattray*

Mr *Valentine*

Mr *Willie* (Teller)

It was resolved in the Affirmative.

Proposed Amendment, proposed new section 28D further considered.

Ordered, That Mrs *Hiscutt*, have leave to Table the Letter to Ms *Forrest* from the Commissioner of Police dated 1 April 2019.

3 SITTING SUSPENDED.— It being 1.00 o'clock p.m. the Sitting of the Council was suspended.

The Council resumed the Sitting at 2.30 o'clock p.m.

4 QUESTION TIME.— The President called for Questions without Notice. There were five Questions asked.

5 BILL NO. 47 OF 2018.— The Council again resolved itself into a Committee on the Justice and Related Legislation (Marriage Amendments) Bill 2018.

(In the Committee)

Mr *Gaffney* in the Chair.

Clause 21 Proposed Amendment, proposed new subsection 28D further considered.

Ordered, That Mr *Dean*, have leave to Table a letter to Mr *Dean* from the Commissioner of Police dated 10 January 2019.

The Question being put, That the main proposed Amendment by inserting new subsection 28D be agreed to.

Committee divided.

AYES 8

NOES 6

Mr *Farrell*

Ms *Armitage*

Mr *Finch*

Ms *Armstrong*

Ms *Forrest*

Mr *Dean*

Mr <i>Gaffney</i>	Mrs <i>Hiscutt</i>
Ms <i>Lovell</i>	Ms <i>Howlett</i> (Teller)
Ms <i>Siejka</i>	Ms <i>Rattray</i>
Mr <i>Valentine</i> (Teller)	
Mr <i>Willie</i>	

It was resolved in the Affirmative.

Clause as amended, further considered.

Proposed Amendment by inserting new subsection 28E further considered.

The Question being put, That the main proposed Amendment by inserting new subsection 28E be agreed to.

It was resolved in the Affirmative.

The Question being put, That Clause 21 as Amended be agreed to.

Committee divided.

AYES 8

NOES 6

Mr <i>Farrell</i>	Ms <i>Armitage</i>
Mr <i>Finch</i>	Mr <i>Armstrong</i>
Ms <i>Forrest</i> (Teller)	Mr <i>Dean</i>
Mr <i>Gaffney</i>	Mrs <i>Hiscutt</i>
Ms <i>Lovell</i>	Ms <i>Howlett</i> (Teller)
Ms <i>Siejka</i>	Ms <i>Rattray</i>
Mr <i>Valentine</i>	
Mr <i>Willie</i>	

It was resolved in the Affirmative.

Clause 22 disagreed to.

Clause 23 Amendment proposed (Ms *Forrest*)

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.

The Question being put, That the Amendment be agreed to,
Committee divided.

AYES 8

NOES 6

Mr Farrell

Ms Armitage

Mr Finch

Mr Armstrong

Ms Forrest

Mr Dean

Mr Gaffney

Mrs Hiscutt

Ms Lovell

Ms Howlett

Ms Siejka (Teller)

Ms Rattray (Teller)

Mr Valentine

Mr Willie

It was resolved in the Affirmative.

Clause as amended, further considered.

Motion made (*Mr Dean*) and Question proposed, That the Chair do report progress and seek leave to sit again.

A Debate arose thereupon.

And the Question being put,

Committee divided.

AYES 6

NOES 8

Ms Armitage

Mr Farrell

Mr Armstrong

Mr Finch (Teller)

Mr Dean

Ms Forrest

Mrs Hiscutt

Mr Gaffney

Ms Howlett (Teller)

Ms Lovell

Ms Rattray

Ms Siejka

Mr Valentine

Mr Willie

So it passed in the Negative.

Motion made (*Mr Dean*) and Question put, That the Clause as amended be postponed,

Committee divided.

AYES 6

NOES 8

Ms <i>Armitage</i>	Mr <i>Farrell</i>
Mr <i>Armstrong</i>	Mr <i>Finch</i>
Mr <i>Dean</i>	Ms <i>Forrest</i>
Mrs <i>Hiscutt</i>	Mr <i>Gaffney</i>
Ms <i>Howlett</i> (Teller)	Ms <i>Lovell</i>
Ms <i>Rattray</i>	Ms <i>Siejka</i>
	Mr <i>Valentine</i> (Teller)
	Mr <i>Willie</i>

So it passed in the Negative.

Clause as amended, agreed to.

Clause 24, Amendment made. (Ms *Forrest*)

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".

Clause as amended agreed to.

Clauses 25 to 31 agreed to.

Clause 32, Amendments made. (Ms *Armitage*)

First amendment

Page 30, paragraph (a).

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

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

Second amendment

Same page, paragraph (b).

Leave out the words "person's parents".

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

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".

Clause as amended, agreed to.

Clauses 33 to 35 agreed to.

Postponed Clause 20 as read, further considered.

Amendment proposed (Mr *Dean*)

Page 15.

Leave out all words after "Section".

Insert instead "27 is amended by omitting from subsection (3) all words after "for the person" and substituting the following:

"must –

- (a) include both the name to which the person's name has been changed and a notation of each name of the person that was previously registered; or
- (b) if the Registrar thinks fit and has been requested to do so by the person applying for the birth certificate, include only the name to which the person's name has been changed, without a notation of any name of the person that was previously registered."

The Question being put, That the Amendment be agreed to,

It passed in the Negative

Clause disagreed to.

New Clause A (Ms *Forrest*)

New Clause A [Commencement] brought up (Ms *Forrest*) and read the First time as follows:—

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 90 days after the day on which this Act receives the Royal Assent, that Part is taken to commence 90 days after the day on which this Act receives the Royal Assent.

Amendment made to proposed new Clause A. (Ms *Rattray*)

Proposed subsection (2).

Leave out "90 days" (twice occurring).

Insert instead "120 days".

New Clause as amended read the Second time and made part of the Bill (to follow Clause 1 in Part 1).

New Clause B [Section 3A Meaning of, and designation, of gender] brought up (Ms *Forrest*) and read the First time as follows:—

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).

Read the Second time and made part of the Bill (to follow Clause 11).

New Clause C [Section 27 amended (Entries to be made in Register)] brought up (Ms *Forrest*) and read the First time as follows:—

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

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

Read the Second time and made part of the Bill (to follow Part 4, Clause 20).

New Clause D [Section 52A Solemnisation of marriage] brought up (Ms *Armitage*) and read the First time as follows:—

A. Section 52A inserted

After section 52 of the Principal Act, the following section is inserted in Division 8:

52A. Solemnisation of marriage

A person may discriminate against another person on the ground of religious belief or affiliation or religious activity by refusing to solemnise a marriage if the circumstances mentioned in section 47 or 47A of the *Marriage Act 1961* of the Commonwealth apply to that refusal.

Question put, That New Clause D be read the Second time.

Committee divided.

AYES 5

NOES 9

Ms *Armitage*

Mr *Farrell*

Mr *Armstrong*

Mr *Finch*

Mr *Dean*

Ms *Forrest*

Mrs *Hiscutt*

Mr *Gaffney*

Ms *Howlett* (Teller)

Ms *Lovell*

Ms *Rattray*

Ms *Siejka*

Mr *Valentine* (Teller)

Mr *Willie*

So it passed in the Negative.

New Clause D [Section 54 amended (False representation)] brought up (*Ms Forrest*) and read the First time as follows:—

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.

Read the Second time and made part of the Bill (to follow in Part 4, Clause 24).

New Clause E [E Transitional provisions] brought up (*Ms Forrest*) and read the First time as follows:—

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.

Read the Second time and made part of the Bill (to follow in Part 4, Clause 24).

Title agreed to.

A Motion was made (Mr *Dean*) and the Question was proposed, That the Chair do report progress and seek leave to sit again.

The Motion was, by leave, withdrawn. (Mr *Dean*)

The Question being put, That the Bill be reported with Amendments.

Committee divided.

AYES 8

NOES 6

Mr *Farrell*

Ms *Armitage*

Mr *Finch*

Mr *Armstrong*

Ms *Forrest* (Teller)

Mr *Dean*

Mr *Gaffney*

Mrs *Hiscutt*

Ms *Lovell*

Ms *Howlett*

Ms *Siejka*

Ms *Rattray* (Teller)

Mr *Valentine*

Mr *Willie*

It was resolved in the Affirmative.

The Council being resumed, Mr *Gaffney* reported that the Committee had gone through the Bill, and directed him to report the same to the Council with Amendments.

Ordered, That the consideration of the Bill as amended in Committee be made an Order of the Day for tomorrow. (Mrs *Hiscutt*)

6 BILL NO. 3.— The Order of the Day was read for the Second reading of the Electoral Amendment Bill 2019.

A Motion was made (Mrs *Hiscutt*), and the Question was proposed, That the Bill be now read the Second time.

A Debate arose thereupon.

And the Question being put,

It was resolved in the Affirmative.

And the Bill was, accordingly, read the Second time and committed to a Committee of the Whole Council.

And the President having left the Chair, the Council resolved itself into the said Committee.

(In the Committee)

Ms *Forrest* in the Chair.

Clauses 1 to 16 agreed to.

Title agreed to.

Bill to be reported without Amendment.

The Council being resumed, Ms *Forrest* reported that the Committee had gone through the Bill, and directed her to report the same to the Council without Amendment.

Ordered, That Mrs *Hiscutt* have leave to move a Motion without Notice.

Ordered, That Standing Order No. 279 be suspended in respect of this Bill, in order that the Bill may be now read the Third time. (Mrs *Hiscutt*)

A Motion was made (Mrs *Hiscutt*) and the Question was proposed, That the Bill be now read the Third time.

A Debate arose thereupon.

And the Question being put,

It was resolved in the Affirmative.

Ordered, That the Bill be now read the Third time (Mrs *Hiscutt*)

The Bill was read the Third time and passed.

7 BILL NO. 3.— A Message to the House of Assembly:—

MADAM SPEAKER,

The Legislative Council has this day agreed, without Amendment, to the Bill intituled, ‘A Bill for an Act to amend the *Electoral Act 2004*’.

Legislative Council, 4 April 2019

J.S. WILKINSON, *President*

8 ADJOURNMENT.— A Motion was made (Mrs *Hiscutt*) and the Question was proposed, That the Council will at its rising adjourn until 11.00 o’clock am on Tuesday, 9 April 2019.

A Debate arose thereupon.

And the Question being put,

It was resolved in the Affirmative.

Resolved, That the Council do now adjourn. (Mrs *Hiscutt*)

The Council adjourned at 7.21 o’clock p.m.

D.T. PEARCE, *Clerk of the Council*.