

Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 19,410, 14 ta' April, 2015

Taqsim A

MALTA

ATT Nru. XI tal-2015

ATT maħruġ b'liġi mill-Parlament ta' Malta.

ATT għar-rikonoxximent u registrazzjoni tal-ġeneru ta' persuna u sabiex jirregola l-effetti ta' dik il-bidla, kif ukoll għar-rikonoxximent u l-protezzjoni tal-karatteristiċi tas-sess ta' persuna.

ACT No. XI of 2015

AN ACT enacted by the Parliament of Malta.

AN ACT for the recognition and registration of the gender of a person and to regulate the effects of such a change, as well as the recognition and protection of the sex characteristics of a person.

Nagħti l-kunsens tiegħi.

(L.S.)

**MARIE LOUISE
COLEIRO PRECA
President**

14 ta' April, 2015

ATT Nru. XI tal-2015

ATT għar-rikonoxximent u reġistrazzjoni tal-ġeneru ta' persuna u sabiex jirregola l-effetti ta' dik il-bidla, kif ukoll għar-rikonoxximent u l-protezzjoni tal-karatteristiċi tas-sess ta' persuna.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, harġet b'ligi dan li ġej:-

1. It-titolu fil-qosor ta' dan l-Att huwa l-Att tal-2015 dwar l-Identità tal-Ġeneru, l-Espressjoni tal-Ġeneru u l-Karatteristiċi tas-Sess.

Titolu fil-qosor.

2. F'dan l-Att sakemm ir-rabta tal-kliem ma teħtieġx xort'ohra:

Tifsir.

"Direttur" tfisser id-Direttur tar-Reġistru Pubbliku;

"espressjoni tal-ġeneru" tirreferi għall-manifestazzjoni ta' kull persuna tal-identità tal-ġeneru tagħhom, u, jew dik li hija perċepita mill-oħrajn;

"grupp interdixiplinari" tirreferi għall-grupp stabbilit bl-artikolu 14;

"identità tal-ġeneru" tirreferi għall-esperjenza tal-ġeneru interna u individwali ta' kull persuna, li tista' jew ma tistax tikkorrispondi għas-sess assenjat mat-twelid, inkluż is-sens personali tal-ġisem (li jista' jinvolvi, b'għazla hielsa, tibdil fl-apparenza tal-ġisem, u jew

funzjonijiet permezz ta' mezzi mediċi, kirurġiċi jew xort'oħra) u espressjonijiet oħra tal-ġeneru, inkluż l-isem, l-ilbies, id-diskors u l-komportament;

"karatteristiċi tas-sess" tirreferi għall-fattizzi kromożonali, gonadali u anatomici ta' persuna li jinkludu l-karatteristiċi primarji bħal organi riproduttivi u ġenitali u, jew l-istruttura tal-kromożomi u ormoni; u karatteristiċi sekondarji bħal massa muskolari, distribuzzjoni tal-pil, is-sider u, jew l-istatura;

"identifikatur tal-ġeneru" jirreferi għall-identifikatur li jikklassifika persuna f'kategorija partikolari tas-sess;

"Ministru" tfisser il-Ministru responsabbli għall-ugwaljanza;

"minuri" tfisser persuna li tkun għadha ma laħqitx l-età ta' tmintax-il sena; u

"Nutar" tfisser persuna, li jkollu *warrant* sabiex jipprattika bħala Nutar Pubbliku f'Malta skont l-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili.

Dritt għall-identità tal-ġeneru.

3. (1) Il-persuni kollha li huma ċittadini ta' Malta għandhom dritt -

(a) għar-rikonoxximent tal-identità tal-ġeneru tagħhom;

(b) għall-iżvilupp hieles tal-persuna tagħhom skont l-identità tal-ġeneru tagħhom;

(ċ) għal trattament skont l-identità tal-ġeneru tagħhom u, partikolarment, sabiex jiġu identifikati b'dak il-mod f'dokumenti li fihom jipprovdu l-identità tagħhom; u

(d) għall-integrità tal-persuna u awtonomija fiżika.

(2) Mingħajr ħsara għal kull dispożizzjoni ta' dan l-Att -

(a) id-drittijiet, relazzjoni u obbligi ta' persuna li ġejjin mill-filjazzjoni jew żwieġ m'għandhom bl-ebda mod jiġu affettwati; u

(b) id-drittijiet ta' suċċessjoni tal-persuna, inkluż iżda mhux limitat għal kull dispożizzjoni testamentarja magħmul favur dik il-persuna, u kull obbligu u, jew dritt sugġetti jew akkwiziżiti qabel id-data tal-bidla tal-identità tal-ġeneru m'għandhom bl-ebda mod jiġu affettwati.

(ċ) kull dritt personali jew reali li jkun diġà nkiseb minn terzi persuni jew kull privileġġ jew dritt ipotekarju ta' kreditur li

jkun inkiseb qabel il-bidla fil-ġeneru tal-persuna m'għandux jigi affettwat.

(3) L-identità tal-ġeneru tal-individwu għandha f'kull żmien tiġi rispettata.

(4) Il-persuna m'għandhiex tkun meħtieġa li tipprovdi prova tal-proċeduri kirurġiċi għar-riassenjament ġenitali totali jew parzjali, terapiji ormonali jew xi trattamenti psikjatriku, psikoloġiku jew mediku ieħor sabiex tagħmel użu mid-dritt tal-identità tal-ġeneru.

4. (1) Kull persuna li hi ċittadin Malti għandha d-dritt li titlob lid-Direttur sabiex ibiddel il-ġeneru reġistrat u, jew l-ewwel isem, jekk il-persuna tagħzel li tibdel l-ewwel isem, sabiex jirrifletti l-identità tal-ġeneru magħżula minn dik il-persuna.

Bidla fl-identità tal-ġeneru.

(2) It-talba għandha ssir permezz ta' nota ta' reġistrazzjoni ppubblikata skont l-artikolu 5(2).

(3) Id-Direttur m'għandux jeħtieġ evidenza ulterjuri għajr l-att dikjaratorju ppubblikat skont l-artikolu 5.

(4) Id-Direttur għandu fi żmien ħmistax-il jum mill-prezentazzjoni tan-nota ta' insinwa min-Nutar fir-reġistru pubbliku, idahħal nota fl-att tat-twelid tal-applikant.

(5) Il-provvedimenti tal-artikolu 249 tal-Kodiċi Ċivili għandhom japplikaw *mutatis mutandis*.

Kap. 16

(6) (a) Il-persuna li tkun għamlet talba skont is-subartikolu (1) għandha tkun intitolata wkoll sabiex titlob li jingħata ċertifikat komplut tal-att tat-twelid tagħha li jirriżulta minn dawn l-annotazzjonijiet u għandu jigi indikat fuq l-istess ċertifikat l-annotazzjonijiet li jkunu saru bis-saħħa ta' digriet mill-qorti u skont it-termini tal-proċedura stabbilita skont dan l-Att mingħajr id-dettalji tal-annotazzjonijiet speċifiċi.

(b) Kull persuna li kienet għamlet talba lill-Qorti tar-Revizjoni tal-Atti Nutarili sabiex issir korrezzjoni fl-ewwel isem u l-ġeneru assenjat lilha fl-att tat-twelid tagħha, għandha tkun intitolata sabiex tagħmel talba biex iċ-ċertifikat tal-att tat-twelid tagħha li jindika d-dettalji dwar l-annotazzjonijiet jinhareġ favur tagħha, iżda għandu jkun hemm indikat fuq l-istess ċertifikat li l-annotazzjonijiet kienu saru bis-saħħa ta' digriet mill-qorti mingħajr id-dettalji tal-annotazzjonijiet speċifiċi.

(ċ) Fi żmien sebat ijiem minn meta ssir it-talba sabiex jinhareġ iċ-ċertifikat tat-twelid skont dan il-provvediment id-Direttur

m'għandux jagħti informazzjoni li tappartjeni lir-registru jew kopja tar-registru li jindika l-atti originali tat-twelid tal-persuna li tkun għamlet din it-talba sakemm dan l-artikolu ma jirrikjedix mod ieħor.

(7) Din l-informazzjoni jew kopja tal-att originali tat-twelid tkun tista' tingħata:

(a) bil-kunsens tal-persuna li l-istess ċertifikat jagħmel referenza għaliha; jew

(b) meta ma jkunx hemm dan il-kunsens, wara talba tal-Qorti Ċivili (Sezzjoni ta' Ġurisdizzjoni Volontarja) jew qorti oħra li taħtha taqa' l-konjizzjoni tal-ġudizzju, meta n-necessità tal-prezentazzjoni ta' tali ċertifikat jew informazzjoni tkun neċessarja sabiex jiġi mħares u ssalvagwardat id-dritt u l-interess legittimu tal-persuna li tagħmel it-talba u wara li jittieħdu inkonsiderazzjoni ċ-ċirkostanzi rilevanti kollha li l-qorti tikkonsidra bħala prevalenti fuq id-dritt tal-privatezza tal-persuna li għaliha ċ-ċertifikat ikun qed jagħmel referenza.

Kap. 420.

(8) Persuna li tkun ingħatat protezzjoni internazzjonali skont it-termini tal-Att dwar ir-Rifugjati, u skont it-termini ta' legiżlazzjoni sussidjarja oħra li toħrog mill-Att dwar ir-Rifugjati, u li tkun trid tirreġistra bidla fil-ġeneru u fl-ewwel isem tiegħu, jekk il-persuna tkun trid tirreġistra bidla fl-ewwel isem tagħha, għandha tagħmel dikjarazzjoni ġuramentata quddiem il-Kummissarju għar-Rifugjati fejn tiddikjara l-għażla personali tal-ġeneru u l-ewwel isem tagħha. Il-Kummissarju għar-Rifugjati għandu jirreġistra din l-emenda fl-applikazzjoni tal-ażil kif ukoll fuq iċ-ċertifikat ta' protezzjoni fi żmien hmistax mid-data tad-dikjarazzjoni ġuramentata.

Funzjonijiet tan-Nutar.

5. (1) It-tfassil tal-att pubbliku dikjaratorju għandu jkun fih l-elementi li ġejjin:

(a) kopja tal-att tat-twelid tal-applikant;

(b) dikjarazzjoni ċara, inekwivoka u informata tal-applikant li l-identità tal-ġeneru tiegħu ma tikkorrispondix mal-assenjament tas-sess fl-att tat-twelid;

(c) speċifikazzjoni tal-partikolaritajiet tal-ġeneru;

(d) l-ewwel isem li l-applikant irid ikun registrat bih; u

Kap. 55

(e) l-elementi kollha preskritti li huma meħtieġa skont l-Att dwar il-Professjoni Nutarili u Arkivji Nutarili.

(2) In-Nutar m'għandux jagħmel talba għal dokumenti

psikjatriċi, psikoloġiċi jew dokumenti mediċi oħra b'rabta mat-tfassil tal-att pubbliku dikjaratorju.

(3) Kull Nutar li jirċievi tali att għandu jipprezenta nota lid-Direttur skont l-artikolu 50 tal-Att dwar il-Professjoni Nutarili u Arkivji Nutarili. Kap. 55

6. Id-data tal-entrata tan-nota mid-Direttur skont is-subartikolu (4) tal-artikolu 4 għandha tiġi kkunsidrata, għall-finijiet u effetti kollha tal-liġi, bħala d-data effettiva minn meta l-persuna bdiet tappartjeni għal ġeneru indikat fin-nota. Data effettiva.

7. (1) Il-persuni li jeżerċitaw is-setgħat tal-ġenituri fuq il-minuri jew it-tutor tal-minuri jistgħu jipprezentaw rikors quddiem ir-registru tal-Qorti Ċivili (Sezzjoni ta' Ġurisdizzjoni Volontarja) li fih jitolbu l-Qorti sabiex jinbidel il-ġeneru registrat u l-ewwel isem tal-minuri sabiex jirrifletti l-identità tal-ġeneru tal-minorenni. Minuri.

(2) Meta jsir rikors f'isem il-minuri skont is-subartikolu (1), il-Qorti għandha:

(a) tiżgura li l-aħjar interess tat-tfal kif espress fil-Konvenzjoni dwar id-Drittijiet tat-Tfal jingħata l-ogħla konsiderazzjoni; u

(b) tara li jingħata piż xieraq għall-fehmiet tal-minorenni b'konsiderazzjoni tal-età u l-maturità tal-minorenni.

(3) Jekk il-Qorti tilqa' t-talba magħmula skont is-subartikolu (1), il-Qorti għandha tordna lid-Direttur sabiex ibiddel il-ġeneru registrat u l-ewwel isem tal-minuri u jniżżel l-isem fl-att tat-twelid tal-minuri.

(4) Il-persuni li jeżerċitaw is-setgħat ta' ġenituri fuq il-minuri jew it-tutor tal-minuri li l-ġeneru tiegħu ma ġiex dikjarat mat-twelid, għandhom qabel ma l-minuri jilhaq l-età ta' tmintax-il sena permezz ta' applikazzjoni pprezentata fir-registru tal-Qorti Ċivili (Sezzjoni ta' Ġurisdizzjoni Volontarja) jiddikjaraw il-ġeneru u l-ewwel isem tal-minuri, jekk il-minuri juri x-xewqa li jibdel l-ewwel isem tiegħu, u wara l-kunsens espress tal-minuri meta jkunu ttiehdu inkonsiderazzjoni l-evoluzzjoni tal-kapaċitajiet tiegħu u l-aħjar interess tal-minuri. Il-Qorti Ċivili (Sezzjoni ta' Ġurisdizzjoni Volontarja) għandha tordna lid-Direttur sabiex jirregistra l-ġeneru u l-ewwel isem tal-minuri fl-att tat-twelid tal-minuri.

8. (1) L-aċċessibilità għall-att shiħ tat-twelid għandha tkun unikament u esklussivament limitata għall-persuna li laħqet l-età ta' tmintax-il sena u li għaliha jirreferi dak l-att tat-twelid jew b'ordni tal-qorti. Emenda fl-att tat-twelid.

(2) Emenda fl-att tat-twelid magħmula skont dan l-Att mill-persuna li f'dak iż-żmien mhijiex minuri, ladarba tkun kompleta, tista' tiġi modifikata b'ordni tal-qorti biss.

Deċiżjonijiet barranin.

9. (1) Deċiżjoni finali dwar l-identità tal-ġeneru ta' persuna, li giet determinata minn qorti kompetenti barranija jew awtorità responsabbli li taġixxi skont il-liġi ta' dak il-pajjiż għandha tkun rikonoxxuta f'Malta.

(2) L-identifikatur tal-ġeneru barra mara jew raġel, jew inuqqas tagħhom, rikonoxxuti minn qorti kompetenti barranija jew awtorità responsabbli li taġixxi skont il-liġi ta' dak il-pajjiż huma rikonoxxuti f'Malta.

Emendi f'dokumenti uffiċjali oħra.

10. (1) Persuna għandha sa qabel xahar mill-pubblikazzjoni tal-att dikjaratorju tindika lid-Direttur l-atti tal-istat ċivili, minbarra l-att tat-twelid, li jkollhom bżonn jiġu emendati.

Kap. 258.

(2) Il-persuna li fir-rigward tagħha tkun saret emenda fl-att tat-twelid skont il-provvedimenti ta' dan l-Att, għandha fi żmien ħmistax-il jum mid-data msemmija fl-artikolu 6 titlob l-awtorizzazzjoni tal-uffiċjali skont l-Att dwar il-Karta tal-Identità u Dokumenti oħra tal-Identità biex jemendaw il-karta tal-identità u dokumenti oħra tal-persuna u joħorġu karta tal-identità ġdida u dokumenti ta' identifikazzjoni oħra li jindikaw il-ġeneru u l-ewwel isem tal-persuna li jirriflettu l-emendi magħmula fl-att tat-twelid tal-persuna.

(3) Il-persuna li fir-rigward tagħha tkun saret emenda fl-att tat-twelid skont il-provvedimenti ta' dan l-Att, tista' wkoll, fuq hlas ta' dik it-tariffa kif tista' tiġi preskritta, titlob lil kull awtorità kompetenti oħra, dipartiment, min iħaddem, istituzzjoni edukattiva jew xort' oħra sabiex joħorġu kull dokument uffiċjali jew ċertifikat relattiv li jindika l-ġeneru u l-ewwel isem tal-persuna kif emendat.

Reati.

11. (1) Kull min dolożament jesponi xi persuna li użat id-dispożizzjonijiet ta' dan l-Att, jew jinsulta jew jgħajjar persuna, jeħel, meta jinstab hati, multa ta' mhux anqas minn elf euro (€1,000) u mhux aktar minn hamest elef euro (€5,000).

Kap. 9

(2) Salv id-dispożizzjonijiet tal-artikolu 83B tal-Kodiċi Kriminali, meta offiża tkun immotivata minn espressjoni tal-ġeneru u karatteristiċi tas-sess, il-piena stabbilita għandha tkun dik stabbilita fl-imsemmi artikolu.

(3) Kull min dolożament jagħmel vjolazzjoni ta' kwalunkwe provvediment ta' dan l-Att, jeħel, meta jinstab hati multa ta' mhux anqas minn hames mitt euro (€500) u mhux aktar minn elf euro (€1,000).

12. Persuna li fit-twettiq ta' dmirijiet uffiċjali tagħha kienet involuta f'materja li għandha x'taqsam ma' dan l-Att, ma tistax tiżvela din il-materja skont l-Att dwar Segretezza Professjonali u l-Att dwar il-Protezzjoni u l-Privatezza tad-*Data*:

Protezzjoni u privatezza tad-*data*.
Kap. 377.
Kap. 440.

Iżda l-kopji tal-att pubbliku li ssir riferenza għalih fl-artikolu 5 magħmul skont id-dispożizzjonijiet tal-Att dwar il-Professjoni Nutarili u l-Arkivji Nutarili m'għandhomx jiġu meqjusa li jmorru kontra d-dispożizzjonijiet ta' dan l-artikolu.

Kap. 55

13. (1) Kull norma, regolament jew proċedura għandhom jirrispettaw id-dritt għall-identità tal-ġeneru. L-ebda norma, regolament jew proċedura ma għandhom jillimitaw, jirrestringu jew jannullaw l-eżerċizzju tad-dritt għall-identità tal-ġeneru, u n-normi kollha għandhom jiġu interpretati u infurzati b'mod li jiffavorixxu l-aċċess għal dan id-dritt.

Anti-diskriminazzjoni u promozzjoni tal-ugwaljanza.

(2) Is-servizz pubbliku għandu dmir li jiżgura li diskriminazzjoni illegali u fastidju dwar l-orjentazzjoni sesswali, l-identità tal-ġeneru, l-espressjoni tal-ġeneru u l-karatteristiċi tas-sess huma eliminati, filwaqt li s-servizzi tiegħu jippromwovu l-opportunitajiet indaqs għal kulhadd, irrISPETTIVAMENT mill-orjentazzjoni sesswali, l-identità tal-ġeneru, l-espressjoni tal-ġeneru u l-karatteristiċi tas-sess.

(3) Id-dispożizzjonijiet ta' dan l-Att għandhom japplikaw għas-settur privat, is-settur pubbliku kollu u d-dipartimenti tas-servizzi pubbliċi kollha, l-aġenziji u l-awtoritajiet kompetenti li jzommu registri personali u, jew informazzjoni dwar il-ġeneru. Dawn il-formuli, registri u, jew informazzjoni għandhom jiġu verifikati u modifikati sabiex jirriflettu l-*standards* godda stabbiliti b'dan l-Att fi żmien massimu ta' tliet snin mid-dhul fis-seħh ta' dan l-Att.

14. (1) Huwa illegali għal prattikanti mediċi jew professjonisti oħra li jwettqu xi trattament għall-assenjament ta' sess u, jew intervent kirurġiku fuq il-karatteristiċi tas-sess ta' minuri, meta dak it-trattament u, jew intervent jistgħu jiġu posposti sa meta l-persuna li ser tiġi trattata tista' tagħti kunsens infurmat:

Dritt tal-integrità tal-persuna u awtonomija fizika.

Iżda t-trattament għall-assenjament tas-sess u, jew intervent kirurġiku fuq il-karatteristiċi tas-sess tal-minuri għandu jitwettaq jekk il-minuri jagħti l-kunsens infurmat permezz tal-persuni li jeżerċitaw is-setgħat ta' ġenituri jew it-tutor tal-minuri.

(2) F'ċirkostanzi eċċezzjonali t-trattament jista' jsir meta jintlaħaq ftehim bejn il-grupp interdixiplinari u l-persuni li jeżerċitaw is-setgħat ta' ġenituri jew it-tutor tal-minuri li għadu ma jistax jagħti l-kunsens tiegħu:

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Izda intervent mediku li jsir minhabba fatturi soċjali minghajr il-kunsens tal-individwu interessat huwa vjolazzjoni ta' dan l-Att.

(3) Il-grupp interdixxiplinari għandu jinħatar mill-Ministru għall-perjodu ta' tliet snin, liema perjodu jista' jiġgedded għal perjodu iehor ta' tliet snin.

(4) Il-grupp interdixxiplinari għandu jkun magħmul minn dawk il-professjonisti li l-Ministru jikkunsidra bħala xierqa.

(5) Meta d-deċiżjoni ta' trattament hija espressa mill-minuri bil-kunsens tal-persuni li jeżerċitaw is-setgħat ta' ġenituri jew it-tutor tal-minorenni, il-professjonisti mediċi għandhom:

(a) jiżguraw li l-aħjar interess tat-tfal kif espress fil-Konvenzjoni dwar id-Drittijiet tat-Tfal jingħata l-ogħla konsiderazzjoni;

(b) jingħata piż xieraq għall-fehmiet tal-minorenni b'konsiderazzjoni tal-età u l-maturità tal-minorenni.”.

Servizzi tas-saħha.

15. Il-persuni kollha li jfittxu parir psiko-soċjali, sostenn jew interventi mediċi li għandhom x'jaqsmu mas-sess jew ġeneru għandhom jingħataw sostenn espert, sensitiv u mfassal b'mod individwali minn psikologi, prattikanti mediċi, jew *peer-counselling*. Dan is-sostenn għandu jestendi mid-data li ssir id-dijanjsi jew riferiment personali sakemm ikun għadu neċessarju.

Protokoll tat-trattament.

16. (1) Il-Ministru, wara li jikkonsulta l-Ministru responsabbli għas-Saħha, għandu jahtar grupp ta' ħidma.

(2) Il-grupp ta' ħidma għandu jikkonsisti minn *Chairperson* u disa' membri.

(3) Iċ-*Chairperson* għandu jkun tabib b'mill-anqas tnax-il sena esperjenza.

(4) Il-membri għandhom ikunu tliet esperti fi kwistjonijiet tad-drittijiet tal-bniedem, tliet professjonisti psikosoċjali u tliet esperti mediċi.

(5) Il-Ministru għandu jahtar il-grupp ta' ħidma fi żmien tliet xhur mid-dhul fis-seħh ta' dan l-Att.

(6) Il-membri tal-grupp ta' ħidma għandhom jirrevedu l-protokoll tat-trattamenti mediċi kurrenti f'konformità mal-aħjar prattiċi mediċi kurrenti u l-*standards* tad-drittijiet tal-bniedem u għandhom, fi żmien sena mid-data tal-hatra tagħhom, johorġu rapport

bir-rakkomandazzjonijiet għar-reviżjoni tal-protokollu tat-trattamenti mediċi kurrenti.

17. Il-Ministru jista' jagħmel regolamenti sabiex jagħti effett aħjar lil kull dispożizzjoni ta' dan l-Att u sabiex jirregola b'mod ġenerali l-identità tal-ġeneru f'konformità mad-dispożizzjonijiet ta' dan l-Att.

Setgħa biex isiru regolamenti.

18. (1) Il-Kodiċi Ċivili għandu jiġi emendat kif ġej:

Emendi tal-Kodiċi Ċivili. Kap.16.

(a) minnufih wara s-subartikolu (11) tal-artikolu 4 tiegħu għandu jiżdied is-subartikolu ġdid li ġej:

"(12) Meta ssir applikazzjoni għar-registrazzjoni ta' żwieġ ikkuntrattat barra l-pajjiż bejn koppja tal-istess sess, il-koppja tista' tagħzel li:

(a) iżzomm għat-tnejn li huma l-kunjom ta' wiehed mis-sieħba fiż-żwieġ jew il-kunjomijiet taż-żewġ sieħba fiż-żwieġ bl-għażla tal-preċedenza fil-kunjomijiet tkun għad-diskrezzjoni tal-istess koppja; jew

(b) iżommu l-kunjom tagħhom:

Iżda meta ma ssirx għażla skont dan is-subartikolu, l-imsieħba fiż-żwieġ għandhom iżommu l-kunjom tagħhom.";

(b) l-artikoli 257A sa 257D, it-tnejn inkluzi, għandhom jiġu mħassra;

(ċ) fil-paragrafu (ċ) tal-artikolu 278 tiegħu minflok il-kliem "jekk tifel jew tifla;" għandhom jidhlu l-kliem "jekk tifel jew tifla:"; u minnufih wara għandu jiżdied il-proviso ġdid li ġej:

"Iżda l-identifikazzjoni tas-sess tal-minuri ma tistax tiġi inkluża qabel ma tiġi determinata l-identità tal-ġeneru tal-minuri.".

19. L-artikolu 2 tal-Att dwar l-Ugwaljanza għall-Irġiel u n-Nisa għandu jiġi emendat kif ġej:

Emenda tal-Att dwar l-Ugwaljanza għall-Irġiel u n-Nisa. Kap. 456.

(a) fis-subartikolu (1) tiegħu, fit-tifsira tat-terminu "diskriminazzjoni", il-kliem "identità tal-ġeneru u tinkludi t-trattament ta' persuna b'mod anqas favorevoli mit-trattament li qiegħed jingħata, kien ingħata jew kieku jiġi trattat fuq dawn ir-raġunijiet u "jiddiskrimina" jew "tiddiskrimina" għandha tiftiehem skont hekk;" għandhom jiġu sostiwiti bil-kliem "identità tal-ġeneru, espressjoni tal-ġeneru jew karatteristiċi tas-

sess li jinkludu t-trattament ta' persuna b'mod inqas favorevoli mit-trattament li qiegħed jingħata, kien ingħata jew kieku jiġi trattat fuq dawn ir-raġunijiet u "jiddiskrimina" jew "tiddiskrimina" għandha tinftiehem skont hekk;"

(b) fis-subartikolu (3) tiegħu, il-kliem "jew identità tal-ġeneru hu" għandhom jiġu sostitwiti bil-kliem "jew identità tal-ġeneru, espressjoni tal-ġeneru, jew karatteristiċi tas-sess;"

(ċ) fil-paragrafu (a) tas-subartikolu (3), il-kliem "jew identità tal-ġeneru hu" għandhom jiġu sostitwiti bil-kliem "jew identità tal-ġeneru, espressjoni tal-ġeneru, jew karatteristiċi tas-sess;"

(d) fil-paragrafu (ċ) tas-subartikolu (3), il-kliem "jew identità tal-ġeneru hu" għandhom jiġu sostitwiti bil-kliem "jew identità tal-ġeneru, espressjoni tal-ġeneru, jew karatteristiċi tas-sess;" u

(e) fil-paragrafu (d) tas-subartikolu (3), il-kliem "jew identità tal-ġeneru, ħlief jekk dak il-provvediment, kriterju jew dik il-prattika jkunu xierqa jew meħtieġa u jkunu jistgħu jiġu ġustifikati permezz ta' fatturi oġġettivi li ma jkollhomx x'jaqsmu mas-sess." għandhom jiġu sostitwiti bil-kliem "jew identità tal-ġeneru, espressjoni tal-ġeneru, jew karatteristiċi tas-sess ħlief jekk dak il-provvediment, kriterju jew dik il-prattika jkunu xierqa jew meħtieġa u jkunu jistgħu jiġu ġustifikati permezz ta' fatturi oġġettivi li ma jkollhomx x'jaqsmu mas-sess;"

Mghoddi mill-Kamra tad-Deputati fis-Seduta Nru. 256 tal-1 ta' April, 2015.

ĊENSU GALEA
Deputy Speaker

RAYMOND SCICLUNA
Skrivan tal-Kamra tad-Deputati

I assent.

(L.S.)

**MARIE LOUISE
COLEIRO PRECA
President**

14th April, 2015

ACT No. XI of 2015

AN ACT for the recognition and registration of the gender of a person and to regulate the effects of such a change, as well as the recognition and protection of the sex characteristics of a person.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same as follows:-

1. The short title of this Act is the Gender Identity, Gender Expression and Sex Characteristics Act, 2015. Short title.

2. In this Act, unless the context otherwise requires: Interpretation.

"Director" means the Director for Public Registry;

"gender expression" refers to each person's manifestation of their gender identity, and/or the one that is perceived by others;

"gender identity" refers to each person's internal and individual experience of gender, which may or may not correspond with the sex assigned at birth, including the personal sense of the body (which may involve, if freely chosen, modification of bodily appearance and/or functions by medical, surgical or other means) and other expressions of gender, including name, dress, speech and mannerisms;

"gender marker" refers to the identifier which classifies persons within a particular sex category;

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"interdisciplinary team" refers to the team established by article 14;

"Minister" means the Minister responsible for equality;

"minor" means a person who has not as yet attained the age of eighteen years;

"Notary" means a person holding a warrant to practise as a Notary Public in Malta in accordance with the Notarial Profession and Notarial Archives Act; and

"sex characteristics" refers to the chromosomal, gonadal and anatomical features of a person, which include primary characteristics such as reproductive organs and genitalia and/or in chromosomal structures and hormones; and secondary characteristics such as muscle mass, hair distribution, breasts and/or structure.

Right to gender identity.

3. (1) All persons being citizens of Malta have the right to -

(a) the recognition of their gender identity;

(b) the free development of their person according to their gender identity;

(c) be treated according to their gender identity and, particularly, to be identified in that way in the documents providing their identity therein; and

(d) bodily integrity and physical autonomy.

(2) Without prejudice to any provision of this Act -

(a) a person's rights, relationship and obligations arising out of parenthood or marriage shall in no way be affected; and

(b) the person's rights arising out of succession, including but not limited to any testamentary dispositions made in one's favour, and any obligations and, or rights subjected to or acquired prior to the date of change of gender identity shall in no way be affected.

(c) any personal or real right already acquired by third parties or any privilege or hypothecary right of a creditor acquired before the change in the gender identity of the person shall in no way be affected.

(3) The gender identity of the individual shall be respected at

all times.

(4) The person shall not be required to provide proof of a surgical procedure for total or partial genital reassignment, hormonal therapies or any other psychiatric, psychological or medical treatment to make use of the right to gender identity.

4. (1) It shall be the right of every person who is a Maltese citizen to request the Director to change the recorded gender and, or first name and, first name, if the person so wishes to change the first name, in order to reflect that person's self determined gender identity. Change of gender identity.

(2) The request shall be made by means of a note of enrolment in accordance with article 5(2).

(3) The Director shall not require any other evidence other than the declaratory public deed published in accordance with article 5.

(4) The Director shall within fifteen days from the filing of the note of enrolment by the Notary at the public registry, enter a note in the act of birth of the applicant.

(5) The provisions of article 249 of the Civil Code shall *mutatis mutandis* apply. Cap. 16.

(6) (a) The person who made a request in accordance with sub-article (1) shall also be entitled to demand that a full certificate of the act of birth showing the particulars resulting from the annotations be issued to them so however that there shall be indicated on such certificates the annotations that have been made upon it by virtue of a decree of a court or in terms of the procedure established under this Act without the details of the said annotations being specified.

(b) A person whose request to the Court of Revision of Notarial Acts, for a correction in the name and gender assigned to them in their act of birth, shall be entitled to demand that a full certificate of their act of birth showing the particulars resulting from the annotations be issued to them so however that there shall be indicated on such certificate that annotations have been made upon it by virtue of a decree of a court without the details of the said annotations being specified.

(c) Within seven days from receipt of a request made for the issue of a birth certificate drawn up in accordance with this article, the Director shall not give any information contained in the register indicating the original act of birth except insofar as provided in this article.

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(7) The said information or copy of the original act of birth may be given:

(a) with the consent of the person to whom the certificate refers; or

(b) when there is no such consent, upon an order of the Court (Voluntary Jurisdiction Section) or of another Court taking cognizance of a cause where the necessity of the presentation of that certificate or information arises, where the Court is satisfied that the issuing of the said certificate or information is necessary to defend or safeguard a right or a legitimate interest of the person making the demand which, after taking into consideration all relevant circumstances, the court's considerations should prevail over the right to privacy of the person to whom the certificate refers.

Cap. 420. (8) A person who was granted international protection in terms of the Refugees Act, and in terms of any other subsidiary legislation issued under the Refugees Act, and who wants to change the recorded gender and first name, if the person so wishes to change the first name, shall make a declaration confirmed on oath before the Commissioner for Refugees declaring the person's self-determined gender and first name. The Commissioner for Refugees shall record such amendment in their asylum application form and protection certificate within fifteen days.

Functions of the Notary.

5. (1) The drawing up of the declaratory public deed shall contain the following elements:

(a) a copy of the act of birth of the applicant;

(b) a clear, unequivocal and informed declaration by the applicant that one's gender identity does not correspond to the assigned sex in the act of birth;

(c) a specification of the gender particulars;

(d) the first name with which the applicant wants to be registered; and

Cap. 55 (e) all the prescribed elements required in accordance with the Notarial Profession and Notarial Archives Act.

(2) The Notary shall not request any psychiatric, psychological or medical documents for the drawing up of the declaratory public deed.

(3) Every Notary receiving such an act must deliver to the Director a note in accordance with article 50 of the Notarial Profession and Notarial Archives Act. Cap. 55.

6. The date of entry of the note by the Director in accordance with sub-article (4) of article 4 shall be considered, for all purposes of the law, as the effective date from when the person is considered to belong to the gender indicated in the note. Effective date.

7. (1) The persons exercising parental authority over the minor or the tutor of the minor may file an application in the registry of the Civil Court (Voluntary Jurisdiction Section) requesting the Court to change the recorded gender and first name of the minor in order to reflect the minor's gender identity. Minors.

(2) When an application under sub-article (1) is made on behalf of a minor, the Court shall:

(a) ensure that the best interests of the child as expressed in the Convention on the Rights of the Child be the paramount consideration; and

(b) give due weight to the views of the minor having regard to the minor's age and maturity.

(3) If the Court accedes to the request made in accordance with sub-article (1), the Court shall order the Director to change the recorded gender and first name of the minor in the act of birth of the minor.

(4) The persons exercising parental authority over the minor or the tutor of the minor whose gender has not been declared at birth, shall before the minor attains the age of eighteen, file an application in the registry of the Civil Court (Voluntary Jurisdiction Section) in order to declare the gender and the first name of the minor, if the minor wants to change the first name, and following the express consent of the minor, taking into consideration the evolving capacities and the best interests of the minor. The Civil Court (Voluntary Jurisdiction Section) shall order the Director to record the gender and first name of the minor in the act of birth of the minor.

8. (1) Accessibility to the full act of birth shall be limited solely and exclusively to the person who has attained the age of eighteen years and to whom that act of birth relates or by a court order. Amendment to the act of birth.

(2) An amendment to the act of birth made in terms of this Act by a person who is not at the time a minor, once completed, can only be

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modified again by a court order.

Foreign
decisions.

9. (1) A final decision about a person's gender identity, which has been determined by a competent foreign court or responsible authority acting in accordance with the law of that country, shall be recognized in Malta.

(2) A gender marker other than male or female, or the absence thereof, recognised by a competent foreign court or responsible authority acting in accordance with the law of that country is recognised in Malta.

Amendments in
other official
documents.

10. (1) A person shall, not later than one month from the publication of the declaratory deed, indicate to the Director the acts of civil status, other than the act of birth, which need to be amended.

Cap. 258.

(2) A person, in respect of whom an amendment to the act of birth has been made in accordance with the provisions of this Act shall, within fifteen days from the date specified in article 6, request the authorised officers in terms of the Identity Card and other Identity Documents Act to amend the identity card and other identification documents of the person and to issue a new identity card and other identification documents indicating the gender and the first name of the person reflecting the amendment made in the act of birth of the person.

(3) A person may also, on the payment of such fee as may be prescribed, request any other competent authority, department, employer, educational or other institution to issue any official document or certificate relative to them indicating the change in gender and first name of the person.

Offences.

11. (1) Whosoever shall knowingly expose any person who has availed of the provisions of this Act, or shall insult or revile a person, shall upon conviction be liable to a fine (*multa*) of not less than one thousand euro (€1,000) and not exceeding five thousand euro (€5,000).

Cap. 9

(2) Saving the provisions of article 83B of the Criminal Code, when an offence is motivated by gender expression and sex characteristics, the punishment shall be that laid down in the said article.

(3) Whosoever knowingly violates any of the provisions of this Act, shall upon conviction be liable to a fine (*multa*) of not less than five hundred euro (€500) and not exceeding one thousand euro (€1,000).

12. A person who in the course of the discharge of official duties was involved with a matter relating to this Act, shall not disclose such matter in accordance with the Professional Secrecy Act and the Data Protection Act:

Data protection.

Cap. 377.
Cap. 440.

Provided that the copies of the public deed referred to in article 5 published in terms of the Notarial Profession and Notarial Archives Act shall not be deemed to have been issued in violation of this article.

Cap. 55

13. (1) Every norm, regulation or procedure shall respect the right to gender identity. No norm or regulation or procedure may limit, restrict, or annul the exercise of the right to gender identity, and all norms must always be interpreted and enforced in a manner that favours access to this right.

Anti-discrimination and promotion of equality.

(2) The public service has the duty to ensure that unlawful sexual orientation, gender identity, gender expression and sex characteristics discrimination and harassment are eliminated, whilst its services must promote equality of opportunity to all, irrespective of sexual orientation, gender identity, gender expression and sex characteristics.

(3) The provisions of this Act shall apply to the private sector, all public sector and public service departments, agencies and all competent authorities that maintain personal records and, or collect gender information. Such forms, records and or information shall be assessed and modified to reflect the new standards established by this Act within a maximum of three years from the date of entry into force of this Act.

14. (1) It shall be unlawful for medical practitioners or other professionals to conduct any sex assignment treatment and/or surgical intervention on the sex characteristics of a minor which treatment and/or intervention can be deferred until the person to be treated can provide informed consent:

Right to bodily integrity and physical autonomy.

Provided that such sex assignment treatment and/or surgical intervention on the sex characteristics of the minor shall be conducted if the minor gives informed consent through the person exercising parental authority or the tutor of the minor.

(2) In exceptional circumstances treatment may be effected once agreement is reached between the interdisciplinary team and the persons exercising parental authority or tutor of the minor who is still unable to provide consent:

Provided that medical intervention which is driven by social factors without the consent of the minor, will be in violation of

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this Act.

(3) The interdisciplinary team shall be appointed by the Minister for a period of three years which period may be renewed for another period of three years.

(4) The interdisciplinary team shall be composed of those professionals whom the Minister considers as appropriate.

(5) When the decision for treatment is being expressed by a minor with the consent of the persons exercising parental authority or the tutor of the minor, the medical professionals shall:

(a) ensure that the best interests of the child as expressed in the Convention on the Rights of the Child be the paramount consideration; and

(b) give weight to the views of the minor having regard to the minor's age and maturity.

Health services.

15. All persons seeking psychosocial counselling, support and medical interventions relating to sex or gender should be given expert sensitive and individually tailored support by psychologists and medical practitioners or peer counselling. Such support should extend from the date of diagnosis or self-referral for as long as necessary.

Treatment protocol.

16. (1) The Minister, after consulting the Minister responsible for health, shall appoint a working group.

(2) The working group shall consist of a Chairperson and nine members.

(3) The Chairperson shall be a medical doctor with at least twelve years experience.

(4) The members shall be three experts in human rights issues, three psychosocial professionals and three medical experts.

(5) The Minister shall appoint the working group within three months of the entry into force of this Act.

(6) The members of the working group shall review the current medical treatment protocols in line with current medical best practices and human rights standards and shall, within one year from the date of their appointment, issue a report with recommendations for revision of the current medical treatment protocols.

Power to make regulations.

17. The Minister may make regulations to give better effect to any of the provisions of this Act and generally to regulate gender identity in conformity with the provisions of this Act.

18. The Civil Code shall be amended as follows:

Amendments of
the Civil Code.
Cap. 16

(a) immediately after sub-article (11) of article 4 thereof, there shall be added the following new sub-article:

"(12) When applying for the registration of a marriage contracted abroad between partners of the same sex, the partners to the marriage may elect to:

(a) adopt for both of them the surname of one of the partners to the marriage or the surnames of both in the order they choose for both; or

(b) retain their own surname:

Provided that if no choice is expressed in accordance with this sub-article the partners to the marriage shall retain their own surnames.";

(b) articles 257A to 257D thereof, both inclusive, shall be deleted;

(c) in paragraph (c) of article 278 thereof for the words "sex of the child;" there shall be substituted the words "the sex of the child;" and immediately thereafter there shall be added the following new proviso:

"Provided that the identification of the sex of the minor may not be included until the gender identity of the minor is determined.".

19. Article 2 of the Equality for Men and Women Act shall be amended as follows:

Amendment of
the Equality for
Men and
Women Act.
Cap. 456.

(a) in sub-article (1) thereof, in the definition of the term "discrimination", the words "gender identity and includes the treatment of a person in a less favourable manner than another person is, has been or would be treated on these grounds and "discriminate" shall be construed accordingly;" shall be substituted by the words "gender identity, gender expression or sex characteristics and includes the treatment of a person in a less favourable manner than another person is, has been or would be treated on these grounds and "discriminate" shall be construed accordingly; ";

(b) in sub-article (3) thereof, the words "or gender identity is:" shall be substituted by the words "or gender identity, gender expression or sex characteristics is:";

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(c) in paragraph (a) of sub-article (3) thereof, the words "or gender identity;" shall be substituted by the words "or gender identity, gender expression or sex characteristics;"; and

(d) in paragraph (c) of sub-article (3) thereof, the words "or gender identity;" shall be substituted by the words "or gender identity, gender expression or sex characteristics;";

(e) in paragraph (d) of sub-article (3) thereof, the words "gender identity, unless that provision, criterion or practice is appropriate and necessary and can be justified by objective factors unrelated to sex." shall be substituted by the words "gender identity, gender expression or sex characteristics unless that provision, criterion or practice is appropriate and necessary and can be justified by objective factors unrelated to sex.".

Passed by the House of Representatives at Sitting No. 256 of the 1st April, 2015.

ĊENSU GALEA
Deputy Speaker

RAYMOND SCICLUNA
Clerk of the House of Representatives

