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## ANOMOLIES CONCERNING LAWS IN AUSTRALIA IN REGARD TO TRANS PEOPLE'S RIGHTS AND DISCRIMINATION

- Add to this the fact that we are required to “Alter or remove all reproductive organs in order to be recognised fully in our new sex/gender.”
- We are allowed to “Change our name and driver’s licence before changing our sex/gender”
- Many other areas will allow us to change our details either before or after surgery. We can change the details of utilities, rates, banks on production of the change of name and letter supporting that we are to be considered as male or female from our psychiatrist.

The only sticking points in regard to these issues, comes from the States and Territories namely, being forced to divorce in order to amend our birth certificate.

### MARRIAGE:

All States and Territories require us to be single (Read Divorced) in order to amend our Birth Certificate. I cannot come to terms with this, when the Federal Government sent me this reply; plus answers from the Passport office and Centrelink on this subject.

#### ***This is from the ‘Sex and Age Discrimination Legislation Amendment Bill 2010 (Provisions)’***

*2.47 This definition is included to complement changes made by item 62 of Schedule I of the Bill, which would amend section 40 of the Sex Discrimination Act. Section 40 sets out exemptions under the Sex Discrimination Act to acts done under statutory authority. The Bill would amend the Sex Discrimination Act to provide that nothing in Division 2 of Part II makes it 'unlawful to refuse to make, issue or alter an official record of a person's sex if a law of a State or Territory requires the refusal because the person is married'.*

#### ***Letter from the Federal Attorney-General dated 19-01-2009: to me***

While the reforms do not expressly address the sex or gender diversity of specific individuals, they ensure that same-sex de facto couples and their families are recognised and have the same entitlements as opposite-sex de facto couples. A transgender individual who remains married after surgery will not be deemed to be no longer married as a result of the reforms. The effect of the reforms is that such an individual will receive the same treatment regardless of whether they are considered to be a member of a same sex or opposite-sex couple. (My highlighting)

#### ***Letter from the Federal Attorney-General dated 17-03-2009: To me***

In relation to your letter of 24 January 2009, I would like to clarify the Government’s position. I can confirm that the Commonwealth Same-Sex discrimination law reforms will have no effect on the *Marriage Act 1961*. The Marriage Act provides that a marriage must be between a man and a



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woman. This is consistent with current Government policy and there are no plans to change the Marriage Act to allow for a marriage to be solemnized between same-sex couples.

Again from *the 'Sex and Age Discrimination Legislation Amendment Bill 2010 (Provisions)'*

*3.81 The Department has advised that 'the amendments to the Sex Discrimination Act in the Bill are primarily intended to implement the accepted recommendations' of the Senate Report. However, providing for these exemptions was not raised in the Senate Report, and the Senate Report explicitly recommended extending the Sex Discrimination Act to protect against discrimination on the basis of either sexual orientation or gender identity.*

*Why were these points not raised in the Senate Report?*

Gender re-assignment surgery has never, of itself, changed the status of a marriage which was valid at the time of solemnization. It has always been the case that a validly solemnized marriage would continue, irrespective of whether one of the parties subsequently underwent gender re-assignment surgery. The same-sex reforms due to come into force on 1 July 2009 do not change that position.

Again from *the 'Sex and Age Discrimination Legislation Amendment Bill 2010 (Provisions)'*

The following iterates what I was sent from the Federal Attorney-General's Office, as above

*3.82 Given that the Department has advised the committee that 'the Marriage Act 1961 does not prohibit a person who is married from legally changing their sex', it is unclear to the committee why the Sex Discrimination Act would need to be amended to specifically exempt state and territory laws which enable refusals to make or alter official records of the person's sex because the person is married. The Department has failed to explain to the committee how this exemption for these state and territory laws operated prior to its proposed inclusion in the Act, exactly which state and territory laws are being referred to, and, most importantly, what changes to the law the Bill would effect which require these amendments to preserve the existing law.*

*3.83 In particular, the committee expresses concern about the lack of explanation provided in the EM to the Bill in relation to amendments to provide exemptions for official records of a person's sex. Given the opposition to these provisions from a number of submitters, it would have been of assistance to the committee if a more comprehensive explanation was provided in the EM*

*Again, why was there this lack of comprehensive explanation not provided? It is very important data not expanded in the "EM Explanatory Memorandum" WHY???????????*

*3.84 While the committee expresses its concerns about these provisions, since the government is undertaking consultations with the states and territories on the recommendations of the Human Rights Commission's Concluding Paper, the committee endorses the Human Rights Commission's suggestion that these exemption provisions should only be enacted temporarily. Further, the committee strongly encourages the Australian Government to take a leadership role in ensuring that there is a nationally consistent approach to the legal recognition of sex in official records. This is a must!*

*Please explain the above. To what extent are these consultations progressing? What exactly does "Enacted temporarily mean?" How long is temporary? Can we in the Trans community gain access to the EM?*



Add this from the Passport Office, and you begin to understand how confusing we find the legislation.

Exceptions – Full validity Passport to be issued in new gender

### Married Applicants

Applicants who claim that they are unable to obtain an amended cardinal document because they are married should provide the following documentation (note, this only applies to RBDM documents as DIAC will amend its records for married persons):

- A statement from the relevant RBDM/Gender Reassignment Board that they have met all requirements for their reassigned gender to be recognised, except that they are married or medical evidence as set down in the relevant state or territory Registry of Births, Deaths and Marriages;
- Evidence of living in the character of the other gender such as driver's licence, Medicare card, Centrelink card, rates notices (or other PIDS documents);
- Original Birth Certificate;
- RBDM name change certificate;
- Marriage certificate;
- Statutory declaration stating that marriage has not been annulled.

And this from Centrelink.

Dear Ms Noble,

I refer to your recent enquiry about Centrelink's policy in regard to the introduction of the Government's same-sex reforms.

From 1 July 2009, a couple who are legally married and not living separately and apart from one another on a permanent or indefinite basis, despite one of the members of the couple having undergone gender re-assignment surgery, can be assessed in the same way as any other legally married couple.

I hope that this answers your question. Please contact me if I can be of further assistance in this matter.

Yours Sincerely,

Manager

Cleveland Customer Service Centre

Ph 3383 0130



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If the Federal Government state what is in the above letters and are responsible for the Marriage Act 1961, how can this be over ruled at State and Territory level? The spouse was the biggest loser, when we were deemed to be a same sex couple, as they had done nothing, other than stay with their partner. We fought this for over two years, before we arrived at the current situation.

If this is the Federal Government stance on remaining married after sex affirmation surgery, then why are we still required to divorce at State and Territory level, in order to amend our Birth Certificate?

Surely the one law, being the Marriage Act 1961 should be adhered to by the States and Territories, as it is a Federal Law. The attached gives some idea as to the situation in the EU. Germany: Forced divorce of Trans people declared unconstitutional by Justus Einfeld On 23 July 2008, the German Constitutional Court declared the provision in the German Transsexual Law (Transsexuellengesetz TSG) which requires forced divorce of Transsexuals unconstitutional. The TSG requires that Transsexuals who legally want to change their gender marker on their Birth Certificates have to be unmarried (though a registered partnership was no hindrance). This part of the law has just been declared unconstitutional and may not be used until the German Government proposes a new solution. The German Government has a deadline of 1 August 2009 to come up with a new law. Earlier the Constitutional Court declared that a retrieval of a legal change of names in the case of a marriage after the name change was also unconstitutional.

This is a major victory for the Trans community in Germany and abroad – as well as for the broader LGBT community. After Austria in 2006, Germany is the second country without same-sex marriage that abolishes the forced divorce rule for Transsexuals.

### CHANGE OF NAME:

**All States** and Territories allow those born in, or resident in that State or Territory to do a change of name. The law has been tightened as per the attached.

*Requirements have been tightened because of legislation amendments. So that if you were born in Australia or born overseas and Adopted in Australia, you must now apply to the State or Territory in which you were born or adopted to do a change of name.*

*This also assists the Registry of Births, Deaths and Marriages where Trans people are concerned, as it is noted on the person's birth registration.*

*If born offshore, then you will need to apply to the State or Territory in which you are a resident in together with evidence of residency. Residency requirements do differ, so you will need to contact your State Registry to ascertain their specific requirements.*

*If a Queensland born/adopted person has legally changed their name interstate they may, if they wish, make application to the Registry Office in Brisbane and have the change of name noted on their birth registration.*

The above has been verified by the Queensland Registry of Births, Deaths and Marriages.



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They will allow you to amend your driver's licence, but this would be dependent on the change of name. If born in NSW and have changed your name there, but now reside in Queensland, you must apply for an amended driver's licence in Queensland, if you intend to drive there. Sort that out. It's even more confusing.

08/775, MC08/17645, MC08/17302

19 January 2009

Ms Kathy Anne Noble

President, Changelings Aspects

PO BOX 897

CLEVELAND QLD 4163

Dear Ms Noble,

Thank you for your correspondence of 6 and 12 December 2008 regarding the Australian Government's same-sex reforms and the issue of a Recognised Details Certificate.

You queried how the Australia Government's same-sex reforms affect transgender individuals who remain married after surgery. As you may be aware, the same-sex reforms amend 84 Commonwealth laws to remove discrimination against same-sex de facto couples and their families from a wide range of Commonwealth laws and programs.

While the reforms do not expressly address the sex or gender diversity of specific individuals, they ensure that same-sex de facto couples and their families are recognised and have the same entitlements as opposite-sex de facto couples. A transgender individual who remains married after surgery will not be deemed to be no longer married as a result of the reforms. The effect of the reforms is that such an individual will receive the same treatment regardless of whether they are considered to be a member of a same sex or opposite-sex couple.

The Australian Government is aware of the Australian Human Rights Commission project which aims to address some of the difficulties faced by the sex and gender diverse community.

The Commission has advised that its project will now consider laws and policies that govern the amendment of identity documents and the various ways that private and public organisations use or record information about a person's sex or gender.

The Commission is currently preparing its report of the project which is likely to be released in the coming months. The Australian Government will consider the recommendations made by the Commission.

You also raised particular concern about the lack of a Recognised Details Certificate in Queensland and the impact it has on transgender individuals living in Queensland.

As I explained in my previous correspondence to you (27 October 2008), the Australian Government supports consistent laws relating to transgender recognition across the States and Territories. The implementation of the Births, Deaths and Marriages Registration Amendment Bill 2005 is a matter for the Queensland Government.

The Australian Government cannot legislate for identity documents issued by the States and Territories.



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I trust that this information will be of assistance. Thank you for bringing your concerns to the Government's attention.

Yours sincerely  
Peter Arnaudo  
Assistant Secretary  
Human Rights Branch  
Australian Government  
Attorney-General's Department  
Social Inclusion Division

09/3082, MC09/849, MC09/981, MC09/1292, MC09/1272  
17 March 2009  
Ms Kathy Anne Noble  
President, Changelings Aspects  
PO BOX 897  
CLEVELAND QLD 4163

Dear Ms Noble,

Thank you for your correspondence of 8 January 2009, 12 January 2009, 22 January 2009 and 24 January 2009 in respect of the Government's same-sex reforms and on issues concerning identity documents for transgender people born overseas and the inconsistencies between the technology used by Equal Opportunity Commissions and the Anti Discrimination Commissions.

As you are aware the Australian Government is awaiting the report on the Australian Human Rights Commission's sex and gender diversity project. As mentioned in previous correspondence, the Commission is currently preparing its report of the project which is likely to be released shortly.

The Australian Government will consider the recommendations made by the Commission. In relation to your concerns about the inconsistent references to transgender issues in State and Territory laws (raised in your letter of 22 January 2009), I can inform you that a project on the harmonisation of anti-discrimination laws is being progressed through the Standing Committee of Attorneys-General. A Working Group of officials has been established to develop options for Ministers' consideration. It is possible that this type of issue may be examined in that context.

In relation to your letter of 24 January 2009, I would like to clarify the Government's position. I can confirm that the Commonwealth Same-Sex discrimination law reforms will have no effect on the *Marriage Act* 1961. The Marriage Act provides that a marriage must be between a man and a woman. This is consistent with current Government policy and there are no plans to change the Marriage Act to allow for a marriage to be solemnized between same-sex couples.

Gender re-assignment surgery has never, of itself, changed the status of a marriage which was valid at the time of solemnization. It has always been the case that a validly solemnized marriage would continue, irrespective of whether one of the parties subsequently underwent gender re-assignment surgery. The same-sex reforms due to come into force on 1 July 2009 do not change



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that position. The legal recognition of the sex of transgender persons is primarily a matter for the States and Territories, as they are responsible for maintaining their respective Registers of Births,

Deaths and Marriages. All States and Territories have legislation which enables post-operative transgender persons to obtain either a recognition certificate or an amended Birth Certificate recording their preferred sex in certain circumstances, unless the person is a married person. Again, the same-sex reforms have no impact on this.

The Government's same-sex reforms amend 84 Commonwealth laws to remove discrimination against same-sex couples and their children. They extend to same-sex de facto couples the same entitlements and obligations that apply to opposite-sex de facto couples.

From your correspondence I now understand that you are also asking about the policy positions taken by other Commonwealth departments and agencies, including Centrelink. I understand that those policy issues are currently under review by the relevant departments and agencies.

I trust that this information will be of assistance. Thank you for bringing your concerns to the Government's attention.

John Boersig.  
Assistant Secretary  
Centrelink  
Australian Government giving you options

Kathy Anne Noble  
PO Box 897  
Cleveland Qld 4163  
7 May 2009

Dear Ms Noble,

I refer to your recent enquiry about Centrelink's policy in regard to the introduction of the Government's same-sex reforms.

From 1 July 2009, a couple who are legally married and not living separately and apart from one another on a permanent or indefinite basis, despite one of the members of the couple having undergone gender re-assignment surgery, can be assessed in the same way as any other legally married couple.

I hope that this answers your question. Please contact me if I can be of further assistance in this matter.

Yours Sincerely,  
Paula Nightingale  
Manager  
Cleveland Customer Service Centre  
Ph 3383 0130

giving you options



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[www.centrelink.gov.au](http://www.centrelink.gov.au)

We have had the excellent New Zealand Human Rights Commission report “To Be Who I Am” in 2008, with much of it implemented. Also in 2008 in Australia we had consultations with the Australian Human Rights Commission which produced a report in March 2009 “Sex Files, the sex and gender diversity project” Up until today, not one of the 15 recommendations have been implemented.

The Federal Attorney-General’s Office keeps talking about it, but nothing eventuates. This is due to the fact that numbers 1 to 9 are to do with State and Territory legislation. Only 10 to 15 are down to the Federal government. To date, it is still on the shelf, with much promised, but nothing originating.

Recently Trans friends have asked me, “Are we treated as humans?” and people in society at large, say “The way you are treated under discrimination, is inhumane.” This is because of the “Inquiry into the Sex and Age Discrimination Legislation Amendment Bill 2010.” There are many queries regarding this, as the Bill is still only for the binary sexes, so any discrimination that is written into State and Territory laws against Trans people will remain.

The worst is staying married after surgery, as we are “FORCED” to divorce in order to amend our birth certificate, as we consider this to be discrimination of the highest order. There is no law in Australia that can make you divorce, and to even stand in Court and ask for a divorce under the current law, would be laying one open to perjury. We in many cases do not wish to divorce, as we take our vows seriously and rely on each other for love and support. I cannot for the life of me, see how this stacks up in regard to the following.

We now have the situation whereby not just Austria and Germany have declared that the demand for a person applying for legal gender recognition to be unmarried as *unconstitutional*, we now have Sweden wanting to put this in place. Currently it is being stalled by the Minister responsible for legal reform on transgender legislation, in spite of an overwhelming parliamentary majority in favour of law revision.

There are also many, many more Countries who consider sterilization to also be unconstitutional. Is this the sign of the times to come?

May I ask why we do not have a Minister who is responsible for legal reform of transgender legislation? His/her task would be to align all legislation within the nine jurisdictions in Australia.

Committee Secretary  
Senate Legal and Constitutional Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia.  
Letter to the Federal Attorney-General

Dear Sir,

In response to your introduction of the “Sex Act Discrimination Legislation Amendment Bill 2010” I would raise the following points.



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In regard to the first dot point, I have been informed by your Office that it is only the 'Binary sexes, male and female' that will be affected by any amended legislation. This was in both October and November 2010.

We now have to establish if a Trans woman is fully recognised as a woman, and a Trans man is fully recognised as a man. This should be covered in your first of the "Four key amendments to the Sex Discrimination Act".

Are we in the Trans community to be accorded the same levels of cover as natal male and female? If not, why not, as we are supposedly granted that sex status after Sex Affirmation Surgery.

We would expect to be covered equally under the proposed section two amendments, as we are now legally recognised as male and female.

*"Both statements, namely in relation to CSW and the International Day to Eliminate Violence Against Women, were aimed to address the issues, as they pertained to all women in Australia. As I have been addressing these issues at a national level, in neither statement did I aim to identify the specific groups of women that were included, such as Trans women, or Indigenous women, women with disabilities, culturally and linguistically divers women, among others. You will note a similar approach being taken in my messages around International Women's Day.*

*However, in instances where it is necessary to identify specific groups of affected women, I would of course include Trans women. I recognise that Trans women face significant and disturbing levels of discrimination on the basis of their sex identity and/or gender identity, and the protection of the rights of Trans women is an important that does not often get the visibility that it requires."*

(MY HIGHLIGHTING)

*Above is an extract from Elizabeth Broderick's Letter to me, Dated 23-03-2011*

Three, at this point in time does not enter into the frame, although many Trans women do produce breast milk.

The fourth and final is the main one where we are concerned, as I have been informed that it does not apply to Trans people, only to natal male and female. If we are fully recognised in our sex now as male or female, surely this is of itself "Discriminatory"

When it comes to young Trans people, they have no legal redress and are open to all of the problems you list, and many more

We are made to jump through hoops to become our true selves, but we are still not legally fully recognised at any level of government in Australia. Therefore it would be nice for all governments to recognise us at law as now being no longer Trans, but man or woman. To this end, this major shift should be noted within the legislative amendments before the senate committee and government.



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We also have many problems to face when we grow old. The above recognition would be very helpful in those areas as well.

Finally, in letters to me from your Office, you have cited over 80 pieces of legislation were altered in the “Same Sex Act 2009” My question is this, “ How many pieces of legislation confront Trans people at all levels of Government, their departments and agencies in Australia?

Yours Sincerely, Kathy Anne Noble.  
President, Changeling Aspects  
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Committee Committee Secretary  
Senate Legal and Constitutional Committee  
PO Box 6100  
Parliament House  
Canberra ACT 2600  
Australia.  
20-01-2011

### **EFFECT OF REASSIGNMENT OF SEX**

I was asked by a Trans friend “are we considered to be human?” We abide by the many laws imposed on the Trans community, only to find that under the “Sex Discrimination Act 1984 Review” we will gain nothing, not even the recognition of male or female after sex affirmation surgery.

This is altogether frightening, scary even, when we look at the statements made by all States and Territories in the laws they have enacted in Australia, that concern us after sex affirmation surgery. We are then considered to be “Anatomically male or female” so why are we treated this way?

All States and Territories in Australia state in their laws, in one form or another, that “A person’s sex is noted under the Act, the person is of the sex stated on their birth certificate or recognition certificate. They are also, but subject to any law, a person of the sex so stated or altered.”

To achieve this outcome, it is required that we have “*Altered or had removed all reproductive organs*” Even if we do this we are still faced with the following, which smacks of having a bet each way. *Still no clear definition as to what are “Reproductive Organs”*

I borrow the words of Noel Pearson, but substitute “Trans Peoples,” for “Indigenous Peoples”, so that it now reads as, “What is still needed is positive recognition of our status as the country’s Trans people, and yet sharing a common citizenship with all Australians.

Are these contradictory principles? I argue they are not. We can recognise the status of Trans peoples without fracturing the principles that all Australians are equal citizens.”

*Noel Pearson is director of the Cape York Institute for Policy and Leadership*



**International Women's Day**  
**8 March 2011**

## Kathy Noble



- **Region** Brisbane
- **Category** 61 years and over

Kathy Noble is the founder of Changeling Aspects and a tireless campaigner for the rights of the Trans community. Kathy established Changeling Aspects in 2002 with the help of a hospital board to coordinate visits to people who were in hospital recovering from surgery. The other purpose of the group is advocacy and the provision of information and Lesbian, Gay, Bisexual and Trans (LGBT) awareness training for health care workers, higher learning institutions and government bodies. Kathy recently delivered training for CareConnect to help them improve their approach to transgender people in aged care and respite facilities. She says the response to the training has been 'wonderful'.

Kathy is a Member of the World Professional Association for Transgender Health (WPATH), sits on many Queensland Government boards for GLBTI concerns, ageing and suicide, and works with the Anti-Discrimination Commission in Queensland and the Australian Human Rights Commission. She is respected in the corridors of Canberra.

Kathy says violence and discrimination towards the Trans community is real and is very upset by treatment of Bridget (formerly Captain Matt) by the Australian Army. However,



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Kathy says there is an increasing awareness of the Trans community amongst the wider community. She says one of the big challenges for Queensland is obtaining legal recognition for Trans people who, like Kathy, were born off-shore but reside in Queensland.

Kathy's journey and activism has been informed by her own experiences and transition. In May, Kathy will launch her first book entitled 'Two Lives: A Transsexual's story and the fight for recognition'. The foreword is written by Commissioner and Chair of the Australian Council of Human Rights Agencies (ACHRA) Susan Booth.

Kathy says this Everyday Women, Extraordinary Lives tribute provides very much appreciated recognition.

I am dedicating this as follows

*As a Trans woman, I have been selected as one of the many women to represent Queensland in the 100<sup>th</sup> Anniversary of International Women's day.*

*"I dedicate this to all Trans women as they strive to reach their known gender/sex. I also dedicate it to those who are repeatedly abused physically, sexually and mentally. To those who, are denied their rights to change their documentation, or are incarcerated in prison and left to the problems that will present. I dedicate this to those who suffer from all forms of frustration, depression and legal abuse. Most of all I dedicate this to those who are "bashed, raped, murdered and suicide due to the untold pressures we face"*

*We need compassion and empathy to understand our many problems. We are not complex. It is the system that creates the complexities.*

*Amazing. I am recognised by the Queensland Office of Women, but not by the Queensland Attorney-General's office, as they will not offer me a "Recognised Details Certificate". So, am I fully recognised in Queensland as a Woman or not?*

### QUEENSLAND

#### Section 24

1. a person who has had the reassignment of the person's sex entered into a register maintained under a corresponding law is a person of the sex as reassigned
2. A person who is the subject of a recognition certificate is a person of the sex stated in the recognition certificate. (*do not recognise recognition certificates from the UK or outside of Australia, even then, they may not recognise them from within Australia*)
3. However, the person must comply with section 23 (10) for the reassignment of the person's sex to be noted under the Act



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4. If the reassignment of a person's sex is noted under this Act, the person is a person of the sex as reassigned.

## **SOUTH AUSTRALIA**

### **Part 3 section 8**

1. A recognition certificate is conclusive evidence that the person to whom it refers  
*(a) has undergone a reassignment procedure*  
*(b) Is of the sex stated in the certificate*
2. An equivalent certificate issued under a corresponding law has the same effect as a recognition certificate under this Act *(Does this include the UK Gender Recognition certificate?)*

## **NEW SOUTH WALES BDMR Act 1995**

### **Section 321**

#### **Effect of alteration of register and interstate recognition certificates**

1. A person the record of whose sex is altered under this part is, for all purposes of, but subject to, any law of NSW, a person of the sex as so altered
2. A person to whom an interstate recognition certificate relates is, for the purposes of, but subject to, any law in NSW, a person of the sex as stated in the certificate *(On shore and off shore?)*
3. An interstate Recognition certificate is a certificate s prescribed by the regulation for the purpose of this section. *(Do they accept from off shore?)*

## **WESTERN AUSTRALIA**

### **Section 16**

#### **Effect of the Recognition Certificate**

1. A recognition certificate is conclusive evidence that the person to whom it refers  
*(a) Has undergone a reassignment procedure; and*  
*(b) Is of the sex stated in the certificate*
2. An equivalent certificate issued under a corresponding law has the same effect as a recognition certificate under this Act *(Off shore recognition certificates?) (Length of residency status in WA?)*

## **TASMANIA BDMR Act 1999**

### **Section 28G**

#### **Effect of registration of change of sex**

1. Where a person's change of sex is registered under this grant, the person is, for the purposes of, but subject to any law in force in this State, a person of the sex as so changed.
2. A person's change of sex does not affect any relationship of that person arising from consanguinity or by operation of law.

#### **Section 28H Recognition of certificates issued outside of Tasmania**

A person in respect of whom there is a recognition certificate is Taken to be, for the purposes of, but subject to, any law in force in the State, a person of the sex stated in the recognition certificate? . *(Does this include on and off shore certificates?) (Any length of residency in Tasmania?)*

## **NORTHERN TERRITORY**

### **Section 28H effect of registration of person's change of sex**

Where a person's change of sex is registered under this part, the person is, for the purposes of (but subject to) any law in force in the Northern Territory, a person of the sex as so changed

### **Section 28 J Recognition Certificate**



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A person in respect of whom there is a recognition certificate is, for the purposes of (but subject to) any law in force in the Territory, a person of the sex stated in the recognition certificate. *(Does this apply to on and off shore certificates?) (any length of residency in NT?)*

### **ACT BDMR Act 1997**

#### **Section 29 s5**

##### **Effect of certificates issued in relation to transsexual people**

1. A birth certificate in relation to a transsexual person is, for the purposes of any territory law, conclusive evidence of the person's sex as stated in the certificate
2. An interstate recognition certificate, for the purposes of any territory law, is evidence that the person mentioned in it is of the sex as stated in the certificate
3. In this section: "Interstate recognition certificate" means a certificate issued, under the law of a State or another Territory prescribed for this section, in relation to a person, who has undergone sex reassignment surgery. *(Does not stipulate if in Australia or off shore certificates are acceptable)*

### **VICTORIA**

#### **30G. Effect of alteration of Register and interstate recognition certificates**

- (1) If the record of a person's sex in the person's birth registration is altered under this Part the person is a person of the sex as altered.
- (2) If an interstate recognition certificate is issued to a person the person is a person of the sex stated in the certificate. *(Off shore not included again?)*
- (3) Sub-sections (1) and (2) have effect for the purposes of, but subject to, the law of Victoria

#### **30H. Re-issue of interstate birth certificates**

To avoid doubt, the validity in Victoria of a certificate that—

- (a) is issued under a law of another State or a Territory; and

#### **s. 6**

- (b) concerns the birth registration of a person—

is not affected merely because it was issued as a result of the person having undergone sex affirmation surgery.'

**Even the DRAFT (prepared by Parliamentary Counsel's Office) BDMR Amendment Bill 2005 looked at these details. Not adopted at the SCAG meeting in July 2005 Division 4.4**

#### **Effect of certificates issued if change of sex recorded**

##### **29c effect of certificates issued if change of sex recorded**

1. A certificate issued under section 27(2) or section 29B in relation to a person is, for the purposes of any Territory law, conclusive evidence that the person's sex is as stated in the certificate. *Drafting notes*
2. *Other jurisdictions will need to change the reference to "Territory law" in this section*
3. A certificate issued in relation to a person under a corresponding provision is, for the purpose of Territory law, conclusive evidence that the person's sex is as stated in the certificate
4. In this section: *(corresponding provision)* means a provision of a law of a State or another Territory that substantially corresponds to section 27(2) or section 29B or is declared by regulation to substantially correspond to either section *(again no mention of off shore certificates, but equally, no specific mention within Australia)*

This appears to be the worst form of discrimination, as they purport to recognise us on one hand after surgery as anatomical males or females, but then on the other, still require us to divorce in



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order to amend our birth certificate. Sorry, this does not make any sense at all to me. Is it because, they are afraid of setting a precedent, for “Same Sex Marriage?”

Discrimination is an awful weapon to use against any part of society, and we certainly receive more than our share. Discrimination is worse than any debilitating disease, as it cannot be cured by drugs and care alone. Care and compassion and empathy are what are sadly lacking due to the unwillingness of Governments at all levels through out the World to attack this most insidious of pressures. Pressures that lead to a very debilitating scenario. Depression, frustration, self harm, drug and alcohol abuse and suicidality. If we are not cared for in the initial stages, then in the long term our problems will manifest by having to be cared for by the Government health departments with all that infers, when cost is taken into account

Yours Sincerely, Kathy Anne Noble.  
President, Changeling Aspects  
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