

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**ALTERATION OF SEX
DESCRIPTION AND
SEX STATUS BILL**

[B 37B—2003]

*(As agreed to by the Portfolio Committee on Home Affairs
(National Assembly))*

[B 37C—2003]

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AMENDMENTS AGREED TO

ALTERATION OF SEX DESCRIPTION AND SEX STATUS BILL [B 37B—2003]

NEW CLAUSE

1. That the following be a new Clause:

Definitions

1. In this Act, unless the context indicates otherwise—
 - “gender characteristics” means the ways in which a person expresses his or her social identity as a member of a particular sex by using style of dressing, the wearing of prostheses or other means;
 - “gender reassignment” means a process which is undertaken for the purpose of reassigning a person’s sex by changing physiological or other sexual characteristics, and includes any part of such a process;
 - “intersexed”, with reference to a person, means a person whose congenital sexual differentiation is atypical, to whatever degree;
 - “medical practitioner” means a person providing health services in terms of any law, including in terms of the—
 - (a) Allied Health Professions Act, 1982 (Act No. 63 of 1982);
 - (b) Health Professions Act, 1974 (Act No. 56 of 1974);
 - (c) Nursing Act, 1978 (Act No. 50 of 1978);
 - (d) Pharmacy Act, 1974 (Act No. 53 of 1974);
 - (e) Dental Technicians Act, 1979 (Act No. 19 of 1979); and
 - (f) Mental Health Care Act, 2002 (Act No. 17 of 2002);
 - “primary sexual characteristics” means the form of the genitalia at birth;
 - “secondary sexual characteristics” means those which develop throughout life and which are dependant upon the hormonal base of the individual person;
 - “sexual characteristics” means primary or secondary sexual characteristics or gender characteristics.

CLAUSE 1

1. On page 2, in line 2, to omit “sex organs” and to substitute “sexual characteristics”.
2. On page 2, in line 3, to omit “a sex change” and to substitute:
 - gender reassignment, or any person who is intersexed
3. On page 2, in line 8, to omit “sex organs” and to substitute “sexual characteristics”.
4. On page 2, in line 9, after “treatment,” to insert “resulting in gender reassignment”.

5. On page 2, from line 14, to omit paragraph (c) and to substitute:
 - (c) in every case in which sexual characteristics have been altered resulting in gender reassignment, be accompanied by a report, prepared by a medical practitioner other than the one contemplated in paragraph (b) who has medically examined the applicant in order to establish his or her sexual characteristics;
 - (d) in the case of a person who is intersexed, be accompanied by—
 - (i) a report prepared by a medical practitioner corroborating that the applicant is intersexed; and
 - (ii) a report prepared by a qualified psychologist or social worker corroborating that the applicant is living and has lived stably and satisfactorily, for an unbroken period of at least two years, in the gender role corresponding to the sex description under which he or she seeks to be registered.
6. On page 2, after line 19, to insert:
 - (4) If an application contemplated in subsection (1) is refused, the applicant may appeal to the Minister of Home Affairs against the decision taken by the Director-General.
 - (5) An application contemplated in subsection (4) must be lodged with the Minister within 14 days after the decision of the Director-General was made known and must be accompanied by the documents referred to in subsection (2) and the reasons for the Director-General's refusal.
7. On page 2, in line 20, to omit "application contemplated in subsection (1)" and to substitute "appeal in terms of subsection (4)".
8. On page 2, in line 23, to omit "(4)" and to substitute "(6)".
9. On page 2, in line 24, to omit "Director-General's" and to substitute "Minister's".