

Gender Reassigned Person Discrimination



 **Equal Opportunity Commission**

The *Births, Deaths, and Marriages Registration Amendment (Sex or Gender Changes) Act 2024 (WA)*¹ (Amendment Act) recently passed through Parliament and received Royal Assent on 26 September 2024.

The substantive provisions of the Amendment Act will commence on a date to be proclaimed. The Amendment Act makes several changes that will have implications for complaints of gender history discrimination under the *Equal Opportunity Act 1984* (EO Act)².

¹ The purpose of this bill is to amend the *Births, Deaths and Marriages Registration Act 1998*; and to repeal the *Gender Reassignment Act 2000* and the *Gender Reassignment Regulations 2001*; and to make consequential amendments to other Acts.

² Division 7 of the Amendment act amends the *Equal Opportunity Act 1984* at section 4(1) by deleting the definition of gender reassigned person and inserting a new definition for gender reassigned person.

The Amendment Act will not function retrospectively and will cover allegations of discrimination that occurred after the date of proclamation.

To gain a better understanding of how discrimination on the ground of gender history will be addressed under the EO Act after the Amendment Act commences, it is necessary to understand how the Amendment Act impacts the ground of gender history in the EO Act.

The Amendment Act deletes the current definition used by the EO Act for 'gender reassigned person' and inserts a new definition:

gender reassigned person means —

- (a) a person who has been issued with a recognition certificate under the *Gender Reassignment Act 2000* or a certificate that was an equivalent certificate for the purposes of that Act; or
- (b) a person —
 - (i) whose sex or gender in the registration of the person's birth under the *Births, Deaths and Marriages Registration Act 1998* has been changed under section 36Q of that Act; or
 - (ii) who has been issued a document acknowledging the person's sex or gender under the *Births, Deaths and Marriages Registration Act 1998* 21 section 36ZA;

The EO Act will start using the new definition on a day yet to be proclaimed by Parliament. Presently, it is not known when the proclamation will occur.

When the changes commence, the EO Act will provide for complaints regarding discrimination on the ground of gender history according to the new definition for 'gender reassigned person'. This means that people who seek to make a complaint under the EO Act regarding gender history, will need to do so in compliance with the Amendment Act and what it requires regarding registration of sex or gender.

For further information, refer to the Amendment Act, particularly the sections regarding how different types of people in different situations change their registration of sex or gender (for example, see the Amendment Act ss.36 J, K, P, Q, T, U, Z and ZA).

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The Government of Western Australia www.wa.gov.au.
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