



**Gender Identity, Gender Expression
And Sex Characteristics Act**

FAQS

What are my rights under the Gender Identity, Gender Expression and Sex Characteristics Act ? (GIGESC)

This Act gives all Maltese citizens the right to:

— **Live according to their gender identity and**

— **Be treated and identified according to that gender.**

— **Particularly citizens have the right to change the gender on official documents and records.**

Are there any age limits to officially change one's gender on documents?

Any Maltese citizen, unless adopted, who is **over 18 years of age**, can change their gender on official documents by make a declaration before a notary, to this effect. A birth certificate needs to be presented to the notary.

Do I have to undergo surgical/medical or psychiatric procedures and/or treatment to change gender identity?

No. No medical or psychological intervention and or treatment is required to change gender identity officially. Neither doctors nor notaries nor any government official may require you to undergo medical treatment or intervention of any type as a pre-requisite to allowing you to change gender. In fact this is against the law.

I am married. Do I have to divorce to change gender officially?

No, you do not have to divorce to change gender.

Can minors change their gender identity?

Yes, they can. However the parents need to file an application to this end before the courts. The courts will consider the child's best interests in deciding.

As a refugee, can I change my gender identity?

Yes, persons having protection under the Refugees Act may make a declaration of the gender they identify with, before the Commissioner of Refugees. Their asylum application and protection certificate then have to be amended by the state within 15 days of making the declaration.

What if I am adopted?

Adopted persons need to apply to the courts requesting a change in gender and name. Once the decree is issued, the Court Registrar shall see that the amendment is communicated to the Director of Public Registry within 15 days.

I have changed my gender in a foreign country. Is my gender identity recognized in Malta?

Yes, as long as the change was done in a country and by courts or authorities which Malta recognizes as competent.

What is the procedure for changing one's gender and first name on official documents?

The procedure is as follows:

You make a declaration before a Notary Public in Malta that the gender identity you were born with and which appears on your birth certificate is not the gender identity you identify with.

The Notary will ask to see your current Identity Card to identify you as the state currently recognizes you. You will be asked identifying details such as your full name, parents' names, occupation and marital status.

You should take your full birth certificate with you to the Notary. The full birth certificate costs around €5 and may be obtained from the Public Registry. Ask for the full certificate not an extract thereof.

It is important to tell the notary if you are married, or in a civil union or have children, so that the necessary changes may be made on your marriage certificate, civil union certificate and children's birth certificates.

The Notary will ask you if you also want to change your name and if you say yes, the Notary will write that from the effective date of change your name shall be.....

The contract before the notary will declare that your gender assigned at birth is not the gender you identify with, that you want to change your birth certificate as well as other official documents and / or your first name. On the contract, the notary will ask the Public Registry to make these changes.

The Notary then signs the contract and sends it for enrolment in the public registry. Upon enrolment the contract becomes a public deed and effectively the changes are recognized from this date

onwards. Always ask your notary to give you an authenticated copy of your contract.

The public Registry then has **15 days** from the date of enrolment of the deed to change your documents.

The whole process should not take longer than a month, obviously depending on how long your notary takes to send your contract to the public registry. Therefore you need to follow up with your notary.

After 15 days lapse from the day your contract was enrolled at the Public Registry you may collect your documents in person from the Registry. You will not receive any notification from the Public Registry that the changes have been made. You will need to follow up and collect the new certificate/s in person. The extract of the birth certificate will give your new name and gender. If you require a copy of the full birth certificate, **you need to specifically ask for it not to include any annotations.**

Once the changes have been effected by the Public Registry you may change your **ID card and/or passport** too. However you need to wait an additional two days, after the 15 days, for systems to be updated, before you go to the passport/ID office.

The Public Registry notifies the Civil Status Section of changes made to your gender and or name. You need not notify them yourself in order to change your ID and/or passport. However you should always take with you your change of gender identity contract showing the date of enrolment in the public registry and the date, so that if the Civil Status Section has not yet been notified, the Section may verify the changes against your contract. You should also take with you your current ID. You will receive your new ID through the postman who will also collect your previous ID.

Once your birth certificate is changed for all intents and purposes you should be treated as though you have always had the new identity.

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What happens to records concerning me, held by the civil service?

The central database system which is accessed by various departments will be automatically amended to show your new gender and / or name. However, for some departments and government agencies the change is not automatic so you have to notify them of changes. E.g. the ETC has its own database so you will need to notify it whereas hospital and social security records will be automatically amended.

Is it possible to change gender more than once?

The first time you change your gender on official documents, you may do so by making a simple declaration of the gender of choice, before a notary. You should always tell your notary if you are changing gender identifier for the first time. Should you wish to make another change in the future, you would not be able to avail yourself of this simplified procedure and you would have to resort to the Courts.

How much will the procedure cost?

Approximately **€100** taking into account the costs of copies, enrolment of the deed and notary's fees. Adopted persons also need to pay court and legal fees.

What if I do not identify with any particular gender?

There is work underway to introduce an **X identifier** that would denote **undisclosed/undetermined gender**. This should become available as of January 2016.

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Can I change gender identity on my qualification certificates?

Yes, for qualifications awarded by a Maltese institution. There is no guarantee for certificates issued by foreign institutions but you can always ask.

Can I also change my surname?

Currently, this is not possible. However work is underway to make this legally possible in the future for everyone not just LGBTIQ persons.

Isn't this procedure open to fraudulent use?

No. Your birth certificate will have annotations on it that a public deed was enrolled so that any notary doing searches will know where to look and under which names, so that e.g. a person does not change name to escape financial and legal liabilities. Notaries may cross refer names but the act of having changed gender is only known to notaries doing searches who may search under both the old and new name.

Is my privacy respected during and after this procedure?

A notary public in Malta is a public officer and therefore bound by confidentiality under the Professional Secrets Act. A notary cannot divulge your personal information. Furthermore, anyone who exposes you as having changed gender identity on your documents is liable to a fine between **€1,000** and **€5,000**. In addition, you are protected under data protection laws in force.

What happens if I am taken to hospital during an emergency?

The national health department is working on new systems to make sure your old medical history is always available and traceable to ensure that you receive good medical care. Changing gender identifier does not automatically mean you change your biological make up. Therefore for example if biological males are called in for screening against certain types of cancer, as a biological male, you will be called to attend as well. However, the hospital and other medical departments have a duty to call you by your chosen name and address you using the correct pronouns in accordance with your new gender identity.

What about medical interventions I have undergone abroad?

Currently there is no system to record these. However, it is in your best interests to disclose your medical history to your doctor. Your doctor is bound by confidentiality.

RAINBOW

SUPPORT SERVICE

**For further information, support or advice
please feel free to contact**

MGRM's Rainbow Support Service

on T: 79430006 or E: support@maltgayrights.org



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