

Proclamation to commence Part 12, Division 3 of the *Birth, Deaths and Marriages Registration Act 2023*

Human Rights Certificate

Prepared in accordance with Part 3 of the Human Rights Act 2019

In accordance with section 41 of the *Human Rights Act 2019*, I, the Honourable Yvette D'Ath MP, Attorney-General and Minister for Justice and the Minister for the Prevention of Domestic and Family Violence and the Leader of the House, provide this human rights certificate with respect to the Proclamation to commence Part 12, Division 3 of the *Birth, Deaths and Marriages Registration Act 2023* on 29 April 2024.

In my opinion, the proclamation, as tabled in the Legislative Assembly, is compatible with the human rights protected by the *Human Rights Act 2019*. I base my opinion on the reasons outlined in this statement.

Overview of the Subordinate Legislation

The Proclamation fixes 29 April 2024 as the day for the commencement of Part 12, Division 3 of the *Birth, Deaths and Marriages Registration Act 2023* (BDMR Act).

The BDMR Act received assent on 23 June 2023.

The objective of the Proclamation is to fix 29 April 2024 as the commencement of Part 12, Division 3 of the BDMR Act.

Part 12, Division 3 of the BDMR Act includes amendments to the *Anti-Discrimination Act 1991* (AD Act) to:

1. modernise the definition of *gender identity* so that it is more inclusive and aligns with international best practice;
2. introduce a new protected attribute of *sex characteristics* which provides protections for members of the intersex community; and
3. repeal an exemption which allows unlawful discrimination in the area of working with children.

The new definition of *gender identity* implements recommendation 22.1 of the Queensland Human Rights Commission's *Building Belonging Report – Review of Queensland's Anti-Discrimination Act 1991* (QHRC Report) and aligns with international best practice understanding of *gender identity*. It is also consistent with the definition adopted in section 213G (Meaning of gender identity) of the *Public Health Act 2005* as part of the 2020 reforms to prohibit the practice of conversion therapy by health service providers.

Amendments to the AD Act create a new protected attribute of *sex characteristics*. This implements recommendation 28.1 of the QHRC Report and aligns with actions taken by Victoria, Tasmania and the Australia Capital Territory. This definition aligns with international best practice understanding of *sex characteristics*.

The amendments to the AD Act include amendments to sections 124A (Vilification on grounds of race, religion, sexuality or gender identity unlawful), 131A (Offence of serious racial, religious, sexuality or gender identity vilification) and 134 (Who may complain) of the AD Act to ensure the vilification protections in the AD Act are extended to the attribute of sex characteristics.

Part 12, Division 3 of the BDMR Act also omits section 28 of the AD Act so that it will no longer be lawful to discriminate on the basis of gender identity or lawful sexual activity in the context of work involving the care or instruction of minors.

Human Rights Issues

The proclamation commences Part 12, Division 3 of the BDMR Act in accordance with section 2 of the BDMR Act.

The proclamation does not contain any substantive legislative provisions and does not raise any human rights issues.

A full assessment of the amendments was undertaken in the Human Rights Statement of Compatibility for the Births, Deaths and Marriages Registration Bill 2022.

Conclusion

I consider that the Proclamation is compatible with the *Human Rights Act 2019* because it does not raise any human rights issues.

YVETTE D'ATH MP
ATTORNEY-GENERAL AND MINISTER FOR JUSTICE
MINISTER FOR THE PREVENTION OF DOMESTIC AND FAMILY VIOLENCE

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