



Changeling Aspects In affiliation with Agender (Aust.)
In affiliation with Transbridge

Townsville

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01-09-2010

Thomas Hammarberg, Commissioner

Dear Sir,

You might be interested in the letters that I received from the Australian Federal Attorney-General's Office, as attached. Also Centrelink and other Government Departments and Agencies now accept what is contained in the letters.

We are also in the position where the Passport Office will amend a Trans person's passport if remaining married after surgery. However, they still cannot amend the birth certificate, as the States and Territories in Australia all require you to have had surgery and be single (Read Divorced)

For those, like myself, born offshore then the Department of Immigration and Citizenship will allow either after surgery, or before surgery in order to amend our Residency Status and Citizenship.

All of this is very confusing to us.

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.

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 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 also note that the National Human Rights Consultation may also provide an opportunity to share your views on human rights in Australia. The National Human Rights Consultation was launched on 10 December 2008. The Attorney-General has appointed a Committee of eminent Australians to conduct the Consultation. The members are Father Frank Brennan SJ AO, who chairs the Committee, Ms Tammy Williams, Ms Mary Kostakidis and Mr Mick Palmer AO APM.

Over the coming months, the Committee will seek the views of the Australian public on which human rights and responsibilities they consider are important, whether they are currently sufficiently protected and promoted, and whether they could be better protected and promoted.

The Committee will hold community roundtables throughout regional and remote Australia, as well as in capital cities during the first part of 2009. The Committee is also accepting written and online submissions to the Consultation. They want to ensure that a diverse range of people in Australia, particularly those who would not usually participate in a Consultation such as this, are able to share their views on human rights in a variety of locations around the country.

To help enable this, the Committee is planning to have a strong online presence throughout the Consultation. To register to participate in a community roundtable or to make a submission, you may wish to visit the Consultation website at www.humanrightsconsultation.gov.au.

The Committee will report to the Government on a range of options for protecting and promoting human rights in Australia by 31 August 2009

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

John Boersig .
Assistant Secretary

Centre link

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

Yours Sincerely, Kathy Anne Noble.
President, Changeling Aspects
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