



Western Australia

Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024

As at 26 Sep 2024

Official Version

No. 31 of 2024

Published on www.legislation.wa.gov.au

Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024

Contents

Part 1 — Preliminary		
1.	Short title	2
2.	Commencement	2
Part 2 — <i>Births, Deaths and Marriages Registration Act 1998</i> amended		
3.	Act amended	3
4.	Long title amended	3
5.	Section 3 amended	3
6.	Section 4 amended	4
7.	Section 18 amended	4
8.	Section 31 amended	4
9.	Section 36C amended	5
10.	Section 36D amended	5
11.	Section 36G amended	6
12.	Part 5A inserted	6
Part 5A — Changes of registration of sex or gender and issue of acknowledgment documents		
Division 1 — Preliminary		
36I.	Terms used	6
Division 2 — Change of registration of sex or gender		
36J.	Application to Registrar by person 18 years or more	7

Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024

Contents

36K.	Application to Registrar to change registration of sex or gender of child 12 years or more	8
36L.	Application to Family Court by parent or guardian of child 12 years or more	9
36M.	Application to Family Court by child 12 years or more	10
36N.	Application to Family Court by parent or guardian of child under 12 years	11
36O.	Application by CEO (Children and Community Services)	12
36P.	Application to Registrar if Family Court order made	13
36Q.	Entries on, and access to, Register and issue of certificates	13
36R.	Entitlement not affected by change of registration of sex or gender	15
36S.	Interaction with other laws	15
Division 3 — Western Australian residents born outside of Australia		
36T.	Application to Registrar for acknowledgment document by person 18 years or more	15
36U.	Application to Registrar for acknowledgment document for child 12 years or more	16
36V.	Application to Family Court by parent or guardian of child 12 years or more	18
36W.	Application to Family Court by child 12 years or more	19
36X.	Application to Family Court by parent or guardian of child under 12 years	20
36Y.	Application by CEO (Children and Community Services)	21
36Z.	Application to Registrar if Family Court order made	22
36ZA.	Issue of acknowledgment document	22
36ZB.	Entitlement not affected by issue of acknowledgment document	23
36ZC.	Interaction with other laws	23
Division 4 — Restrictions on changes of registration and issue of acknowledgment documents		
36ZD.	Terms used	23
36ZE.	Restrictions on change of registration based on frequency of change	24
36ZF.	Restrictions on issue of acknowledgment document based on frequency of issue	25

36ZG.	Supervisory authority approval required in relation to restricted person	26
36ZH.	Application by restricted person	26
36ZI.	Application on behalf of restricted person	27
36ZJ.	Approval by supervisory authority	27
36ZK.	Notice of decision by Registrar	29
36ZL.	Supervisory authority to give documents and information	29
36ZM.	Delegation by chief executive officers	30
13.	Section 49 amended	31
14.	Section 54 amended	31
15.	Section 61 amended	31
16.	Section 62 amended	31
17.	Section 63 amended	32
18.	Section 68A inserted	32
68A.	Review of amendments made by <i>Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024</i>	32
19.	Section 70A inserted	33
70A.	Savings provisions for recognition certificates issued under <i>Gender Reassignment Act 2000</i>	33
Part 3 — Gender Reassignment Act 2000		
20.	Written laws repealed	34
Part 4 — Other Acts amended		
Division 1 — Children and Community Services Act 2004 amended		
21.	Act amended	35
22.	Section 63 amended	35
Division 2 — Community Protection (Offender Reporting) Act 2004 amended		
23.	Act amended	35
24.	Section 26 amended	36
25.	Section 29 amended	36
26.	Section 40 amended	37
27.	Section 63 amended	37
28.	Various references to gender removed	38

	Division 3 — Constitution Acts Amendment	
	Act 1899 amended	
29.	Act amended	42
30.	Schedule V amended	42
	Division 4 — Criminal Code Act Compilation	
	Act 1913 amended	
31.	Act amended	43
32.	Section 306 amended	43
	Division 5 — Criminal Investigation Act 2006	
	amended	
33.	Act amended	44
34.	Section 3 amended	44
	Division 6 — Criminal Investigation (Identifying People) Act 2002	
	amended	
35.	Act amended	44
36.	Section 3 amended	44
	Division 7 — Equal Opportunity Act 1984	
	amended	
37.	Act amended	45
38.	Section 4 amended	45
	Division 8 — Family Court Act 1997	
	amended	
39.	Act amended	46
40.	Section 244A inserted	46
	244A. Rules for proceedings under <i>Births, Deaths and Marriages Registration Act 1998</i>	46
	Division 9 — Guardianship and Administration	
	Act 1990	
	amended	
41.	Act amended	47
42.	Section 45 amended	47
	Division 10 — Prisons Act 1981	
	amended	
43.	Act amended	47
44.	Section 44 deleted	47
45.	Section 110 amended	48
	Division 11 — Terrorism (Extraordinary Powers)	
	Act 2005	
	amended	
46.	Act amended	48
47.	Schedule 2 amended	48

Division 12 — *Terrorism (Preventative Detention) Act 2006* amended

48.	Act amended	48
49.	Schedule 2 amended	49



Western Australia

Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024

No. 31 of 2024

An Act —

- **to amend the *Births, Deaths and Marriages Registration Act 1998*;**
and
- **to repeal the *Gender Reassignment Act 2000* and the *Gender Reassignment Regulations 2001*; and**
- **to make consequential amendments to other Acts.**

[Assented to 26 September 2024]

The Parliament of Western Australia enacts as follows:

Part 1 — Preliminary

1. Short title

This is the *Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024*.

2. Commencement

This Act comes into operation as follows —

- (a) Part 1 — on the day on which this Act receives the Royal Assent;
- (b) the rest of the Act — on a day fixed by proclamation, and different days may be fixed for different provisions.

Part 2 — *Births, Deaths and Marriages Registration Act 1998* amended

3. Act amended

This Part amends the *Births, Deaths and Marriages Registration Act 1998*.

4. Long title amended

In the long title delete “**name and**” and insert:

name, changes of registration of sex and gender, and

5. Section 3 amended

In section 3:

(a) delete “provide for — ” and insert:

provide for the following —

(b) in paragraph (a) delete “name and” and insert:

name, changes of registration of sex and gender and

(c) in paragraph (d) delete “registers; and” and insert:

registers;

(d) after paragraph (d) insert:

(da) the issue of documents that acknowledge the sex or gender of persons who are resident in

Western Australia and were born outside of Australia;

6. Section 4 amended

In section 4 in the definition of *registrable information* after “49(2)” insert:

or (2A)

7. Section 18 amended

Delete section 18(1)(b)(i) and (ii) and insert:

- (i) the other parent is dead; or
- (ii) the other parent cannot be found; or

8. Section 31 amended

- (1) In section 31(3) delete “guardian only if” and insert:

guardian if, and only if,

- (2) In section 31(4) after “1 parent” insert:

if, and

9. Section 36C amended

(1) In section 36C:

(a) delete “A restricted person” and insert:

(1) A restricted person

(b) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection:

(2) At the end of section 36C insert:

(2) Subsection (1) does not apply to an application made under section 33.

10. Section 36D amended

(1) In section 36D:

(a) delete “A person” and insert:

(1) A person

(b) in the Penalty delete “Penalty:” and insert:

Penalty for this subsection:

s. 11

(2) At the end of section 36D insert:

(2) Subsection (1) does not apply to an application made under section 33.

11. Section 36G amended

Delete section 36G(1)(b) and insert:

(b) notify the Registrar, or if the application is to be made to a registering authority, the registering authority, of the approval.

Note: The heading to amended section 36G is to read:

Supervisory authority to give, and give notice of, documents and information

12. Part 5A inserted

After section 36H insert:

Part 5A — Changes of registration of sex or gender and issue of acknowledgment documents

Division 1 — Preliminary

36I. Terms used

(1) In this Part —

acknowledgment document has the meaning given in section 36ZA(1);

psychologist means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the psychology profession.

- (2) Terms used in this Part have the same meaning as they have in section 28A.
- (3) A reference in this Part to the Family Court —
 - (a) includes a reference to the Magistrates Court constituted by a family law magistrate (as defined in the *Family Court Act 1997* section 5(1)) so as to be able, under the *Family Court Act 1997* section 39(b), to exercise the Family Court's non-federal jurisdiction; but
 - (b) does not include a reference to the Magistrates Court referred to in the *Family Court Act 1997* section 39(a).

Division 2 — Change of registration of sex or gender

36J. Application to Registrar by person 18 years or more

- (1) A person who is 18 years of age or more may apply to the Registrar to change the person's sex or gender in the registration of the person's birth if —
 - (a) the person's birth is registered in the State; and
 - (b) the person believes the person's sex or gender to be the sex or gender specified in the application.
- (2) The application must —
 - (a) be made in the approved form; and
 - (b) specify a sex or gender of a kind prescribed in the regulations; and
 - (c) be accompanied by —
 - (i) a statement by a doctor, or a psychologist, certifying that the person has received appropriate clinical treatment in relation to the person's sex or gender; and

s. 12

(ii) any other document or information prescribed by the regulations;

and

(d) contain a declaration by the applicant setting out whether the applicant is, at the time the application is made, a required declarant.

36K. Application to Registrar to change registration of sex or gender of child 12 years or more

(1) The parents or guardians of a child who is at least 12 years of age and under 18 years of age may apply to the Registrar to change the child's sex or gender in the registration of the child's birth if —

- (a) the child's birth is registered in the State; and
- (b) the child consents to the change in accordance with the application; and
- (c) each applicant believes the child's sex or gender to be the sex or gender specified in the application.

(2) The application must —

- (a) be made in the approved form; and
- (b) specify a sex or gender of a kind prescribed in the regulations; and
- (c) be accompanied by a statement by a doctor, or a psychologist, certifying that the child —
 - (i) has received appropriate clinical treatment in relation to the child's sex or gender; and
 - (ii) understands the meaning and implications of the application;

and

- (d) be accompanied by —
 - (i) a statement by the child consenting to the change; and
 - (ii) any other document or information prescribed by the regulations;and
 - (e) contain a declaration by each applicant setting out whether the child is, at the time the application is made, a required declarant.
- (3) An application under subsection (1) may be made by 1 parent if, and only if —
- (a) the applicant is the sole parent named in the registration of the child’s birth under this Act; or
 - (b) the child’s other parent is dead.
- (4) An application under subsection (1) may be made by a guardian if, and only if, the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.
- (5) Without limiting subsection (4), an application under subsection (1) may be made by joint guardians if, and only if, the joint guardians are unanimous in making the application.

36L. Application to Family Court by parent or guardian of child 12 years or more

- (1) A parent or guardian of a child may apply to the Family Court for an order approving the change of the child’s sex or gender in the registration of the child’s birth if —
- (a) the child is at least 12 years of age and under 18 years of age; and

s. 12

- (b) the child's birth is registered in the State.
- (2) The application must specify a sex or gender of a kind prescribed in the regulations.
- (3) An application under subsection (1) may be made by a guardian if, and only if, the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.
- (4) The Family Court may make the order if satisfied that it is in the child's best interests.
- (5) In determining whether or not to make the order, the Family Court must consider —
 - (a) any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the Family Court thinks are relevant to the weight it should give to the child's views; and
 - (b) any views expressed by a parent or guardian of the child; and
 - (c) whether the child has received appropriate clinical treatment in relation to the child's sex or gender.

36M. Application to Family Court by child 12 years or more

- (1) This section applies if —
 - (a) each parent or guardian of a child who is at least 12 years of age and under 18 years of age does not support the change of the child's sex or gender in the registration of the child's birth; and
 - (b) the child's birth is registered in the State.

- (2) The child may apply to the Family Court for an order approving the change of the child's sex or gender in the registration of the child's birth.
- (3) The application must specify a sex or gender of a kind prescribed in the regulations.
- (4) The Family Court may make the order if satisfied that it is in the child's best interests.
- (5) In determining whether or not to make the order, the Family Court must consider —
 - (a) any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the Family Court thinks are relevant to the weight it should give to the child's views; and
 - (b) any views expressed by a parent or guardian of the child; and
 - (c) whether the child has received appropriate clinical treatment in relation to the child's sex or gender.

36N. Application to Family Court by parent or guardian of child under 12 years

- (1) A parent or guardian of a child under 12 years of age whose birth is registered in the State may apply to the Family Court for an order approving the change of the child's sex or gender in the registration of the child's birth.
- (2) The application must specify a sex or gender of a kind prescribed in the regulations.
- (3) An application under subsection (1) may be made by a guardian if, and only if, the parents of the child are

dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.

- (4) The Family Court may make the order if satisfied that it is in the best interests of the child.
- (5) In determining whether or not to make the order, the Family Court must consider —
 - (a) any views expressed by the child and any factors (such as the child’s maturity or level of understanding) that the Family Court thinks are relevant to the weight it should give to the child’s views; and
 - (b) any views expressed by a parent or guardian of the child; and
 - (c) whether the child has received appropriate clinical treatment in relation to the child’s sex or gender.

36O. Application by CEO (Children and Community Services)

- (1) In this section —

CEO (Children and Community Services) means the CEO as defined in the *Children and Community Services Act 2004* section 3;

parent has the meaning given in the *Children and Community Services Act 2004* section 3.
- (2) If a protection order (time-limited) or a protection order (until 18) is in force in respect of a child under the *Children and Community Services Act 2004* —
 - (a) the CEO (Children and Community Services) may make an application under section 36K, 36L or 36N in respect of the child; and
 - (b) no other person can make the application.

- (3) Before making an application under section 36K the CEO (Children and Community Services) must take reasonable steps to notify each parent of the child of the proposed application and give them a reasonable opportunity to provide their written views on the making of the application.
- (4) An application may be made under section 36K only if no parent notified under subsection (3) opposes the making of the application.

36P. Application to Registrar if Family Court order made

- (1) Any person may apply to the Registrar to change a child's sex or gender in the registration of the child's birth if the Family Court has made an order under section 36L, 36M or 36N approving the change.
- (2) The application to the Registrar must —
 - (a) be made in the approved form; and
 - (b) be accompanied by —
 - (i) a copy of the order; and
 - (ii) any other document or information prescribed by the regulations;and
 - (c) contain a declaration by the applicant setting out whether the child is, at the time the application is made, a required declarant.

36Q. Entries on, and access to, Register and issue of certificates

- (1) On receipt of an application under section 36J or 36K, the Registrar must —
 - (a) make the requested change; or

s. 12

- (b) refuse to make the requested change.
- (2) On receipt of an application under section 36P, the Registrar must make the change in accordance with the order of the Family Court.
- (3) If a person's sex or gender in the registration of the person's birth is changed under this section, the Registrar —
 - (a) must retain on the Register the particulars contained in the entry in the Register relating to the person's sex or gender before the registration was changed; but
 - (b) must not —
 - (i) allow access to the particulars referred to in paragraph (a); or
 - (ii) issue a birth certificate for the person showing the person's sex or gender before the registration was changed.
- (4) Despite subsection (3)(b), the Registrar may allow access to the particulars referred to in subsection (3)(a), or issue a birth certificate for the person showing both the person's sex or gender before the registration was changed and the person's sex or gender after the registration was changed, if an application requesting the access or issue of a certificate is made by —
 - (a) the person; or
 - (b) a person or body prescribed by the regulations.
- (5) If a person's sex or gender in the registration of the person's birth has changed more than once, an application for the issue of a birth certificate may request that specified changes be shown.

36R. Entitlement not affected by change of registration of sex or gender

- (1) Subsection (2) applies to a person who has an entitlement —
 - (a) under a will; or
 - (b) under a trust; or
 - (c) otherwise by operation of law.
- (2) The person does not, except as otherwise provided under the will, the trust or by the law conferring the entitlement, lose the entitlement only because the person's sex or gender in the registration of the person's birth has been changed.

36S. Interaction with other laws

If a person's sex or gender in the registration of the person's birth is changed under this Division or under a corresponding law prescribed for the purposes of this section, the person is a person of the sex or gender as changed for the purposes of, but subject to, a law of the State.

Division 3 — Western Australian residents born outside of Australia

36T. Application to Registrar for acknowledgment document by person 18 years or more

- (1) A person who is 18 years of age or more may apply to the Registrar for an acknowledgment document for the person if —
 - (a) the person was born outside of Australia; and
 - (b) the person has lived in the State for at least 12 consecutive months immediately before the day the application is made; and

s. 12

- (c) the person believes the person's sex or gender to be the sex or gender specified in the application.
- (2) The application must —
 - (a) be made in the approved form; and
 - (b) specify a sex or gender of a kind prescribed in the regulations; and
 - (c) be accompanied by —
 - (i) a statement by a doctor, or a psychologist, certifying that the person has received appropriate clinical treatment in relation to the person's sex or gender; and
 - (ii) any other document or information prescribed by the regulations;
- and
- (d) contain a declaration by the applicant setting out whether the applicant is, at the time the application is made, a required declarant.

36U. Application to Registrar for acknowledgment document for child 12 years or more

- (1) The parents or guardians of a child who is at least 12 years of age and under 18 years of age may apply to the Registrar for an acknowledgment document for the child if —
 - (a) the child was born outside of Australia; and
 - (b) the child has lived in the State for at least 12 consecutive months immediately before the day the application is made; and
 - (c) the child consents to the issue of the document in accordance with the application; and

- (d) each applicant believes the child's sex or gender to be the sex or gender specified in the application.
- (2) The application must —
 - (a) be made in the approved form; and
 - (b) specify a sex or gender of a kind prescribed in the regulations; and
 - (c) be accompanied by a statement by a doctor, or a psychologist, certifying that the child —
 - (i) has received appropriate clinical treatment in relation to the child's sex or gender; and
 - (ii) understands the meaning and implications of the application;and
 - (d) be accompanied by —
 - (i) a statement by the child consenting to the issue of the document; and
 - (ii) any other document or information prescribed by the regulations;and
 - (e) contain a declaration by each applicant setting out whether the child is, at the time the application is made, a required declarant.
- (3) An application under subsection (1) may be made by 1 parent if, and only if —
 - (a) the applicant is the sole parent named in the registration of the child's birth; or
 - (b) the child's other parent is dead.
- (4) An application under subsection (1) may be made by a guardian if, and only if, the parents of the child are

s. 12

dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.

- (5) Without limiting subsection (4), an application under subsection (1) may be made by joint guardians if, and only if, the joint guardians are unanimous in making the application.

36V. Application to Family Court by parent or guardian of child 12 years or more

- (1) A parent or guardian of a child may apply to the Family Court for an order approving the issue of an acknowledgment document for the child if —
 - (a) the child is at least 12 years of age and under 18 years of age; and
 - (b) the child was born outside of Australia; and
 - (c) the child has lived in the State for at least 12 consecutive months immediately before the day the application is made.
- (2) The application must specify a sex or gender of a kind prescribed in the regulations.
- (3) An application under subsection (1) may be made by a guardian if, and only if, the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.
- (4) The Family Court may make the order if satisfied that it is in the child's best interests.
- (5) In determining whether or not to make the order, the Family Court must consider —
 - (a) any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the Family Court thinks are

relevant to the weight it should give to the child's views; and

- (b) any views expressed by a parent or guardian of the child; and
- (c) whether the child has received appropriate clinical treatment in relation to the child's sex or gender.

36W. Application to Family Court by child 12 years or more

- (1) This section applies if —
 - (a) each parent or guardian of a child who is at least 12 years of age and under 18 years of age does not support the issue of an acknowledgment document for the child; and
 - (b) the child was born outside of Australia; and
 - (c) the child has lived in the State for at least 12 consecutive months immediately before the day the application is made.
- (2) The child may apply to the Family Court for an order approving the issue of an acknowledgment document for the child.
- (3) The application must specify a sex or gender of a kind prescribed in the regulations.
- (4) The Family Court may make the order if satisfied that it is in the child's best interests.
- (5) In determining whether or not to make the order, the Family Court must consider —
 - (a) any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the Family Court thinks are

s. 12

relevant to the weight it should give to the child's views; and

- (b) any views expressed by a parent or guardian of the child; and
- (c) whether the child has received appropriate clinical treatment in relation to the child's sex or gender.

36X. Application to Family Court by parent or guardian of child under 12 years

- (1) A parent or guardian of a child under 12 years of age may apply to the Family Court for an order approving the issue of an acknowledgment document for the child if —
 - (a) the child was born outside of Australia; and
 - (b) the child has lived in the State for at least 12 consecutive months immediately before the day the application is made.
- (2) The application must specify a sex or gender of a kind prescribed in the regulations.
- (3) An application under subsection (1) may be made by a guardian if, and only if, the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities for the child.
- (4) The Family Court may make the order if satisfied that it is in the best interests of the child.
- (5) In determining whether or not to make the order, the Family Court must consider —
 - (a) any views expressed by the child and any factors (such as the child's maturity or level of understanding) that the Family Court thinks are

relevant to the weight it should give to the child's views; and

- (b) any views expressed by a parent or guardian of the child; and
- (c) whether the child has received appropriate clinical treatment in relation to the child's sex or gender.

36Y. Application by CEO (Children and Community Services)

- (1) In this section —
CEO (Children and Community Services) means the CEO as defined in the *Children and Community Services Act 2004* section 3;
parent has the meaning given in the *Children and Community Services Act 2004* section 3.
- (2) If a protection order (time-limited) or a protection order (until 18) is in force in respect of a child under the *Children and Community Services Act 2004* —
 - (a) the CEO (Children and Community Services) may make an application under section 36U, 36V or 36X in respect of the child; and
 - (b) no other person can make the application.
- (3) Before making an application under section 36U the CEO (Children and Community Services) must take reasonable steps to notify each parent of the child of the proposed application and give them a reasonable opportunity to provide their written views on the making of the application.
- (4) An application may be made under section 36U only if no parent notified under subsection (3) opposes the making of the application.

36Z. Application to Registrar if Family Court order made

- (1) Any person may apply to the Registrar for an acknowledgment document for a child if the Family Court has made an order under section 36V, 36W or 36X approving the issue of the acknowledgment document.
- (2) The application to the Registrar must —
 - (a) be made in the approved form; and
 - (b) be accompanied by —
 - (i) a copy of the order; and
 - (ii) any other document or information prescribed by the regulations;and
 - (c) contain a declaration by the applicant setting out whether the child is, at the time the application is made, a required declarant.

36ZA. Issue of acknowledgment document

- (1) A document issued under subsection (2) or (3) is an *acknowledgment document*.
- (2) On receipt of an application under section 36T or 36U, the Registrar must —
 - (a) issue a document acknowledging the person's sex or gender; or
 - (b) refuse to issue the document.
- (3) On receipt of an application under section 36Z, the Registrar must issue a document acknowledging the person's sex or gender in accordance with the order of the Family Court.

- (4) The acknowledgment document must not state the applicant's former sex or gender unless the applicant has requested, in writing, that the information be included.

36ZB. Entitlement not affected by issue of acknowledgment document

- (1) Subsection (2) applies to a person who has an entitlement —
- (a) under a will; or
 - (b) under a trust; or
 - (c) otherwise by operation of law.
- (2) The person does not, except as otherwise provided under the will, the trust or by the law conferring the entitlement, lose the entitlement only because an acknowledgment document has been issued for the person.

36ZC. Interaction with other laws

If an acknowledgment document or an interstate document (as defined in section 36ZF(1)) issued under a corresponding law prescribed for the purposes of this section is issued for a person, the person is a person of the sex or gender specified in the document for the purposes of, but subject to, a law of the State.

Division 4 — Restrictions on changes of registration and issue of acknowledgment documents

36ZD. Terms used

In this Division —

restricted person has the meaning given in section 36A;

supervisory authority has the meaning given in section 36A.

36ZE. Restrictions on change of registration based on frequency of change

- (1) The Registrar must not change a person's sex or gender in the registration of the person's birth on an application under section 36J if the Registrar is aware that —
 - (a) a change of the person's sex or gender in the registration of the person's birth has been made (whether in this State or another State) within the period of 12 months immediately before the day the application is made; or
 - (b) 3 or more changes of the person's sex or gender in the registration of the person's birth have been made (whether in this State or another State).
- (2) When counting the number of changes for the purposes of subsection (1)(b), a change of a person's sex or gender in the registration of the person's birth made before the person reached the age of 18 years must not be counted.
- (3) Despite subsection (1)(b), the Registrar may, on application, change a person's sex or gender in the registration of the person's birth if the Registrar is satisfied that the change is justified by exceptional circumstances.
- (4) The Registrar may require the person to provide evidence to enable the Registrar to be satisfied under subsection (3).
- (5) The Registrar must not change a child's sex or gender in the registration of the child's birth on an application

under section 36K if the Registrar is aware that a change of the child's sex or gender in the registration of the child's birth has been registered (whether in this State or another State) within the period of 12 months immediately before the day the application is made.

36ZF. Restrictions on issue of acknowledgment document based on frequency of issue

- (1) In this section —
interstate document, for a person, means a document issued by a registering authority that acknowledges the person's sex or gender.
- (2) The Registrar must not issue an acknowledgment document for a person on an application under section 36T if the Registrar is aware that —
 - (a) an acknowledgment document or interstate document for the person has been issued within the period of 12 months immediately before the day the application is made; or
 - (b) 3 or more acknowledgment documents or interstate documents for the person have been issued.
- (3) When counting the number of acknowledgment documents and interstate documents for the purposes of subsection (2)(b), a document issued before the person reached the age of 18 years must not be counted.
- (4) Despite subsection (2)(b), the Registrar may, on application, issue an acknowledgment document for a person if the Registrar is satisfied that the issue is justified by exceptional circumstances.
- (5) The Registrar may require the person to provide evidence to enable the Registrar to be satisfied under subsection (4).

s. 12

- (6) The Registrar must not issue an acknowledgment document for a child on an application under section 36U if the Registrar is aware that an acknowledgment document or interstate document for the child has been issued within the period of 12 months immediately before the day the application is made.

36ZG. Supervisory authority approval required in relation to restricted person

- (1) The Registrar must not change a restricted person's sex or gender in the registration of the person's birth, or issue an acknowledgment document for a restricted person, on an application, unless the Registrar has been given a copy of the written approval for the application by the supervisory authority for the person.
- (2) Subsection (1) does not apply if the Registrar receives an application under section 36P or 36Z.

36ZH. Application by restricted person

- (1) A restricted person must not do either of the following unless the person has obtained the written approval of the supervisory authority for the restricted person —
 - (a) apply, under this Act, to the Registrar to change the restricted person's sex or gender in the registration of the person's birth;
 - (b) apply, under this Act, to the Registrar for the issue of an acknowledgment document for the person.

Penalty for this subsection: imprisonment for 2 years and a fine of \$12 000.

- (2) Subsection (1) does not apply to an application made under section 36P or 36Z.

36ZI. Application on behalf of restricted person

- (1) A person (the *applicant*) must not, in respect of a restricted person, do either of the following unless the applicant has obtained the written approval of the supervisory authority for the restricted person —
 - (a) apply, under this Act, to the Registrar to change the restricted person's sex or gender in the registration of the person's birth;
 - (b) apply, under this Act, to the Registrar for the issue of an acknowledgment document for the restricted person.

Penalty for this subsection: imprisonment for 2 years and a fine of \$12 000.

- (2) Subsection (1) does not apply to an application made under section 36P or 36Z.

36ZJ. Approval by supervisory authority

- (1) In this section —

change of sex or gender application means an application proposed to be made by or in respect of a restricted person to change the restricted person's sex or gender in the registration of the person's birth.
- (2) A person may apply to a supervisory authority for —
 - (a) approval to make a change of sex or gender application; or
 - (b) approval to make an application for an acknowledgment document for a restricted person.
- (3) The application for approval must be made in a manner approved by the supervisory authority.
- (4) A supervisory authority must not approve the making of a change of sex or gender application, or the making

s. 12

of an application for an acknowledgment document, unless the authority is satisfied that the change of the restricted person's sex or gender in the registration of the person's birth or issue of an acknowledgment document is in all the circumstances necessary or reasonable.

- (5) A supervisory authority must not approve the making of a change of sex or gender application, or the making of an application for an acknowledgment document, if the authority is satisfied that the change of the restricted person's sex or gender in the registration of the person's birth or issue of an acknowledgment document is reasonably likely —
- (a) if the restricted person is detained — to have an adverse effect on the security, discipline or good order of the place in which the restricted person is detained; or
 - (b) to be regarded as offensive by a victim of crime or a significant sector of the community; or
 - (c) to frustrate the administration of any of the following Acts —
 - (i) the *High Risk Serious Offenders Act 2020*;
 - (ii) the *Prisons Act 1981*;
 - (iii) the *Sentence Administration Act 2003*;
 - (iv) the *Sentencing Act 1995*;
 - (v) the *Young Offenders Act 1994*.

36ZK. Notice of decision by Registrar

- (1) The Registrar must notify the supervisory authority for a restricted person if the Registrar does any of the following —
 - (a) changes the person's sex or gender in the registration of the person's birth;
 - (b) refuses to change the person's sex or gender in the registration of the person's birth;
 - (c) issues an acknowledgment document for the person;
 - (d) refuses to issue an acknowledgment document for the person.
- (2) When notifying a supervisory authority under subsection (1), the Registrar must give the authority sufficient information to identify the restricted person.

36ZL. Supervisory authority to give documents and information

- (1) If a supervisory authority decides to approve the making of a change of sex or gender application, or the making of an application for an acknowledgment document, under section 36ZJ, the authority must, as soon as practicable —
 - (a) give written approval to the person who wishes to make the application; and
 - (b) notify the Registrar of the approval.
- (2) For the purposes of the Registrar verifying the details of an application to change a restricted person's sex or gender in the registration of the person's birth, or an application for an acknowledgment document for a restricted person, each supervisory authority must, if

s. 12

the Registrar requests, give the Registrar the following —

- (a) the name of each restricted person for whom they are the supervisory authority;
- (b) any other name by which the person is, or has previously been, known (of which the supervisory authority is aware);
- (c) the date of birth of the person;
- (d) any other information that may be used to identify the person.

36ZM. Delegation by chief executive officers

- (1) A chief executive officer referred to in the definition of *supervisory authority* in section 36A may delegate to any person any power or duty of the chief executive officer under another provision of this Division.
- (2) The delegation must be in writing signed by the chief executive officer.
- (3) A person to whom a power or duty is delegated under this section cannot delegate the power or duty.
- (4) A person exercising or performing a power or duty that has been delegated to the person under this section is taken to do so in accordance with the terms of the delegation unless the contrary is shown.
- (5) Unless the contrary is shown, it is to be presumed that a document purporting to have been signed by a person as a delegate of the chief executive officer was signed by a person in the performance of a function that at the time was delegated to the person by the chief executive officer.

- (6) Nothing in this section limits the ability of the chief executive officer to perform a function through an officer or agent.

13. Section 49 amended

After section 49(2) insert:

- (2A) The Registrar may maintain on the Register records of information, in addition to registrable information relating to registrable events, if the inclusion is considered appropriate by the Registrar.

14. Section 54 amended

After section 54(3) insert:

- (4) The operation of this section is affected by section 36Q(3)(b)(i).

15. Section 61 amended

In section 61(3)(c) delete “the event” and insert:

the event, or other registrable information,

16. Section 62 amended

- (1) After section 62(1) insert:

- (1A) The Registrar may revoke a change made under Part 5A to a birth registration if it appears that the change was obtained by fraud or other improper means.

s. 17

- (2) In section 62(2) delete “event” and insert:

event, or revokes a change made under Part 5A to a birth registration,

Note: The heading to amended section 62 is to read:

Revocation of registration or Part 5A change obtained by fraud

17. Section 63 amended

In section 63(a) delete “his or her” and insert:

their

18. Section 68A inserted

After section 68 insert:

68A. Review of amendments made by *Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024*

- (1) The Minister must review the operation and effectiveness of the amendments made to this Act by the *Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024*, and prepare a report based on the review, as soon as practicable after the 3rd anniversary of the day on which section 12 of that Act comes into operation.
- (2) The Minister must cause the report to be laid before each House of Parliament as soon as practicable after it is prepared, but not later than 12 months after the 3rd anniversary.

19. Section 70A inserted

After section 70 insert:

70A. Savings provisions for recognition certificates issued under *Gender Reassignment Act 2000*

Despite the repeal of the *Gender Reassignment Act 2000* —

- (a) a recognition certificate issued under that Act continues in force; and
- (b) the Registrar may act under sections 17 and 18 of that Act as if the sections had not been repealed.

Part 3 — *Gender Reassignment Act 2000*

20. Written laws repealed

- (1) The *Gender Reassignment Act 2000* is repealed.
- (2) The *Gender Reassignment Regulations 2001* are repealed.

Part 4 — Other Acts amended

Division 1 — *Children and Community Services Act 2004* amended

21. Act amended

This Division amends the *Children and Community Services Act 2004*.

22. Section 63 amended

After section 63(3) insert:

- (3A) The Family Court may, on an application made by the special guardian, permit the making of a change of name application if —
- (a) the change of name application is to change a given name or given names of a child; and
 - (b) the change of name application is made at the same time as the special guardian makes an application to the Family Court under the *Births, Deaths and Marriages Registration Act 1998* section 36L or 36N; and
 - (c) the Family Court is satisfied that it is in the best interests of the child to permit the making of the change of name application.

Division 2 — *Community Protection (Offender Reporting) Act 2004* amended

23. Act amended

This Division amends the *Community Protection (Offender Reporting) Act 2004*.

Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024

Part 4 Other Acts amended

Division 2 Community Protection (Offender Reporting) Act 2004 amended

s. 24

24. Section 26 amended

After section 26(1)(c) insert:

- (ca) the offender's sex or gender —
 - (i) as registered under the *Births, Deaths and Marriages Registration Act 1998* or a corresponding law (as defined in section 4 of that Act); or
 - (ii) as acknowledged in a document issued under the *Births, Deaths and Marriages Registration Act 1998* section 36ZA, or a document issued under a corresponding law (as defined in section 4 of that Act), for the purpose of acknowledging a person's sex or gender; or
 - (iii) if neither subparagraph (i) nor (ii) apply in respect of the offender — being a sex or gender prescribed in regulations under the *Births, Deaths and Marriages Registration Act 1998* and identified by the offender as the offender's sex or gender;

and

25. Section 29 amended

After section 29(2) insert:

- (2A) For the purposes of subsection (1), a change occurs in a reportable offender's personal details relating to sex or gender only if —

- (a) the registration of the offender's sex or gender under the *Births, Deaths and Marriages Registration Act 1998* or a corresponding law (as defined in section 4 of that Act) is changed; or
- (b) a document is issued under the *Births, Deaths and Marriages Registration Act 1998* section 36ZA or a corresponding law (as defined in section 4 of that Act) for the purpose of acknowledging the offender's sex or gender.

26. Section 40 amended

- (1) Delete section 40(1)(b) and insert:

- (b) to expose any part of the reportable offender's body to enable that part of the body to be photographed by the authorised person or a person authorised by the authorised person.

- (2) Delete section 40(2) and insert:

- (2) An authorised person cannot, under subsection (1), require a reportable offender to expose their genitals, the anal area of their buttocks or, in the case of females, or persons identifying as female, their breasts.

27. Section 63 amended

- (1) In section 63(2) delete "his or her reporting" and insert:

the person's reporting

Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024

Part 4 Other Acts amended

Division 2 Community Protection (Offender Reporting) Act 2004 amended

s. 28

(2) Delete section 63(2)(c) and insert:

- (c) whether the form of notification given to the person as to the person's obligations was adequate to inform the person of those obligations, having regard to the person's circumstances;

28. Various references to gender removed

Amend the provisions listed in the Table as set out in the Table.

Table

Provision	Delete	Insert
s. 3 def. of <i>reporting period</i> s. 24(1), (2A) and (2) s. 25(1) to (5) and (7) s. 26(1) s. 28(1) and (3) to (5) s. 29(1) and (5) s. 29A(5) s. 32(2), (2a) and (4) s. 38(2)(a) s. 41(1)(b) s. 43(3)(a)	his or her (each occurrence)	the offender's

Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024

Other Acts amended
Community Protection (Offender Reporting) Act 2004
amended

Part 4
Division 2

s. 28

Provision	Delete	Insert
s. 46(3) s. 51(1) and (2) s. 52 s. 63(1) s. 66(1) s. 67(1)(a), (2)(c), (3) and (6) s. 69(1) s. 71(a) s. 80C(1) s. 80(2)(f) s. 85F(2)(a)(i) and (4)(b) s. 94(1)(a) s. 114(2)(e)(v)		
s. 6(4)	Unless he or she because he or she	Unless a person because the person
s. 6(5) and (6)(b) s. 7(b)(i) s. 25(6) s. 26(3) s. 27(1) to (4)	he or she	the person

Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024

Part 4 Other Acts amended

Division 2 Community Protection (Offender Reporting) Act 2004 amended

s. 28

Provision	Delete	Insert
s. 29(4) s. 32(3) s. 47(1) s. 72(1), (2), (3)(a) and (4)(b) s. 76(a) s. 85G(3)(b) s. 85J(4) s. 93(1)(cb) and (4)		
s. 24(1), (2A) and (2) s. 25(1), (2), (3)(b), (4)(b), (5) and (7) s. 26(1) and (2)(a), (c), (da) and (d) s. 28(2), (5) and (6) s. 29(3) and (5)(b) s. 29A(1), (2)(a), (3), (4), (5) and (6) s. 30(2) and (3) s. 31(1)(a) s. 32(1), (2), (2a) and (4) s. 35(1)(c) and (2)	he or she (each occurrence)	the offender

Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024

Other Acts amended
Community Protection (Offender Reporting) Act 2004
amended

Part 4
Division 2

s. 28

Provision	Delete	Insert
s. 43(3) s. 44(1) and (4)(b) s. 46(1) to (3) s. 49(1)(b) and (2) s. 50(1) and (2)(b) s. 52 s. 60(3) s. 67(1)(b) and (2) s. 69(1) s. 71(b) s. 75(1)(b) s. 80(2)(b) s. 94(1)(b) s. 111(2)		
s. 3 def. of reporting obligations s. 26(1)(h) and (j) s. 35(4) and (5) s. 41(1) s. 61(5) s. 94(1)	him or her	the offender
s. 26(2)(db)	he or she	the child

Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024

Part 4 Other Acts amended

Division 3 Constitution Acts Amendment Act 1899 amended

s. 29

Provision	Delete	Insert
s. 36(1)(b) s. 72(1), (2)(a) and (4)(b) s. 85G(6)(d) s. 94B(8)(h) s. 106(2)	his or her	the person's
s. 38(3)	he or she	the authorised person
s. 39(1) and (2)	him or her	the authorised person
s. 41(2)	him or her	the officer
s. 47(2)	him or her	the person
s. 77(4)(b)	his or her	the applicant's
s. 80(1)	his or her	the Commissioner's

Division 3 — *Constitution Acts Amendment Act 1899* amended

29. Act amended

This Division amends the *Constitution Acts Amendment Act 1899*.

30. Schedule V amended

In Schedule V Part 3 delete “The Gender Reassignment Board of Western Australia established by the *Gender Reassignment Act 2000*.”.

Division 4 — *Criminal Code Act Compilation Act 1913* amended

31. Act amended

This Division amends the *Criminal Code Act Compilation Act 1913*.

32. Section 306 amended

- (1) In section 306(1) insert in alphabetical order:

genital reconfiguration surgery means a surgical procedure to give a person the genital appearance of a particular sex, whether male or female.

- (2) In section 306(1) in the definition of *female genital mutilation* —

- (a) delete paragraph (d) and insert:

(d) genital reconfiguration surgery carried out by a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession; or

- (b) in paragraph (e) delete “purposes.” and insert:

purposes;

Division 5 — *Criminal Investigation Act 2006* amended

33. Act amended

This Division amends the *Criminal Investigation Act 2006*.

34. Section 3 amended

In section 3(1) delete the definition of *private parts* and insert:

private parts, in relation to a person, means the person's genital area, anal area and buttocks and, in the case of a female or person identifying as female, includes the person's breasts;

Division 6 — *Criminal Investigation (Identifying People) Act 2002* amended

35. Act amended

This Division amends the *Criminal Investigation (Identifying People) Act 2002*.

36. Section 3 amended

In section 3(1) delete the definition of *private parts* and insert:

private parts, in relation to a person, means the person's genital area, anal area and buttocks and, in the case of a female or person identifying as female, includes the person's breasts;

Division 7 — *Equal Opportunity Act 1984* amended

37. Act amended

This Division amends the *Equal Opportunity Act 1984*.

38. Section 4 amended

In section 4(1) delete the definition of *gender reassigned person* and insert:

gender reassigned person means —

- (a) a person who has been issued with a recognition certificate under the *Gender Reassignment Act 2000* or a certificate that was an equivalent certificate for the purposes of that Act; or
- (b) a person —
 - (i) whose sex or gender in the registration of the person's birth under the *Births, Deaths and Marriages Registration Act 1998* has been changed under section 36Q of that Act; or
 - (ii) who has been issued a document acknowledging the person's sex or gender under the *Births, Deaths and Marriages Registration Act 1998* section 36ZA;

Division 8 — *Family Court Act 1997* amended

39. Act amended

This Division amends the *Family Court Act 1997*.

40. Section 244A inserted

After section 244 insert:

244A. Rules for proceedings under *Births, Deaths and Marriages Registration Act 1998*

- (1) The judges, or a majority of them, may make rules providing for and in relation to —
 - (a) the practice and procedure to be followed in the Court exercising jurisdiction conferred on it under the *Births, Deaths and Marriages Registration Act 1998* Part 5A; and
 - (b) all matters and things necessary or convenient to be prescribed for the conduct of any business in the Court exercising jurisdiction conferred on it under the *Births, Deaths and Marriages Registration Act 1998* Part 5A.
- (2) If no provision is made under subsection (1) in relation to a matter for which rules may be made under that subsection, the rules under section 244 that are most nearly applicable in relation to the matter apply.

Division 9 — *Guardianship and Administration Act 1990* amended

41. Act amended

This Division amends the *Guardianship and Administration Act 1990*.

42. Section 45 amended

In section 45(3):

- (a) in paragraph (da) delete “Act; or” and insert:

Act;

- (b) in paragraph (d) delete “marriage.” and insert:

marriage;

- (c) after paragraph (d) insert:

- (e) carry out a function under the *Births, Deaths and Marriages Registration Act 1998* Part 5A of the parent of a child.

Division 10 — *Prisons Act 1981* amended

43. Act amended

This Division amends the *Prisons Act 1981*.

44. Section 44 deleted

Delete section 44.

Births, Deaths and Marriages Registration Amendment (Sex or Gender Changes) Act 2024

Part 4 Other Acts amended

Division 11 Terrorism (Extraordinary Powers) Act 2005 amended

s. 45

45. Section 110 amended

Delete section 110(1)(p) and insert:

- (p) regulating the association of prisoners of different sexes;

Division 11 — *Terrorism (Extraordinary Powers) Act 2005* amended

46. Act amended

This Division amends the *Terrorism (Extraordinary Powers) Act 2005*.

47. Schedule 2 amended

In Schedule 2 clause 1 delete the definition of *private parts* and insert:

private parts, in relation to a person, means the person's genital area, anal area and buttocks and, in the case of a female or person identifying as female, includes the person's breasts;

Division 12 — *Terrorism (Preventative Detention) Act 2006* amended

48. Act amended

This Division amends the *Terrorism (Preventative Detention) Act 2006*.

49. Schedule 2 amended

In Schedule 2 clause 1 delete the definition of *private parts* and insert:

private parts, in relation to a person, means the person's genital area, anal area and buttocks and, in the case of a female or person identifying as female, includes the person's breasts;

=====