



New South Wales

# Equality Legislation Amendment (LGBTIQA+) Bill 2023

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.  
The *Conversion Practices Prohibition Bill 2023* is cognate with this Bill.

## Overview of Bill

The object of this Bill is to provide full equality for LGBTIQA+ communities in New South Wales by amending the following—

- (a) the *Anti-Discrimination Act 1977*,
- (b) the *Births, Deaths and Marriages Registration Act 1995*,
- (c) the *Children and Young Persons (Care and Protection) Act 1998*,
- (d) the *Children's Guardian Act 2019*,
- (e) the *Court Security Act 2005*,
- (f) the *Crimes Act 1900*,
- (g) the *Crimes (Administration of Sentences) Act 1999*,
- (h) the *Crimes (Domestic and Personal Violence) Act 2007*,
- (i) the *Crimes (Forensic Procedures) Act 2000*,
- (j) the *Crimes (Sentencing Procedure) Act 1999*,
- (k) the *Drug Misuse and Trafficking Act 1985*,
- (l) the *Government Sector Employment Act 2013*,
- (m) the *Government Sector Employment (General) Rules 2014*,
- (n) the *Interpretation Act 1987*,

- (o) the *Law Enforcement (Powers and Responsibilities) Act 2002*,
- (p) the *Mental Health Act 2007*,
- (q) the *Sheriff Act 2005*,
- (r) the *Summary Offences Act 1988*,
- (s) the *Surrogacy Act 2010*,
- (t) the *Workers Compensation Act 1987*.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

## Schedule 1      **Amendment of Anti-Discrimination Act 1977 No 48**

**Schedule 1[1]** inserts the definition of *sexuality* and omits the definition of *homosexual*. Schedule 1[1] also omits the definition of *recognised transgender person* which required a transgender person to alter their sex under the *Births, Deaths and Marriages Registration Act 1995* or under the corresponding provisions of a law of another Australian jurisdiction to be considered a recognised transgender person. **Schedule 1[2] and [6]** make consequential amendments.

**Schedule 1[3]–[5]** provides that for the *Anti-Discrimination Act 1977* a transgender person is a person who lives as a member of another sex. **Schedule 1[7] and [8]** make consequential amendments.

**Schedule 1[10] and [11]** remove exceptions for a private educational authority to discriminate against an employee, an applicant for employment, an applicant for admission as a student or a student on transgender grounds. **Schedule 1[9]** makes a consequential amendment.

**Schedule 1[12]** provides that it is lawful to exclude a transgender person from participation in a sporting activity for members of the sex the person lives, seeks to live or identifies with if—

- (a) the person is over the age of 12 years, and
- (b) the sporting activity is part of a competition, and
- (c) the strength, stamina or physique of a person competing is relevant, and
- (d) the exclusion of the person is reasonable and proportionate, and
- (e) the person is not acting as an umpire or referee.

The provision also removes an exception that allows a person to treat a transgender person as being of the opposite sex to the sex with which the transgender person identifies in the administration of a superannuation or provident fund or scheme.

**Schedule 1[13]** inserts proposed Part 3B to provide for discrimination on the ground of variations of sex characteristics.

Proposed Division 1 sets out what it means for a person to have a variation of sex characteristics and what constitutes discrimination on the ground of a variation of sex characteristics.

Proposed Division 2 provides the particulars in which it is unlawful to discriminate against a person on the ground of a variation of sex characteristics in relation to work for the following—

- (a) employers and applicants,
- (b) employers and employees,
- (c) principals and commission agents,
- (d) principals and contract workers,

- (e) partners in a firm,
- (f) members of a council of a local government area,
- (g) industrial organisations and applicants for membership,
- (h) industrial organisations and members,
- (i) qualifying bodies,
- (j) employment agencies.

Proposed Division 3 provides the particulars in which it is unlawful to discriminate against a person on the ground of a variation of sex characteristics for the following—

- (a) educational authorities and applicants for admission as a student,
- (b) educational authorities and students,
- (c) providers of goods or services, whether or not for payment,
- (d) principals or agents that provide accommodation,
- (e) registered clubs and applicants for membership,
- (f) registered clubs and members.

Proposed Division 4 makes it unlawful for a person, by public act, to incite hatred towards, serious contempt for or severe ridicule of a person or group on the ground the person or a member of the group have variations of sex characteristics. The proposed division also sets out exceptions to an offence under the proposed division. Proposed section 38ZH defines *public act* for the proposed division.

**Schedule 1[14]–[17]** removes an exception for a private educational authority to discriminate against an employee, an applicant for employment, a student or a person applying for admission as a student on the ground of marital or domestic status.

**Schedule 1[18] and [19]** remove an exception for a private education authority to discriminate against an employee or an applicant for employment on the ground of disability.

**Schedule 1[20]** provides that an educational authority may refuse to accept a person’s application for a school, college, university or other institution that is conducted solely for students who have a disability that is not the same as the disability of the person.

**Schedule 1[21]** updates wording in relation to HIV.

**Schedule 1[23]** updates Part 4C to provide for discrimination on the ground of sexuality. **Schedule 1[22], [24]–[28], [33] and [34]** make consequential amendments.

**Schedule 1[29]** corrects a minor drafting error. **Schedule 1[30]** makes a consequential amendment.

**Schedule 1[31] and [32]** remove an exception for a private educational authority to discriminate against an employee, an applicant for employment, a student or a person applying for admission as a student on the ground of sexuality.

**Schedule 1[37]** updates wording in relation to HIV/AIDS. **Schedule 1[35] and [36]** make consequential amendments.

**Schedule 1[38]** removes an exception for a private educational authority to discriminate against a student or a person applying for admission as a student on the ground of age.

**Schedule 1[39]** inserts proposed Part 4H to provide for discrimination on ground a person is or has been a sex worker.

Proposed Division 1 defines *public act* and *sex worker* for the proposed part and sets out what constitutes discrimination on the ground a person is, or has been, a sex worker.

Proposed Division 2 provides the particulars in which it is unlawful to discriminate against a person on the ground the person is, or has been, a sex worker for the following—

- (a) employers and applicants,
- (b) employers and employees,
- (c) principals and commission agents,
- (d) principals and contract workers,
- (e) partners in a firm,
- (f) members of a council of a local government area,
- (g) industrial organisations and applicants for membership,
- (h) industrial organisations and members,
- (i) qualifying bodies,
- (j) employment agencies.

Proposed Division 3 provides the particulars in which it is unlawful to discriminate against a person on the ground the person is, or has been, a sex worker for the following—

- (a) educational authorities and applicants for admission as a student,
- (b) educational authorities and students,
- (c) providers of goods or services, whether or not for payment,
- (d) principals or agents that provide accommodation,
- (e) registered clubs and applicants for membership,
- (f) registered clubs and members.

Proposed Division 4 makes it unlawful for a person, by public act, to incite hatred towards, serious contempt for or severe ridicule of a person or group on the ground the person or a member of the group is, or has been, a sex worker. The proposed division also sets out exceptions to an offence under the proposed division.

**Schedule 1[40]** provides that the *Anti-Discrimination Act 1977* does not affect the selection or appointment of a person to exercise functions in relation to religious observance or practice or a practice to propagate religion in certain circumstances. However, this provision clarifies that the Act does continue to apply in relation to employment and education by religious educational institutions and employment and the provision of goods, services or accommodation by religious bodies.

**Schedule 1[41]** removes an exception to the *Anti-Discrimination Act 1977*, Parts 3A and 4C for organisations established or controlled by a religious organisation concerning the provision of adoption services under the *Adoption Act 2000*.

**Schedule 1[42]** provides that a vilification complaint includes a complaint in respect to contraventions of proposed sections 38ZI and 50AO, relating to sex characteristics and sex work.

**Schedule 1[43]** inserts proposed Part 9C to require government sector agencies to include options on forms that allow a person's sex to be described in a non-binary way and to allow a person to describe their relationship with another person in a way that accords with each person's identified sex or without indication of either person's sex.

## **Schedule 2      Amendment of Births, Deaths and Marriages Registration Act 1995 No 62**

**Schedule 2[2] and [3]** provide that a live birth of a child where variations of sex characteristics do not allow for the easy assignment of sex must be registered within 180 days after the date of the birth with a maximum penalty of 10 penalty units.

**Schedule 2[4]** provides that if a person alters their record of sex and name on the register under proposed Part 5A, the person's change of name is to be considered registered under the *Births, Deaths and Marriages Registration Act 1995*, section 27 or 28.

**Schedule 2[5]** replaces Part 5A to provide for a person to alter the record of the person's sex.

Proposed Division 1 defines *prohibited sex descriptor*, *recognition certificate* and *sex descriptor* for the proposed part. **Schedule 2[1]** makes a consequential amendment.

Proposed Division 2 provides—

- (a) a person 16 years of age or more may apply to the Registrar of Births, Deaths and Marriages to have a record of the person's sex altered if the person's birth is registered in New South Wales and the particulars of the application, and
- (b) a person under 16 years of age may apply to the NSW Civil and Administrative Tribunal (*NCAT*) to have a record of the person's sex altered if the person's birth is registered in New South Wales and the particulars of the application, and
- (c) the circumstances in which NCAT must take reasonable steps to notify each parent, or other person with parental responsibility for the person, about such an application.

Proposed Division 3 provides for the parents or guardians of a child to apply to the Registrar of Births, Deaths and Marriages to alter a record of sex in relation to the child if the child's birth is registered in New South Wales and the particulars of the application. The alteration in the record of the sex must be approved by NCAT if not all the parents or guardians of the child wish to apply to alter the record, and in certain other circumstances, under the proposed division.

Proposed Division 4 provides for applications for the registration of an acknowledgement of a person's sex if the person's birth is not registered in New South Wales and the particulars of an application.

Proposed Division 5 provides that after receiving an application for an alteration of a record of sex or the registration of an acknowledgement of sex in relation to a person under proposed Part 5A, the Registrar must update certain particulars in the Register or refuse to register the sex as the registered sex in relation to the person and the requirements for the Registrar to refuse an application. The proposed division also provides that for an application made to NCAT, NCAT may approve or reject an application, and the requirements for NCAT to approve or reject an application.

Proposed Division 6 provides that a person who alters the record of sex in New South Wales is taken to be the sex stated in the record. The Registrar must, on application by a person in the approved form, issue a certificate certifying particulars in an entry by reference to the changed sex or name.

### **Schedule 3      Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157**

**Schedule 3[1]** provides that the *Children and Young Persons (Care and Protection) Act 1998* is to be administered under the principle that in all actions and decisions made under the Act that significantly affect a child or young person, account must be taken of the gender identity and variations of sex characteristics of the child or young person and, if relevant, those with parental responsibility for the child or young person.

**Schedule 3[2]** provides that a person who is aged 16 years or above but who is under the age of 18 years may make a decision about the person's own medical or dental treatment as validly and effectively as an adult. For a person under the age of 16 years, a decision about the person's medical treatment may be made with the consent of one of the person's parents. A person under the age of 16 years may make a decision about the person's own medical or dental treatment in certain circumstances.

**Schedule 3[3]** makes it clear that the consent of NCAT to the carrying out of special medical treatment on a child under section 175 is not required if a court has already consented to or approved the treatment.

## **Schedule 4      Amendment of Children’s Guardian Act 2019 No 25**

**Schedule 4** provides that the *Children’s Guardian Act 2019* is to be administered under the guiding principle that in all actions and decisions made under the Act that significantly affect a child, account must be taken of any variations of the sex characteristics of the child and, if relevant, those with parental responsibility for the child.

## **Schedule 5      Amendment of Court Security Act 2005 No 1**

**Schedule 5[1]** inserts definitions of *intersex person* and *transgender person*.

**Schedule 5[2]** provides that for the *Court Security Act 2005* a reference to a member of a different sex or a member of the same sex, for a transgender person, is taken to be a different or the same sex to the sex with which the transgender person identifies.

**Schedule 5[3]** provides that the *Anti-Discrimination Act 1977* is not limited by the *Court Security Act 2005*, including in relation to the conduct of a court security officer.

**Schedule 5[4]** provides that for a search conducted by a security officer of any intersex person or transgender person under the *Court Security Act 2005*, section 10, if the person expresses a preference for a particular security officer or a security officer of a particular class, the search must be conducted by the particular security officer or a security officer of the particular class, if reasonably available.

## **Schedule 6      Amendment of Crimes Act 1900 No 40**

**Schedule 6[3]** provides that a person is guilty of an offence if the person, by a public act, threatens or incites violence towards another person or group on the following grounds—

- (a) whether the other person or a member of the group lives with HIV or AIDS,
- (b) whether the other person or a member of the group is, or has been, a sex worker.

**Schedule 6[1], [2] and [4]** make consequential amendments.

## **Schedule 7      Amendment of Crimes (Administration of Sentences) Act 1999 No 93**

**Schedule 7[1]** provides that for a female person, other person with breasts, a transgender male person or other person whose gender is neither exclusively male nor female, a sample of sweat taken from the breast area or chest area by swab or washing is not a non-invasive sample.

**Schedule 7[2]** inserts definitions of *intersex person* and *transgender person*.

**Schedule 7[3]** clarifies that the *Anti-Discrimination Act 1977* is not limited by the *Crimes (Administration of Sentences) Act 1999*, including in relation to the exercise of functions by a correctional officer.

**Schedule 7[4]** provides that for a search conducted by a correctional officer of any intersex person or transgender person under the *Crimes (Administration of Sentences) Act 1999*, section 253I, if the person expresses a preference for a particular security officer or a security officer of a particular class, the search must be conducted by the particular security officer or a security officer of the particular class, if practicable.

## **Schedule 8      Amendment of Crimes (Domestic and Personal Violence) Act 2007 No 80**

**Schedule 8[1]** inserts definitions of *gender history* and *out a person*.

**Schedule 8[2]** provides that for the meaning of *domestic abuse*, an example of behaviour that is coercive is threatening to disclose a person's sexual orientation, gender history, variation of sex characteristics, whether the person lives with HIV or whether the person is, or has been, a sex worker.

**Schedule 8[3] and [4]** provides that a court may make an apprehended domestic violence order or an apprehended personal violence order if it is satisfied on the balance of probabilities that a person reasonably fears the engagement of another person in conduct in which the other person threatens to disclose the person's sexual orientation, gender history, a variation in the person's sex characteristics, whether the person lives with HIV or whether the person is, or has been, a sex worker.

**Schedule 8[5]** provides that if an application for an apprehended violence order is made to a court to protect a person, in determining whether there is a good reason not to refer a matter to mediation, the court must consider whether the defendant has engaged in conduct amounting to harassment in relation to—

- (a) the protected person's race, religion or disability, or
- (b) the protected person's sexual orientation or gender history, or
- (c) the protected person's variation of sex characteristics, or
- (d) the protected person being a person living with HIV/AIDS, or
- (e) the protected person being a person who engages in, or has engaged in, sex work.

**Schedule 8[6]** provides that an apprehended violence order may impose a prohibition or restriction on the defendant from disclosing the protected person's sexual orientation, gender history, a variation in the person's sex characteristics, whether the person lives with HIV or whether the person is, or has been, a sex worker.

**Schedule 8[7]** provides that an authorised officer or a Registrar must not, without compelling reasons, refuse to issue process in an apprehended personal violence order matter if the application discloses allegations of harassment in relation to—

- (a) the protected person's race, religion or disability, or
- (b) the protected person's sexual orientation or gender identity, or
- (c) the protected person's variation of sex characteristics, or
- (d) the protected person being a person living with HIV/AIDS, or
- (e) the protected person being a person who engages in, or has engaged in, sex work.

## **Schedule 9      Amendment of Crimes (Forensic Procedures) Act 2000 No 59**

**Schedule 9[1]** defines *intersex person*, *private parts*, *private upper body parts* and *transgender person* and omits the definition of *recognised transgender person*. **Schedule 9[2], [3] and [8]** make consequential amendments.

**Schedule 9[4] and [5]** provides that for the *Crimes (Forensic Procedures) Act 2000*, a reference to a person of a different sex to a transgender person means a person of a different sex with which the transgender person identifies.

**Schedule 9[6]** clarifies that the *Anti-Discrimination Act 1977* is not limited by the *Crimes (Forensic Procedures) Act 2000*, including in relation to the exercise of functions by a police officer.

**Schedule 9[7]** requires that forensic procedures must not be carried out in the presence or view of a person who is of a different sex to the suspect.

**Schedule 9[9]** provides that for an intersex or transgender suspect, including if the suspect is a child, an intimate forensic procedure is to be carried out by a particular person or a person of a particular class the suspect has expressed a preference for, if practicable.

**Schedule 9[10]** provides that if a person is asked to help carry out a forensic procedure on an intersex or transgender suspect, including if the suspect is a child, the person is to be a person or a person of a particular class the suspect has expressed a preference for, if practicable.

**Schedule 9[11]** provides that a self-administered buccal swab may be carried out by a suspect in the presence or view of another person, whether of the same sex as the suspect or of a different sex.

**Schedule 9[12]** provides that where the presence of a police officer is reasonably necessary to ensure a forensic procedure is carried out effectively and in accordance with the Act on an intersex or transgender suspect, including if the suspect is a child, the police officer is to be a particular police officer or a police officer from a particular class the suspect has expressed a preference for. This requirement does not apply if it is not practicable for the particular officer or an officer of that particular class to attend within a reasonable time.

## **Schedule 10 Amendment of Crimes (Sentencing Procedure) Act 1999 No 92**

**Schedule 10** provides that an aggravating factor the court must take into account in determining the appropriate sentence for an offence includes if the offence was motivated by hatred for or prejudice against a group of people to which the offender believed the victim belonged in relation to the gender identity or particular variations of sex characteristics.

## **Schedule 11 Amendment of Drug Misuse and Trafficking Act 1985 No 226**

**Schedule 11** removes a redundant word.

## **Schedule 12 Amendment of Government Sector Employment Act 2013 No 40**

**Schedule 12[1]** provides that sexual orientation and variations of sex characteristics are included in the definition of *workforce diversity*.

**Schedule 12[2]** provides that the Public Service Commissioner may publish a diversity and inclusion standard that provides for minimum diversity and inclusion standards for government sector agencies. A diversity and inclusion standard may include specific targets and quotas. The government sector employment rules may also deal with workforce diversity in any government sector agency. The head of a government sector agency must ensure the agency complies with a diversity and inclusion standard and any workforce diversity obligations under the government sector employment rules that apply to the agency.

## **Schedule 13 Amendment of Government Sector Employment (General) Rules 2014**

**Schedule 13** provides that an *eligible person* includes an intersex person and a transgender person for the purpose of workplace diversity for a government sector agency.

## **Schedule 14 Amendment of Interpretation Act 1987 No 15**

**Schedule 14** provides that a word or expression that indicates one or more particular genders is taken to include every other gender. A word or expression that indicates a person's relationship with another person by reference to the person's gender is taken to include any person in the same



relationship, regardless of gender. A word or expression that indicates one or more physical or body attributes or body capacity by reference to a particular gender are taken to be a reference to every person with the physical or body attribute, regardless of gender. Furthermore, references to a person do not exclude a reference to an individual, or corporation, merely because elsewhere in the Act or instrument there is a particular reference to an individual, or corporation, however expressed.

## **Schedule 15 Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103**

**Schedule 15[1]** inserts definitions of *intersex person* and *transgender person*.

**Schedule 15[2] and [3]** provides that for the *Law Enforcement (Powers and Responsibilities) Act 2002*, a reference to a person of a different sex to a transgender person means a person of a different sex with which the transgender person identifies.

**Schedule 15[4]** provides that the *Anti-Discrimination Act 1977* is not limited by the *Law Enforcement (Powers and Responsibilities) Act 2002*, including in relation to the exercise of functions by a police officer.

**Schedule 15[6]** provides that for a search conducted by a police officer of any intersex person or transgender person under the *Law Enforcement (Powers and Responsibilities) Act 2002*, Part 4, if the person expresses a preference for a particular police officer or a police officer of a particular class of persons to conduct the search, the search must be conducted by the particular police officer or a police officer of the particular class, if reasonably available. **Schedule 15[7]** makes a consequential amendment.

**Schedule 15[8]** inserts the definition of *private upper body parts*. **Schedule 15[5]** makes a consequential amendment.

**Schedule 15[9]** provides that a strip search must not be conducted in the presence or view of a person who is a different sex to the person being searched, except for a parent, guardian or personal representative of the person being searched, or a medical practitioner, with the consent of the person being searched.

**Schedule 15[10]** provides that for a search of an intersex person or a transgender person on board or about to board an aircraft under the *Law Enforcement (Powers and Responsibilities) Act 2002*, section 44, if the person expresses a preference for a person of a particular class of persons to conduct the search, the search must be conducted by a person of the particular class, if reasonably available.

## **Schedule 16 Amendment of Mental Health Act 2007 No 8**

**Schedule 16** provides that a person is not a mentally ill person or a mentally disordered person merely because the person expresses or fails to express a particular gender identity or gender expression.

## **Schedule 17 Amendment of Sheriff Act 2005 No 6**

**Schedule 17[1]** inserts definitions of *intersex person* and *transgender person*.

**Schedule 17[2]** provides that for the *Sheriff Act 2005* a reference to a member of a different sex or a member of the same sex, for a transgender person, is taken to be the same or different sex to the sex with which the transgender person identifies. Proposed section 3B clarifies that the *Anti-Discrimination Act 1977* is not limited by the *Sheriff Act 2005*, including in relation to the exercise of functions by a sheriff's officer.

**Schedule 17[3]** provides that for a search conducted by a sheriff's officer of any intersex person or transgender person under the *Sheriff Act 2005*, section 7B, if the person expresses a preference

for a particular sheriff's officer or a sheriff's officer of a particular class of persons to conduct the search, the search must be conducted by the particular sheriff's officer or a sheriff's officer of the particular class, if reasonably available.

## **Schedule 18    Amendment of Summary Offences Act 1988 No 25**

**Schedule 18** removes offences related to prostitution from the *Summary Offences Act 1988*.

## **Schedule 19    Amendment of Surrogacy Act 2010 No 102**

**Schedule 19[1]** provides that a birth mother for a surrogacy arrangement has the same rights to manage the birth mother's pregnancy as any other pregnant woman.

**Schedule 19[2]** provides that for a prohibited commercial surrogacy arrangement under the *Surrogacy Act 2010*, Division 2, a person who is ordinarily a resident or domiciled in New South Wales does not commit an offence if the commercial surrogacy arrangement occurs outside New South Wales.

**Schedule 19[3]** provides that the Supreme Court of New South Wales (the *Court*) may make a parentage order in relation to a surrogacy arrangement if the Court is satisfied that it is in the best interests of the child to make the parentage order. **Schedule 19[4]** makes a consequential amendment.

**Schedule 19[5]** clarifies that the Court must have regard to the wishes of the child, if the child is of sufficient maturity to express the child's wishes and the Court considers it appropriate to take those wishes into account, when making a parentage order.

## **Schedule 20    Amendment of Workers Compensation Act 1987 No 70**

**Schedule 20[1], [3]–[5] and [7]** updates wording in relation to HIV and HIV/AIDS.

**Schedule 20[2]** removes a redundant provision.

**Schedule 20[6]** replaces the definitions of *AIDS* and *HIV*.



New South Wales

# Equality Legislation Amendment (LGBTIQA+) Bill 2023

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New South Wales

# Equality Legislation Amendment (LGBTIQA+) Bill 2023

No. \_\_\_\_\_, 2023

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## **A Bill for**

An Act to amend various Acts and other legislation to modernise laws and advance equality for LGBTIQA+ persons in NSW.

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See also the *Conversion Practices Prohibition Bill 2023*.

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**Tabling copy**

**The Legislature of New South Wales enacts—**

1

**1 Name of Act**

2

This Act is the *Equality Legislation Amendment (LGBTIQA+) Act 2023*.

3

**2 Commencement**

4

(1) This Act, other than Schedule 8(2), commences on the date of assent to this Act.

5

(2) Schedule 8(2) commences on the day the *Crimes Legislation Amendment (Coercive Control) Act 2022*, Schedule 2[2] commences.

6

7

<b>Schedule 1</b>	<b>Amendment of Anti-Discrimination Act 1977 No 48</b>	1
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<b>[1] Section 4 Definitions</b>		3
	Omit the definitions of <i>homosexual</i> and <i>recognised transgender person</i> .	4
	Insert in alphabetical order in section 4(1)—	5
	<i>sexuality</i> , for Part 4C—see section 49ZF.	6
<b>[2] Section 38A Interpretation</b>		7
	Omit “, whether or not the person is a recognised transgender person”.	8
<b>[3] Section 38A(a) and (b)</b>		9
	Omit “the opposite sex by living” wherever occurring.	10
	Insert instead “another sex by living”.	11
<b>[4] Section 38A(a) and (b)</b>		12
	Omit “member of the opposite sex, or” wherever occurring.	13
	Insert instead “member of the other sex, or”.	14
<b>[5] Section 38A(c)</b>		15
	Omit the paragraph. Insert instead—	16
	(c) who identifies as a particular sex that is not exclusively male or female by living as a member of that sex,	17
		18
<b>[6] Section 38B What constitutes discrimination on transgender grounds</b>		19
	Omit “, being a recognised transgender person,” wherever occurring in section 38B(1)(c).	20
<b>[7] Section 38B(1)(c)</b>		21
	Insert “or a different sex to that which the person identifies” after “being of the person’s former sex”.	22
		23
<b>[8] Section 38B(1)(c)</b>		24
	Insert “or of a different sex to that which the person identifies” after “persons of the person’s former sex”.	25
		26
<b>[9] Section 38C(3)(b)</b>		27
	Omit “5, or”. Insert instead “5.”.	28
<b>[10] Section 38C(3)(c)</b>		29
	Omit the paragraph.	30
<b>[11] Section 38K Education</b>		31
	Omit section 38K(3).	32
<b>[12] Section 38P</b>		33
	Omit sections 38P and 38Q. Insert instead—	34

<b>38P Sport</b>	1
(1) Nothing in this part makes it unlawful to exclude a transgender person from participation in a sporting activity for members of the sex the person lives, seeks to live or identifies with if—	2 3 4
(a) the person is over the age of 12 years, and	5
(b) the sporting activity is conducted as part of a competition, and	6
(c) the strength, stamina or physique of a person competing in the competition is relevant, and	7 8
(d) the exclusion of the person is reasonable and proportionate in all the circumstances.	9 10
(2) Subsection (1) does not apply to the umpiring or refereeing of a sporting activity.	11 12
<b>[13] Part 3B</b>	13
Insert after Part 3A—	14
<b>Part 3B Discrimination on ground of variations of sex characteristics</b>	15 16
<b>Division 1 General</b>	17
<b>38T Interpretation</b>	18
A reference in this part to a person having a variation of sex characteristics—	19
(a) means a person who has an innate variation of primary or secondary sex characteristics that differ from norms for female or male bodies, and	20 21
(b) includes a reference to the person being thought of as having a variation of sex characteristics, whether the person has, or had, a variation of sex characteristics.	22 23 24
<b>38U What constitutes discrimination on ground of variations of sex characteristics</b>	25
(1) A person ( <i>the perpetrator</i> ) discriminates against another person ( <i>the aggrieved person</i> ) on the ground of variations of sex characteristics if the perpetrator—	26 27 28
(a) on the ground of the aggrieved person having a variation of sex characteristics or a relative or associate of the aggrieved person having a variation of sex characteristics, treats the aggrieved person less favourably than in the same circumstances, or in circumstances which are not materially different, the perpetrator treats or would treat a person who the perpetrator did not think had a variation of sex characteristics or who does not have a relative or associate who the perpetrator did not think had a variation of sex characteristics, or	29 30 31 32 33 34 35 36
(b) requires the aggrieved person to comply with a requirement or condition with which a substantially higher proportion of persons who do not have a variation of sex characteristics, or who do not have a relative or associate who has a variation of sex characteristics, comply or are able to comply, being a requirement which is not reasonable having regard to the circumstances of the case and with which the aggrieved person does not or is not able to comply.	37 38 39 40 41 42 43
(2) For the purposes of subsection (1)(a), something is done on the ground of a person having a variation of sex characteristics if it is done on the ground of	44 45



the person having a variation of sex characteristics, a characteristic that appertains generally to persons who have a variation of sex characteristics or a characteristic that is generally imputed to persons who have a variation of sex characteristics.

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## **Division 2      Discrimination in work**

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### **38V    Discrimination against applicants and employees**

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- (1) It is unlawful for an employer to discriminate against a person on the ground of a variation of sex characteristics—
- (a) in the arrangements the employer makes for the purpose of determining who should be offered employment, or
  - (b) in determining who should be offered employment, or
  - (c) in the terms on which employment is offered.
- (2) It is unlawful for an employer to discriminate against an employee on the ground of a variation of sex characteristics—
- (a) in the terms or conditions of employment that are afforded to the employee, or
  - (b) by denying the employee access, or limiting the employee's access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment, or
  - (c) by dismissing the employee or subjecting the employee to any other detriment.
- (3) Subsections (1) and (2) do not apply to employment for the purposes of a private household.

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### **38W    Discrimination against commission agents**

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- (1) It is unlawful for a principal to discriminate against a person on the ground of a variation of sex characteristics—
- (a) in the arrangements the principal makes for the purpose of determining who should be engaged as a commission agent, or
  - (b) in determining who should be engaged as a commission agent, or
  - (c) in the terms on which the principal engages the person as a commission agent.
- (2) It is unlawful for a principal to discriminate against a commission agent on the ground of a variation of sex characteristics—
- (a) in the terms or conditions that are afforded to the commission agent, or
  - (b) by denying the commission agent access, or limiting the commission agent's access, to opportunities for promotion, transfer or training, or to any other benefits associated with the position as a commission agent, or
  - (c) by terminating the commission agent's engagement or subjecting the commission agent to any other detriment.

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### **38X    Discrimination against contract workers**

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It is unlawful for a principal to discriminate against a contract worker on the ground of a variation of sex characteristics—

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- (a) in the terms on which the contract worker is allowed to work, or

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	(b) by not allowing the contract worker to work or continue to work, or	1
	(c) by denying the contract worker access, or limiting the contract worker's access, to any benefit associated with the work performed by the contract worker, or	2 3 4
	(d) by subjecting the contract worker to any other detriment.	5
<b>38Y</b>	<b>Partnerships</b>	6
(1)	It is unlawful for a firm consisting of 6 or more partners, or for any one or more of 6 or more persons proposing to form themselves into a partnership, to discriminate against a person on the ground of a variation of sex characteristics—	7 8 9 10
(a)	in the arrangements made for the purpose of determining who should be offered a position as partner in the firm, or	11 12
(b)	in determining who should be offered a position as partner in the firm, or	13 14
(c)	in the terms on which the person is offered a position as partner in the firm.	15 16
(2)	It is unlawful for a firm consisting of 6 or more partners to discriminate against a partner on the ground of a variation of sex characteristics—	17 18
(a)	by denying the partner access, or limiting the partner's access, to any benefit arising from membership of the firm, or	19 20
(b)	by expelling the partner from the firm, or	21
(c)	by subjecting the partner to any other detriment.	22
<b>38Z</b>	<b>Discrimination by local government councillors</b>	23
	It is unlawful for any member or members of a council of a local government area when acting, whether alone or together, in the course of the member's or members' official functions to discriminate against another member of the council on the ground of a variation of sex characteristics.	24 25 26 27
<b>38ZA</b>	<b>Industrial organisations</b>	28
(1)	It is unlawful for an industrial organisation to discriminate on the ground of a variation of sex characteristics against a person who is not a member of the industrial organisation—	29 30 31
(a)	by refusing or failing to accept the person's application for membership, or	32 33
(b)	in the terms on which it is prepared to admit the person to membership.	34
(2)	It is unlawful for an industrial organisation to discriminate against a member of the organisation on the ground of a variation of sex characteristics—	35 36
(a)	by denying the member access, or limiting the member's access, to any benefit provided by the organisation, or	37 38
(b)	by depriving the member of membership or varying the terms of the membership, or	39 40
(c)	by subjecting the member to any other detriment.	41
<b>38ZB</b>	<b>Qualifying bodies</b>	42
	It is unlawful for an authority or a body which is empowered to confer, renew or extend an authorisation or a qualification that is needed for or facilitates the practice of a profession, the carrying on of a trade or the engaging in of an	43 44 45

occupation to discriminate against a person on the ground of a variation of sex characteristics—	1
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(a) by refusing or failing to confer, renew or extend the authorisation or qualification, or	3
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(b) in the terms on which it is prepared to confer the authorisation or qualification or to renew or extend the authorisation or qualification, or	5
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(c) by withdrawing the authorisation or qualification or varying the terms or conditions on which it is held.	7
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<b>38ZC Employment agencies</b>	9
It is unlawful for an employment agency to discriminate against a person on the ground of a variation of sex characteristics—	10
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(a) by refusing to provide the person with any of its services, or	12
(b) in the terms on which it offers to provide the person with any of its services, or	13
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(c) in the way in which it provides the person with any of its services.	15
<b>Division 3 Discrimination in other areas</b>	16
<b>38ZD Education</b>	17
(1) It is unlawful for an educational authority to discriminate against a person on the ground of a variation of sex characteristics—	18
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(a) by refusing or failing to accept the person’s application for admission as a student, or	20
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(b) in the terms on which it is prepared to admit the person as a student.	22
(2) It is unlawful for an educational authority to discriminate against a student on the ground of a variation of sex characteristics—	23
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(a) by denying the student access, or limiting the student’s access, to any benefit provided by the educational authority, or	25
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(b) by expelling the student or subjecting the student to any other detriment.	27
<b>38ZE Provision of goods and services</b>	28
It is unlawful for a person who provides, whether or not for payment, goods or services to discriminate against another person on the ground of a variation of sex characteristics—	29
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(a) by refusing to provide the person with the goods or services, or	32
(b) in the terms on which the other person is provided with the goods or services.	33
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<b>38ZF Accommodation</b>	35
(1) It is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground of a variation of sex characteristics—	36
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(a) by refusing the person’s application for accommodation, or	38
(b) in the terms on which the person offers the other person accommodation, or	39
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(c) by deferring the person’s application for accommodation or giving the person a lower order of precedence in any list of applicants for that accommodation.	41
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(2)	It is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground of a variation of sex characteristics—	1 2
(a)	by denying the person access, or limiting the person’s access, to a benefit associated with accommodation occupied by the person, or	3 4
(b)	by evicting the person or subjecting the person to any other detriment.	5
(3)	Nothing in this section applies to or in relation to the provision of accommodation in premises if—	6 7
(a)	the person who provides or proposes to provide the accommodation or a near relative of that person resides, and intends to continue to reside, in the premises, and	8 9 10
(b)	the accommodation provided in the premises is for no more than 6 persons.	11 12
<b>38ZG</b>	<b>Registered clubs</b>	13
(1)	It is unlawful for a registered club to discriminate on the ground of a variation of sex characteristics against a person who is not a member of the registered club—	14 15 16
(a)	by refusing or failing to accept the person’s application for membership of the club, or	17 18
(b)	in the terms on which it is prepared to admit the person to membership of the club.	19 20
(2)	It is unlawful for a registered club to discriminate on the ground of a variation of sex characteristics against a member of the registered club—	21 22
(a)	by denying the member access, or limiting the member’s access, to any benefit provided by the club, or	23 24
(b)	by depriving the member of membership or varying the terms of the membership, or	25 26
(c)	by subjecting the member to any other detriment.	27
<b>Division 4</b>	<b>Vilification on the ground of variations of sex characteristics</b>	28 29
<b>38ZH</b>	<b>Definition</b>	30
	In this division—	31
	<b>public act</b> includes—	32
(a)	any form of communication to the public, including speaking, writing, printing, displaying notices, broadcasting, telecasting, screening and playing of tapes or other recorded material, and	33 34 35
(b)	any conduct, that is not a form of communication referred to in paragraph (a), observable by the public, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia, and	36 37 38 39
(c)	the distribution or dissemination of any matter to the public with knowledge the matter promotes or expresses hatred towards, serious contempt for, or severe ridicule of—	40 41 42
(i)	a person on the ground the person has a variation of sex characteristics, or	43 44
(ii)	a group of persons on the ground that the members of the group have variations of sex characteristics.	45 46

<b>38ZI Vilification on ground of sex characteristics unlawful</b>	1
(1) It is unlawful for a person, by a public act, to incite hatred towards, serious contempt for, or severe ridicule of—	2 3
(a) a person on the ground the person has a variation of sex characteristics, or	4 5
(b) a group of persons on the ground the members of the group have variations of sex characteristics.	6 7
(2) Nothing in this section renders unlawful—	8
(a) a fair report of a public act referred to in subsection (1), or	9
(b) a communication or the distribution or dissemination of any matter on an occasion that would be subject to a defence of absolute privilege, whether under the <i>Defamation Act 2005</i> or otherwise, in proceedings for defamation, or	10 11 12 13
(c) a public act, done reasonably and in good faith, for academic, artistic, scientific, research or religious discussion or instruction purposes or for other purposes in the public interest, including discussion or debate about and expositions of any act or matter.	14 15 16 17
<b>[14] Section 40 Discrimination against applicants and employees</b>	18
Insert “or” after “household,” in section 40(3)(a).	19
<b>[15] Section 40(3)(b)</b>	20
Omit “5, or”. Insert instead “5.”.	21
<b>[16] Section 40(3)(c)</b>	22
Omit the paragraph.	23
<b>[17] Section 46A Education</b>	24
Omit section 46A(3).	25
<b>[18] Section 49D Discrimination against applicants and employees</b>	26
Omit “5, or” from section 49D(3)(b). Insert instead “5.”.	27
<b>[19] Section 49D(3)(c).</b>	28
Omit the paragraph.	29
<b>[20] Section 49L Education</b>	30
Omit section 49L(3). Insert instead—	31
(3) Nothing in this section applies to or in relation to a refusal or failure to accept a person’s application for admission as a student by an educational authority if the educational authority administers a school, college, university or other institution that is conducted solely for students who have a disability that is not the same as the disability of the student.	32 33 34 35 36
<b>[21] Section 49PA Persons addicted to prohibited drugs</b>	37
Omit “having hepatitis C, HIV infection or any” from section 49PA(3).	38
Insert instead “living with HIV or having hepatitis C or another”.	39

<b>[22] Part 4C, heading</b>	1
Omit “ <b>homosexuality</b> ”. Insert instead “ <b>sexuality</b> ”.	2
<b>[23] Section 49ZF</b>	3
Omit the section. Insert instead—	4
<b>49ZF Interpretation</b>	5
(1) In this part, <i>sexuality</i> means—	6
(a) homosexuality, or	7
(b) bisexuality, or	8
(c) asexuality.	9
(2) A reference in this part to a person’s sexuality includes a reference to a person being thought to have a particular sexuality, whether or not the person does in fact have that sexuality or not.	10 11 12
<b>[24] Sections 49ZG, 49ZH, 49ZI, 49ZJ, 49ZK, 49ZKA, 49ZL, 49ZM, 49ZN, 49ZO, 49ZP, 49ZQ, 49ZR, 49ZS and 49ZT</b>	13 14
Omit “homosexuality” wherever occurring. Insert instead “sexuality”.	15
<b>[25] Section 49ZG(1)(a)</b>	16
Omit “he or she did not think was a homosexual person”.	17
Insert instead “the perpetrator did not think had that sexuality”.	18
<b>[26] Section 49ZG(1)(a)</b>	19
Omit “he or she thinks was a homosexual person”.	20
Insert instead “the perpetrator thinks had that sexuality”.	21
<b>[27] Section 49ZG(1)(b) and (2)</b>	22
Omit “homosexual persons” wherever occurring. Insert instead “persons of that particular sexuality”.	23 24
<b>[28] Section 49ZG(1)(b)</b>	25
Omit “homosexual person”. Insert instead “person of that particular sexuality”.	26
<b>[29] Section 49ZH(3)(a)</b>	27
Insert “or” after “household,”.	28
<b>[30] Section 49ZH(3)(b)</b>	29
Omit “, or”. Insert instead “.”.	30
<b>[31] Section 49ZH(3)(c)</b>	31
Omit the paragraph.	32
<b>[32] Section 49ZO Education</b>	33
Omit section 49ZO(3).	34
<b>[33] Part 4C, Division 4</b>	35
Omit the heading. Insert instead—	36

<b>Division 4</b>	<b>Vilification on the ground of sexuality</b>	1	
[34]	<b>Section 49ZT, heading</b>	2	
	Omit “ <b>Homosexual</b> ”. Insert instead “ <b>Sexuality</b> ”.	3	
[35]	<b>Section 49ZXA, heading</b>	4	
	Omit the heading. Insert instead—	5	
	<b>49ZXADefinition</b>	6	
[36]	<b>Section 49ZXA</b>	7	
	Omit the definition of “ <i>HIV/AIDS infected</i> ”.	8	
[37]	<b>Section 49ZXB HIV/AIDS vilification unlawful</b>	9	
	Omit “HIV/AIDS infected” wherever occurring in section 49ZXB(1).	10	
	Insert instead “living with human immunodeficiency virus or acquired immunodeficiency syndrome”.	11 12	
[38]	<b>Section 49ZYL Education</b>	13	
	Omit section 49ZYL(3)(b).	14	
[39]	<b>Part 4H</b>	15	
	Insert before Part 5—	16	
	<b>Part 4H Discrimination on ground of sex work</b>	17	
	<b>Division 1</b>	<b>General</b>	18
50AA	<b>Definitions</b>	19	
	In this part—	20	
	<i>public act</i> includes—	21	
	(a) any form of communication to the public, including speaking, writing, printing, displaying notices, broadcasting, telecasting, screening and playing of tapes or other recorded material, and	22 23 24	
	(b) any other conduct observable by the public, including actions and gestures and the wearing or display of clothing, signs, flags, emblems and insignia, and	25 26 27	
	(c) the distribution or dissemination of any matter to the public with knowledge the matter promotes or expresses hatred towards, serious contempt for, or severe ridicule of—	28 29 30	
	(i) a person on the ground the person is, or has been, a sex worker, or	31	
	(ii) a group of persons on the ground the members of the group are, or have been, sex workers.	32 33	
	<i>sex worker</i> means a person who provides sexual services on a commercial basis.	34 35	
50AB	<b>What constitutes discrimination on ground of sex work</b>	36	
	(1) A person ( <i>the perpetrator</i> ) discriminates against another person ( <i>the aggrieved person</i> ) on the ground of the person is, or has been, a sex worker if the perpetrator—	37 38 39	

- (a) on the ground of the aggrieved person is, or has been, a sex worker or a relative or associate of the aggrieved person is, or has been, a sex worker, treats the aggrieved person less favourably than in the same circumstances, or in circumstances which are not materially different, the perpetrator treats or would treat a person who the perpetrator did not think is, or had been, a sex worker or who does not have a relative or associate who the perpetrator did not think is, or had been, a sex worker, or 1  
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- (b) requires the aggrieved person to comply with a requirement or condition with which a substantially higher proportion of persons who are, or have not been, a sex worker, or who do not have a relative or associate who is, or has been, a sex worker, comply or are able to comply, being a requirement which is not reasonable having regard to the circumstances and with which the aggrieved person does not or is not able to comply. 9  
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- (2) For subsection (1)(a), something is done on the ground a person is, or has been, a sex worker if it is done on any of the following grounds— 15  
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- (a) the person is, or has been, a sex worker, 17
- (b) a characteristic that appertains generally to sex workers, 18
- (c) a characteristic that is generally imputed to sex workers 19

## **Division 2      Discrimination in work** 20

### **50AC      Discrimination against applicants and employees** 21

- (1) It is unlawful for an employer to discriminate against a person on the ground the person is, or has been, a sex worker— 22  
23
- (a) in the arrangements the employer makes for the purpose of determining who should be offered employment, or 24  
25
- (b) in determining who should be offered employment, or 26
- (c) in the terms on which employment is offered. 27
- (2) It is unlawful for an employer to discriminate against an employee on the ground the person is, or has been, a sex worker— 28  
29
- (a) in the terms or conditions of employment that are afforded to the employee, or 30  
31
- (b) by denying the employee access, or limiting the employee's access, to opportunities for promotion, transfer or training, or to any other benefits associated with employment, or 32  
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- (c) by dismissing the employee or subjecting the employee to any other detriment. 35  
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- (3) Subsections (1) and (2) do not apply to employment— 37
- (a) for the purposes of a private household, or 38
- (b) if the number of persons employed by the employer, disregarding any persons employed within the employer's private household, does not exceed 5. 39  
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- (4) For subsection (3)(b), a corporation (***first corporation***) is regarded as the employer of the employees of another corporation which, in relation to the first corporation, is a related body corporate within the meaning of the *Corporations Act 2001* of the Commonwealth. 42  
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<b>50AD</b>	<b>Discrimination against commission agents</b>	1
(1)	It is unlawful for a principal to discriminate against a person on the ground the person is, or has been, a sex worker—	2
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(a)	in the arrangements the principal makes for the purpose of determining who should be engaged as a commission agent, or	4
		5
(b)	in determining who should be engaged as a commission agent, or	6
(c)	in the terms on which the principal engages the person as a commission agent.	7
		8
(2)	It is unlawful for a principal to discriminate against a commission agent on the ground the person is, or has been, a sex worker—	9
		10
(a)	in the terms or conditions that are afforded to the commission agent, or	11
(b)	by denying the commission agent access, or limiting the commission agent's access, to opportunities for promotion, transfer or training, or to any other benefits associated with the position as a commission agent, or	12
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(c)	by terminating the commission agent's engagement or subjecting the commission agent to any other detriment.	16
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<b>50AE</b>	<b>Discrimination against contract workers</b>	18
	It is unlawful for a principal to discriminate against a contract worker on the ground the person is, or has been, a sex worker—	19
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(a)	in the terms on which the contract worker is allowed to work, or	21
(b)	by not allowing the contract worker to work or continue to work, or	22
(c)	by denying the contract worker access, or limiting the contract worker's access, to any benefit associated with the work performed by the contract worker, or	23
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(d)	by subjecting the contract worker to any other detriment.	26
<b>50AF</b>	<b>Partnerships</b>	27
(1)	It is unlawful for a firm consisting of 6 or more partners, or for any one or more of 6 or more persons proposing to form themselves into a partnership, to discriminate against a person on the ground the person is, or has been, a sex worker—	28
		29
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		31
(a)	in the arrangements made for the purpose of determining who should be offered a position as partner in the firm, or	32
		33
(b)	in determining who should be offered a position as partner in the firm, or	34
		35
(c)	in the terms on which the person is offered a position as partner in the firm.	36
		37
(2)	It is unlawful for a firm consisting of 6 or more partners to discriminate against a partner on the ground the person is, or has been, a sex worker—	38
		39
(a)	by denying the partner access, or limiting the partner's access, to any benefit arising from membership of the firm, or	40
		41
(b)	by expelling the partner from the firm, or	42
(c)	by subjecting the partner to any other detriment.	43

<b>50AG</b>	<b>Discrimination by local government councillors</b>	1
	It is unlawful for any member or members of a council of a local government area when acting, whether alone or together, in the course of the member's or members' official functions to discriminate against another member of the council on the ground the person is, or has been, a sex worker.	2 3 4 5
<b>50AH</b>	<b>Industrial organisations</b>	6
(1)	It is unlawful for an industrial organisation to discriminate on the ground the person is, or has been, a sex worker against a person who is not a member of the industrial organisation—	7 8 9
(a)	by refusing or failing to accept the person's application for membership, or	10 11
(b)	in the terms on which it is prepared to admit the person to membership.	12
(2)	It is unlawful for an industrial organisation to discriminate against a member of the organisation on the ground the person is, or has been, a sex worker—	13 14
(a)	by denying the member access, or limiting the member's access, to any benefit provided by the organisation, or	15 16
(b)	by depriving the member of membership or varying the terms of the membership, or	17 18
(c)	by subjecting the member to any other detriment.	19
<b>50AI</b>	<b>Qualifying bodies</b>	20
	It is unlawful for an authority or a body which is empowered to confer, renew or extend an authorisation or a qualification that is needed for or facilitates the practice of a profession, the carrying on of a trade or the engaging in of an occupation to discriminate against a person on the ground the person is, or has been, a sex worker—	21 22 23 24 25
(a)	by refusing or failing to confer, renew or extend the authorisation or qualification, or	26 27
(b)	in the terms on which it is prepared to confer the authorisation or qualification or to renew or extend the authorisation or qualification, or	28 29
(c)	by withdrawing the authorisation or qualification or varying the terms or conditions on which it is held.	30 31
<b>50AJ</b>	<b>Employment agencies</b>	32
	It is unlawful for an employment agency to discriminate against a person on the ground the person is, or has been, a sex worker—	33 34
(a)	by refusing to provide the person with any of its services, or	35
(b)	in the terms on which it offers to provide the person with any of its services, or	36 37
(c)	in the way in which it provides the person with any of its services.	38
<b>Division 3</b>	<b>Discrimination in other areas</b>	39
<b>50AK</b>	<b>Education</b>	40
(1)	It is unlawful for an educational authority to discriminate against a person on the ground the person is, or has been, a sex worker—	41 42
(a)	by refusing or failing to accept the person's application for admission as a student, or	43 44

(b)	in the terms on which it is prepared to admit the person as a student.	1
(2)	It is unlawful for an educational authority to discriminate against a student on the ground the person is, or has been, a sex worker—	2
		3
(a)	by denying the student access, or limiting the student’s access, to any benefit provided by the educational authority, or	4
		5
(b)	by expelling the student or subjecting the student to any other detriment.	6
<b>50AL</b>	<b>Provision of goods and services</b>	7
	It is unlawful for a person who provides, whether or not for payment, goods or services to discriminate against another person on the ground the person is, or has been, a sex worker—	8
		9
		10
(a)	by refusing to provide the person with the goods or services, or	11
(b)	in the terms on which the other person is provided with the goods or services.	12
		13
<b>50AM</b>	<b>Accommodation</b>	14
(1)	It is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground the person is, or has been, a sex worker—	15
		16
(a)	by refusing the person’s application for accommodation, or	17
(b)	in the terms on which the person offers the other person accommodation, or	18
		19
(c)	by deferring the person’s application for accommodation or giving the person a lower order of precedence in any list of applicants for that accommodation.	20
		21
		22
(2)	It is unlawful for a person, whether as principal or agent, to discriminate against another person on the ground the person is, or has been, a sex worker—	23
		24
(a)	by denying the person access, or limiting the person’s access, to a benefit associated with accommodation occupied by the person, or	25
		26
(b)	by evicting the person or subjecting the person to any other detriment.	27
(3)	Nothing in this section applies to or in respect of the provision of accommodation in premises if—	28
		29
(a)	the person who provides or proposes to provide the accommodation or a near relative of that person resides, and intends to continue to reside, in the premises, and	30
		31
		32
(b)	the accommodation provided in the premises is for no more than 6 persons.	33
		34
<b>50AN</b>	<b>Registered clubs</b>	35
(1)	It is unlawful for a registered club to discriminate on the ground the person is, or has been, a sex worker against a person who is not a member of the registered club—	36
		37
		38
(a)	by refusing or failing to accept the person’s application for membership of the club, or	39
		40
(b)	in the terms on which it is prepared to admit the person to membership of the club.	41
		42
(2)	It is unlawful for a registered club to discriminate on the ground the person is, or has been, a sex worker against a member of the registered club—	43
		44

(a)	by denying the member access, or limiting the member’s access, to any benefit provided by the club, or	1 2
(b)	by depriving the member of membership or varying the terms of the member’s membership, or	3 4
(c)	by subjecting the member to any other detriment.	5
<b>Division 4</b>	<b>Vilification on the ground of sex work</b>	6
<b>50AO</b>	<b>Sex work vilification unlawful</b>	7
(1)	It is unlawful for a person, by a public act, to incite hatred towards, serious contempt for, or severe ridicule of—	8 9
(a)	a person on the ground the person is, or has been, a sex worker, or	10
(b)	a group of persons on the ground the members of the group are, or have been, sex workers.	11 12
(2)	Nothing in this section renders unlawful—	13
(a)	a fair report of a public act referred to in subsection (1), or	14
(b)	a communication or the distribution or dissemination of any matter on an occasion that would be subject to a defence of absolute privilege, whether under the <i>Defamation Act 2005</i> or otherwise, in proceedings for defamation, or	15 16 17 18
(c)	a public act, done reasonably and in good faith, for academic, artistic, scientific, research or religious discussion or instruction purposes or for other purposes in the public interest, including discussion or debate about and expositions of any act or matter.	19 20 21 22
<b>[40]</b>	<b>Section 56 Religious bodies</b>	23
	Omit section 56(c) and (d). Insert instead—	24
(c)	the selection or appointment of a person to exercise functions in relation to, or otherwise participate in, a religious observance or practice, or	25 26
(d)	another act or practice of a body established to propagate religion that—	27
(i)	is reasonable and proportionate in the circumstances, and	28
(ii)	conforms to the doctrines of the religion, and	29
(iii)	is necessary to avoid injury to the religious susceptibilities of the adherents of the religion.	30 31
(2)	Subsection (1)(d) does not apply in relation to—	32
(a)	employment and education by religious educational institutions, or	33
(b)	employment and the provision of goods, services or accommodation by religious bodies providing goods, services or accommodation to the general public.	34 35 36
<b>[41]</b>	<b>Section 59A Adoption services</b>	37
	Omit the section.	38
<b>[42]</b>	<b>Section 87 Definitions</b>	39
	Omit “38S, 49ZT or 49ZXB” from section 87, definition of <i>vilification complaint</i> .	40
	Insert instead “38S, 38ZI, 49ZT, 49ZXB or 50AO”.	41

<b>[43] Part 9C</b>	1
Insert after Part 9B—	2
<b>Part 9C Forms</b>	3
<b>122Y Matters relating to gender diversity and same sex relationships</b>	4
(1) This section applies if a government sector agency or the head of a government sector agency requires or asks a person to complete a form, or keeps a record about a person, that includes information—	5 6 7
(a) about a person’s sex, or	8
(b) that indicates, or could be taken to indicate, a person’s sex.	9
<b>Example—</b> a form for a school that requires a child’s parents to be identified	10
(2) The form or record must include options that—	11
(a) allow a person’s sex to be described in a non-binary way, and	12
(b) allow a person’s relationship to another person to be described in a way that—	13 14
(i) is in accordance with each person’s identified sex, or	15
(ii) does not indicate either person’s sex.	16
<b>Example—</b> A form for a school that requires a child’s parents to be identified cannot provide only for an option of ‘mother’ and ‘father’ and instead might choose to use the terms ‘parent 1’ and ‘parent 2’ or allow parents to describe themselves as mother, father or parent as they wish.	17 18 19 20
(3) In this section—	21
<b>government sector agency</b> has the same meaning as in the <i>Government Sector Employment Act 2013</i> .	22 23
<b>head</b> , of a government sector agency, has the same meaning as in the <i>Government Sector Employment Act 2013</i> .	24 25

<b>Schedule 2</b>	<b>Amendment of Births, Deaths and Marriages Registration Act 1995 No 62</b>	1
		2
<b>[1] Section 4 Definitions</b>		3
	Insert in alphabetical order in section 4(1)—	4
	<i>recognition certificate</i> , for Part 5A—see section 32A.	5
	<i>sex descriptor</i> , for Part 5A—see section 32A.	6
<b>[2] Section 16 Obligation to have birth registered</b>		7
	Omit section 16(1). Insert instead—	8
	(1) A person responsible for having the birth of a child registered must have the birth registered—	9
	(a) within 60 days after the date of the birth, or	10
	(b) for a live birth where variations of sex characteristics do not allow for an easy assignment of sex—within 180 days after the date of the birth.	11
	Maximum penalty—10 penalty units.	12
		13
		14
<b>[3] Section 16(2)</b>		15
	Omit “60 day period”. Insert instead “period specified in subsection (1)(a) or (b)”.	16
<b>[4] Section 29D</b>		17
	Insert after section 29C—	18
<b>29D Single application for altering record of sex and name</b>		19
	(1) This section applies if—	20
	(a) a record of a person’s sex in the register is altered under Part 5A, and	21
	(b) the application for the alteration includes a nomination that the person’s name be changed in the register.	22
	(2) The person’s change of name is to be considered and registered under this part as if an application for the change of name had been made under section 27 or 28.	23
		24
		25
		26
<b>[5] Part 5A</b>		27
	Omit the part. Insert instead—	28
		29
<b>Part 5A Acknowledgement of sex</b>		29
<b>Division 1 Preliminary</b>		30
<b>32A Definitions</b>		31
	In this part—	32
	<i>prohibited sex descriptor</i> means a sex descriptor that—	33
	(a) is obscene or offensive, or	34
	(b) could not practicably be established by repute or usage—	35
	(i) because it is too long, or	36
	(ii) because it consists of or includes symbols without phonetic significance, or	37
		38

(iii)	for some other reason.	1
	<b>recognition certificate</b> means a certificate that—	2
(a)	is issued under the law of another State or Territory or a jurisdiction outside Australia, and	3
(b)	recognises an alteration in a record of a person’s sex, and	4
(c)	is issued in relation to a person whose record of sex has been altered, and	5
(d)	states the person’s sex in accordance with the altered record.	6
	<b>sex descriptor</b> means—	7
(a)	female, and	8
(b)	male, and	9
(c)	any other descriptor of sex.	10
	<b>Examples of other descriptors of sex</b> — agender, genderqueer and non-binary	11
		12
		13
<b>Division 2</b>	<b>Applications by persons born in NSW for alteration of record of sex</b>	14
		15
<b>32B</b>	<b>Application to Registrar by person 16 years of age or more about alteration of record of person’s sex</b>	16
		17
(1)	A person may apply to the Registrar to have a record of the person’s sex, specified in the application, altered if—	18
		19
(a)	the person is 16 years of age or more, and	20
(b)	the person’s birth is registered in this State.	21
(2)	An application under subsection (1) must be—	22
		23
(a)	in the approved form, and	24
(b)	accompanied by a statutory declaration in which the person declares that the person—	25
		26
(i)	identifies as being of the sex specified in the declaration, and	27
(ii)	lives, or seeks to live, as a person of that sex, and	28
(c)	accompanied by a support statement by an adult who has known the applicant for at least 12 months stating that—	29
		30
(i)	the adult believes the person is making the application in good faith, and	31
(ii)	the adult supports the person in making the application, and	32
(d)	accompanied by any other document or information the Registrar reasonably requires in relation to the sex of the person.	33
		34
(3)	The applicant must nominate the following in the application—	35
		36
(a)	a sex descriptor,	37
(b)	if the person wishes to change the person’s name as part of altering the record of the person’s sex—the person’s proposed new name.	38
		39
<b>32C</b>	<b>Application to NCAT by person under 16 years of age about alteration of record of person’s sex</b>	40
		41
(1)	A person (an <b>applicant</b> ) may apply to NCAT to have a record of the person’s sex, specified in the application, altered if—	42
		43
(a)	the applicant is under the age of 16 years of age, and	44

(b)	the applicant’s birth is registered in this State.	1
(2)	An application under subsection (1) must be—	2
(a)	in the approved form, and	3
(b)	accompanied by a statement from a person who has provided counselling to the applicant that—	4
(i)	the applicant has undertaken counselling in relation to—	5
(A)	whether or not the application ought to be made, and	6
(B)	the implications of the alteration of the record of the applicant’s sex, and	7
(ii)	the counselling was provided by a person, chosen by the applicant, who the applicant considers has suitable qualifications, training or experience to provide the counselling, and	8
(c)	accompanied by any other document or information NCAT reasonably requires.	9
(3)	The applicant—	10
(a)	must state in the application that the applicant understands NCAT must give notice about the application to each parent or other person with parental responsibility for the applicant under section 32CA(1)(a), and	11
(b)	may make a submission to NCAT that the applicant does not want the persons mentioned in paragraph (a) notified because the applicant would be adversely affected.	12
	<b>Note—</b> NCAT must not notify a parent, or another person with parental responsibility for the applicant, about the application if making the notification could reasonably be expected to adversely affect the applicant, see section 32CA(1)(b).	13
(4)	The applicant must nominate the following in the application—	14
(a)	a sex descriptor,	15
(b)	if the applicant wishes to change the applicant’s name as part of altering the record of the applicant’s sex—the applicant’s proposed new name.	16
<b>32CA</b>	<b>Notification about application</b>	17
(1)	Subject to subsection (2), NCAT—	18
(a)	must take reasonable steps to notify each parent, or other person with parental responsibility for the person, about the application, and	19
(b)	must not notify a parent, or other person with parental responsibility for the young person, about the application if the notification could reasonably be expected to adversely affect the young person.	20
(2)	If a person makes a submission under section 32C(3)(b) about a parent or other person with parental responsibility for the person being notified about the application—	21
(a)	NCAT must, after considering the submission, decide if giving notice under subsection (1)(a) could reasonably be expected to adversely affect the person, and	22
(b)	if NCAT decides the person could not reasonably be expected to be adversely affected by the notification, NCAT must give the person a written notice stating—	23
(i)	the reasons for its decision, and	24



	(ii)	that the person may, in writing, withdraw the person's application before the end of a stated period of at least 14 days after the day the notice is given to the person, and	1 2 3
	(iii)	that, if the application is not withdrawn before the end of the stated period, NCAT will notify each parent or other person with parental responsibility for the person in accordance with subsection (1).	4 5 6 7
(3)		For this section, a person is not adversely affected by an application if the only reason the person is affected is that—	8 9
	(a)	a parent, or another person with parental responsibility, disagrees with the application, and	10 11
	(b)	the disagreement causes the person discomfort.	12
<b>Division 3</b>		<b>Applications by persons for alteration of record of sex of children born in NSW</b>	13 14
<b>32D</b>		<b>Application to Registrar by parents or guardians about alteration of record of child's sex</b>	15 16
(1)		Persons or a person (each an <i>applicant</i> ) may apply to the Registrar to alter a record of the sex, specified in the application, of a child under the age of 16 years whose birth is registered in the State if—	17 18 19
	(a)	the applicants constitute all the parents or guardians of the child, or	20
	(b)	the applicant is the sole parent named in the registration under this Act of the child's birth, or	21 22
	(c)	the applicant is the sole guardian of the child, or	23
	(d)	the applicant is the child's parent and there is no other surviving parent of the child, or	24 25
	(e)	the applicant has sole parental responsibility to make decisions about major long-term issues for the child under a parenting order made under the <i>Family Law Act 1975</i> of the Commonwealth, Part VII, or	26 27 28
	(f)	the applicant is a parent of the child and it is not practicable or reasonable to obtain the consent of the child's other parent.	29 30
(2)		An application under subsection (1) must be—	31
	(a)	in the approved form, and	32
	(b)	accompanied by—	33
	(i)	if the child is able to make a statutory declaration—a declaration made by the child that the child—	34 35
		(A) identifies as being of the sex specified in the declaration, and	36 37
		(B) lives, or seeks to live, as a person of that sex, and	38
	(ii)	if the child is not able to make a statutory declaration but is able to express the child's views—a statement from each applicant stating that the applicant believes on reasonable grounds that alteration of the record of sex of the child is in the child's best interests, or	39 40 41 42 43
	(c)	accompanied by a statement by a person who has provided counselling to the child that—	44 45
	(i)	the child has undertaken counselling in relation to—	46
		(A) whether or not the application ought to be made, and	47

	(B) the implications of the alteration of the record of sex in relation to the person, and	1 2
	(ii) the counselling was provided by a person, chosen by the applicant, who the applicant considers has suitable qualifications, training or experience to provide the counselling, and	3 4 5
	(d) accompanied by any other document or information the Registrar reasonably requires.	6 7
(3)	The applicant must nominate the following in the application—	8
	(a) a sex descriptor,	9
	(b) if the applicant or child wishes to change the child’s name as part of altering the record of the child’s sex—the child’s proposed new name.	10 11
<b>32E</b>	<b>Application to NCAT by parent or guardian about alteration of record of child’s sex</b>	12 13
(1)	This section applies if—	14
	(a) not all the parents or guardians of a child, who is under the age of 16 and whose birth is registered in this State, wish to apply to alter a record of the sex of the child, or	15 16 17
	(b) the parent or guardian is otherwise ineligible to apply under section 32D to the Registrar to alter the record of the sex of the child.	18 19
(2)	The parent or a guardian (the <i>applicant</i> ) may apply to NCAT to alter the record of the sex, specified in the application, of the child.	20 21
(3)	An application under subsection (2) must be—	22
	(a) in the approved form, and	23
	(b) accompanied by evidence that—	24
	(i) the child has undertaken counselling in relation to—	25
	(A) whether or not the application ought to be made, and	26
	(B) the implications of the registration of sex in relation to the person, and	27 28
	(ii) the counselling was provided by a person, chosen by the applicant, who the applicant considers has suitable qualifications, training or experience to provide the counselling, and	29 30 31
	(c) accompanied by any other document or information NCAT reasonably requires.	32 33
(4)	The applicant must nominate the following in the application—	34
	(a) a sex descriptor,	35
	(b) if the applicant or child wishes to change the child’s name as part of changing sex—the child’s proposed new name.	36 37
<b>Division 4</b>	<b>Applications by persons born outside NSW for registration of acknowledgment of sex</b>	38 39
<b>32EA</b>	<b>Application for registration of acknowledgement of sex</b>	40
(1)	A person may apply to the Registrar for the registration of an acknowledgment of the person’s sex, specified in the application, if—	41 42
	(a) the person is 16 years of age or more, and	43

(b)	the person is an Australian citizen or permanent resident of Australia, and	1 2
(c)	the person lives, and has lived for at least one year, in New South Wales, and	3 4
(d)	the person's birth is not registered under this Act or a corresponding law.	5 6
(2)	An application under subsection (1) must be—	7
(a)	in the approved form, and	8
(b)	accompanied by a statutory declaration in which the person declares that the person—	9 10
(i)	identifies as being of the sex specified in the declaration, and	11
(ii)	lives, or seeks to live, as a person of that sex, and	12
(c)	accompanied by a support statement by an adult who has known the applicant for at least 12 months stating that—	13 14
(i)	the adult believes the person is making the application in good faith, and	15 16
(ii)	the adult supports the person in making the application, and	17
(d)	accompanied by any other document or information the Registrar reasonably requires in relation to the sex of the person.	18 19
(3)	The applicant must nominate the following in the application—	20
(a)	a sex descriptor,	21
(b)	if the person wishes to change the person's name as part registering the acknowledgment of the person's sex—the person's proposed new name.	22 23 24
<b>32EB</b>	<b>Application to Registrar by parents or guardians about registration of acknowledgment of child's sex</b>	25 26
(1)	This section applies in relation to a child if—	27
(a)	the child is under the age of 16 years, and	28
(b)	the child is an Australian citizen or permanent resident of Australia, and	29
(c)	the child lives, and has lived for at least one year, in New South Wales, and	30 31
(d)	the child's birth is not registered under this Act or a corresponding law.	32
(2)	The following persons or a person (each an <i>applicant</i> ) may apply to the Registrar for the registration of an acknowledgment of the child's sex, specified in the application, if—	33 34 35
(a)	the applicants constitute all the parents or guardians of the child,	36
(b)	the applicant is the sole parent named in the registration under this Act of the child's birth,	37 38
(c)	the applicant is the sole guardian of the child,	39
(d)	the applicant is the child's parent and there is no other surviving parent of the child,	40 41
(e)	the applicant has sole parental responsibility to make decisions about major long-term issues for the child under a parenting order made under the <i>Family Law Act 1975</i> of the Commonwealth, Part VII,	42 43 44
(f)	the applicant is a parent of the child and it is not practicable or reasonable to obtain the consent of the child's other parent.	45 46

(3)	An application under subsection (2) must be—	1
(a)	in the approved form, and	2
(b)	accompanied by—	3
(i)	if the child is able to make a statutory declaration—a declaration made by the child that the child—	4
(A)	identifies as being of the sex specified in the declaration, and	5
(B)	lives, or seeks to live, as a person of that sex, and	6
(ii)	if the child is not able to make a statutory declaration but is able to express the child’s views—a statement from each applicant stating that the applicant believes on reasonable grounds that the registration of an acknowledgment of the child’s sex is in the child’s best interests, or	7
(c)	accompanied by a statement by a person who has provided counselling to the child that—	8
(i)	the child has undertaken counselling in relation to—	9
(A)	whether or not the application ought to be made, and	10
(B)	the implications of the registration of the acknowledgment of sex in relation to the child, and	11
(ii)	the counselling was provided by a person, chosen by the applicant, who the applicant considers has suitable qualifications, training or experience to provide the counselling, and	12
(d)	accompanied by any other document or information the Registrar reasonably requires.	13
(4)	The applicant must nominate the following in the application—	14
(a)	a sex descriptor,	15
(b)	if the applicant or child wishes to change the child’s name as part of the registration of the acknowledgement of the child’s sex—the child’s proposed new name.	16
<b>32EBA</b>	<b>Application to NCAT by parent or guardian about registration of acknowledgment of child’s sex</b>	17
(1)	This section applies if—	18
(a)	not all the parents or guardians of a child who meets the following criteria (a <i>relevant child</i> ) wish to apply for the registration of an acknowledgement of the child’s sex—	19
(i)	the child is under the age of 16 years,	20
(ii)	the child is an Australian citizen or permanent resident of Australia,	21
(iii)	the child lives, and has lived for at least one year, in New South Wales,	22
(iv)	the child’s birth is not registered under this Act or a corresponding law, or	23
(b)	the parent or guardian is otherwise ineligible to apply under section 32EB to the Registrar for the registration of an acknowledgement of the child’s sex.	24
(2)	The parent or a guardian (the <i>applicant</i> ) may apply to NCAT for the registration of an acknowledgement of the sex, specified in the application, of the relevant child.	25

(3)	An application under subsection (2) must be—	1
(a)	in the approved form, and	2
(b)	accompanied by evidence that—	3
(i)	the relevant child has undertaken counselling in relation to—	4
(A)	whether or not the application ought to be made, and	5
(B)	the implications of the registration of sex in relation to the child, and	6
(ii)	the counselling was provided by a person, chosen by the applicant, who the applicant considers has suitable qualifications, training or experience to provide the counselling, and	7
(c)	accompanied by any other document or information NCAT reasonably requires.	8
(4)	The applicant must nominate the following in the application—	9
(a)	a sex descriptor,	10
(b)	if the applicant or relevant child wishes to change the child's name as part of registering the acknowledgement of the child's sex—the child's proposed new name.	11
<b>32ECA</b>	<b>Application to NCAT by person under 16 years of age about registration of acknowledgement of person's sex</b>	12
(1)	A person (an <i>applicant</i> ) may apply to NCAT for the registration of an acknowledgement of the person's sex, specified in the application, if—	13
(a)	the person is under the age of 16 years, and	14
(b)	the person is an Australian citizen or permanent resident of Australia, and	15
(c)	the person lives, and has lived for at least one year, in New South Wales, and	16
(d)	the person's birth is not registered under this Act or a corresponding law.	17
(2)	An application under subsection (1) must be—	18
(a)	in the approved form, and	19
(b)	accompanied by a statement from a person who has provided counselling to the applicant that—	20
(i)	the applicant has undertaken counselling in relation to—	21
(A)	whether or not the application ought to be made, and	22
(B)	the implications of the registration of the acknowledgement of the applicant's sex, and	23
(ii)	the counselling was provided by a person, chosen by the applicant, who the applicant considers has suitable qualifications, training or experience to provide the counselling, and	24
(c)	accompanied by any other document or information NCAT reasonably requires.	25
(3)	The applicant—	26
(a)	must state in the application that the applicant understands NCAT must give notice about the application to each parent or other person with parental responsibility for the applicant under section 32ED(1)(a), and	27

(b)	may make a submission to NCAT that the applicant does not want the persons mentioned in paragraph (a) notified because the applicant would be adversely affected.	1 2 3
	<b>Note—</b> NCAT must not notify a parent, or another person with parental responsibility for the applicant, about the application if making the notification could reasonably be expected to adversely affect the applicant, see section 32ED(1)(b).	4 5 6
(4)	The applicant must nominate the following in the application—	7
(a)	a sex descriptor,	8
(b)	if the applicant wishes to change the applicant’s name as part of registering the acknowledgement of the applicant’s sex—the applicant’s proposed new name.	9 10 11
<b>32ED</b>	<b>Notification about application</b>	12
(1)	Subject to subsection (2), NCAT—	13
(a)	must take reasonable steps to notify each parent, or other person with parental responsibility for the person, about the application, and	14 15
(b)	must not notify a parent, or other person with parental responsibility for the young person, about the application if the notification could reasonably be expected to adversely affect the young person.	16 17 18
(2)	If a person makes a submission under section 32EC(3)(b) about a parent or other person with parental responsibility for the person being notified about the application—	19 20 21
(a)	NCAT must, after considering the submission, decide if giving notice under subsection (1)(a) could reasonably be expected to adversely affect the person, and	22 23 24
(b)	if NCAT decides the person could not reasonably be expected to be adversely affected by the notification, NCAT must give the person a written notice stating—	25 26 27
(i)	the reasons for its decision, and	28
(ii)	that the person may, in writing, withdraw the person’s application before the end of a stated period of at least 14 days after the day the notice is given to the person, and	29 30 31
(iii)	that, if the application is not withdrawn before the end of the stated period, NCAT will notify each parent or other person with parental responsibility for the person in accordance with subsection (1).	32 33 34 35
(3)	For this section, a person is not adversely affected by an application if the only reason the person is affected is that—	36 37
(a)	a parent, or another person with parental responsibility, disagrees with the application, and	38 39
(b)	the disagreement causes the person discomfort.	40
<b>Division 5</b>	<b>Decisions about applications</b>	41
<b>32F</b>	<b>Decision by Registrar</b>	42
(1)	After receiving an application under this part for the alteration of a record of sex or the registration of an acknowledgement of sex in relation to a person, the Registrar—	43 44 45
(a)	for an application for the alteration of a record of sex—must—	46

- (i) alter the record of sex in relation to the person by making an entry in the Register specifying the sex to be the registered sex in relation to the person, and 1
      - (ii) make any other changes to the Register necessary to indicate each previous registered sex of the person is no longer the registered sex in relation to the person, or 4
    - (b) for an application for the registration of an acknowledgement of sex in relation to a person—must make an entry in the Register specifying the sex to be the acknowledged sex in relation to the person, or 7
    - (c) must refuse to alter the record of sex or register the acknowledgement of sex in relation to the person. 10
  - (2) If the Registrar decides an application made under this part by refusing to alter the record of sex or to register the acknowledgement of sex in relation to the person— 12
    - (a) the Registrar must record the Registrar’s reasons for the refusal, and 15
    - (b) the Registrar must give the person who made the application the Registrar’s reasons for the refusal, and 16
    - (c) the person who made the application may apply under section 56 for a review of the decision. 18
  - (3) If a record of sex is altered in relation to a person under this section, any registered sex that was previously registered in relation to the person ceases to be the registered sex in relation to the person. 20
  - (4) The Registrar may refuse to approve the registration of the sex descriptor nominated by or for a person if the alteration or acknowledgement would result in the recorded sex being a prohibited sex descriptor. 23
  - (5) A certificate issued under this Act certifying particulars in an entry altered under this section must not include indicators that would disclose that a record of the following has been altered— 26
    - (a) the person’s sex or sex descriptors, 29
    - (b) the person’s name. 30
- 32G Decision by NCAT** 31
- (1) If an application is made to NCAT under this part to approve the alteration of a record of a sex or for the registration of an acknowledgment of sex, specified in the application, NCAT may— 32
    - (a) make an order that— 35
      - (i) approves the alteration of the record of sex or the registration of the acknowledgement of sex in relation to the person, and 36
      - (ii) requires the Registrar to make an entry in the Register altering the record of sex or registering the acknowledgement of sex in relation to the person, or 38
    - (b) refuse to approve the alteration of the record of the person’s sex or the acknowledgement of the sex of the person. 41
  - (2) NCAT may approve the alteration of a record or the registration of an acknowledgement of the sex of a child only if NCAT is satisfied the alteration or acknowledgement is in the child’s best interests. 43
  - (3) In deciding whether the alteration or acknowledgement is in the child’s best interests, the matters to which NCAT may regard include the following— 46

(a)	the outcomes of the counselling undertaken by the child,	1
(b)	the views of the child, however expressed,	2
(c)	whether the child is sufficiently mature to understand the meaning and legal implications of the alteration of the record or registration of acknowledgement of the sex of the child.	3 4 5
(4)	NCAT may refuse to approve the registration of the sex descriptor nominated by or for a person if the alteration or acknowledgement would result in the recorded sex being a prohibited sex descriptor.	6 7 8
(5)	A certificate issued under this Act certifying particulars in an entry altered under this section must not include indicators that would disclose that a record of the following has been altered—	9 10 11
(a)	the person’s sex or sex descriptors,	12
(b)	the person’s name.	13
<b>Division 6      Miscellaneous</b>		14
<b>32H</b>	<b>Effect of alteration of record etc</b>	15
(1)	A person whose record of sex is altered under this part is, for the purposes of a law of this State, a person of the sex stated in the altered record.	16 17
(2)	A person for whom a registration of an acknowledgement of sex is recorded under this part is, for the purposes of a law of this State, a person of the sex stated in the record.	18 19 20
(3)	A person for whom a recognition certificate is in force is, for the purposes of a law of this State, a person of the sex stated in the recognition certificate.	21 22
<b>32I</b>	<b>Other certificates</b>	23
(1)	This section applies if, under this part or because of a recognition certificate—	24
(a)	a person’s sex or name, as recorded in the Register, is altered, or	25
(b)	a registration of an acknowledgement of a person’s sex and name is recorded in the Register.	26 27
(2)	The Registrar must, on application by a relevant person in the approved form, issue a certificate certifying particulars in an entry by reference to the changed sex or name.	28 29 30
(3)	In this section—	31
	<i>relevant person</i> means—	32
(a)	for a marriage certificate—both spouses, or	33
(b)	for a birth certificate in relation to a person who is 16 years of age or older—the person, or	34 35
(c)	for a birth certificate in relation to a child who is under the age of 16 years—the person or persons who may apply under this part to alter the record of child’s sex or for the registration of an acknowledgement of the child’s sex.	36 37 38 39



<b>Schedule 3</b>	<b>Amendment of Children and Young Persons (Care and Protection) Act 1998 No 157</b>	1 2
<b>[1] Section 9 Principles for administration of Act</b>		3
	Insert “, gender identity, variations of sex characteristics” after “religion” in section 9(2)(b).	4
<b>[2] Section 174A</b>		5
	Insert after section 174—	6
<b>174A Administration of medical treatment to child or young person</b>		7
(1)	A young person may make a decision about the young person’s own medical or dental treatment as validly and effectively as an adult.	8 9
(2)	A medical practitioner may administer medical or dental treatment to a child if—	10 11
(a)	a parent of the child consents, or	12
(b)	the child consents and, in the opinion of the medical practitioner or dentist who is to administer the treatment—	13 14
(i)	the child is capable of understanding the nature, consequences and risks of the treatment, and	15 16
(ii)	the treatment is in the best interests of the child’s health and well-being.	17 18
(3)	This section does not affect the operation of—	19
(a)	section 175, or	20
(b)	the <i>Minors (Property and Contracts) Act 1970</i> , section 49.	21
<b>[3] Section 175 Special medical treatment</b>		22
	Insert after section 175(3)—	23
(4)	Despite subsection (2)(b), the consent of the Civil and Administrative Tribunal to the carrying out of the special medical treatment referred to in that section is not required if a court has already consented to or approved the treatment.	24 25 26

**Schedule 4      Amendment of Children's Guardian Act 2019 No  
25**

1

2

**Section 8 Guiding principles**

3

Insert “, any variations of sex characteristics” after “gender identity” in section 8(b).

4

<b>Schedule 5</b>	<b>Amendment of Court Security Act 2005 No 1</b>	1
<b>[1] Section 4 Definitions</b>		2
	Insert in alphabetical order in section 4(1)—	3
	<i>intersex person</i> means a person who has an innate variation of primary and secondary sex characteristics that differ from norms for female or male bodies.	4
	<i>transgender person</i> means a person who lives or seeks to live as a person of a different sex to the one registered to the person at birth, whether or not the person is a person whose sex is altered under—	6
	(a) the <i>Births, Deaths and Marriages Registration Act 1995</i> , Part 5A, or	9
	(b) the corresponding provisions of a law of another State or Territory or a jurisdiction outside Australia.	10
<b>[2] Section 4A</b>		12
	Insert after section 4—	13
<b>4A References to different or same sex</b>		14
	In this Act, a reference—	15
	(a) to a member of a different sex to a person means, if the person is a transgender person, a member of a different sex to the sex with which the transgender person identifies, and	16
	(b) to a member of the same sex as a person means, if the person is a transgender person, a member of the same sex as the sex with which the transgender person identifies.	19
<b>[3] Section 5 Operation of Act and effect on other powers</b>		22
	Insert after section 5(2)—	23
	(3) To avoid doubt, this Act does not limit the application of the <i>Anti-Discrimination Act 1977</i> , including in relation to the exercise of functions by a security officer under this Act.	24
<b>[4] Section 10 Power to search persons and vehicles</b>		27
	Omit section 10(2)(f) and (g). Insert instead—	28
	(f) a personal search of a person, other than a child under 12 years of age, must be conducted by—	29
	(i) if the person is an intersex person or transgender person who has expressed a preference for a particular security officer or a security officer of a particular class to carry out the procedure— that particular security officer or a security officer of that particular class, if reasonably available, or	31
	(ii) a security officer of the same sex as the person or, if a security officer of that sex is unavailable, another person of that sex at the direction of a security officer,	36
	(g) a personal search of a child under 12 years of age must be conducted by—	39
	(i) if the child is an intersex person or transgender person who has expressed a preference for a particular security officer or a security officer of a particular class to carry out the procedure— that particular security officer or a security officer of that particular class, if reasonably available, or	41

- (ii) a female security officer or, if a female security officer is unavailable, another female person at the direction of a security officer.

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<b>Schedule 6</b>	<b>Amendment of Crimes Act 1900 No 40</b>	1
<b>[1] Part 3A, Div 8, heading</b>		2
	Omit “ <b>or intersex or HIV/AIDS status</b> ”.	3
	Insert instead “, <b>intersex status, HIV/AIDS or sex work</b> ”.	4
<b>[2] Section 93Z, heading</b>		5
	Omit “ <b>or intersex or HIV/AIDS status</b> ”.	6
	Insert instead “, <b>intersex status, HIV/AIDS or sex work</b> ”.	7
<b>[3] Section 93Z(1)(f)</b>		8
	Omit the paragraph. Insert instead—	9
	(f) that the other person, or one or more members of the other group, live with HIV or AIDS,	10 11
	(g) that the other person, or one or more members of the other group, are or have been sex workers.	12 13
<b>[4] Section 93Z(2)</b>		14
	Omit “subsection (1)(a)–(f)”. Insert instead “subsection (1)(a)–(g)”.	15

<b>Schedule 7</b>	<b>Amendment of Crimes (Administration of Sentences) Act 1999 No 93</b>	1
		2
<b>[1] Section 3 Interpretation</b>		3
	Omit section 3(1), definition of <i>non-invasive sample</i> , paragraph (g)(ii). Insert instead—	4
	(ii) for a female person or other person with breasts—the person’s breasts, or	5
		6
	(iii) for a transgender male person or other person who is neither exclusively male nor female—the person’s chest area.	7
		8
<b>[2] Section 3(1)</b>		9
	Insert in alphabetical order—	10
	<i>intersex person</i> means a person who has an innate variation of primary and secondary sex characteristics that differ from norms for female or male bodies.	11
		12
	<i>transgender person</i> means a person who lives or seeks to live as a person of a different sex to the one registered to the person at birth, whether or not the person is a person whose sex is altered under—	13
		14
	(a) the <i>Births, Deaths and Marriages Registration Act 1995</i> , Part 5A, or	15
		16
	(b) the corresponding provisions of a law of another State or Territory or a jurisdiction outside Australia.	17
		18
<b>[3] Section 3A</b>		19
	Insert after section 3—	20
	<b>3A Relationship with Anti-Discrimination Act 1977</b>	21
	To avoid doubt, this Act does not limit the application of the <i>Anti-Discrimination Act 1977</i> , including in relation to the exercise of functions by a correctional officer under this Act.	22
		23
		24
<b>[4] Section 253J Conduct of search</b>		25
	Omit section 253J(4). Insert instead—	26
	(4) A search of a person conducted by a correctional officer under section 253I must, if practicable, be conducted by—	27
		28
	(a) if the person is an intersex or transgender person who has expressed a preference for a particular correctional officer or a particular class of correctional officers to carry out the search—that particular correctional officer or a correctional officer of that particular class, or	29
		30
		31
		32
	(b) a correctional officer of the same sex as the person.	33

<b>Schedule 8</b>	<b>Amendment of Crimes (Domestic and Personal Violence) Act 2007 No 80</b>	1
		2
<b>[1] Section 3 Definitions</b>		3
	Insert in alphabetical order in section 3(1)—	4
	<i>gender history</i> , for a person, means the sex recorded at birth for the person is different to the sex the person identifies with, lives in or seeks to live in, whether or not the person’s record of sex is altered under—	5
	(a) the <i>Births, Deaths and Marriages Registration Act 1995</i> , Part 5A, or	6
	(b) the corresponding provisions of a law of another State or Territory or a jurisdiction outside Australia.	7
	<i>out a person</i> means to disclose any of the following about a person without the person’s consent—	8
	(a) the person’s sexual orientation,	9
	(b) the person’s gender history,	10
	(c) that the person has a variation of sex characteristics,	11
	(d) that the person lives with HIV,	12
	(e) that the person is, or has been, a sex worker.	13
<b>[2] Section 6A Meaning of “domestic abuse”</b>		14
	Insert after section 6A(2)(b)—	15
	<b>Example of coercive behaviour</b> — threatening to out a person	16
<b>[3] Section 16 Court may make apprehended domestic violence order</b>		17
	Insert after 16(1)(b)(ii)—	18
	(iii) threatens to out the person,	19
<b>[4] Section 19 Court may make apprehended personal violence order</b>		20
	Insert after 19(1)(b)(ii)—	21
	(iii) threatens to out the person,	22
<b>[5] Section 21 Referral of matters to mediation</b>		23
	Omit section 21(2)(d). Insert instead—	24
	(d) the defendant has engaged in conduct amounting to harassment in relation to—	25
	(i) the protected person’s race, religion or disability, or	26
	(ii) the protected person’s sexual orientation or gender history, or	27
	(iii) the protected person’s variation of sex characteristics, or	28
	(iv) the protected person being a person living with HIV/AIDS, or	29
	(v) the protected person being a person who engages, or has engaged, in sex work, or	30
<b>[6] Section 35 Prohibitions and restrictions imposed by apprehended violence orders</b>		31
	Insert after 35(2)(e)—	32
	(e1) prohibiting or restricting the defendant from outing the protected person,	33
		34
		35
		36
		37
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		39
		40

<b>[7] Section 53 Discretion to refuse to issue process in apprehended personal violence order matters</b>	1
	2
Omit section 53(5)(c). Insert instead—	3
(c) harassment in relation to—	4
(i) the protected person’s race, religion or disability, or	5
(ii) the protected person’s sexual orientation or gender history, or	6
(iii) the protected person’s variation of sex characteristics, or	7
(iv) the protected person being a person living with HIV/AIDS, or	8
(v) the protected person being a person who engages, or has engaged, in sex work.	9
	10



<b>Schedule 9</b>	<b>Amendment of Crimes (Forensic Procedures) Act 2000 No 59</b>	1
		2
<b>[1] Section 3 Interpretation</b>		3
	Omit the definitions of <i>private parts</i> , <i>recognised transgender person</i> and <i>transgender person</i> in section 3(1).	4
		5
	Insert instead in alphabetical order—	6
	<i>intersex person</i> means a person who has an innate variation of primary and secondary sex characteristics that differ from norms for female or male bodies.	7
		8
	<i>private parts</i> means—	9
	(a) a person’s genital areas, anal area or buttocks, and	10
	(b) a person’s private upper body parts.	11
	<i>private upper body parts</i> means—	12
	(a) for a female person or other person with breasts—the person’s breasts, or	13
		14
	(b) for a transgender male person or other person whose gender is neither exclusively male nor female—the person’s chest area.	15
		16
	<i>transgender person</i> means a person who lives or seeks to live as a person of a different sex to the one registered to the person at birth, whether or not the person is a person whose sex is altered under—	17
		18
	(a) the <i>Births, Deaths and Marriages Registration Act 1995</i> , Part 5A, or	19
		20
	(b) the corresponding provisions of a law of another State or Territory or a jurisdiction outside Australia.	21
		22
<b>[2] Section 3(6)</b>		23
	Omit the subsection.	24
<b>[3] Section 3(7)</b>		25
	Omit “(other than subsection (6))”.	26
<b>[4] Section 3(7)</b>		27
	Omit “the opposite sex of”. Insert instead “a different sex to”.	28
<b>[5] Section 3(7)</b>		29
	Omit “the opposite sex to the”. Insert instead “a different sex to the”.	30
<b>[6] Section 3(7A)</b>		31
	Insert after section 3(7)—	32
	(7A) To avoid doubt, this Act does not limit the application of the <i>Anti-Discrimination Act 1977</i> , including in relation to the exercise of functions by a police officer under this Act.	33
		34
		35
<b>[7] Section 44 General rules for carrying out forensic procedures</b>		36
	Omit “the opposite sex” in section 44(a). Insert instead “a different sex”.	37
<b>[8] Section 50 Persons who may carry out forensic procedures</b>		38
	Omit “breasts of a female or a transgender person who identifies as a female” in section 50, table, items 1, 5, 6, 8, 9, 12, 13, 15, 16 and 17.	39
		40

Insert instead “private upper body part”.	1
<b>[9] Section 51 Certain forensic procedures generally to be carried out by person of same sex as suspect</b>	2
Omit 51(1)(a) and (b). Insert instead—	3
(a) if the suspect is an adult—	4
(i) by a person of the same sex as the suspect, or	5
(ii) for a suspect who is an intersex person or transgender person who has expressed a preference for a particular person or a person of a particular class of persons to carry out the procedure—that particular person or a person of that particular class, or	6
(b) if the suspect is a child—	7
(i) by a person of the sex chosen by the suspect or, if the suspect does not wish to make a choice, a person of the same sex as the suspect, or	8
(ii) for a suspect who is an intersex person or transgender person who has expressed a preference for a particular person or a person of a particular class of persons to carry out the procedure—that particular person or a person of that particular class, or	9
<b>[10] Section 51(3)(a)(i) and (ii)</b>	10
Omit the subparagraphs. Insert instead—	11
(i) if the suspect is an adult—	12
(A) by a person of the same sex as the suspect, or	13
(B) for a suspect who is an intersex person or transgender person who has expressed a preference for a particular person or a person of a particular class of persons to help carry out the procedure—that particular person or a person of that particular class, or	14
(ii) if the suspect is a child—	15
(A) by a person of the sex chosen by the suspect or, if the suspect does not wish to make a choice, a person of the same sex as the suspect, or	16
(B) for a suspect who is an intersex person or transgender person who has expressed a preference for a particular person or a person of a particular class of persons to help carry out the procedure—that particular person or a person of that particular class, and	17
<b>[11] Section 51A Self-administered buccal swabs</b>	18
Omit “the opposite sex”. Insert instead “a different sex”.	19
<b>[12] Section 56 Presence of police officers</b>	20
Insert before section 56(2)(a)—	21
(a1) if the suspect is an intersex person or transgender person (including a child) who has expressed a preference for a particular police officer or a police officer of a particular class to help carry out the procedure—that particular police officer or a police officer of that particular class, unless it is not practicable for that particular officer or an officer of that particular class to attend within a reasonable time, or	22

<b>Schedule 10</b>	<b>Amendment of Crimes (Sentencing Procedure)</b>	1
	<b>Act 1999 No 92</b>	2
<b>[1]</b>	<b>Section 21A Aggravating, mitigating and other factors in sentencing</b>	3
	Insert “, gender identity” after “language” in section 21A(2)(h).	4
<b>[2]</b>	<b>Section 21A(2)(h)</b>	5
	Insert “particular variations of sex characteristics or” after “or having”.	6

**Schedule 11 Amendment of Drug Misuse and Trafficking Act  
1985 No 226**

1

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**Section 36B Objects of Part**

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Omit “HIV infection” in section 36B(d). Insert instead “HIV”.

4

<b>Schedule 12</b>	<b>Amendment of Government Sector Employment Act 2013 No 40</b>	1
		2
<b>[1]</b>	<b>Section 63 Workforce diversity</b>	3
	Omit “and people with a disability” in section 63(1), definition of <i>workforce diversity</i> .	4
	Insert instead “, people with a disability, sexual orientation and variations of sex characteristics”.	5
		6
<b>[2]</b>	<b>Section 63(3)</b>	7
	Omit the subsection. Insert instead—	8
	(3) The Commissioner may publish a document (a <i>diversity and inclusion standard</i> ) that provides for minimum diversity and inclusion standards for government sector agencies.	9
		10
		11
	(3A) A diversity and inclusion standard may include—	12
	(a) provision for leave for gender affirming care, and	13
	(b) specific targets and quotas for workforce diversity.	14
	(3B) The government sector employment rules may also deal with workforce diversity in any government sector agency.	15
		16
	(3C) The head of a government sector agency must ensure that the agency complies with—	17
		18
	(a) a diversity and inclusion standard, and	19
	(b) any obligations under government sector employment rules mentioned in subsection (3B) that apply to the agency.	20
		21

**Schedule 13 Amendment of Government Sector Employment  
(General) Rules 2014**

1  
2

**Rule 26 Employment of eligible persons**

3

Insert after rule 26(4), definition of *eligible person*, paragraph (c1)—

4

(c2) an intersex person,

5

(c3) a transgender person,

6

<b>Schedule 14</b>	<b>Amendment of Interpretation Act 1987 No 15</b>	1
<b>[1] Section 8, heading</b>		2
	Omit the heading. Insert instead—	3
<b>8 Number</b>		4
<b>[2] Section 8(a), (d) and (e)</b>		5
	Omit the paragraphs.	6
<b>[3] Sections 8A and 8B</b>		7
	Insert after section 8—	8
<b>8A Gender</b>		9
(1)	In an Act or instrument, a word or expression that indicates one or more particular genders is taken to indicate every other gender.	10
	<b>Examples for subsection (1)—</b>	11
	• The use of a word or expression in an Act that indicates the male gender includes any person regardless of gender.	12
	• The use of 'his or her' in an Act includes any person regardless of gender.	13
(2)	In an Act or instrument, a word or expression that indicates a person's relationship with another person by reference to a particular gender is taken to include any person in the same relationship regardless of gender.	14
	<b>Example—</b> A reference in an Act to a person's 'brother and sister and step brother and step sister' includes any sibling and step sibling of the person regardless of gender.	15
(3)	In an Act or instrument, a word or expression that indicates one or more body attributes or body capacity by reference to a particular gender is taken to indicate a reference to every person with the body attribute or body capacity regardless of gender.	16
	<b>Example for subsection (3)—</b> A reference in an Act to the bodily capacity for pregnancy includes any person who has a bodily capacity for pregnancy regardless of gender.	17
<b>8B Persons</b>		18
	In an Act or instrument—	19
(a)	a reference to a person does not exclude a reference to a corporation merely because elsewhere in the Act or instrument there is particular reference to a corporation, however expressed, and	20
(b)	a reference to a person does not exclude a reference to an individual merely because elsewhere in the Act or instrument there is particular reference to an individual, however expressed.	21

<b>Schedule 15</b>	<b>Amendment of Law Enforcement (Powers and Responsibilities) Act 2002 No 103</b>	1
		2
<b>[1] Section 3 Interpretation</b>		3
	Omit the definition of <i>transgender person</i> in section 3(1).	4
	Insert instead in alphabetical order—	5
	<i>intersex person</i> means a person who has an innate variation of primary and secondary sex characteristics that differ from norms for female or male bodies.	6
	<i>transgender person</i> means a person who lives or seeks to live as a person of a different sex to the one registered to the person at birth, whether or not the person is a person whose sex is altered under—	7
	(a) the <i>Births, Deaths and Marriages Registration Act 1995</i> , Part 5A, or	8
	(b) the corresponding provisions of a law of another State or Territory or a jurisdiction outside Australia.	9
		10
		11
		12
		13
<b>[2] Section 3(2A)(a)</b>		14
	Omit “the opposite sex of”. Insert instead “a different sex to”.	15
<b>[3] Section 3(2A)(a)</b>		16
	Omit “the opposite sex to the”. Insert instead “a different sex to the”.	17
<b>[4] Section 5 Relationships to other Acts</b>		18
	Insert after section 5(3)—	19
	(4) To avoid doubt, this Act does not limit the application of the <i>Anti-Discrimination Act 1977</i> , including in relation to the exercise of functions by a police officer under this Act.	20
		21
		22
<b>[5] Section 32 Preservation of privacy and dignity during search</b>		23
	Omit section 32(6). Insert instead—	24
	(6) The police officer must not search the following unless the police officer suspects on reasonable grounds it is necessary for the purposes of the search—	25
	(a) the genital area of the person searched,	26
	(b) the private upper body parts of the person searched.	27
		28
<b>[6] Section 32(7)</b>		29
	Omit the subsection. Insert instead—	30
	(7) A search must be conducted by a police officer who is—	31
	(a) a person of the same sex as the person searched, or	32
	(b) if the person searched is an intersex person or transgender person who has expressed a preference for a person of a particular class of persons to conduct the search—a person of that class, if a person of that class is reasonably available.	33
		34
		35
		36
<b>[7] Section 32(7A)</b>		37
	Omit “However”. Insert instead “For subsection (7)(a)”.	38
<b>[8] Section 32(11)</b>		39
	Insert in alphabetical order—	40



<i>private upper body parts</i> means—	1
(a) for a female person or other person with breasts—the person’s breasts, or	2 3
(b) for a transgender male person or other person whose gender is neither exclusively male nor female—the person’s chest area.	4 5
<b>[9] Section 33 Rules for conduct of strip searches</b>	6
Omit “the opposite sex” wherever occurring in section 33(1)(b), (2) and (7).	7
Insert instead “a different sex”.	8
<b>[10] Section 44 Power to search aircraft for safety reasons</b>	9
Omit section 44(3). Insert instead—	10
(3) A search of a person conducted under this section must be conducted by—	11
(a) a person of the same sex as the person searched, or	12
(b) if the person searched is an intersex person or transgender person who has expressed a preference for a person of a particular class of persons to conduct the search—a person of that class, if a person of that class is reasonably available.	13 14 15 16

<b>Schedule 16</b>	<b>Amendment of Mental Health Act 2007 No 8</b>	1
<b>Section 16</b>	<b>Certain words or conduct may not indicate mental illness or disorder</b>	2
	Insert after section 16(1)(d)—	3
	(d1) the person expresses or refuses or fails to express or has expressed or refused or failed to express a particular gender identity or gender expression,	4 5 6

## Schedule 17 Amendment of Sheriff Act 2005 No 6

### [1] Section 3 Definitions

Insert in alphabetical order in section 3(1)—

*intersex person* means a person who has an innate variation of primary and secondary sex characteristics that differ from norms for female or male bodies.

*transgender person* means a person who lives or seeks to live as a person of a different sex to the one registered to the person at birth, whether or not the person is a person whose sex is altered under—

- (a) the *Births, Deaths and Marriages Registration Act 1995*, Part 5A, or
- (b) the corresponding provisions of a law of another State or Territory or a jurisdiction outside Australia.

### [2] Sections 3A and 3B

Insert after section 3—

#### 3A References to different or same sex

In this Act, a reference—

- (a) to a member of a different sex to a person means, if the person is a transgender person, a member of a different sex to the sex with which the transgender person identifies, and
- (b) to a member of the same sex as a person means, if the person is a transgender person, a member of the same sex as the sex with which the transgender person identifies.

#### 3B Relationship with Anti-Discrimination Act 1977

To avoid doubt, this Act does not limit the application of the *Anti-Discrimination Act 1977*, including in relation to the exercise of functions by a sheriff's officer under this Act.

### [3] Section 7B Powers when executing certain arrest warrants

Omit section 7B(5)(e). Insert instead—

- (e) a personal search of a person must be conducted by—
  - (i) if the person is an intersex person or transgender person who has expressed a preference for a particular sheriff's officer or a sheriff's officer of a particular class to carry out the procedure—that particular sheriff's officer or a sheriff's officer of that particular class, if reasonably available, or
  - (ii) a sheriff's officer of the same sex as the person or, if a sheriff's officer of that sex is unavailable, another person of that sex at the direction of a sheriff's officer.

<b>Schedule 18</b>	<b>Amendment of Summary Offences Act 1988 No</b>	1
	<b>25</b>	2
<b>Part 3</b>	<b>Prostitution</b>	3
	Omit the part.	4

<b>Schedule 19</b>	<b>Amendment of Surrogacy Act 2010 No 102</b>	1
<b>[1] Section 6A</b>		2
Insert after section 6—		3
<b>6A Rights of birth mother to manage pregnancy and birth</b>		4
(1) This section applies to a surrogacy arrangement despite anything the parties to the arrangement may have agreed, whether or not in writing.		5 6
(2) A birth mother has the same rights to manage her pregnancy and birth as any other pregnant woman.		7 8
<b>[2] Section 11 Geographical nexus for offences</b>		9
Omit the section.		10
<b>[3] Section 18(2)(b)</b>		11
Omit the paragraph. Insert instead—		12
(b) the Court is satisfied, having regard to the circumstances of the birth parent or parents, the intended parent or parents and the surrogacy arrangement, that it is in the best interests of the child to make the parentage order.		13 14 15 16
<b>[4] Section 23 Surrogacy arrangement must be altruistic</b>		17
Omit section 23(2).		18
<b>[5] Section 26 Age and wishes of child must be considered</b>		19
Omit section 26(3). Insert instead—		20
(3) The precondition in subsection (2) is a mandatory precondition to the making of a parentage order.		21 22

<b>Schedule 20</b>	<b>Amendment of Workers Compensation Act 1987</b>	1
	<b>No 70</b>	2
<b>[1]</b>	<b>Section 67A Special provisions for HIV/AIDS</b>	3
	Omit “HIV infection” in section 67A(1A). Insert instead “HIV”.	4
<b>[2]</b>	<b>Section 67A(2)</b>	5
	Omit the subsection.	6
<b>[3]</b>	<b>Section 67A(3)</b>	7
	Omit “HIV infected or is suffering from AIDS”.	8
	Insert instead “living with HIV/AIDS”.	9
<b>[4]</b>	<b>Section 67A(3)</b>	10
	Omit “HIV infected or suffering from AIDS”.	11
	Insert instead “living with HIV/AIDS”.	12
<b>[5]</b>	<b>Section 67A(4)</b>	13
	Omit “HIV infection or AIDS”. Insert instead “HIV/AIDS”.	14
<b>[6]</b>	<b>Section 67A(5)</b>	15
	Omit the subsection. Insert instead—	16
	(5) In this section—	17
	<i>AIDS</i> means Acquired Immune Deficiency Syndrome.	18
	<i>HIV</i> means Human Immunodeficiency Virus.	19
<b>[7]</b>	<b>Schedule 6 Savings, transitional and other provisions</b>	20
	Omit “HIV infection” from Part 6, clause 11. Insert instead “HIV”.	21