

PARLIAMENT OF VICTORIA

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**Births, Deaths and Marriages Registration  
Amendment Bill 2016**

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Introduced in the Assembly

## **Births, Deaths and Marriages Registration Amendment Bill 2016**

A Bill for an Act to amend the **Births, Deaths and Marriages Registration Act 1996** to provide for a person to alter the record of a person's sex in the person's birth registration and to further provide for the issue of a document acknowledging a person's name and sex, to make consequential amendments to the **Children, Youth and Families Act 2005**, the **Corrections Act 1986**, the **Serious Sex Offenders (Detention and Supervision) Act 2009** and the **Sex Offenders Registration Act 2004** and for other purposes.

**The Parliament of Victoria enacts:**

### **Part 1—Preliminary**

#### **1 Purposes**

The main purposes of this Act are—

- (a) to amend the **Births, Deaths and Marriages Registration Act 1996**—
  - (i) to provide for applications to alter a record of sex in a birth registration to a sex descriptor nominated by an applicant; and

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Part 1—Preliminary

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- (ii) to provide for the issuing of a document acknowledging the name and sex of an adult whose birth is registered in a place other than Victoria; and
  - (iii) to remove requirements in respect of applications to alter a record of sex or for the issue of a document acknowledging name and sex, that a person has undergone sex affirmation surgery and is unmarried; and
  - (iv) to provide for alteration of the record of a child's sex in a child's birth registration; and
  - (v) to provide for the issuing of a document acknowledging the name and sex of a child whose birth is registered in a place other than Victoria; and
  - (vi) to provide for the requirements in respect of applications to the Registrar to alter the record of a person's sex or for the issuing of a document acknowledging name and sex by restricted persons; and
  - (vii) to further provide for the disclosure of information by the Registrar; and
  - (viii) to make other minor and consequential amendments; and
- (b) to amend the **Children, Youth and Families Act 2005**, the **Corrections Act 1986**, the **Serious Sex Offenders (Detention and Supervision) Act 2009** and the **Sex Offenders Registration Act 2004**—
- (i) to provide for an approval process and information sharing in respect of applications to alter the record of a person's sex or for the issuing of a
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Part 1—Preliminary

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document acknowledging a person's name and sex; and

- (ii) to make other minor and consequential amendments.

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**2 Commencement**

(1) Subject to subsection (2), this Act comes into operation on a day or days to be proclaimed.

(2) If a provision of this Act does not come into operation before 1 October 2017, it comes into operation on that day.

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**3 Principal Act**

In this Act, the **Births, Deaths and Marriages Registration Act 1996** is called the Principal Act.

## Part 2—Amendment of Births, Deaths and Marriages Registration Act 1996

### 4 Objects of Act

In section 3 of the Principal Act—

- 5 (a) for paragraph (ca) **substitute**—
- "(ca) the alteration of the record of sex in a birth registration; and";
- (b) for paragraph (ea) **substitute**—
- 10 "(ea) the issue of documents acknowledging the name and sex of persons whose birth is registered in a place other than Victoria; and".

### 5 Definitions

In section 4(1) of the Principal Act—

- 15 (a) in the definition of *registrable event*, after "change of name," **insert** "alteration of record of sex,";
- (b) the definition of *sex affirmation surgery* is **repealed**;
- 20 (c) for the definition of *interstate recognition certificate* **substitute**—
- "*interstate recognition certificate* means a current certificate identifying a person as being of a particular sex that is
- 25 issued under a prescribed law;";
- (d) **insert** the following definitions—
- "*Justice Secretary* means the Secretary to the Department of Justice and Regulation under the **Public Administration Act 2004**;
- 30

*prohibited sex descriptor* means a sex descriptor—

- 5
- (a) that is obscene or offensive; or
  - (b) that could not practicably be established by repute or usage—
    - (i) because it is too long; or
    - (ii) because it consists of or includes symbols without phonetic significance; or
    - (iii) for some other reason;
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*sex descriptor* includes—

- (a) male; or
  - (b) female; or
  - (c) any other sex;".
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## **6 Registration of change of name**

In section 28(2) of the Principal Act, after "court" **insert** "(including a court of another State or the Commonwealth)".

## **7 Heading to Part 4A substituted**

20 For the heading to Part 4A of the Principal Act **substitute—**

**"Part 4A—Acknowledgement of sex".**

**8 Sections 30A and 30B substituted and new sections 30BA and 30BB inserted**

For sections 30A and 30B of the Principal Act  
**substitute—**

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**"30A Application to alter record of sex in person's birth registration**

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(1) A person who is aged 18 years or over may apply to the Registrar for the record of the person's sex in the person's birth registration to be altered if—

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- (a) the person's birth is registered in Victoria; and
- (b) the person believes the person's sex to be as nominated in the application; and
- (c) the record of the person's sex has not been altered within the 12 months preceding the date of making the application.

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(2) The applicant must nominate a sex descriptor in the application.

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(3) The application must—

- (a) be in the form approved by the Registrar; and
- (b) include a statutory declaration made by the applicant that addresses the requirements of subsection (1); and
- (c) be accompanied by—
  - (i) a supporting statement in accordance with subsection (4); and
  - (ii) the prescribed fee (if any); and

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(iii) any other documents or information reasonably required by the Registrar.

(4) A supporting statement must—

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(a) be in the form approved by the Registrar; and

(b) be made by a person who is aged 18 years or over and who has known the applicant for at least 12 months; and

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(c) state that the person making the supporting statement—

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(i) believes that the applicant makes the application to alter the record of the sex of the applicant in good faith; and

(ii) supports the application.

**30B Application to alter record of sex in child's birth registration**

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(1) Subject to section 30BA, the parents of a child may apply to the Registrar for the record of the child's sex in the child's birth registration to be altered if—

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(a) the child's birth is registered in Victoria; and

(b) the child consents to the alteration of the record of the child's sex to the sex descriptor nominated in the application; and

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(c) the parents believe on reasonable grounds that the alteration of the record of the child's sex is in the best interests of the child; and

- (d) the record of the child's sex has not been altered within the 12 months preceding the date of making the application.
- 5 (2) The applicants must nominate a sex descriptor in the application.
- (3) The application must—
- (a) be in the form approved by the Registrar; and
- 10 (b) include a statutory declaration made by the applicants addressing the requirements of subsection (1); and
- (c) be accompanied by—
- 15 (i) a supporting statement in accordance with subsection (4), unless the Court has made an order under section 30BB(3); and
- (ii) the prescribed fee (if any); and
- 20 (iii) any other documents or information reasonably required by the Registrar.
- (4) A supporting statement must—
- (a) be in the form approved by the Registrar; and
- 25 (b) be made by a relevant person; and
- (c) state that the relevant person is of the opinion that—
- 30 (i) the alteration of the record of the child's sex is in the best interests of the child; and

(ii) if the child is under 16 years of age, that the child has capacity to consent to the alteration of the record of the child's sex.

- 5 (5) In this section, *relevant person* means—
- (a) a doctor; or
  - (b) a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession (other than as a student); or
  - 10 (c) a person who is a member of a prescribed class of persons.

**30BA Application made by one parent or guardian to alter record of sex in child's birth registration**

- 15 (1) An application under section 30B for the alteration of the record of a child's sex in the child's birth registration may be made by one parent if—
- 20 (a) the applicant is the sole parent named in the registration of the child's birth under this Act; or
  - (b) there is no other surviving parent of the child; or
  - 25 (c) the Court makes an order under section 30BB(3) approving the alteration of the record of the child's sex.
- 30 (2) An application under section 30B for the alteration of the record of a child's sex in the child's birth registration may be made by the child's guardian if—

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- (a) the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities in relation to the child; or
  - (b) the Court makes an order under section 30BB(3) approving the alteration of the record of the child's sex.

10 **30BB Court order approving alteration of record of sex in child's birth registration**

- 15
- (1) A parent of a child may apply to the Court for an order to approve the alteration of the record of the child's sex in the child's birth registration.
  - (2) A child's guardian may make an application under subsection (1) if the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities in relation to the child.
  - (3) The Court may make an order approving the alteration of the record of the child's sex in the child's birth registration if the Court is satisfied that the alteration is in the child's best interests."
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**9 Sections 30C and 30D substituted**

For sections 30C and 30D of the Principal Act substitute—

**"30C Alteration of the Register**

- 30
- (1) The Registrar must determine an application under section 30A or 30B by altering the record of the person's or the child's sex in the person's or the child's birth registration or by refusing to do so.

- 5 (2) Before determining the application, the Registrar may require the applicant to provide any further information or documentation that the Registrar considers necessary, including evidence to establish to the Registrar's satisfaction—
- (a) the identity and age of the person or the child whose record of sex is to be altered; and
- 10 (b) that the alteration of the record of sex is not sought for a fraudulent or other improper purpose.
- (3) The Registrar may alter the record of the person's or the child's sex in the person's or the child's birth registration if the Registrar is satisfied that—
- 15 (a) a court (including a court of another State or the Commonwealth) has ordered that the sex recorded in the person's or the child's birth registration be altered; or
- 20 (b) the record of the person's or the child's sex has been altered under another law.
- 25 (4) The Registrar may refuse to alter the record of a person's or a child's sex in the person's or the child's birth registration if the alteration would result in the recorded sex being a prohibited sex descriptor.

**30D Issue of new birth certificate**

30 After the record of a person's or a child's sex in the person's or the child's birth registration is altered, any certificate issued by the Registrar concerning that birth registration—

- 5
- (a) must state the person's or the child's sex in accordance with the record as altered; and
  - (b) must not state that the record of the person's or the child's sex has been altered; and
  - (c) must not state the person's or the child's former name (if any)."

10 **10 Section 30E substituted and new sections 30EA, 30EB and 30EC inserted**

For section 30E of the Principal Act **substitute—**

**"30E Application for document acknowledging name and sex**

- 15
- (1) A person who is aged 18 years or over may apply to the Registrar for a document that acknowledges the person's name and sex if—
    - (a) the person's birth is registered in a place other than Victoria; and
    - (b) the person's principal place of residence is, and has been for at least 12 months, in Victoria; and
    - (c) the person believes the person's sex to be as nominated in the application; and
    - (d) a document acknowledging the person's name and sex has not been issued by the Registrar within the 12 months preceding the date of making the application.
  - (2) The applicant must nominate a sex descriptor in the application.
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- (3) A person must not make an application under subsection (1) for the issue of a document to acknowledge a name that is not the name of the person.

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**Note**

See Part 4 for making an application to change a person's name.

- (4) The application must—

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- (a) be in the form approved by the Registrar; and
- (b) include a statutory declaration made by the applicant that addresses the requirements of subsection (1); and
- (c) be accompanied by either—
  - (i) a supporting statement in accordance with subsection (5); or
  - (ii) an interstate recognition certificate (if any) issued to the applicant; and
- (d) be accompanied by the prescribed fee (if any); and
- (e) be accompanied by any other documents or information reasonably required by the Registrar.

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- (5) A supporting statement must—

- (a) be in the form approved by the Registrar; and
- (b) be made by a person who is aged 18 years or over, and who has known the applicant for at least 12 months; and

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- (c) state that the person making the supporting statement—
    - (i) believes that the applicant makes the application for a document that acknowledges the applicant's name and sex in good faith; and
    - (ii) supports the application.
- 30EA Application for document acknowledging child's name and sex**
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- (1) Subject to section 30EB, the parents of a child may apply to the Registrar for a document that acknowledges the child's name and sex if—
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- (a) the child's birth is registered in a place other than Victoria; and
  - (b) the child's principal place of residence is, and has been for at least 12 months, in Victoria, unless—
    - (i) subsection (6) applies; or
    - (ii) the grounds under subsection (7) are met; and
  - (c) the child consents to the acknowledgement of the child's sex as the sex descriptor nominated in the application; and
  - (d) the parents believe on reasonable grounds that a document acknowledging the child's name and sex is in the best interests of the child; and
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- 5 (e) a document acknowledging the child's name and sex has not been issued by the Registrar within the 12 months preceding the date of making the application.
- (2) The applicants must nominate a sex descriptor in the application.
- 10 (3) The applicants must not make an application under subsection (1) for the issue of a document to acknowledge a name that is not the name of the child.
- Note**  
See Part 4 for making an application to change a child's name.
- 15 (4) The application must—
- (a) be in the form approved by the Registrar; and
- 20 (b) include a statutory declaration made by the applicants addressing the requirements of subsection (1); and
- (c) be accompanied by—
- 25 (i) a supporting statement in accordance with subsection (5), unless the Court has made an order under section 30EC(3); or
- (ii) an interstate recognition certificate (if any) issued to the child; and
- (d) be accompanied by the prescribed fee (if any); and
- 30 (e) be accompanied by any other documents or information reasonably required by the Registrar.

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- (5) A supporting statement must—
    - (a) be in the form approved by the Registrar; and
    - (b) be made by a relevant person; and
    - (c) state that the relevant person is of the opinion that—
      - (i) the application for a document that acknowledges the child's name and sex is in the best interests of the child; and
      - (ii) if the child is under 16 years of age, the child has capacity to consent to the acknowledgment of the child's name and sex.
  - (6) The 12 month requirement under subsection (1)(b) is waived if the Court has made an order under section 30EC(3).
  - (7) The Registrar may waive the 12 month requirement under subsection (1)(b) if the Registrar is satisfied that the document acknowledging the child's name and sex is sought for the purpose of protection of the child.
  - (8) In this section, *relevant person* means—
    - (a) a doctor; or
    - (b) a person registered under the Health Practitioner Regulation National Law to practise in the psychology profession (other than as a student); or
    - (c) a person who is a member of a prescribed class of persons.
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**30EB Application made by one parent or guardian for document acknowledging child's name and sex**

- 5 (1) An application under section 30EA to the Registrar for a document that acknowledges a child's name and sex may be made by one parent if—
- 10 (a) the applicant is the sole parent named in the registration of the child's birth; or
- 15 (b) there is no other surviving parent of the child; or
- (c) the Court makes an order under section 30EC(3) that the Registrar issue a document that acknowledges the child's name and sex.
- 20 (2) An application under section 30EA to the Registrar for a document that acknowledges a child's name and sex may be made by the child's guardian if—
- 25 (a) the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities in relation to the child; or
- (b) the Court makes an order under section 30EC(3) that the Registrar issue a document that acknowledges the child's name and sex.

**30EC Court order for the issue of document acknowledging child's name and sex**

- 30 (1) A parent of a child may apply to the Court for an order that the Registrar issue a document acknowledging the name and sex of the child under section 30EA.

- 5 (2) A guardian of a child may make an application under subsection (1), if the parents of the child are dead, cannot be found or for some other reason cannot exercise their parental responsibilities in relation to the child.
- 10 (3) The Court may make an order that the Registrar issue a document acknowledging the child's name and sex if satisfied that the issuing of the document under section 30EA is in the child's best interests."

#### **11 Issue of document acknowledging identity**

- 15 (1) In the heading to section 30F of the Principal Act, for "**identity**" substitute "**name and sex**".
- (2) In section 30F(1) of the Principal Act—
- (a) after "30E" insert "or 30EA";
  - (b) after "applicant's" insert "or the child's".
- (3) In section 30F(3) of the Principal Act, after "the applicant's" insert "or the child's".
- 20 (4) In section 30F(4) of the Principal Act—
- (a) for "he or she" substitute "the Registrar";
  - (b) after "the applicant's" insert "or the child's".
- (5) For section 30F(6) of the Principal Act substitute—
- 25 "(6) The Registrar may refuse to issue a document acknowledging the name and sex of an adult or a child if that document would acknowledge a prohibited sex descriptor."

**12 New section 30FA inserted**

After section 30F of the Principal Act **insert—**

**"30FA Notification to registering authority of issuing of document acknowledging name and sex**

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If the Registrar issues a document under section 30F in respect of a person or a child whose birth is registered under a corresponding law, the Registrar must notify the relevant registering authority of the person's or the child's name and sex acknowledged in the document."

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**13 New Division 2A of Part 4A inserted**

After Division 2 of Part 4A of the Principal Act **insert—**

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**"Division 2A—Acknowledgement of sex applications—prisoners, prisoners on parole, offenders, registrable offenders and detainees**

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**30FB Definitions**

In this Division—

*acknowledgement of sex application* means an application by or on behalf of a restricted person—

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(a) under section 30A, 30B, 30E or 30EA; or

(b) under a law of another State to alter the record of sex of the restricted person in the restricted person's birth registration;

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*approval* means a decision approving the making of an acknowledgement of sex application given by—

- 5
- (a) the Secretary under section 488R of the **Children, Youth and Families Act 2005**; or
- (b) the Secretary under section 47Q of the **Corrections Act 1986**; or
- (c) the Adult Parole Board under section 79HD of the **Corrections Act 1986**; or
- 10 (d) the Adult Parole Board under section 181D of the **Serious Sex Offenders (Detention and Supervision) Act 2009**; or
- 15 (e) the Chief Commissioner of Police under section 70T of the **Sex Offenders Registration Act 2004**;

*restricted person* means a person who is—

- 20 (a) a detainee within the meaning of section 482A of the **Children, Youth and Families Act 2005**; or
- (b) a prisoner within the meaning of section 3(1) of the **Corrections Act 1986**; or
- 25 (c) a prisoner on parole within the meaning of section 79HA of the **Corrections Act 1986**; or
- (d) an offender within the meaning of section 181A of the **Serious Sex Offenders (Detention and Supervision) Act 2009**; or
- 30 (e) a registrable offender within the meaning of section 3 of the **Sex Offenders Registration Act 2004**.

**30FC Acknowledgement of sex application accompanied by approval**

5 In addition to the requirements of section 30A, 30B, 30E or 30EA, an acknowledgement of sex application made to the Registrar by or on behalf of a restricted person must be accompanied by the appropriate approval.

**30FD Determination of acknowledgement of sex application**

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- (1) If the Registrar is satisfied that an acknowledgement of sex application made by or on behalf of a restricted person is accompanied by the appropriate approval in accordance with section 30FC, that application must be determined in accordance with section 30C or 30F (as the case requires).
  - (2) The Registrar must give a copy of any decision to refuse an acknowledgement of sex application under section 30C or 30F to the person or body which gave the approval that accompanied the application.

**30FE Notification that acknowledgement of sex application not accompanied by approval**

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If an acknowledgement of sex application made by or on behalf of a restricted person is not accompanied by the appropriate approval in accordance with section 30FC, the Registrar must notify the relevant person or body whose approval was required of the failure to provide that approval by the restricted person or the person who applied on the restricted person's behalf."

**14 Effect of alteration of Register and interstate recognition certificates**

(1) After section 30G(1) of the Principal Act **insert—**

5           "(1A) If the record of a child's sex in the child's birth registration is altered under this Part the child is a child of the sex as altered."

(2) In section 30G(3) of the Principal Act, for "and (2)" **substitute** ", (1A) and (2)".

**15 Re-issue of interstate birth certificates**

10           (1) In section 30H(a) of the Principal Act **omit** "or a Territory".

(2) At the end of section 30H of the Principal Act **insert—**

15           "(2) In this section *sex affirmation surgery* means a surgical procedure involving the alteration of a person's reproductive organs carried out for the purpose of assisting the person to be considered to be a member of a particular sex."

20           **16 New sections 30J and 30K inserted**

After section 30I of the Principal Act **insert—**

**"30J Registrar to disclose alterations of record of sex or issuing of document acknowledging name and sex**

25           (1) This section applies if the Registrar has been notified of the details of a person by the Justice Secretary—

(a) under section 47M of the **Corrections Act 1986**; or

30           (b) under section 79H of the **Corrections Act 1986**; or



(c) under section 180 of the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

- 5 (2) As soon as practicable after altering the record of a person's sex in the person's birth registration or issuing a document acknowledging the person's name and sex, the Registrar must give the Justice Secretary written notice of the alteration of the record of the person's sex or the issuing of a document acknowledging the name and sex of the person.
- 10
- 15 (3) A notice under subsection (2) must include information about all alterations made to the record of a person's sex in the person's birth registration or all documents issued acknowledging the name and sex of a person.

20 **30K Registrar to disclose alterations to record of sex on request of Secretary**

If a request is made under section 47S of the **Corrections Act 1986**, the Registrar must disclose to the Justice Secretary information about—

- 25 (a) all alterations made to the record of a person's sex in the person's birth registration; and
- (b) all documents issued acknowledging the name and sex of the person."

30 **17 Correction and amendment of Register**

In section 43(5) of the Principal Act, for "addition" **substitute** "addition, alteration or deletion".

Births, Deaths and Marriages Registration Amendment Bill 2016

Part 2—Amendment of Births, Deaths and Marriages Registration Act 1996

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**18 Registrar to provide certain information to Minister**

In section 56(b) of the Principal Act **omit**  
"altered the Register under section 30C, or".

## **Part 3—Consequential amendment of other Acts**

### **Division 1—Amendment of Children, Youth and Families Act 2005**

5           **19 Delegation**

After section 17(1)(fa) of the **Children, Youth and Families Act 2005** insert—

10           "(fb) the power to approve under section 488R the making of an acknowledgement of sex application; and".

**20 New Division 4A of Part 5.8**

After Division 4 of Part 5.8 of the **Children, Youth and Families Act 2005** insert—

15           "**Division 4A—Approval of making of acknowledgement of sex applications by detainees**

**488O Definitions**

In this Division—

20           *acknowledgement of sex application* means an application by or on behalf of a detainee—

- 25           (a) under section 30A, 30B, 30E or 30EA of the **Births, Deaths and Marriages Registration Act 1996**; or
- (b) under a law of another State or a Territory to alter the record of sex of the detainee in the detainee's birth registration;

**Registrar** means—

- (a) the Victorian Registrar; or
- (b) an authority responsible under a law of another State or a Territory for the registration of births, deaths and marriages;

**Victorian Registrar** means the Registrar of Births, Deaths and Marriages under the **Births, Deaths and Marriages Registration Act 1996**.

**488P Offence to make acknowledgement of sex application without approval**

- (1) A detainee must not make an acknowledgement of sex application to a Registrar without having first obtained the written approval of the Secretary.

Penalty: 5 penalty units.

- (2) A person must not make an acknowledgement of sex application to a Registrar on behalf of a detainee unless the written approval of the Secretary is first obtained.

Penalty: 5 penalty units.

- (3) A person must not make an acknowledgement of sex application on behalf of a detainee who is under the age of 18 years to a Registrar unless the written approval of the Secretary is first obtained.

Penalty: 5 penalty units.

**488Q Application by detainee or person for approval of Secretary**

5 A detainee or person who intends to make an acknowledgement of sex application may apply to the Secretary for approval of the making of the acknowledgement of sex application by the detainee or the person.

**488R Approval by Secretary of the making of acknowledgement of sex application**

- 10 (1) Subject to subsection (2), on an application under section 488Q, the Secretary may approve the making of an acknowledgement of sex application if the Secretary is satisfied that the alteration of the record of sex or the
- 15 issuing of a document acknowledging name and sex is, in all the circumstances reasonable.
- 20 (2) The Secretary must not approve the making of an acknowledgement of sex application if the Secretary is satisfied that the alteration of the record of sex if registered or the issuing of a document acknowledging name and sex would be reasonably likely—
- 25 (a) to be a threat to the security of a youth residential centre or youth justice centre; or
- (b) to jeopardise the safe custody or welfare of any detainees; or
- 30 (c) to be used to further an unlawful activity or purpose; or
- (d) to be regarded as offensive by a victim of crime or an appreciable sector of the community.

**488S Copy of approval or refusal of Secretary**

- 5 (1) If the Secretary decides to approve the making of an acknowledgement of sex application, the Secretary as soon as practicable must give a copy of the approval to—
- (a) the person who sought the approval; and
  - (b) the Victorian Registrar.
- 10 (2) If the Secretary decides not to approve the making of an acknowledgement of sex application, the Secretary must give a copy of that decision to the person who sought the approval."

15 **Division 2—Amendment of Corrections Act 1986**

**21 New Division 6 of Part 6 inserted**

After Division 5 of Part 6 of the **Corrections Act 1986** insert—

20 **"Division 6—Approval of making of acknowledgement of sex applications—prisoners**

**47N Definitions**

In this Division—

25 *acknowledgement of sex application* means an application by or on behalf of a prisoner—

- (a) under section 30A or 30E of the **Births, Deaths and Marriages Registration Act 1996**; or

- (b) under a law of another State or a Territory to alter the record of sex of the prisoner in the prisoner's birth registration;

5                    **Registrar** means—

- (a) the Victorian Registrar; or  
(b) an authority responsible under a law of another State or a Territory for the registration of births, deaths and marriages;

10

**Victorian Registrar** means the Registrar of Births, Deaths and Marriages under the **Births, Deaths and Marriages Registration Act 1996**.

15

**47O Offence to make acknowledgement of sex application without approval**

- (1) A prisoner must not make an acknowledgement of sex application to a Registrar without having first obtained the written approval of the Secretary.

20

Penalty: 5 penalty units.

- (2) A person must not make an acknowledgement of sex application to a Registrar on behalf of a prisoner unless the written approval of the Secretary is first obtained.

25

Penalty: 5 penalty units.

**47P Application by prisoner or person for approval of Secretary**

30

A prisoner or person who intends to make an acknowledgement of sex application may apply to the Secretary for approval of the making of the acknowledgement of sex application by the prisoner or the person.

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**47Q Approval by Secretary of the making of acknowledgement of sex application**

- 5
- (1) Subject to subsection (2), on an application under section 47P, the Secretary may approve the making of an acknowledgement of sex application if the Secretary is satisfied that the alteration of the record of sex or the issuing of a document acknowledging name and sex is, in all the circumstances, necessary or reasonable.
- 10
- (2) The Secretary must not approve the making of an acknowledgement of sex application if the Secretary is satisfied that the alteration of the record of sex if registered or the issuing of a document acknowledging name and sex would be reasonably likely—
- 15
- (a) to be a threat to prison security; or
  - (b) to jeopardise the safe custody or welfare of any prisoners; or
  - 20 (c) to be used to further an unlawful activity or purpose; or
  - (d) to be regarded as offensive by a victim of crime or an appreciable sector of the community.

25 **47R Copy of approval or refusal of Secretary**

- (1) If the Secretary decides to approve the making of an acknowledgement of sex application, the Secretary as soon as practicable must give a copy of the approval to—
- 30
- (a) the person who sought the approval; and
  - (b) the Victorian Registrar.



- 5 (2) If the Secretary decides not to approve the making of an acknowledgement of sex application, the Secretary must give a copy of that decision to the person who sought the approval.

**Note**

See section 47M for information shared between the Secretary and the Victorian Registrar.

10 **47S Request for information from the Victorian Registrar**

- (1) The Secretary may—
- 15 (a) request the Victorian Registrar to give the Secretary information concerning—
    - (i) all of the alterations of the record of a prisoner's sex in the prisoner's birth registration; and
    - (ii) all of the documents issued acknowledging the name and sex of a prisoner; and
  - 20 (b) for the purpose of the request, give the Victorian Registrar any information concerning the prisoner that is necessary to conduct a search on the birth registration of the prisoner or for
  - 25 documents issued acknowledging the name and sex of the prisoner.
- (2) The Secretary must not make a request under subsection (1) unless the request is
- 30 reasonably necessary to receive information in respect of a prisoner for—
- (a) the administration of Corrections legislation as defined in section 104ZX; or
  - 35 (b) the purpose of the provision of services related to the health of the prisoner."
-

**22 New Division 6A of Part 8 inserted**

After Division 6 of Part 8 of the **Corrections Act 1986** insert—

5 **"Division 6A—Approval of making of  
acknowledgement of sex applications—  
prisoners on parole**

**79HA Definitions**

In this Division—

10 *acknowledgement of sex application* means  
an application by or on behalf of a  
prisoner on parole—

- 15 (a) under section 30A or 30E of the  
**Births, Deaths and Marriages  
Registration Act 1996**; or
- (b) under a law of another State or a  
Territory to alter the record of sex  
of the prisoner on parole in the  
prisoner on parole's birth  
registration;

20 *prisoner on parole* means a prisoner released  
on parole that is not subsequently  
cancelled or deemed to have been  
cancelled;

*Registrar* means—

- 25 (a) the Victorian Registrar; or
- (b) an authority responsible under a  
law of another State or a Territory  
for the registration of births,  
deaths and marriages;

30 *Victorian Registrar* means the Registrar of  
Births, Deaths and Marriages under the  
**Births, Deaths and Marriages  
Registration Act 1996**.

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**79HB Offence to make acknowledgement of sex application without approval**

5 (1) A prisoner on parole must not make an acknowledgement of sex application to a Registrar without having first obtained the written approval of the Board.

Penalty: 5 penalty units.

10 (2) A person must not make an acknowledgement of sex application to a Registrar on behalf of a prisoner on parole unless the written approval of the Board is first obtained.

Penalty: 5 penalty units.

**79HC Application by prisoner on parole or person for approval of Board**

15 A prisoner on parole or a person who intends to make an acknowledgement of sex application may apply to the Board for approval of the making of the acknowledgement of sex application by the prisoner on parole or the person.

**79HD Approval by Board of the making of acknowledgement of sex application**

25 (1) Subject to subsection (2), on an application under section 79HC the Board may approve the making of an acknowledgement of sex application if the Board is satisfied that the alteration of the record of sex or the issuing of a document acknowledging name and sex is, in all the circumstances, necessary or reasonable.

30 (2) The Board must not approve the making of an acknowledgement of sex application if the Board is satisfied that the alteration of the record of sex if registered or the issuing of a

35

document acknowledging name and sex  
would be reasonably likely—

- 5
- (a) to be regarded as offensive by a victim of crime or an appreciable sector of the community; or
  - (b) to be used to evade or hinder supervision of the prisoner on parole during the parole period.

**79HE Copy of approval or refusal of Board**

- 10
- (1) If the Board decides to approve the making of an acknowledgement of sex application, the Board as soon as practicable must give a copy of the approval to—
    - 15 (a) the person who sought the approval; and
    - (b) the Victorian Registrar; and
    - (c) the Secretary.
  - (2) If the Board decides not to approve the making of an acknowledgement of sex application, the Board must give a copy of that decision to—
    - 20 (a) the person who sought the approval; and
    - (b) the Secretary.

25 **Note**

See section 79H for information shared between the Secretary and the Victorian Registrar.

**79HF Lapse of application on cancellation of parole**

- 30 An acknowledgement of sex application by or on behalf of a prisoner on parole lapses if—

- 5
- (a) the prisoner's parole is cancelled or taken to be cancelled under section 77; and
  - (b) the Victorian Registrar has not registered the alteration of the record of sex or issued the document acknowledging name and sex before that cancellation."

10 **Division 3—Amendment of Serious Sex Offenders (Detention and Supervision) Act 2009**

**23 New Part 12A inserted**

After Part 12 of the **Serious Sex Offenders (Detention and Supervision) Act 2009** insert—

15 **"Part 12A—Approval of making of acknowledgement of sex applications—offenders**

**181A Definitions**

In this Part—

20 *acknowledgement of sex application* means an application by or on behalf of an offender—

- 25
- (a) under section 30A or 30E of the **Births, Deaths and Marriages Registration Act 1996**; or
  - (b) under a law of another State or a Territory to alter the record of sex of the offender in the offender's birth registration;

30 *offender* means an offender who is subject to a supervision order or an interim supervision order;

**Registrar** means—

- (a) the Victorian Registrar; or
- (b) an authority responsible under a law of another State or a Territory for the registration of births, deaths and marriages;

**Victorian Registrar** means the Registrar of Births, Deaths and Marriages under the **Births, Deaths and Marriages Registration Act 1996**.

**181B Offence to make acknowledgement of sex application without approval**

- (1) An offender must not make an acknowledgement of sex application to a Registrar without having first obtained the written approval of the Adult Parole Board.

Penalty: 5 penalty units.

- (2) A person must not make an acknowledgement of sex application to a Registrar on behalf of an offender unless the written approval of the Adult Parole Board is first obtained.

Penalty: 5 penalty units.

**181C Application by offender or person for approval of Adult Parole Board**

An offender or a person who intends to make an acknowledgement of sex application may apply to the Adult Parole Board for approval of the making of the acknowledgement of sex application by the offender or the person.

**181D Approval by Adult Parole Board of the making of acknowledgement of sex application**

- 5 (1) Subject to subsection (2), on an application under section 181C the Adult Parole Board may approve the making of an acknowledgement of sex application if the Adult Parole Board is satisfied that the alteration of the record of sex or the issuing of a document acknowledging name and sex is, in all the circumstances, necessary or reasonable.
- 10
- 15 (2) The Adult Parole Board must not approve the making of an acknowledgement of sex application if the Adult Parole Board is satisfied that the alteration of the record of sex if registered or the issuing of a document acknowledging name and sex would be reasonably likely—
- 20 (a) to be regarded as offensive by a victim of crime or an appreciable sector of the community; or
- 25 (b) to be used to evade or hinder supervision of the offender during the period of the supervision order or the interim supervision order.

**181E Copy of approval or refusal of Adult Parole Board**

- 30 (1) If the Adult Parole Board decides to approve the making of an acknowledgement of sex application, the Adult Parole Board as soon as practicable must give a copy of the approval to—
- 35 (a) the person who sought the approval; and

- (b) the Victorian Registrar; and  
(c) the Secretary.
- 5 (2) If the Adult Parole Board decides not to approve the making of an acknowledgement of sex application, the Adult Parole Board must give a copy of that decision to—
- (a) the person who sought the approval; and  
(b) the Secretary.

10 **Note**

See section 180 for information shared between the Secretary and the Victorian Registrar."

**Division 4—Amendment of Sex Offenders  
Registration Act 2004**

15 **24 New Part 5C inserted**

Before Part 6 of the **Sex Offenders Registration Act 2004** insert—

20 **"Part 5C—Approval of making of  
acknowledgement of sex  
applications—registrable offenders**

**70Q Definitions**

In this Part—

25 *acknowledgement of sex application* means an application by or on behalf of a registrable offender—

- (a) under section 30A or 30E of the **Births, Deaths and Marriages Registration Act 1996**; or  
(b) under a law of another State or a Territory to alter the record of sex of the registrable offender in the



registrable offender's birth  
registration;

**Registrar** means—

- 5
- (a) the Victorian Registrar; or
  - (b) an authority responsible under a law of another State or a Territory for the registration of births, deaths and marriages;

10

**Victorian Registrar** means the Registrar of Births, Deaths and Marriages under the **Births, Deaths and Marriages Registration Act 1996**.

**70R Offence to make acknowledgement of sex application without approval**

- 15
- (1) A registrable offender must not make an acknowledgement of sex application to a Registrar without having first obtained the written approval of the Chief Commissioner of Police.

20

Penalty: 5 penalty units.

- (2) A person must not make an acknowledgement of sex application to a Registrar on behalf of a registrable offender unless the written approval of the Chief Commissioner of Police is first obtained.

25

Penalty: 5 penalty units.

**70S Application by registrable offender or person for approval of Chief Commissioner of Police**

30

A registrable offender or a person who intends to make an acknowledgement of sex application may apply to the Chief Commissioner of Police for approval of the making of the acknowledgement of sex

application by the registrable offender or the person.

**70T Approval by Chief Commissioner of Police of the making of acknowledgement of sex application**

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(1) Subject to subsection (2), on an application under section 70S the Chief Commissioner of Police may approve the making of an acknowledgement of sex application if the Chief Commissioner of Police is satisfied that the alteration of the record of sex or the issuing of a document acknowledging name and sex is, in all the circumstances, necessary or reasonable.

(2) The Chief Commissioner of Police must not approve the making of an acknowledgement of sex application if the Chief Commissioner of Police is satisfied that the alteration of the record of sex if registered or the issuing of a document acknowledging name and sex would be reasonably likely—

(a) to be regarded as offensive by a victim of crime or an appreciable sector of the community; or

(b) to frustrate the administration of this Act in respect of the registrable offender.

**70U Copy of approval or refusal of Chief Commissioner of Police**

(1) If the Chief Commissioner of Police decides to approve the making of an acknowledgement of sex application, the Chief Commissioner of Police as soon as practicable must give a copy of the approval to—

- 5
- (a) the person who sought the approval;  
and
- (b) the Victorian Registrar.
- (2) If the Chief Commissioner of Police  
decides not to approve the making of an  
acknowledgement of sex application the  
Chief Commissioner of Police must give a  
copy of that decision to—
- 10
- (a) the person who sought the approval;  
and
- (b) the Secretary.

**Note**

15

See section 70I for information shared between the  
Secretary or the Chief Commissioner of Police and the  
Victorian Registrar.

**70V Lapse of application where registrable  
offender ceases to be a registrable  
offender**

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An acknowledgement of sex application by  
or on behalf of a registrable offender lapses  
if—

- (a) the registrable offender ceases to be a  
registrable offender; and
- 25
- (b) the Victorian Registrar has not  
registered the alteration of the record  
of sex or issued the document  
acknowledging name and sex before  
the registrable offender ceases to be a  
registrable offender.

**70W Registrable offender who is also subject to a supervision order or an interim supervision order**

- 5 (1) This section applies to a registrable offender who is also subject to a supervision order or an interim supervision order within the meaning of the **Serious Sex Offenders (Detention and Supervision) Act 2009**.
- 10 (2) Despite this Part, an application by or on behalf of a registrable offender, to whom this section applies, for the appropriate approval to make an acknowledgement of sex application must be made under and in accordance with Part 12A of the **Serious Sex Offenders (Detention and Supervision) Act 2009**.
- 15

**70X Registrable offender who is also subject to a detention order or an interim detention order**

- 20 (1) This section applies to a registrable offender who is also subject to a detention order or an interim detention order within the meaning of the **Serious Sex Offenders (Detention and Supervision) Act 2009**.
- 25 (2) Despite this Part, an application by or on behalf of a registrable offender, to whom this section applies, for the appropriate approval to make an acknowledgement of sex application must be made under and in accordance with Division 6 of Part 6 of the **Corrections Act 1986**.
- 30

**70Y Registrable offender who is also a prisoner on parole**

- 35 Despite this Part, an application for the appropriate approval to make an acknowledgement of sex application by or
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on behalf of a registrable offender who is also a prisoner on parole within the meaning of Division 6A of Part 8 of the **Corrections Act 1986** must be made in accordance with Division 6A of Part 8 of the **Corrections Act 1986**."

## **Part 4—Repeal of amending Act**

### **25 Repeal of amending Act**

This Act is **repealed** on 1 October 2018.

#### **Note**

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The repeal of this Act does not affect the continuing operation of the amendments made by it (see section 15(1) of the **Interpretation of Legislation Act 1984**).

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.