

Changes to legislation regarding legal recognition of sex and gender: comparison

	Legal requirements prior to changes	Legal requirements following changes
Time for notification of birth	21 days	21 days
Time for registration of birth	60 days	60 days 120 days if “variations of sex characteristics do not allow for an easy assignment of sex”
Sex recorded in birth registration	Male or Female	Male or Female
Sex or gender recorded on birth certificate (no change)	Registered sex at birth included	Registered sex only included if requested by applicant
Change of sex or gender (adult)	<p>Any person over 18 can apply to register a change of sex if:</p> <ul style="list-style-type: none"> • unmarried; and • has undergone sexual reassignment surgery (evidence from two doctors). <p>Must register as Male or Female</p>	<p>Any person over 16 can apply to register a change of gender. The application must include:</p> <ul style="list-style-type: none"> • a gender declaration confirming the application “identifies as being of the gender specified in the declaration and lives, or seeks to live, as a person of that gender”; and • any other document or information that the Registrar reasonably requires. <p>It is not necessary for an applicant to have undergone reassignment surgery.</p> <p>Gender may be recorded as Male, Female, Indeterminate, Non-binary, or as neither entirely male nor entirely female</p> <p>No more than one change of gender can occur within a 12-month period.</p>

This table compares the legal requirements in the *Birth, Deaths and Marriages Registration Act 1999* relating to sex and gender records before and after amendments enacted by the *Justice and Related Legislation (Marriage and Gender Amendments) Act 2019*

	Legal requirements prior to changes	Legal requirements following changes
Change of sex or gender (child)	<p>Parents of a minor can apply to change their child’s sex if the child has undergone sexual reassignment surgery (evidence from two doctors).</p> <p>Unless there is only one parent named in the child’s birth registration, or only one surviving parent, both parents must consent to the application.</p>	<p>Parents or guardians of a child under 16 can apply to register a change in their child’s gender. The application is to include:</p> <ul style="list-style-type: none"> • a gender declaration or statutory declaration that the application reflects the “will and preference” of the child; • any other document or information that the Registrar reasonably requires. <p>It is not necessary for the child to have undergone reassignment surgery.</p> <p>Any application relating to a person under 18 should be accompanied by evidence that the child has received appropriate counselling.</p> <p>Consent of both parents is required unless there is only one parent named in the child’s birth registration, a sole surviving parent or sole guardian, or where a magistrate has approved the making of the application.</p>
Change of name	<p>Any person over 18 can apply to change their name.</p> <p>Parents may apply to change a child’s name. Consent of the child is required for children over 12.</p> <p>A magistrate may approve the name change if satisfied that the change is in the “best interests of the child”.</p>	<p>Any person over 16 can apply to change their name.</p> <p>Parents may apply to change the name of a child under 16. Consent of the child is required for children over 12.</p> <p>A magistrate may approve the name change if satisfied that the change “is consistent with the child’s will and preferences”</p>

	Legal requirements prior to changes	Legal requirements following changes
Sex or gender recorded on birth certificate (post change)	<p>Any birth certificate issued following change of sex must record the changed sex but also include a notation that the person was previously “registered as of the other sex”.</p> <p>Applicant can request an extract that does not include that notation.</p> <p>A child may request a copy of their parent’s birth certificate. Unless otherwise requested by the child, the birth certificate will include details of any changes of sex or name.</p>	<p>Registered sex or gender only included if requested by applicant</p> <p>History of changes to sex or gender only included if requested by applicant.</p> <p>A child may request a copy of their parent’s birth certificate. Unless the parent has consented, details of changes of sex will only be included if the Registrar is satisfied that the child has a valid reason for requesting the information and disclosing those details will not have negative consequences for their parents.</p>
Fraudulent behaviour	<p>It is an offence for any person to show a copy of their former birth certificate (or an extract) with the intention of misleading someone about their registered sex.</p> <p>Punishable by up to 2 years in prison.</p>	<p>It is an offence for a person to use a birth certificate (or extract) showing a previous sex, gender or name, with the intention to deceive.</p> <p>Punishable by up to 2 years in prison.</p>