

### **Abbozz ta' Liġi msejjah**

*ATT għar-rikonoxximent u regjistrazzjoni 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, hareġ b'liġi dan li ġej:-

**1.** It-titolu fil-qosor ta' dan l-Att huwa l-Att 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'oħra: Tifsir.

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

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

"grupp interdixxiplinari" tirreferi għall-grupp stabbilit bl-artikolu 17;

"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'għażla ħielsa, 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-fatizzi kromożomali, gonadali u anatomiċi 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;

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

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

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

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"Nutar" tfisser Nutar Pubbliku, magħżul minn persuna, li jkollu *warrant* maħruġ skont l-Att dwar il-Professjoni Nutarili u Arkivji Nutarili;

"reġistru tal-ġeneru" huwa r-reġistru stabbilit skont l-artikolu 6.

Dritt għall-identità tal-ġeneru.

**3.** (1) Il-persuni kollha li huma ċittadini ta' Malta jew residenti abitwali f'Malta għandhom dritt -

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

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

(c) 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 hsara 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 affetwati; 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 akkwiziti qabel id-data tal-bidla tal-identità tal-ġeneru m'għandhom bl-ebda mod jiġu affetwati.

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

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

Bidla fl-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 sabiex jirrifletti l-identità tal-ġeneru magħżula minn dik il-

persuna.

(2) It-talba għandha ssir permezz ta' ittra li tagħmel referenza cara għall-att pubbliku ppublikat skont l-artikolu 5.

(3) Id-Direttur m'għandhux jehtieg evidenza ulterjuri għajr l-att pubbliku ppublikat skont l-artikolu 5.

(4) Id-Direttur għandu fi zmien hmistax-il jum suċċessiv mill-prezentazzjoni tan-nota ta' insinwa min-Nutar fir-registru pubbliku, jdaħhal nota fl-att tat-twelid tal-applikant u jdaħhal nota fir-Registru tal-Ġeneru.

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

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

(b) dikjarazzjoni cara u inekwivoka 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

(e) l-elementi kollha preskritti li huma meħtieġa skont l-Att dwar il-Professjoni Nutarili u Arkivji Nutarili. Kap. 55.

(2) In-Nutar għandu jispjega lill-applikant l-implikazzjonijiet legali tal-bidla fl-assenjament tal-ġeneru u għandu jehtieg lill-applikant sabiex jiddikjara li fehem dawn l-implikazzjonijiet.

(3) It-tariffa notarili għandha tkun dik stabbilita skont l-Att dwar il-Professjoni Nutarili u Arkivji Nutarili. Kap. 55.

(4) In-Nutar għandu, fi zmien hmistax-il jum, jirreġistra l-att pubbliku mad-Direttur, bil-hlas tat-tariffa preskritta.

**6.** (1) L-Uffiċċju tar-Registru Pubbliku f'Malta u Għawdex għandu jzomm registru, msejjaħ ir-Registru tal-Ġeneru, li fih għandhom jitnizzlu dawk l-entrati kif jistgħu jiġu ordnati li jitnizzlu fih mid-Direttur wara rikors min-Nutar. Registru tal-Ġeneru.

(2) Fir-Registru tal-Ġeneru mizmum mill-Uffiċċju tar-Registru Pubbliku f'Malta għandu jitnizzel il-ġeneru rettifikat li jirrigwarda kull persuna li l-att tat-twelid tagħha huwa registrat f'dak l-Uffiċċju jew ma hu registrat f'ebda Uffiċċju tar-Registru Pubbliku iehor f'dawn il-gżejjer, u fir-Registru tal-Ġeneru mizmum mill-Uffiċċju tar-Registru Pubbliku f'Għawdex, għandu jitnizzel it-tibdil jew tibdiliet li jirrigwardaw kull persuna li l-att tat-twelid tagħha

huwa reġistrat f' dak l-Uffiċċju.

(3) Id-Direttur għandu jara li jsir u jinżamm indiċi tar-Reġistru tal-Ġeneru fl-Uffiċċju tar-Reġistru Pubbliku f'Malta u Għawdex; u hadd m'għandu jkun intitolat ifittex f' dak l-indiċi.

(4) Id-Direttur għandu, flimkien mar-Reġistru tal-Ġeneru u l-indiċi tiegħu, jzomm dawk ir-reġistri u l-kotba l-oħra, u jagħmel dawk l-entrati fihom, kif jista' jkun neċessarju sabiex jirreġistra u jagħmel traċċabbli l-konnessjoni bejn l-entrata fil-ktieb ta' reġistrazzjoni tal-atti tat-twelid li gie mmarrat bħala "ġeneru rettifikat" skont dan l-Att, u kull entrata korrispondenti fir-Reġistru tal-Ġeneru; iżda r-reġistri u l-kotba miżmuma skont dan is-subartikolu kif ukoll id-dokumentazzjoni komunikata lid-Direttur bis-saħħa ta' dan l-Att m'għandhomx, u lanqas xi indiċi dwarhom ma għandu, ikunu miftuħa għall-ispezzjoni pubblika jew tfittixijiet, lanqas, sakemm mhux fuq ordni tal-qorti, ma għandu d-Direttur jagħti xi informazzjoni, kotba jew dokumentazzjoni lil xi persuna hliet lil dik il-persuna li tkun laħqet l-età ta' tmintax-il sena u li lilha tkun tirrigwarda dik l-informazzjoni, kopja jew estratt.

(5) Id-dispożizzjonijiet tas-subartikolu (2) tal-artikolu 238, tas-subartikolu (1) tal-artikolu 245, tal-artikoli 248, 249, 252, 260, 261 u, bla ħsara għad-dispożizzjonijiet tal-artikolu 269, l-artikolu 251 tal-Kodiċi Ċivili għandhom *mutatis mutandis* japplikaw għar-Reġistru tal-Ġeneru u l-entrati fih, l-estratti minnu u ċertifikati u dokumenti oħra li għandhom x'jaqsmu jew huma konnessi miegħu.

Data effettiva.

7. L-entrata fir-Reġistru tal-Ġeneru għandha tkun effettiva mill-jum li d-Direttur jagħmel l-entrata jew meta l-entrata fil-ktieb tar-reġistru tal-att tat-twelid relattiv għall-applikant hija mmarrata bil-kliem "ġeneru rettifikat", liema minnhom isseħħ l-ewwel, u min din id-data l-applikant għandu jitqies, għall-finijiet kollha tal-liġi, li huwa jappartjeni għal dak il-ġeneru indikat fir-Reġistru tal-Ġeneru.

Minuri.

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

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

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

(b) sa fejn hu prattikabbli, tara li jingħata piż xieraq

għall-fehmiet tal-minorenni b'konsiderazzjoni tal-età u l-maturità tal-minorenni.

(3) Jekk il-Qorti tilqa' it-talba magħmula skont is-subartikolu (1), l-Qorti għandha tordna lid-Direttur sabiex ibiddel il-ġeneru registrat u l-ewwel isem tal-minuri u jniżżel l-isem tal-minuri fir-Registru tal-Ġeneru.

(4) Il-persuni li jeżerċitaw is-setgħat ta' ġenituri fuq il-minorenni jew it-tutor tal-minuri li l-ġeneru tiegħu ma ġiex dikjarat mat-twelid, għandhom qabel ma l-minuri jilhaq l-età ta' erbatax-il sena, permezz ta' att pubbliku jiddikjaraw il-ġeneru tal-minorenni. L-att pubbliku hekk pubblikat għandu jsir skont il-paragrafi (ċ), (d) u (e) tas-subartikolu (1) tal-artikolu 5 u n-Nutar għandu jirreġistra l-att pubbliku mad-Direttur skont is-subartikolu (4) tal-artikolu 5. Id-Direttur għandu, skont is-subartikolu (4) tal-artikolu (4), jirreġistra l-ġeneru tal-minuri.

**9.** (1) L-aċċessibbiltà għall-att sħiħ 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.

Bidla fl-att tat-twelid.

(2) Bidla fl-att tat-twelid u l-entrata fir-Registru tal-Ġeneru magħmula skont it-termini ta' dan l-Att mill-persuna li f'dak iż-żmien mhijiex minorenni, ladarba tkun kompleta, tista' tiġi modifikata b'ordni tal-qorti biss.

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

Deciżjonijiet barranin.

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

**11.** (1) Il-persuna, li fir-rigward tagħha tkun saret entrata fir-Registru tal-Ġeneru skont dan l-Att għandha, mill-aktar fis wara d-data speċifikata fl-artikolu 7, titlob l-uffiċjali awtorizzati skont l-Att dwar il-Karta tal-Identità u Dokumenti oħra tal-Identità biex jikkancellaw il-karta tal-identità u dokumenti ta' identifikazzjoni oħra tal-persuna u joħroġu karta tal-identità ġdida u dokumenti ta' identifikazzjoni oħra li jindikaw il-ġeneru u l-ewwel isem tal-persuna li jirriflettu l-entrata fir-Registru tal-Ġeneru.

Bidliet f'dokumenti uffiċjali oħra. Kap. 258.

(2) Il-persuna tista' wkoll, fuq hłas ta' dik it-tariffa kif tista' tiġi preskritta, titlob lil kwalunkwe awtorità kompetenti oħra,

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dipartiment, min iħaddem, istituzzjoni edukattiva jew xort'ohra sabiex johorġu kull dokument uffiċjali jew ċertifikat relattiv li jindika l-ġeneru u l-ewwel isem tal-persuna kif imdaħħla fir-Registru tal-Ġeneru.

Entrata tal-persuna fir-Registru tal-Ġeneru.

Kap. 16.

**12.** (1) Mal-bidu fis-seħħ ta' dan l-Att, id-Direttur għandu jniżżel fir-Registru tal-Ġeneru l-persuni kollha li fir-rigward tagħhom, qabel id-dhul fis-seħħ ta' dan l-Att, saru annotazzjonijiet fl-att tat-twelid skont l-artikolu 275B tal-Kodiċi Ċivili kif kien qabel id-dhul fis-seħħ ta' dan l-Att:

Izda fil-każ ta' dawn il-persuni, id-data effettiva għandha tkun dik li fiha saret l-ewwel annotazzjoni.

(2) Minnufih wara li ssir l-entrata fir-Registru tal-Ġeneru kif preskritt fis-subartikolu (1), id-Direttur għandu jimmarka l-entrati fil-ktieb tar-reġistru tal-atti tat-twelid li jirrigwardaw il-persuni hawn msemmija bil-kliem "ġeneru rettifikat".

Protezzjoni u privatezza tad-data.

Kap. 377.

Kap. 440.

**13.** (1) Persuna li fit-twertieq 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-Professjoni u l-Privatezza tad-Data.

(2) Kull min xjentement jesponi xi persuna li użat id-dispożizzjonijiet ta' dan l-Att, jew jinsulta jew jgħajjar persuna, jeħel, meta jinsab hati, multa ta mhux anqas minn elf euro (€1000) u mhux aktar minn ħamest elef euro (€5000).

Promozzjoni tal-anti-diskriminazzjoni u tal-ugwaljanza.

**14.** (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.

(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 pubbliku kollu u d-dipartimenti tas-servizzi pubbliċi kollha, l-aġenziji u l-awtoritajiet kompetenti kollha li jzommu registri personali u, jew jiġbru 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' tlett snin mill-jum tad-dhul fis-seħh ta' dan l-Att.

**15.** (1) Prattikanti mediċi jew professjonisti oħra ma jistgħux iwettqu xi trattament għall-assenjament tas-sess u, jew intervent kirurġiku fuq il-karatteristiċi tas-sess ta' minuri, meta dak it-trattament u, jew intervent jistgħu jiġu diferiti sa meta l-persuna li ser tiġi trattata tista' kunsens infurmat.

Dritt tal-integrità tal-persuna u awtonomija fiżika.

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

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

(3) Il-Grupp Interdixxiplinari għandu jinħatar mill-Ministru għall-perjodu ta' tlett snin, liema perjodu jista' jiġġedded għal perjodu ieħor ta' tlett snin.

(4) Il-Grupp Interdixxiplinari għandu jkun magħmul minn dawk il-professjonisti li l-Ministru jikkonsidra bħala xierqa.

(5) Meta d-deċiżjoni tat-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-tifel kif espress fil-Konvenzjoni dwar id-Drittijiet tat-Tfal jingħata l-ogħla konsiderazzjoni; u

(b) sa fejn hu prattikabbli, jaraw li jingħata piż xieraq għall-fehmiet tal-minorenni b'konsiderazzjoni tal-età u l-maturità tal-minorenni.

**16.** Il-persuni kollha li jfittxu parir psikologiku, sostenn jew interventi mediċi li għandhom x'jaqsmu mas-sess jew ġeneru għandhom jingħataw sostenn espert, sensitiv u mfassal b'mod individwali minn psikologi u prattikanti mediċi. Dan is-sostenn għandu jestendi miż-żmien li ssir id-djanjozi jew *self-referral* sakemm ikun neċessarju.

Servizzi tas-saħha.

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

Protokoll tat-trattament.

(2) Il-grupp ta' hidma 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 tlett esperti fi kwistjonijiet tad-drittijiet tal-bniedem, tlett professjonisti psikosoċjali u tlett esperti mediċi.

(5) Il-Ministru għandu jahtar il-grupp ta' hidma fi żmien tlett xhur mid-dhul fis-sehħ ta' dan l-Att.

(6) Il-membri tal-grupp ta' hidma għandhom jirvedu 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-ħatra tagħhom, joħorġu rapport bir-rakkomandazzjonijiet għar-reviżjoni tal-protokoll tat-trattamenti mediċi kurrenti.

Setgħa biex isiru regolamenti.

**18.** 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.

Reati.  
Kap. 9.

**19.** Mingħajr ħsara għad-dispożizzjonijiet tal-artikolu 83B tal-Kodiċi Kriminali, meta reat ikun motivat minn espressjoni tal-ġeneru u karatteristiċi tas-sess, il-piena għandha tkun dik stabbilita fl-imsemmi artikolu.

Thassir tal-artikoli 257A sa 257D tal-Kodiċi Ċivili.  
Kap. 16.

**20.** L-artikoli 257A sa 257D, it-tnejn inklużi, tal-Kodiċi Ċivili huma b'dan imħassra.

Emenda tal-artikolu 278 tal-Kodiċi Ċivili.  
Kap. 16.

**21.** Il-paragrafu (ċ) tal-artikolu 278 tal-Kodiċi Ċivili għandu jiġi emendat kif ġej:

(a) minflok il-kliem "jekk tifel jew tifla;" għandhom jidhru l-kliem "jekk tifel jew tifla:"; u

(b) minnufih wara l-kliem "jekk tifel jew tifla:", għandu jizjed il-proviso ġdid li ġej:

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

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

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

(a) fis-subartikolu (1) tiegħu, fit-tifsira tat-terminu "diskriminazzjoni", minflok il-kliem "identità tal-ġeneru" għandhom jidhru l-kliem "identità tal-ġeneru, espressjoni tal-ġeneru jew karatteristiċi tas-sess";



(b) fis-subartikolu (3) tiegħu, minflok il-kliem "identità tal-ġeneru" għandhom jidhru l-kliem "identità tal-ġeneru, espressjoni tal-ġeneru jew karatteristiċi tas-sess";

(ċ) fil-paragrafu (a) tas-subartikolu (3) tiegħu, minflok il-kliem "identità tal-ġeneru" għandhom jidhru l-kliem "identità tal-ġeneru, espressjoni tal-ġeneru jew karatteristiċi tas-sess";

(d) fil-paragrafu (ċ) tas-subartikolu (3) tiegħu, minflok il-kliem "identità tal-ġeneru" għandhom jidhru l-kliem "identità tal-ġeneru, espressjoni tal-ġeneru jew karatteristiċi tas-sess"; u

(e) fil-paragrafu (d) tas-subartikolu (3) tiegħu, minflok il-kliem "identità tal-ġeneru" għandhom jidhru l-kliem "identità tal-ġeneru, espressjoni tal-ġeneru jew karatteristiċi tas-sess".

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### **Ghanijiet u Raġunijiet**

L-għanijiet ta' dan l-Abbozz ta' Liġi huma li jipprovdi għar-rikonoxximent u registrazzjoni tal-ġeneru ta' persuna u sabiex jirregola l-effett ta' din il-bidla, u r-rikonoxximent u l-protezzjoni xierqa tal-karatteristiċi tas-sess tal-persuna. L-identità tal-ġeneru hija kkunsidrata bħala parti minn persuna li tista' jkollha jew ma jkollhiex bżonn ta' trattament kirurġiku jew ormonali jew terapija u l-Abbozz ta' Liġi jipprovdi għall-proċedura simplifikata li tirrispetta l-privatezza tal-persuna li qed titlob li d-dokumenti uffiċjali tagħha jinbidlu sabiex jirriflettu l-ġeneru tagħha. Bl-istess mod, il-karatteristiċi tas-sess ta' persuna jvarjaw fin-natura u l-persuni kollha għandu jkollhom is-setgħa li jieħdu d-deċiżjonijiet tagħhom li jaffettwaw l-integrità tal-persuna u l-awtonomija fiżika tagħhom.

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**A Bill  
entitled**

*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:-

Short title.

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

Interpretation.

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

"Director" means the Director of the 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;

"gender register" is the register established in accordance with article 6;

"interdisciplinary team" refers to the team established by article 17;

"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 Notary Public of one's choice holding a warrant issued in accordance with the Notarial Profession and Notarial Archives Act; Cap. 55.

"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 stature.

3. (1) All persons being citizens of Malta or habitually resident in Malta have the right to - Right to gender identity.

(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 persons 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.

(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 in order to reflect that person's self-determined gender Change of gender identity.

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identity.

(2) The request shall be made by means of a letter which makes clear reference to the public deed published in accordance with article 5.

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

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

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 and unequivocal 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

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

(2) The Notary shall explain to the applicant the legal implications of the change of the assigned gender and shall require the applicant to declare understanding of such implications.

Cap. 55.

(3) The notarial fee shall be that established in the Notarial Profession and National Archives Act.

(4) The Notary shall, within fifteen days, register the public deed with the Director, against the prescribed fee.

Gender register.

**6.** (1) There shall be maintained at the Public Registry Office in Malta and in Gozo a register, to be called the Gender Register, in which shall be made such entries as may be directed to be made therein by the Director following an application by the Notary.

(2) In the Gender Register maintained at the Public Registry Office in Malta there shall be entered the rectified gender relating to any person whose act of birth is registered in that Office or is not registered in any Public Registry Office in these islands, and in the Gender Register maintained at the Public Registry Office in Gozo,

there shall be entered the change(s) relating to any person whose act of birth is registered in that Office.

(3) The Director shall cause an index of the Gender Register to be made and kept in the Public Registry Office in Malta and in Gozo; and no-one shall be entitled to search that index.

(4) The Director shall, in addition to the Gender Register and the index thereof, keep such other registers and books, and make such entries therein, as may be necessary to record and make traceable the connection between an entry in the register book of acts of birth which has been marked "rectified gender" pursuant to this Act, and any corresponding entry in the Gender Register; but the registers and books kept under this sub-article as well as the documentation communicated to the Director by virtue of this Act shall not be, nor shall any index thereof be, open to public inspection or search, nor, except under an order of a court, shall the Director furnish any information, books or documentation to any person other than the person who has attained the age of eighteen years and to whom that information, copy or extract relates.

(5) The provisions of sub-article (2) of article 238, sub-article (1) of article 245, articles 248, 249, 252, 260, 261 and, subject to the provisions of article 269, article 251 of the Civil Code shall *mutatis mutandis* apply to the Gender Register and entries therein, extracts therefrom and certificates and other documents relating thereto or connected therewith. Cap. 16.

7. The entry in the Gender Register shall be effective as from the day when the Director shall make the entry or when the entry in the register book of acts of birth relative to the applicant is marked with the words "rectified gender", whichever occurs first, and from this date the applicant shall be considered, for all purposes of law, as belonging to the gender indicated in the Gender Register. Effective date.

8. (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) Where 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) in so far as is practicable, give due weight to the

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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 and to enter the name of the minor in the Gender Register.

(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 fourteen, by means of a public deed, declare the gender of the minor. The public deed so published shall be made in accordance with paragraphs (c), (d) and (e) of sub-article (1) of article 5 and the Notary shall register the public deed with the Director in accordance with sub-article (4) of article 5. The Director shall, in accordance with sub-article (4) of article 4, register the gender of the minor.

Change of the act of birth.

**9.** (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.

(2) A change in the act of birth and the entry in the Gender Register made in terms of this Act by a person who is not at the time a minor, once completed, can only be modified again by a court order.

Foreign decisions.

**10.** (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 shall be recognised in Malta.

Changes in other official documents.

Cap. 258.

**11.** (1) The person, in respect of whom an entry has been made in the Gender Register in accordance with this Act, shall, without delay after the date specified in article 7, request the authorized officers in terms of the Identity Card and other Identity Documents Act to cancel 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 entry in the Gender Register.

(2) The 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 gender and first name of the person as entered in the Gender Register.

**12.** (1) Upon the coming into force of this Act, the Director shall enter in the Gender Register all those persons in respect of whom, before the date of coming into force of this Act, annotations were made in the act of birth in terms of article 257B of the Civil Code as it was prior to the entry into force of this Act:

Entry of persons  
in the Gender  
Register.

Cap. 16.

Provided that in the case of these persons, the effective date shall be that of the first annotation.

(2) Immediately after making the entry in the Gender Register as prescribed in sub-article (1), the Director shall cause the entries in the register book of acts of birth relative to the afore-mentioned persons to be marked with the words "rectified gender".

**13.** (1) A person who in the course of the discharge of official duties was involved with a matter relating to this Act may not unlawfully disclose such matter in accordance the Professional Secrecy Act and the Data Protection Act.

Data protection.

Cap. 377.

Cap. 440.

(2) Whosoever shall knowingly expose any person who has availed of the provisions of Act, or shall insult or revile a person, shall, upon conviction, be liable to a fine (*multa*) of not less than one thousand euro (€1000) and not exceeding five thousand euro (€5000).

**14.** (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 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 day of entry into force of this Act.

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Right to bodily integrity and physical autonomy.

**15. (1)** It shall not be lawful 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.

(2) In exceptional circumstances treatment may be effected once there is an agreement 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 individual concerned will be in violation of 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 which 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 are the paramount consideration; and

(b) in so far as is practicable, give due weight to the views of the minor having regard to the minor's age and maturity.

Health services.

**16.** 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. Such support should extend from the time of diagnosis or self-referral for as long as necessary.

Treatment protocol.

**17. (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.

**18.** 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.

Power to make regulations.

**19.** 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.

Offences.  
Cap. 9.

**20.** Articles 257A to 257D of the Civil Code, both inclusive, are hereby repealed.

Deletion of articles 257A to 257D of the Civil Code.  
Cap. 16.

**21.** Paragraph (c) of article 278 of the Civil Code, shall be amended as follows:

Amendment of article 278 of the Civil Code.

(a) for the words "the sex of the child;" there shall be substituted the words "the sex of the child:" and

(b) immediately after the words "the sex of the child:", 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."

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

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

(a) in sub-article (1) thereof, in the definition of the term "discrimination", for the words "gender identity" there shall be substituted the words "gender identity, gender expression or sex characteristics";

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

(c) in paragraph (a) of sub-article (3) thereof, for the

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words "gender identity" there shall be substituted the words "gender identity, gender expression or sex characteristics";

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

(e) in paragraph (d) of sub-article (3) for the words "gender identity" there shall be substituted the words "gender identity, gender expression or sex characteristics".

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### **Objects and Reasons**

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