South Australia

**Statutes Amendment (Gender Identity and Equity) Act 2016**

An Act to amend various Acts to remove discrimination against lesbian, gay, bisexual, transgender, intersex and queer South Australians.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the Statutes Amendment (Gender Identity and Equity) Act 2016.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.
3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Acts Interpretation Act 1915*

4—Amendment of section 4—Interpretation

(1) Section 4(1)―after the definition of the Gazette, the Government Gazette or the South Australian Government Gazette insert:

*gender identity* means the gender-related identity, appearance or mannerisms or other gender-related characteristics of a person (whether by way of medical intervention or not), with or without regard to the person’s designated sex at birth;

(2) Section 4(1)―before the definition of *judge* insert:

*intersex status* means the status of having physical, hormonal or genetic features that are—

(a) neither wholly female nor wholly male; or

(b) a combination of female and male; or

(c) neither female nor male;

5—Amendment of section 26—Interpretation of words relating to gender or number

(1) Section 26(a) and (ab)―delete paragraphs (a) and (ab) and substitute:

(a) every word implying a particular gender will be construed as including every other gender; and

(2) Section 26(d)―delete "in either of those genders or numbers" and substitute:

implying a particular gender, or indicating a singular or plural number,

6—Amendment of section 36A—Gender balance in nomination of persons for appointment to statutory bodies

(1) Section 36A(5)―before the definition of *non-government entity* insert:

*man* includes a person who identifies himself as a man regardless of the person's designated sex at birth;

(2) Section 36A(5)―after the definition of *non-government entity* insert:

*woman* includes a person who identifies herself as a woman regardless of the person's designated sex at birth.
Part 3—Amendment of Correctional Services Act 1982

7—Amendment of section 23—Initial and periodic assessment of prisoners

(1) Section 23(3)(a)—delete paragraph (a) and substitute:

(a) the age, gender, gender identity, sexuality or sexual identity, and the social, medical, psychological and vocational background and history, of the prisoner; and

(2) Section 23(4)—after "subsection (2)" insert:

, including a request that, if practicable, the assessment be made by a person of the same sex or gender identity as the prisoner

8—Amendment of section 37—Search of prisoners

(1) Section 37(2)(a)—after "sex" insert:

or gender identity

(2) Section 37—after subsection (2) insert:

(2a) A prisoner may waive the requirement under subsection (2)(a) that those present during a search (other than a medical practitioner) be of the same sex or gender identity as the prisoner.

Part 4—Amendment of Criminal Law (Forensic Procedures) Act 2007

9—Amendment of section 3—Interpretation

Section 3(1), definition of intrusive forensic procedure, (a)—delete ", in the case of a female, the breasts" and substitute:

the breast region of a female person or a transgender or intersex person who identifies as female

10—Amendment of section 21—Forensic procedures to be carried out humanely

(1) Section 21(3)—delete ", in the case of a female, the breasts" and substitute:

the breast region of a female person or a transgender or intersex person who identifies as female,

(2) Section 21(3)—delete "the opposite" and substitute:

a different

Part 5—Amendment of Domicile Act 1980

11—Amendment of long title

Long title—delete "to abolish the dependent domicile of married women and otherwise"
12—Amendment of section 7—Capacity to have independent domicile

Section 7(1)—delete "he" wherever occurring and substitute in each case:
the person

13—Amendment of section 8—Domicile of certain children

Section 8(3)(a)—delete "in wedlock"

Part 6—Amendment of Equal Opportunity Act 1984

14—Amendment of section 5—Interpretation

(1) Section 5(1), definition of chosen gender—delete the definition
(2) Section 5(1), definition of domestic partner—delete "he or she" and substitute:
the person
(3) Section 5(1), definition of sexuality—delete the definition
(4) Section 5(5)—delete subsection (5)

15—Amendment of section 6—Interpretative provisions

Section 6(4)—delete "sexuality or a particular race or a person of a chosen gender" and substitute:
sexual orientation or gender identity or a particular race

16—Substitution of heading to Part 3

Heading to Part 3—delete the heading and substitute:

Part 3—Prohibition of discrimination on ground of sex, sexual orientation or gender identity

17—Amendment of section 29—Criteria for discrimination on ground of sex, sexual orientation or gender identity

(1) Section 29(2a)—delete "chosen gender" and substitute:
gender identity
(2) Section 29(2a)(a)—delete "chosen gender" and substitute:
particular gender identity
(3) Section 29(2a)(b)(i)—delete "chosen gender" first occurring and substitute:
particular gender identity
(4) Section 29(2a)(b)(i)—delete "a chosen gender" second occurring and substitute:
the particular gender identity
(5) Section 29(2a)(c)—delete "chosen gender" wherever occurring and substitute in each case:
particular gender identity
(6) Section 29(2a)(d)—delete "chosen gender" and substitute:
    particular gender identity
(7) Section 29(2a)(d)—delete "the sex" and substitute:
    a sex
(8) Section 29(3)—delete "sexuality" wherever occurring and substitute in each case:
    sexual orientation

18—Amendment of section 30—Discrimination against applicants and employees
(1) Section 30(1)—delete "chosen gender or sexuality" and substitute:
    sexual orientation or gender identity
(2) Section 30(2)—delete "chosen gender or sexuality" and substitute:
    sexual orientation or gender identity

19—Amendment of section 31—Discrimination against agents and independent contractors
(1) Section 31(2)—delete "chosen gender or sexuality" and substitute:
    sexual orientation or gender identity
(2) Section 31(3)—delete "chosen gender or sexuality" and substitute:
    sexual orientation or gender identity

20—Amendment of section 32—Discrimination against contract workers
(1) Section 32(2)—delete "chosen gender or sexuality" and substitute:
    sexual orientation or gender identity
(2) Section 32(3)—delete "chosen gender or sexuality" and substitute:
    sexual orientation or gender identity

21—Amendment of section 33—Discrimination within partnerships
(1) Section 33(1)—delete "chosen gender or sexuality" and substitute:
    sexual orientation or gender identity
(2) Section 33(3)—delete "chosen gender or sexuality" and substitute:
    sexual orientation or gender identity
(3) Section 33(4)—delete "chosen gender or sexuality" and substitute:
    sexual orientation or gender identity

22—Amendment of section 34—Exemptions
(1) Section 34(2)—delete "chosen gender or sexuality" and substitute:
    sexual orientation or gender identity
(2) Section 34(2)—delete "a person of a chosen gender or a person of a particular sexuality" and substitute:
sexual orientation or gender identity

(3) Section 34(3)—delete "chosen gender or sexuality" and substitute:
sexual orientation or gender identity

(4) Section 34(4)—delete "chosen gender" and substitute:
gender identity

23—Amendment of section 35—Discrimination by associations
(1) Section 35(1)(a)—delete "chosen gender or sexuality" and substitute:
sexual orientation or gender identity
(2) Section 35(1)(b)—delete "chosen gender or sexuality" and substitute:
sexual orientation or gender identity
(3) Section 35(2)(a)—delete "both men and women" and substitute:
persons of different sex
(4) Section 35(2)(a)—delete "men and women" second occurring and substitute:
persons of different sex
(5) Section 35(2)(b)—delete "both men and women" wherever occurring and substitute in each case:
persons of different sex
(6) Section 35(2a)(b)—delete "chosen gender" and substitute:
particular gender identity
(7) Section 35(2a)(c)—delete "sexuality" and substitute:
sexual orientation
(8) Section 35(2b)—delete "chosen gender or sexuality" and substitute:
sexual orientation or gender identity

24—Amendment of section 36—Discrimination by qualifying bodies
Section 36—delete "chosen gender or sexuality" and substitute:
sexual orientation or gender identity

25—Amendment of section 37—Discrimination by educational authorities
(1) Section 37(1)—delete "chosen gender or sexuality" and substitute:
sexual orientation or gender identity
(2) Section 37(2)—delete "chosen gender or sexuality" and substitute:
sexual orientation or gender identity
26—Amendment of section 38—Discrimination by person disposing of interest in land

Section 38(1)—delete "chosen gender or sexuality" and substitute:
sexual orientation or gender identity

27—Amendment of section 39—Discrimination in provision of goods and services

Section 39(1)—delete "chosen gender or sexuality" and substitute:
sexual orientation or gender identity

28—Amendment of section 40—Discrimination in relation to accommodation

(1) Section 40(1)—delete "chosen gender or sexuality" and substitute:
sexual orientation or gender identity

(2) Section 40(2)—delete "chosen gender or sexuality" and substitute:
sexual orientation or gender identity

29—Amendment of section 45—Charities

(1) Section 45(a)(ia)—delete "chosen gender" and substitute:
particular gender identity

(2) Section 45(a)(ii)—delete "sexuality" and substitute:
sexual orientation

30—Amendment of section 47—Measures intended to achieve equality

(1) Section 47—delete "the one sex, persons of a chosen gender, or persons of a particular sexuality" and substitute:
a particular sex, sexual orientation or gender identity

(2) Section 47—delete "persons of the other sex, persons who are not persons of a chosen gender or persons of another sexuality" and substitute:
all other persons

31—Amendment of section 85Z—Exemptions

Section 85Z(2)—delete "sexuality" and substitute:
sexual orientation

Part 7—Amendment of Evidence Act 1929

32—Repeal of section 34H

Section 34H—delete the section
Part 8—Amendment of *Family Relationships Act 1975*

33—Amendment of section 10A—Interpretation

Section 10A(1), definition of *qualifying relationship*—delete "opposite" and substitute:

different

Part 9—Amendment of *Guardianship of Infants Act 1940*

34—Repeal of section 20

Section 20—delete the section

Part 10—Amendment of *Landlord and Tenant Act 1936*

35—Repeal of section 44

Section 44—delete the section

Part 11—Amendment of *Settled Estates Act 1880*

36—Repeal of sections 48, 49 and 50

Sections 48, 49 and 50—delete the sections

Part 12—Amendment of *Sexual Reassignment Act 1988*

37—Amendment of section 3—Interpretation

Section 3, definition of *reassignment procedure*—delete "the opposite" and substitute:

a different

Part 13—Amendment of *Summary Offences Act 1953*

38—Amendment of section 81—Power to search, examine and take particulars of persons

Section 81(3)(d)—after "sex" insert:

or gender identity

Part 14—Amendment of *Trustee Act 1936*

39—Repeal of section 22

Section 22—delete the section