

## Bill No 70 - Gender Identity, Gender Expression and Sex Characteristics Bill<sup>1</sup>

### *Objects and Reasons*

The objects of this Bill are to provide for the recognition and registration of the gender of a person and to regulate the effects of such a change, and due recognition and protection of the sex characteristics of a person. Gender identity is considered to be an inherent part of a person which may or may not need surgical or hormonal treatment or therapy and the Bill provides for a simplified procedure which respects the privacy of the person requesting that one's official documents be changed to reflect one's gender. Similarly, the sex characteristics of a person vary in nature and all persons must be empowered to make their decisions affecting their own bodily integrity and physical autonomy.

<b>Bill as originally proposed</b>	<b>Amendments at Committee Stage</b>	<b>Final Act of Parliament</b>
<p>Change of gender identity.</p> <p>4. (1) It shall be the right of every person who is a Maltese citizen to request the Director to change the recorded gender and, or first name in order to reflect that person's self-determined gender identity.</p> <p>(2) The request shall be made by means of a letter which makes clear reference to the public deed published in accordance with article 5.</p> <p>(3) The Director shall not require any other evidence other than the public deed published in accordance with article 5.</p> <p>(4) The Director shall, within fifteen running days from the filing of the note of enrolment by the Notary at the public registry, enter a note in the act of birth of</p>	<p><i>Clause 4 shall be amended as follows:</i></p> <p>Change of Gender Identity.</p> <p>4. (1) It shall be the right of every person who is a Maltese citizen to request the Director to change the recorded gender and, or first name and, first name, if the person so wishes to change the first name, in order to reflect that person's self determined gender identity.</p> <p>(2) The request shall be made by means of a note of enrolment in accordance with article 5(2) of this Act.</p> <p>(3) The Director shall not require any other evidence other than the declaratory public deed published in accordance with article 5 of this Act.</p>	<p>Change of gender identity.</p> <p>4. (1) It shall be the right of every person who is a Maltese citizen to request the Director to change the recorded gender and, or first name and, first name, if the person so wishes to change the first name, in order to reflect that person's self determined gender identity.</p> <p>(2) The request shall be made by means of a note of enrolment in accordance with article 5(2).</p> <p>(3) The Director shall not require any other evidence other than the declaratory public deed published in accordance with article 5.</p> <p>(4) The Director shall within fifteen days from the filing of the note of enrolment by the Notary at the public</p>

<sup>1</sup> <https://parlament.mt/en/12th-leg/acts-12th/act-xi-of-2015/>

<p>the applicant and enter a note in the Gender Register.</p>	<p>(4) The Director shall within fifteen days from the filing of the note of enrolment by the Notary at the public registry, enter a note in the act of birth of the applicant.</p> <p>(5) The provisions of article 249 of the Civil Code shall mutatis mutandis apply.</p> <p>(6) (a) The person who made a request in accordance with sub-article (1) of this article shall also be entitled to demand that a full certificate of the act of birth showing the particulars resulting from the annotations be issued to them so however that there shall be indicated on such certificates and annotations have been made upon it by virtue of a decree of a court or in terms of the procedure established under this Act without the details of the said annotations being specified.</p> <p>(b) A person whose request to the Court of Revision of Notarial Acts, for a correction in the name and gender assigned to them in their act of birth, shall be entitled to demand that a full certificate of their act of birth showing the particulars resulting from the annotations be issued to them so however that there shall be indicated on such certificate that annotations have been made upon it by virtue of a decree of a court</p>	<p>registry, enter a note in the act of birth of the applicant.</p> <p>(5) The provisions of article 249 of the Civil Code shall mutatis mutandis apply.</p> <p>(6) (a) The person who made a request in accordance with sub-article (1) shall also be entitled to demand that a full certificate of the act of birth showing the particulars resulting from the annotations be issued to them so however that there shall be indicated on such certificates the annotations that have been made upon it by virtue of a decree of a court or in terms of the procedure established under this Act without the details of the said annotations being specified.</p> <p>(b) A person whose request to the Court of Revision of Notarial Acts, for a correction in the name and gender assigned to them in their act of birth, shall be entitled to demand that a full certificate of their act of birth showing the particulars resulting from the annotations be issued to them so however that there shall be indicated on such certificate that annotations have been made upon it by virtue of a decree of a court without the details of the said annotations being specified.</p>
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	<p>without the details of the said annotations being specified.</p> <p>(c) Within seven days from receipt of a request made for the issue of a birth certificate drawn up in accordance with this article, the Director shall not give any information contained in the register indicating the original act of birth except insofar as provided in this article.</p> <p>(7) So however that the said information about or copy of the original act of birth may be given:</p> <p>(a) with the consent of the person to whom the certificate refers; or</p> <p>(b) when there is no such consent, upon an order of the Court (Voluntary Jurisdiction Section) or of another Court taking cognizance of a cause where the necessity of the presentation of that certificate or information arises, where the Court is satisfied that the issuing of the said certificate or information is necessary to defend or safeguard a right or a legitimate interest of the person making the demand which, after taking into consideration all relevant circumstances, the court's considerations should prevail over the right</p>	<p>(c) Within seven days from receipt of a request made for the issue of a birth certificate drawn up in accordance with this article, the Director shall not give any information contained in the register indicating the original act of birth except insofar as provided in this article.</p> <p>(7) The said information or copy of the original act of birth may be given:</p> <p>(a) with the consent of the person to whom the certificate refers; or</p> <p>(b) when there is no such consent, upon an order of the Court (Voluntary Jurisdiction Section) or of another Court taking cognizance of a cause where the necessity of the presentation of that certificate or information arises, where the Court is satisfied that the issuing of the said certificate or information is necessary to defend or safeguard a right or a legitimate interest of the person making the demand which, after taking into consideration all relevant circumstances, the court's considerations should prevail over the right to privacy of the person to whom the certificate refers.</p> <p>(8) A person who was granted international protection in terms of the</p>
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	<p>to privacy of the person to whom the certificate refers.</p> <p>(8) A person who was granted international protection in terms of the Refugees Act, and in terms of any other subsidiary legislation issued under the Refugees Act, and who wants to change the recorded gender and first name, if the person so wishes to change the first name, shall make a declaration confirmed on oath before the Commissioner for Refugees declaring the person's self-determined gender and first name. The Commissioner for Refugees shall record such amendment in their asylum application form and protection certificate within fifteen days.</p>	<p>Refugees Act, and in terms of any other subsidiary legislation issued under the Refugees Act, and who wants to change the recorded gender and first name, if the person so wishes to change the first name, shall make a declaration confirmed on oath before the Commissioner for Refugees declaring the person's self-determined gender and first name. The Commissioner for Refugees shall record such amendment in their asylum application form and protection certificate within fifteen days.</p>
<p>Functions of the Notary.</p> <p>5. (1) The drawing up of the declaratory public deed shall contain the following elements:</p> <p>(a) a copy of the act of birth of the applicant;</p> <p>(b) a clear and unequivocal declaration by the applicant that one's gender identity does not correspond to the assigned sex in the act of birth;</p> <p>(c) a specification of the gender particulars;</p>	<p><i>Clause 5 shall be amended as follows:</i></p> <p>(a) Sub-clauses (1), (2) and (3) thereof shall be substituted as follows:</p> <p>“(1) The drawing up of the declaratory public deed shall contain the following elements:</p> <p>(a) a copy of the act of birth of the applicant;</p> <p>(b) a clear, unequivocal and informed declaration by the applicant that one's gender identity does not</p>	<p>Functions of the Notary.</p> <p>5. (1) The drawing up of the declaratory public deed shall contain the following elements:</p> <p>(a) a copy of the act of birth of the applicant;</p> <p>(b) a clear, unequivocal and informed declaration by the applicant that one's gender identity does not correspond to the assigned sex in the act of birth;</p> <p>(c) a specification of the gender particulars;</p>

<p>(d) the first name with which the applicant wants to be registered; and</p> <p>(e) all the prescribed elements required in accordance with the Notarial Profession and Notarial Archives Act.</p> <p>(2) The Notary shall explain to the applicant the legal implications of the change of the assigned gender and shall require the applicant to declare understanding of such implications.</p> <p>(3) The notarial fee shall be that established in the Notarial Profession and National Archives Act.</p> <p>(4) The Notary shall, within fifteen days, register the public deed with the Director, against the prescribed fee.</p>	<p>correspond to the assigned sex in the act of birth;</p> <p>(c) a specification of the gender particulars;</p> <p>(d) the first name with which the applicant wants to be registered; and</p> <p>(e) all the prescribed elements required in accordance with the Notarial Profession and Notarial Archives Act.</p> <p>(2) The Notary shall not request any psychiatric, psychological or medical documents for the drawing of the declaratory public deed.</p> <p>(3) Every Notary receiving such an act must deliver to the Director a note in accordance with article 50 of the Notarial Profession and Notarial Archives Act.”;</p> <p>(b) sub-clause (4) thereof shall be deleted.</p>	<p>(d) the first name with which the applicant wants to be registered; and</p> <p>(e) all the prescribed elements required in accordance with the Notarial Profession and Notarial Archives Act.</p> <p>(2) The Notary shall not request any psychiatric, psychological or medical documents for the drawing up of the declaratory public deed.</p> <p>(3) Every Notary receiving such an act must deliver to the Director a note in accordance with article 50 of the Notarial Profession and Notarial Archives Act.</p>
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