

TASMANIA

**JUSTICE AND RELATED LEGISLATION
(MARRIAGE AMENDMENTS) BILL 2018**

CONTENTS

PART 1 – PRELIMINARY

1. Short title
2. Commencement

PART 2 – ADOPTION ACT 1988 AMENDED

3. Principal Act
4. Section 20 amended (Persons in whose favour adoption orders may be made)
5. Section 29 amended (Consents required to adoption)
6. Section 104 amended (Taking away, &c., adopted child by natural parent)
7. Section 109 amended (Restriction on publication of identity of parties)

PART 3 – ANTI-DISCRIMINATION ACT 1998 AMENDED

8. Principal Act
9. Section 52A inserted
52A. Solemnisation of marriage

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

10. Principal Act
11. Section 17 amended (Registration of parentage details)

12. Section 28A amended (Application to register change of sex)
13. Section 28C amended (Registration of change of sex)

PART 5 – CIVIL LIABILITY ACT 2002 AMENDED

14. Principal Act
15. Section 28D amended (Abolition of action for loss of consortium)

PART 6 – CONVEYANCING AND LAW OF PROPERTY ACT 1884 AMENDED

16. Principal Act
17. Section 62 amended (Conveyance by person to himself: Bodies corporate, joint tenancies)

PART 7 – CRIMINAL CODE ACT 1924 AMENDED

18. Principal Act
19. Schedule 1 amended (*Criminal Code*)

PART 8 – STATUS OF CHILDREN ACT 1974 AMENDED

20. Principal Act
21. Section 3 amended (All children to be of equal status)
22. Section 5 amended (Presumption of parentage arising from marriage)
23. Section 10C amended (Presumptions as to parenthood)

PART 9 – REPEAL OF ACT

24. Repeal of Act

**JUSTICE AND RELATED LEGISLATION
(MARRIAGE AMENDMENTS) BILL 2018**

*(Brought in by the Minister for Justice, the Honourable Elise
Nicole Archer)*

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*

Be it enacted by Her 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:

PART 1 – PRELIMINARY

1. Short title

This Act may be cited as the *Justice and Related Legislation (Marriage Amendments) Act 2018*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

*Justice and Related Legislation (Marriage Amendments) Act
2018
Act No. of 2018*

s. 3

Part 2 – Adoption Act 1988 Amended

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,”;

*No. 41 of 1988

Justice and Related Legislation (Marriage Amendments) Act 2018
Act No. of 2018

Part 2 – Adoption Act 1988 Amended

s. 6

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

*Justice and Related Legislation (Marriage Amendments) Act
2018
Act No. of 2018*

s. 8

Part 3 – Anti-Discrimination Act 1998 Amended

**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 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 sections 47 or 47A of the *Marriage Act 1961* of the Commonwealth apply to that refusal.

*No. 46 of 1998

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

10. Principal Act

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

11. 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”.

12. Section 28A amended (Application to register change of sex)

Section 28A(1) of the Principal Act is amended as follows:

- (a) by omitting from paragraph (b) “surgery; and” and substituting “surgery –”;
- (b) by omitting paragraph (c).

13. Section 28C amended (Registration of change of sex)

Section 28C of the Principal Act is amended by omitting subsection (3).

*No. 58 of 1999

*Justice and Related Legislation (Marriage Amendments) Act
2018
Act No. of 2018*

s. 14

Part 5 – Civil Liability Act 2002 Amended

PART 5 – CIVIL LIABILITY ACT 2002 AMENDED

14. Principal Act

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

15. 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”.

*No. 54 of 2002

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

16. Principal Act

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

17. 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”.

*No. 19 of 1884

*Justice and Related Legislation (Marriage Amendments) Act
2018
Act No. of 2018*

s. 18

Part 7 – Criminal Code Act 1924 Amended

PART 7 – CRIMINAL CODE ACT 1924 AMENDED

18. Principal Act

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

19. Schedule 1 amended (*Criminal Code*)

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”.

*No. 69 of 1924

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

20. Principal Act

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

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

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

Section 5 of the Principal Act is amended as follows:

*No. 36 of 1974

*Justice and Related Legislation (Marriage Amendments) Act
2018
Act No. of 2018*

s. 23

Part 8 – Status of Children Act 1974 Amended

- (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”.

23. 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”;
- (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,”;

Justice and Related Legislation (Marriage Amendments) Act 2018
Act No. of 2018

Part 8 – Status of Children Act 1974 Amended

s. 23

- (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”.

*Justice and Related Legislation (Marriage Amendments) Act
2018
Act No. of 2018*

s. 24

Part 9 – Repeal of Act

PART 9 – REPEAL OF ACT

24. Repeal of Act

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