



立法會秘書處 法律事務部
LEGAL SERVICE DIVISION
LEGISLATIVE COUNCIL SECRETARIAT

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22 May 2014

Mr Billy WOO
Principal Assistant Secretary (Security) D
Security Bureau
10/F, East Wing
Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong

Dear Mr WOO,

Marriage (Amendment) Bill 2014

Further to our letters dated 5 and 25 March 2014, we have the following additional question on the Bill for your clarification.

The new section 40A(2)(a) requires that the person concerned (from male to female) shall undergo a full sex re-assignment surgery which makes that person permanently infertile and changes that person's external sexual characteristics. The new section 40A(2)(b) provides for similar requirements for a female transsexual person who wishes to acquire the male identity. However, as pointed out in *Re Alex: Hormonal Treatment for Gender Identity Dysphoria* [2004] Fam CA 297, the requirement of surgery is more disadvantageous and burdensome for people seeking legal recognition of their transition from female to male than male to female. In this light, would the new section 40A(2)(b) be considered as a form of sex discrimination under Article 14 of the European Convention on Human Rights and Article 22 of the Hong Kong Bill of Rights?

Your earliest reply, in both languages, is appreciated.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Stephen Lam". The signature is fluid and cursive, with the first name "Stephen" and the last name "Lam" being the most prominent parts.

(Stephen LAM)
Senior Assistant Legal Adviser

c.c. Clerk to Bills Committee

c:lr-B1