SEX DISCRIMINATION COMMISSIONER'S AIDE MEMOIRE: STATE AND TERRITORY LEGISLATION REGARDING ALTERATION OF SEX/GENDER

Legislation as at September 2021 unless otherwise noted

Act	Application	Relevant definitions	Decision	Issuing of certificates	Effect of alteration
Births,	S 30A(1): A person who is		S 30C(1): The Registrar	S 30D: After the record of a	S 30G(1): If the record of
Deaths and	aged 18 years or over may		must determine an	person's sex in the person's	a person's sex in the
Marriages	apply to the Registrar for the		application made under	birth registration or a child's	person's birth registration
Registration	record of the person's sex in		s 30A by altering the	sex in the child's birth	is altered under this Part
Act 1996 (Vic)	the person's birth registration		record of the person's	registration is altered, any	the person is a person of
	to be altered if—		sex in the person's birth	certificate issued by the	the sex as altered.
Gender	(a) the person's birth is		registration or by	Registrar concerning that	
affirming	registered in Victoria; and		refusing to do so.	birth registration—	(2) If an interstate
surgery not a	(b) the person believes the			(a) must state the person's	recognition certificate is
pre-requisite	person's sex to be as			sex or the child's sex in	issued to a person the
	nominated in the			accordance with the record	person is a person of the
	application; and			as altered; and	sex stated in the
	(c) the record of the person's			(b) must not state that the	certificate.
	sex has not been altered			record of the person's sex or	
	within the 12 months			the child's sex has been	(3) Subsections (1), (1A),
	preceding the date of the			altered; and	(1B), (1C), (2) and (2A)
	making of the application			(c) must not state the	have effect for the
				person's former name or	purposes of, but subject
	This must be accompanied by			the child's former name (if	to, the law of Victoria.
	a stat dec made by the			any).	
	applicant addressing the				"Interstate recognition
	above requirements: s 30A(3)				certificate" defined in s 3
					as "a current certificate
	See also s 30E (Victorian				identifying a person as
	residents born elsewhere)				being of a particular sex
					that is issued under a law
					of another State that
					relates to the recognition
					of a person's sex".
Births,	S 29I(1): a person of or	S 29H(1): "clinical	S 29L: If, on an	S 29M(1): Subject to this	S 29R: If an identity
Deaths and	above the age of 18 whose	treatment" need not	application under this	section, an extract or	acknowledgement
Marriages	birth is registered in the State	involve invasive	Division, the Registrar is	certificate issued by the	certificate is issued to a

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Registration	may apply to the Registrarfor	medical treatment (and	satisfied that the	Registrar in relation to a	person under this
Act 1996 (SA)	registration of a change of the	may include or be	applicant has	person after the registration	Division, the person is of
	person's sex or gender identity	constituted by	undertaken a sufficient	of a change in the person's	the sex or gender identity
Gender		counselling)	amount of appropriate	sex or gender identity under	specified in the identity
affirming	S 29K: Such an application		clinical treatment in	this Part must only disclose	acknowledgement
surgery not a	must be accompanied by:	But see (3): For the	relation to their sex or	and certify up-to-date	certificate.
pre-requisite	(a) a statement by a medical	purposes of this Part	gender identity, the	particulars contained in the	
	practitioner or	[4A], clinical treatment	Registrar may make an	relevant entry.	S 29U: A person who has
	psychologist certifying	constituted by	entry about the change		changed their sex or
	that the person has	counselling only cannot	of the person's sex or	S 29Q: If, on an application	gender identity or has
	undertaken a sufficient	be regarded as a	gender identity in the	for an identity	been issued an identity
	amount of appropriate	sufficient amount of	Register, including the	acknowledgement	acknowledgement
	clinical treatment in	appropriate clinical	particulars required by	certificate, the Registrar is	certificate under this Part
	relation to the person's	<i>treatment</i> unless the	regulation.	satisfied that the person	will be taken to have
	sex or gender identity	period of the		has undertaken a sufficient	satisfied a requirement
	(including in the case of a	counselling is equal to		amount of appropriate	under another Act or law
	person whose sex or	or greater than the		clinical treatment in relation	that the person provide
	gender identity has now	prescribed period		to the person's sex or	details of their sex if the
	become determinate)			gender identity, the	person provides details
				Registrar may issue a	of their sex or gender
	See also s 290 (South			certificate that	identity as changed
	Australian residents born			acknowledges the person's	
	outside Australia)			sex or gender identity.	
Births,	S 23: (1) An adult may apply to	Dictionary (Sched 2):	S 22: The reassignment		S 24: (1) A person who
Deaths and	note the reassignment of the	"sexual reassignment	of a person's sex after		has had the
Marriages	adult's sex.	surgery" means a	sexual reassignment		reassignment of the
Registration		surgical procedure	surgery may be noted in		person's sex entered into
Act 2003	(4) The Application must be—	involving the alteration	the person's entry in the		a register maintained
(Qld) (in force	(a) in the approved form; and	of a person's	register of births or		under a corresponding
at time of	(b) accompanied by—	reproductive organs	adopted children		law is a person of the sex
conduct)	(i) statutory declarations, by 2	carried out—	register.		as reassigned.
	doctors, verifying that the	(a) to help the person			(2) A person who is the
Gender	person the subject of the	to be considered to			subject of a recognition
affirming	application has undergone				certificate is a person of

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surgery	sexual reassignment surgery;	be a member of the			the sex stated in the
required	or	opposite sex; or			recognition certificate.
	(ii) a recognition certificate	(b) to correct or			(3) However, the person
		eliminate			must comply with
		ambiguities about			section 23 for the
		the sex of the			reassignment of the
		person.			person's sex to be noted
					under this Act.
		"Recognition			(4) If the reassignment of
		certificate" means a			a person's sex is noted
		certificate issued under			under this Act, the
		the law of another State			person is a person of the
		that identifies the			sex as reassigned.
		person who is the			
		subject of the			
		certificate as—			
		(a) having undergone			
		sexual			
		reassignment			
		surgery; and			
		(b) being the sex			
		stated in the			
		certificate.			
Births,	S 39(1): If the person is 16	S 39(3) A supporting	S 43(2): The Registrar		S 47(1): If the record of a
Deaths and	years or more, the person may	statement must—	may alter, or refuse to		person's sex in the
Marriages	apply to alter the record of sex	(a) be made by a person	alter, the record of sex of		relevant child register is
Registration	of the person in the relevant	who is at least 18 years	the person in the		altered under this
Act 2023	child register.	and who has known the	relevant child register.		division, the person is a
(Qld) (yet to		person making the			person of the sex as
commence)	(2) An application must –	application for at least			altered for the purposes
	(a) be in the form required by	12 months; and			of, but subject to, a law of
Gender	the registrar and made in an	(b) state that the			the State.
affirming	approved way; and	person making the			
surgery not a	(b) nominate a sex descriptor;	supporting statement—			
pre-requisite	and				

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	(c) include a statement, verified by statutory declaration, that the person— (i) identifies as the sex stated in the application; and (ii) lives, or seeks to live, as a person identified by that sex; and (d) be accompanied by— (i) a supporting statement;	(i) believes that the person making the application makes the application in good faith; and (ii) supports the application.			
Births, Deaths and Marriages Registration Act 1995 (NSW) Gender affirming surgery required	S 32B(1): A person who is 18 or above— (a) whose birth is registered in NSW; and (b) who has undergone a sex affirmation procedure; may apply to the Registrarfor alteration of the person's sex in the registration of the person's birth See also s 32DA (NSW residents born elsewhere)	S 32A: a "sex affirmation procedure" is defined as a surgical procedure involving the alteration of a person's reproductive organs carried out— (a) for the purpose of assisting a person to be considered to be a member of the opposite sex, or (b) to correct or eliminate ambiguities relating to the sex of the person.	S 32D(1): The Registrar is to determine an application under s 32B by making the alteration or by refusing to make the alteration.	S 32E(1): After the record of a person's sex is altered under this Part, a birth certificate issued by the Registrar for the person must, unless otherwise requested by the person, show the person's sex in accordance with the record as altered. (2) Any such birth certificate must not include a statement that the person has changed sex.	S 32I(1): A person the record of whose sex is altered under this Part is, for the purposes of, but subject to, any law of NSW, a person of the sex as so altered. (2) A person to whom an interstate recognised details certificate relates is, for the purposes of, but subject to, any law of NSW, a person of the sex as stated in the certificate. (3) An interstate recognised details certificate is a certificate issued under the law of another State that is prescribed by the regulations for the purposes of this section.

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Births,	S 24(1): A person may apply to	NB "Appropriate clinical	S 26: On receipt of an	S 27: (1) A birth certificate	
Deaths and	the registrar-general for	treatment" was not	application under s 24,	issued by the registrar-	
Marriages	alteration of the record of the	defined, although the	the registrar-general	general in relation to a	
Registration	person's sex in the registration	Explanatory Statement	must—	person must show the	
Act 1997	of the person's birth if—	for the Births, Deaths	(a) make the required	person's sex in accordance	
(ACT)	(a) the person is—	and Marriages	alteration to the register;	with the record as altered.	
	(i) at least 16 years old	Registrations	or	(2) The registrar-general	
Gender	(b) the person's birth is	Amendment Bill 2013	(b) refuse to make the	may issue a birth certificate	
affirming	registered in the ACT; and	(ACT), p 5, stated that	required alteration.	showing a person's sex	
surgery not a	(c) the person believes their	the term was not		before the alteration of the	
pre-requisite	sex to be the sex	defined to "ensure that		record if application for the	
	nominated in the	the exercise of		certificate is made—	
	application (the "altered	professional medical		(a) by the person; or	
	sex") and—	judgement is not		(b) by a child of the person;	
	(i) has received	expanded or impeded		or	
	appropriate clinical	by this Act" and		(c) by a person specified by	
	treatment for alteration	confirmed sexual		regulation.	
	of the person's sex; or	reassignment surgery		(3) A birth certificate	
	(ii) is an intersex person	was no longer required		mentioned in this section	
				must not include any word	
	S 25(1): An application under	NB that, due to the		or statement to the effect	
	s 24 for alteration of the	Births, Deaths and		that the person to whom the	
	record of the sex of a person	Marriages Registration		certificate relates has	
	must be accompanied by—	Amendment Act 2024		changed sex.	
	(a) a statement by a doctor, or	(ACT), the requirement			
	a psychologist, certifying that	for "appropriate clinical		NB s 27 has also been	
	the person—	treatment" has been		amended by the Births,	
	(i) has received appropriate	removed: see		Deaths and Marriages	
	clinical treatment for	Supplementary		Registration Amendment	
	alteration of the person's sex;	Explanatory Statement		Act 2024 (ACT)	
	or	to the Births, Deaths			
	(ii) is an intersex person;	and Marriages			
		Registration			
	See also s 29A (ACT residents	Amendment Bill 2023			
	with births registered	(ACT).			
	elsewhere)				

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Births,	S 28B(1): An adult may apply	NB "clinical treatment"	S 28D: On receipt of an	S 28E: (1) If the change of a	S 28H: Where a person's
Deaths and	to the Registrar, in a form	not defined, although	application under	person's sex or gender is	change of sex or gender
Marriages	approved by the Registrar, to	the Explanatory	section 28B, the	registered under this Part, a	is registered under this
Registration	register a change of the	Statement for the	Registrar must:	birth certificate issued by	Part, the person is, for the
Act 1996 (NT)	adult's sex or gender if:	Births, Deaths and	(a) make the requested	the Registrar for the person	purposes of (but subject
	(a) the adult's birth is entered	Marriages Registration	change to the Register;	is, unless otherwise	to) any law in force in the
Gender	in the Register; and	and Other Legislation	or	requested by the person, to	Territory, a person of the
affirming	(b) the adult believes the	Amendment Bill 2018	(b) refuse to make the	show the person's sex or	sex or gender as so
surgery not a	adult's sex or gender to be the	(NT), p 3, states that the	requested change.	gender in accordance with	changed.
pre-requisite	sex or gender specified in the	term was not defined to		the registered change.	
	application; and	"ensure that		(2) A birth certificate	S 28J: A person in respect
	(c) the adult:	professional medical		mentioned in subsection (1)	of whom there is a
	(i) has received appropriate	opinions are not		must not include a	recognition certificate is,
	clinical treatment in relation	impeded by the Act,		statement that the person	for the purposes of (but
	to the adult's sex or gender;	and to recognise that		has changed sex or gender.	subject to) any law in
	or	different types and			force in the Territory, a
	(ii) is an intersex person.	levels of clinical			person of the sex or
		treatment will be			gender stated in the
	S 28C(1): An application	appropriate for different			recognition certificate.
	under s 28B(1) must be	individuals"			
	accompanied by the				S 28A: "recognition
	following:	S 28A: "intersex			certificate" means a
	(a) a statement by a medical	person" means a			certificate issued under
	practitioner or a psychologist	person who is born with			any law certifying that a
	certifying that the adult:	physical or biological			person has a sex or
	(i) has received appropriate	sex characteristics that			gender that is different to
	clinical treatment in relation	do not fit typical			the sex or gender
	to the adult's sex or gender;	classifications of male			specified for that person
	or	or female bodies.			in the Register.
	(ii) is an intersex person;				
	(b) any other documents or				
	information prescribed for this				
	subsection.				
Births,	S 28A(1): A person who has	S 3: "gender	S 28C: The Registrar,		S 28C(7): If a gender is
Deaths and	attained the age of 16 years	declaration" means a	after receiving an		registered as the

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Marriages	and whose birth is registered	statutory declaration in	application made under		registered gender in
Registration	in this State may apply to the	which the declarant	s 28A(1), (3) or (4) for a		relation to a person
Act 1999 (Tas)	Registrar to have a gender,	declares that the	gender to be registered		under subsection (1) –
	specified in the application,	declarant identifies as	in relation to a person –		(a) any registered sex that
Gender	registered in relation to the	being of the gender	(a) must –		was previously registered
affirming	person.	specified in the	(i) register the gender as		in relation to the person
surgery not a		declaration and lives,	the registered gender in		ceases to be the
pre-requisite	(2) An application	or seeks to live, as a	relation to the person by		registered sex in relation
	(a) is to be in the approved	person of that gender.	making an entry in the		to the person; and
	form; and		Register specifying the		(b) any registered gender
	(b) is to be accompanied by a		gender to be the		that was previously
	gender declaration made by		registered gender in		registered in relation to
	the person; and		relation to the person		the person ceases to be
	(c) is to be accompanied by		or		the registered gender in
	any other document or		(b) must refuse to		relation to the person.
	information that the Registrar		register the gender as		
	reasonably requires, other		the registered gender in		S 28D(1): If there is a
	than a medical certificate, or		relation to the person.		registered gender in
	other medical document, in				relation to a person, the
	relation to the sex, sexual		(4)the Registrar		person is, for the
	characteristics or gender of		mayrequire the		purposes of, but subject
	the person.		applicant to provide to		to, any law in force in this
			the Registrar appropriate		State, a person of that
			evidence of		gender.
			counselling		(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

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					(b) the registered gender,
					if any, in relation to the
					person.
					S 28E: 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.
Gender	S 14(1): Where a person has	S 3: "reassignment	s 15(1): Where an	S 17(1): (1) Subject to this	S 16(1): A recognition
Reassignmen	undergone a reassignment	procedure" means a	application under	section, if a recognition	certificate is conclusive
t Act 2000	procedure (before or after the	medical or surgical	section 14 relates to an	certificate, or an equivalent	evidence that the person
(WA), Part 3	commencement of this Act	procedure (or a	adult, the Board may	certificate issued under a	to whom it refers —
	and within the State or	combination of such	issue a recognition	corresponding law, relating	(a) has undergone a
Gender	elsewhere), application may	procedures) to alter the	certificate if —	to a person whose birth is	reassignment procedure;
affirming	be made to the Board in	genitals and other	(a) one or more of the	registered in the State is	and
surgery not a	accordance with this section	gender characteristics	following applies —	produced to the Registrar,	(b) is of the sex stated in
pre-requisite	for the issue of a recognition	of a person, identified	(i) the reassignment	the Registrar must —	the certificate.
	certificate.	by a birth certificate as	procedure was carried	(a) register the	(2) An equivalent
		male or female, so that	out in the State;	reassignment of gender;	certificate issued under a
		the person will be	(ii) the birth of the	and	corresponding law has
		identified as a person	person to whom the	(b) make such other entries	the same effect as a
		of the opposite sex and	application relates is	and alterations on any	recognition certificate
		includes, in relation to	registered in the State;	register or index kept by the	under this Act.
		a child, any such	(iii) the person to whom	Registrar as may be	
		procedure (or	the application relates is	necessary in view of the	
		combination of	a resident of the State	reassignment.	
		procedures) to correct	and has been so resident	_	
		or eliminate			

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		ambiguities in the	for not less than 12	S 18:(1) After the	
		child's gender	months; and	reassignment of gender is	
		characteristics	(b) the Board is satisfied	registered by the Registrar	
		(NB in AB v WA (2011)	that the person —	and the register altered	
		244 CLR 390 at [32] the	(i) believes that his or her	accordingly, a birth	
		High Court confirmed	true gender is the gender	certificate issued by the	
		that a medical	to which the person has	Registrar for the person	
		procedure such as	been reassigned; and	must, unless otherwise	
		hormonal treatment is	(ii) has adopted the	requested by the person or	
		sufficient).	lifestyle and has the	permitted by the	
			gender characteristics of	regulations, show the	
		"gender	a person of the gender to	person's sex in accordance	
		characteristics" means	which the person has	with the register as altered.	
		the physical	been reassigned; and		
		characteristics by	(iii) has received proper	(2) Any such birth certificate	
		virtue of which a person	counselling in relation to	must not include a	
		is identified as male or	his or her gender	statement that the person	
		female	identity.	has changed sex.	
		"recognition			
		certificate" means a			
		certificate issued under			
		this Act that identifies a			
		person who has			
		undergone a			
		reassignment			
		procedure as being of			
		the sex to which the			
		person has been			
		reassigned			