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Gender Mark and Forename Change in South African Home Affairs

Gender Identity is who you go to bed as, and not who you go to bed with. It is important for one to be recognised legally for the gender you are and identify as. South African law allows a trans person to change their gender marker as it currently appears on your Smart ID Card (Previously known as an ID Book). You may also change your forename in accordance with the law through South African Department of Home Affairs (DHA)

This is all in Act 49 of 2003 called Alteration of Sex Description and Sex Status Act. Forename change is in Section 24 of Births and Deaths Registration Act (and this has been amended multiple times). See <https://www.gov.za/documents/births-and-deaths-registration-act>

This process in this document and legislative extracts are as at September 2018. The cost for the various changes are available from DHA directly or on their website. Costs may change overtime, so its advisable to verify the charges before going to the DHA offices. Act 49 basically specifies you are allowed to change your gender marker. It doesn't specify the process or how to. However there is an established process as laid out in this document. All DHA offices are required to assist you. Unfortunately many DHA offices are staffed with employees who are ill equipped to assist with this process in a proficient and professional manner, fortunately there are DHA branches where they are better equipped to assist you and there are individuals who are experienced in the change process.

South Africa still has a binary gender marker system of male (**M**) or female (**F**). Intersex people are discriminated against immediately as a result and parents are forced to register a binary male or female gender. For intersex people needing to change their gender marker, some of the points listed below may not be applied in the same way by the DHA. A gender marker will be referred to as Sex on the South African population register and therefore used on Birth Certificates, Smart ID cards and Passports.

The purpose of the document is not to debate the place of gender in society or the fact that South Africa uses a binary gender marker of male and female in the population register. This document is in the context of you being a South African citizen. Those who do not have a South African birth certificate may face other complexities that are outside of the scope of this document.



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Why change your gender marker and forename?

1. Certain institutions, both private and public, may require you to indicate gender on official documents. The general public / institutions still ask that you indicate your gender on official documents and this is often required as essential information. Certain criteria may be applied to a specific gender.
2. If you are presenting in a gender opposite to your marker it makes it difficult and uncomfortable to engage in everyday activities such as:
 - 1.) Employment
 - 2.) Boarding an aircraft be it domestic or international
 - 3.) Traveling ...
3. The use of a passport to cross borders by any means. Most countries around the world still use a binary gender system of male and female. This also applies to Visa applications, often required to be done in person.
4. Opening and operating a bank account.
5. Getting a driver's licence and using the driving licence for official purposes like a road block.
6. Health care services, be it state or private.
7. South African Medical Aid currently only covers certain claims in a specific gender and don't pay for certain claims with a gender mismatch. This includes Hormones and blood tests (ICD10). [This may change with ICD11 and further activism. Don't stop the fight with Medical Aids]
8. Social Grant payments.
9. Bursaries.
10. Correctional services, also known as imprisonment / prison / incarceration or jail. Your marker will determine where you are housed during your stay in jail. Although most may not ever go to jail, it is something that needs to be considered, should the situation arise.



home affairs
Department:
Home Affairs
REPUBLIC OF SOUTH AFRICA



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Impact of a gender marker and forename change

1. You are issued with a new South African Identity number effectively giving you a new legal persona.
2. You are still responsible for the previous identity, and any (legal) commitments entered into in your previous identity (legal persona).
3. You may **NOT** use the other identity once you have received your new identity number.
4. Qualifications received be in your previous identity will remain and you will need to request the various institutions to change them. Some institutions including international may not co-operate. Some South African institutions like universities are not always co-operative either. Examples of qualifications that will need to be changed include:
 - Matric Certificates
 - University degrees
 - Certificates of courses
5. Insurance policies, such as life insurance policies may be under written in a previous gender.
6. If you married under the Marriage Act of 1961 you may be required to get divorced and remarried under Civil Union Act. There is however a High Court ruling to say this is not needed.
7. There are a number of administrative issues you need to take care of, which is covered in a section on its own, like bank accounts and drivers licence.
8. Directorship in companies – please share your experience here This has presented various challenges and differs from person to person.
9. Fixed Property registered with the deed office needs to be changed.
10. If enrolled with in an educational institution a change in your registration details with the registrar of the specific institution will be required.
11. Schools, accommodation and other institutions which separate based on the gender of the person, such as boys' schools or girls' schools, could pose a problem.
12. Wills (Last Will and Testament)
 - Existing Wil's must be updated. It may be prudent to include your status, i.e. the fact that you are trans, in the will or have it as an addendum, especially if there are policies, properties or other assets in your previous identity.
 - If you are listed in someone's Last Will & Testament and this is known to you, it would be advised for them to update their Will with your new details.



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How does a South African Identity Number work?

- There are 13 digits in an ID number.
- These digits are broken into sections.
- The first 6 numbers are your date of birth.
- The next 4 numbers are the numerical count which includes the gender marker, anything from 0000 to 4999 is female and anything from 5000 to 9999 to male. I.e. under 5000 is female and over 5000 is male.
- The last 3 numbers show if you a South African citizen: the 11th number (0 is South African Citizen and 1 if not), the 12th number used to be a race class (which is no longer used) and the digit 8 is used for all and the last number, the 13th digit, is calculation of the numbers as a checker to see if the ID number is valid.
- There is a popular myth that gender is in the last 3 numbers but this is not the case.
- When changing your gender marker, the middle 4 numbers and last number will change, effectively giving you a new ID number.



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Before changing your gender marker and forename, consider the following:

1. The South African constitution is progressive including gender identity laws. However, we do not currently have non-binary marker or self-determination, we do have a progressive system to celebrate but there is work still to be done.
2. You need to have medically transitioned into your identified gender which will be opposite to the gender that was assigned at birth, i.e. AMAB (assigned male at birth) or AFAB (assigned female at birth):
“Any person whose sexual characteristics have been altered by surgical or through medical treatment resulting in gender reassignment may apply to the Director General of the National Department of Home Affairs ...” (Section 1 of Act 49) to change their gender marker and or names.
3. You do NOT have to have had surgery to do a gender marker or name change.
4. The key term to take note here is “gender reassignment” which is defined in the legislation as:

“... 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 ...”

This statement is really very helpful because it means that:

- gender reassignment is recognised as a process that happens over time,
 - is not limited to alterations made to genitals;
 - that there is no specific juncture within such a personal and individually varied process that must be reached before a person “qualifies” to change their gender marker.
 - This is very empowering. In a country where a vast majority do not have the resources to consider surgical options, being able to align their legal gender marker is a vital step towards their true expression being recognised.
 - It is important to note that gender reassignment, as it is currently defined, is still dependent on some form of medical intervention. “Sexual characteristics” refers to either primary (genitals) or secondary (hormone-related identifiers) characteristics.
5. You do NOT have to live in the gender you identify with for a period of time before being able to change. [(i) the UK for example currently have this and often comes up on internet searches. This does not apply to South Africa]
 6. This is a significant legal process and commitment to changing the population register and you need to be sure of the change you are embarking on. The legal implications of making the decision to change your gender marker has far reaching implications and should not be



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taken lightly or without serious consideration for the impact that this will have on your legal status going forward.

7. You need to have 2 letters from medical professional, ideally from your doctor prescribing hormone and another professional like your GP confirming the first doctor. Home Affairs interpretation of what a medical professional is can be troublesome for those professionals who don't have "doctor" in their titles like psychologists and nurses. This is not how it should be but for a speedy process it may be easier and quicker to go with the flow here. There is a helpful format template on Be True 2 Me web site of these letters. [(i) other organisations also may have templates on their web sites]
8. The actual change to the population register is changed by the National Home Affairs office at their head office in Pretoria and not by your local DHA office. They simply process the paperwork to send to Pretoria.
9. Forename changes and gender marker changes are handled by separate departments of DHA. Although it is possible to change both at the same time, it can be simpler and speedier to do so separately. There has been very mixed experience with where some have had great success at changing both at the same time and others have had significant challenges.
10. The changes are published in the Government Gazette and are available to the public.
11. Criminal records and/or bad debt records can slow the process down and the records will be carried over to the new legal identity.
12. Those under 18 years old will need parental consent.
13. Those who don't have electronic finger prints on the system may experience delays.
14. Changing your surname is more complicated and for the purpose of this document will not be covered.
15. Although the act doesn't specify a period of validity of the doctors' letters, common law would have them be no older than 3 years. That means the letters expire after 3 years. It is best to have the letters as recent as possible.
16. Changing your forenames and gender marker is a lengthy process. You therefore need to make sure that waiting for the process to run its course is part of the bigger plan you have for yourself.
17. It may help to do a forename change first before doing gender marker if you not ready from a legal perspective, e.g. waiting for a divorce agreement or some such.



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Going to a Department of Home Affairs branch (office)

Take the following

- Your current Smart Card ID (or ID book), for those under 16 need Unabridged Birth Certificate.
- Black pen.
- Your Birth Certificate, preferably unabridged, alternatively knowing your parents ID number is beneficial. Though many have gone through the process not having their birth certificate. An abridged birth certificate can be requested for R20 while you wait. Unabridged birth certificate can take many months.
- Home Affairs Officials require you to fill in the forms in person in the office and home printed versions of the documents are often not acceptable.
- Most of the bigger offices have a separate desk/office/section for amendments / changes, so don't be scared by the queues of people applying for IDs and passports.
- Bank's offering DHA services are unable to assist with amendments such as forename change or gender marker change.
- A divorce order if Home Affairs still has you married under the Marriage Act of 1961.
- You will need to complete the following forms for gender marker:
 - R70 for gender marker change (this excludes cost for a reissue of ID and passport)
 - 2 colour ID Photos (although Smart ID doesn't need photos, this process currently still does) – this is for each process
 - BI 526 - Application For An Amendment
 - On this form you indicate which of the particulars are incorrect, in this case your gender and you are applying to have it amended.
 - BI 9 – Application for Identity Card (though this is redundant with the electronic Smart ID process) go with this.
 - BI 24 – Notice of Birth (Twice)
 - TAKE NOTE OF THIS: the form needs to be completed twice, i.e. 2 forms.
 - On the first form WRITE IN BOLD on the top of the form **OLD** and use your current gender, i.e. the gender you were assigned at birth.
 - On the second form WRITE IN BOLD on the top of the form **NEW** and complete as your identified gender.
 - The forenames will be the current names as per your current identity.
- You will need to complete the following forms for fore name change:
 - R140 for forename change (this excludes cost for a reissue of ID and passport)
 - BI-85 – Forename change
 - BI 526, BI 9 and BI 24 as above for the gender marker change.



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- 2 colour ID Photos (although Smart ID doesn't need photos, this process currently still does) – this is for each process
- It is quite possible that you will encounter difficulties, whether being discriminated against or administrative issues.
- Take copies of your doctors' letters. Do not part with any official originals like birth certificate.
- Take a photo with your phone of all the documents especially after they have been stamped.
- Request that a change confirmation letter be loaded onto the system – this should be done but often isn't.

How long does it take?

- The process of gender marker takes around 6 to 9 months if there are no issues.
- Phone the call centre on 080 060 1190 every month and weekly after 6 months and 3 months for forename change.
- DHA doesn't always communicate so it possible the change is made and you may not even know it. Some have found out weeks or months later after the change was processed.

What to do once the gender marker and/or forename changed

- You will need to return to DHA and apply for a Smart ID card doing the electronic process. There have been no positive experiences doing the initial application after a change with a bank, so rather stick to a DHA office.
- Request your confirmation letter of change. **This is the only document which links your previous ID with the new ID.** You need this letter to make any changes with any institution such as banks and educational institutions etc. This letter is R90 per change (gender marker and name change may be charged separately).
- The cost of a Smart ID Card is R140. You don't need to have photo taken anymore. They will take photos and finger prints electronically. The charge of the first Smart ID Card to minors reaching 16 years of age is free.
- Application for a new passport will cost R400 if you take your old passport with you or for first time applicants. Failing to have your old passport with you or if it is lost or stolen needs a police affidavit and will cost double, i.e. R800. The prices given here are for a standard passports and doesn't cover Maxi and other passports types.
- You can apply for a temporary ID if required. Additional photos are needed, with additional costs applying.
- The Smart ID card and passport (if applied for) are normally issued within a week or two.
- Have your new abridged birth certificate printed for R20.



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- You could apply for unabridged birth certificate which takes a period of time.

The following all need to be changed or amended:

1. Drivers Licence
2. Bank Account
3. Qualifications
4. Policies like retirement funds insurance (be it short term or life type policies) and other policies you may have – new underwriting rules may apply
5. Remarry your partner and remember to redo contracts like antenuptial contracts
6. Change your gender marker and name with your medical aid
7. Sometimes it is easier to open a new account and close the old. The old name always seems to sneak into something in the future.
8. Last Will and Testament.
9. Firearm licences
10. Vehicle registrations, bond registrations etc

Remember that this is your journey. Own it.