



# Gender Recognition Act 2004

## 2004 CHAPTER 7

### *Applications for gender recognition certificate*

#### **1 Applications**

- (1) A person of either gender who is aged at least 18 may make an application for a gender recognition certificate on the basis of—
  - (a) living in the other gender, or
  - (b) having changed gender under the law of a country or territory outside the United Kingdom.
- (2) In this Act “the acquired gender”, in relation to a person by whom an application under subsection (1) is or has been made, means—
  - (a) in the case of an application under paragraph (a) of that subsection, the gender in which the person is living, or
  - (b) in the case of an application under paragraph (b) of that subsection, the gender to which the person has changed under the law of the country or territory concerned.
- (3) An application under subsection (1) is to be determined by a Gender Recognition Panel.
- (4) Schedule 1 (Gender Recognition Panels) has effect.

#### **2 Determination of applications**

- (1) In the case of an application under section 1(1)(a), the Panel must grant the application if satisfied that the applicant—
  - (a) has or has had gender dysphoria,
  - (b) has lived in the acquired gender throughout the period of two years ending with the date on which the application is made,
  - (c) intends to continue to live in the acquired gender until death, and
  - (d) complies with the requirements imposed by and under section 3.

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- (2) In the case of an application under section 1(1)(b), the Panel must grant the application if satisfied—
- (a) that the country or territory under the law of which the applicant has changed gender is an approved country or territory, and
  - (b) that the applicant complies with the requirements imposed by and under section 3.
- (3) The Panel must reject an application under section 1(1) if not required by subsection (1) or (2) to grant it.
- [<sup>F1</sup>(3A) This section does not apply to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3A.]
- [<sup>F2</sup>(3B) This section does not apply to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3C.]
- [<sup>F3</sup>(3C) This section does not apply to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3E.]
- (4) In this Act “approved country or territory” means a country or territory prescribed by order made by the Secretary of State after consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland.

#### Textual Amendments

- F1** S. 2(3A) inserted (E.W.S.) (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 16; S.I. 2014/3169, art. 2](#)
- F2** S. 2(3B) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 2 para. 14; S.S.I. 2014/287, art. 3, Sch.](#)
- F3** S. 2(3C) inserted (E.W.S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\), art. 1\(2\), Sch. 5 para. 15\(2\)](#)

### 3 Evidence

- (1) An application under section 1(1)(a) must include either—
- (a) a report made by a registered medical practitioner practising in the field of gender dysphoria and a report made by another registered medical practitioner (who may, but need not, practise in that field), or
  - (b) a report made by a [<sup>F4</sup>registered psychologist] practising in that field and a report made by a registered medical practitioner (who may, but need not, practise in that field).
- (2) But subsection (1) is not complied with unless a report required by that subsection and made by—
- (a) a registered medical practitioner, or
  - (b) a [<sup>F4</sup>registered psychologist],
- practising in the field of gender dysphoria includes details of the diagnosis of the applicant’s gender dysphoria.
- (3) And subsection (1) is not complied with in a case where—

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- (a) the applicant has undergone or is undergoing treatment for the purpose of modifying sexual characteristics, or
  - (b) treatment for that purpose has been prescribed or planned for the applicant, unless at least one of the reports required by that subsection includes details of it.
- (4) An application under section 1(1)(a) must also include a statutory declaration by the applicant that the applicant meets the conditions in section 2(1)(b) and (c).
- (5) An application under section 1(1)(b) must include evidence that the applicant has changed gender under the law of an approved country or territory.
- (6) Any application under section 1(1) must include—
- (a) a statutory declaration as to whether or not the applicant is married [<sup>F5</sup>or a civil partner],
  - (b) any other information or evidence required by an order made by the Secretary of State, and
  - (c) any other information or evidence which the Panel which is to determine the application may require,
- and may include any other information or evidence which the applicant wishes to include.
- [<sup>F6</sup>(6A) If the applicant is married, an application under section 1(1) must include a statutory declaration as to whether the marriage is a marriage under the law of England and Wales, of Scotland, of Northern Ireland, or of a country or territory outside the United Kingdom.
- [ If the applicant is a civil partner, an application under section 1(1) must include a  
<sup>F7</sup>(6AA) statutory declaration as to whether the civil partnership is a civil partnership under the law of England and Wales, of Scotland, or of Northern Ireland, or is an overseas relationship that is treated as a civil partnership by virtue of Chapter 2 of Part 5 of the Civil Partnership Act 2004.]
- (6B) If the applicant is married [<sup>F8</sup>or a civil partner], and the marriage [<sup>F9</sup>or civil partnership] is a protected marriage [<sup>F10</sup>or a protected civil partnership], an application under section 1(1) must also include—
- (a) a statutory declaration by the applicant's spouse [<sup>F11</sup>or civil partner] that the spouse [<sup>F12</sup>or partner] consents to the marriage [<sup>F13</sup>or partnership] continuing after the issue of a full gender recognition certificate (“a statutory declaration of consent”) (if the spouse [<sup>F12</sup>or partner] has made such a declaration), or
  - (b) a statutory declaration by the applicant that the applicant's spouse [<sup>F14</sup>or civil partner] has not made a statutory declaration of consent (if that is the case).
- (6C) If an application includes a statutory declaration of consent by the applicant's spouse [<sup>F15</sup>or civil partner], the Gender Recognition Panel must give the spouse [<sup>F16</sup>or partner] notice that the application has been made.]
- [<sup>F17</sup>(6D) If the applicant is a party to a protected Scottish marriage, an application under section 1(1) must also include—
- (a) a statutory declaration by the applicant that the applicant wishes the marriage to continue after the issue of a full gender recognition certificate (if that is the case), and
  - (b) either—

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- (i) a statutory declaration by the applicant's spouse that the spouse consents to the marriage continuing after the issue of a full gender recognition certificate (“a statutory declaration of consent”) (if the spouse has made such a declaration), or
  - (ii) a statutory declaration by the applicant that no such declaration by the applicant's spouse is included.
- (6E) If an application includes a statutory declaration of consent by the applicant's spouse under subsection (6D)(b)(i), the Gender Recognition Panel must give the spouse notice that the application has been made.
- (6F) If the applicant is a party to a protected Scottish civil partnership, an application under section 1(1) must also include a statutory declaration as to where the civil partnership was registered and, if the civil partnership was registered outside the United Kingdom, that details of the civil partnership have been sent to the Registrar General for Scotland.]
- (7) The Secretary of State may not make an order under subsection (6)(b) without consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland.
- (8) If the Panel which is to determine the application requires information or evidence under subsection (6)(c) it must give reasons for doing so.
- [<sup>F18</sup>(9) This section does not apply to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3A.]
- [<sup>F19</sup>(10) This section does not apply to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3C.]
- [<sup>F20</sup>(11) This section does not apply to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3E.]

#### Textual Amendments

- F4** Words in s. 3(1)(b)(2)(b) substituted (1.7.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#) , art. 4(2) , [Sch. 5 para. 8\(a\)](#) (with arts. 9 , 10 ) ; S.I. 2009/1357 , [art. 2\(d\)](#)
- F5** Words in s. 3(6)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#) , [ss. 250\(2\)\(a\)](#) , 263 ; S.I. 2005/3175 , [art. 3](#) , [Sch. 2](#)
- F6** S. 3(6A)-(6C) inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#) , s. 21(3) , [Sch. 5 para. 2](#) ; S.I. 2014/3169 , [art. 2](#)
- F7** S. 3(6AA) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#) , [regs. 1\(2\)](#) , [24\(2\)](#) (with reg. 35)
- F8** Words in s. 3(6B) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#) , [regs. 1\(2\)](#) , [24\(3\)\(a\)\(i\)](#) (with reg. 35)
- F9** Words in s. 3(6B) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#) , [regs. 1\(2\)](#) , [24\(3\)\(a\)\(ii\)](#) (with reg. 35)
- F10** Words in s. 3(6B) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#) , [reg. 24\(3\)\(a\)\(iii\)](#) (with reg. 35)
- F11** Words in s. 3(6B)(a) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#) , [reg. 24\(3\)\(b\)\(i\)](#) (with reg. 35)
- F12** Words in s. 3(6B)(a) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#) , [regs. 1\(2\)](#) , [24\(3\)\(b\)\(ii\)](#) (with reg. 35)

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- F13** Words in s. 3(6B)(a) inserted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), regs. 1(2), **24(3)(b)(iii)** (with reg. 35)
- F14** Words in s. 3(6B)(b) inserted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), regs. 1(2), **24(3)(c)** (with reg. 35)
- F15** Words in s. 3(6C) inserted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), regs. 1(2), **24(4)(a)** (with reg. 35)
- F16** Words in s. 3(6C) inserted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), regs. 1(2), **24(4)(b)** (with reg. 35)
- F17** S. 3(6D)-(6F) inserted (S.) (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), s. 36, **Sch. 2 para. 3**; S.S.I. 2014/287, art. 3, Sch.
- F18** S. 3(9) inserted (E.W.S.) (10.12.2014) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 5 para. 18**; S.I. 2014/3169, art. 2
- F19** S. 3(10) inserted (S.) (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), s. 36, **Sch. 2 para. 16**; S.S.I. 2014/287, art. 3, Sch.
- F20** S. 3(11) inserted (E.W.S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 15(3)**

### [<sup>F21</sup>3A Alternative grounds for granting applications

- (1) This section applies to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with this section.
- (2) The Panel must grant the application if satisfied that the applicant complies with the requirements imposed by and under section 3B and meets the conditions in subsections (3) to (6).
- (3) The first condition is that the applicant was a party to a protected marriage or a protected civil partnership on or before the date the application was made.
- (4) The second condition is that the applicant—
  - (a) was living in the acquired gender six years before the commencement of section 12 of the Marriage (Same Sex Couples) Act 2013,
  - (b) continued to live in the acquired gender until the date the application was made, and
  - (c) intends to continue to live in the acquired gender until death.
- (5) The third condition is that the applicant—
  - (a) has or has had gender dysphoria, or
  - (b) has undergone surgical treatment for the purpose of modifying sexual characteristics.
- (6) The fourth condition is that the applicant is ordinarily resident in England, Wales or Scotland.
- (7) The Panel must reject the application if not required by subsection (2) to grant it.]

#### Textual Amendments

- F21** S. 3A inserted (E.W.S.) (10.12.2014) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 5 para. 17**; S.I. 2014/3169, art. 2

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### **[<sup>F22</sup>3B Evidence for granting applications on alternative grounds**

- (1) This section applies to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3A.
- (2) The application must include either—
  - (a) a report made by a registered medical practitioner, or
  - (b) a report made by a registered psychologist practising in the field of gender dysphoria.
- (3) If the application is based on the applicant having or having had gender dysphoria—
  - (a) the reference in subsection (2) to a registered medical practitioner is to one practising in the field of gender dysphoria, and
  - (b) that subsection is not complied with unless the report includes details of the diagnosis of the applicant's gender dysphoria.
- (4) Subsection (2) is not complied with in a case where—
  - (a) the applicant has undergone or is undergoing treatment for the purpose of modifying sexual characteristics, or
  - (b) treatment for that purpose has been prescribed or planned for the applicant, unless the report required by that subsection includes details of it.
- (5) The application must also include a statutory declaration by the applicant that the applicant meets the conditions in section 3A(3) and (4).
- (6) The application must include—
  - (a) a statutory declaration as to whether or not the applicant is married or a civil partner,
  - (b) any other information or evidence required by an order made by the Secretary of State, and
  - (c) any other information or evidence which the Panel which is to determine the application may require,
 and may include any other information or evidence which the applicant wishes to include.
- (7) If the applicant is married, the application must include a statutory declaration as to whether the marriage is a marriage under the law of England and Wales, of Scotland, of Northern Ireland, or of a country or territory outside the United Kingdom.

[ If the applicant is a civil partner, the application must include a statutory declaration <sup>F23</sup>(7A) as to whether the civil partnership is a civil partnership under the law of England and Wales, of Scotland, or of Northern Ireland, or is an overseas relationship that is treated as a civil partnership by virtue of Chapter 2 of Part 5 of the Civil Partnership Act 2004.]

- (8) If the applicant is married [<sup>F24</sup>or a civil partner], and the marriage [<sup>F25</sup>or civil partnership] is a protected marriage [<sup>F26</sup>or a protected civil partnership], the application must also include—
  - (a) a statutory declaration of consent by the applicant's spouse [<sup>F27</sup>or civil partner] (if the spouse [<sup>F28</sup>or partner] has made such a declaration), or
  - (b) a statutory declaration by the applicant that the applicant's spouse [<sup>F29</sup>or civil partner] has not made a statutory declaration of consent (if that is the case).

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- (9) If the application includes a statutory declaration of consent by the applicant's spouse [<sup>F30</sup>or civil partner], the Panel must give the spouse [<sup>F31</sup>or partner] notice that the application has been made.
- (10) If the Panel which is to determine the application requires information or evidence under subsection (6)(c) it must give reasons for doing so.]

#### Textual Amendments

- F22** S. 3B inserted (30.6.2014 for specified purposes, 10.12.2014 in so far as not already in force) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 5 para. 19**; S.I. 2014/1662, art. 2(b); S.I. 2014/3169, art. 2
- F23** S. 3B(7A) inserted (E.W.S.) (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), **regs. 1(2), 25(2)** (with reg. 35)
- F24** Words in s. 3B(8) inserted (E.W.S.) (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), **regs. 1(2), 25(3)(a)(i)** (with reg. 35)
- F25** Words in s. 3B(8) inserted (E.W.S.) (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), **regs. 1(2), 25(3)(a)(ii)** (with reg. 35)
- F26** Words in s. 3B(8) inserted (E.W.S.) (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), **regs. 1(2), 25(3)(a)(iii)** (with reg. 35)
- F27** Words in s. 3B(8)(a) inserted (E.W.S.) (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), **regs. 1(2), 25(3)(b)(i)** (with reg. 35)
- F28** Words in s. 3B(8)(a) inserted (E.W.S.) (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), **regs. 1(2), 25(3)(b)(ii)** (with reg. 35)
- F29** Words in s. 3B(8)(b) inserted (E.W.S.) (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), **regs. 1(2), 25(3)(c)** (with reg. 35)
- F30** Words in s. 3B(9) inserted (E.W.S.) (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), **regs. 1(2), 25(4)(a)** (with reg. 35)
- F31** Words in s. 3B(9) inserted (E.W.S.) (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), **regs. 1(2), 25(4)(b)** (with reg. 35)

#### [<sup>F32</sup>3C Alternative grounds for granting applications: Scotland

- (1) This section applies to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with this section.
- (2) The Panel must grant the application if satisfied that the applicant complies with the requirements imposed by and under section 3D and meets the conditions in subsections (3) to (6).
- (3) The first condition is that the applicant was a party to a protected Scottish marriage or a protected Scottish civil partnership on or before the date the application was made.
- (4) The second condition is that the applicant—
- was living in the acquired gender six years before the commencement of section 29 of the Marriage and Civil Partnership (Scotland) Act 2014,
  - continued to live in the acquired gender until the date the application was made, and
  - intends to continue to live in the acquired gender until death.
- (5) The third condition is that the applicant—
- has or has had gender dysphoria, or

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- (b) has undergone—
  - (i) surgical treatment, or
  - (ii) such other treatment as the Scottish Ministers may by order prescribe, for the purpose of modifying sexual characteristics.
- (6) The fourth condition is that the applicant is ordinarily resident in Scotland.
- (7) Before making an order under subsection (5)(b)(ii) the Scottish Ministers must consult the following persons on a copy of the proposed draft order—
  - (a) the Gender Recognition Panel,
  - (b) such other persons as the Scottish Ministers consider appropriate.
- (8) An order under subsection (5)(b)(ii)—
  - (a) may make different provision for different cases or circumstances,
  - (b) may amend any enactment (including this Act).
- (9) The Panel must reject the application if not required by subsection (2) to grant it.]

#### Textual Amendments

**F32** S. 3C inserted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 15](#); [S.S.I. 2014/212](#), art. 2, [Sch.](#) (as amended (1.9.2014) by [S.S.I. 2014/218](#), art. 2(3), [Sch.](#)); [S.S.I. 2014/287](#), art. 3, [Sch.](#)

#### [<sup>F33</sup>3D Evidence for granting applications on alternative grounds: Scotland

- (1) This section applies to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3C.
- (2) The application must include either—
  - (a) a report made by a registered medical practitioner, or
  - (b) a report made by a registered psychologist practising in the field of gender dysphoria.
- (3) If the application is based on the applicant having or having had gender dysphoria—
  - (a) the reference in subsection (2) to a registered medical practitioner is to one practising in the field of gender dysphoria, and
  - (b) that subsection is not complied with unless the report includes details of the diagnosis of the applicant's gender dysphoria.
- (4) Subsection (2) is not complied with in a case where—
  - (a) the applicant has undergone or is undergoing treatment for the purpose of modifying sexual characteristics, or
  - (b) treatment for that purpose has been prescribed or planned for the applicant, unless the report required by that subsection includes details of it.
- (5) The application must also include a statutory declaration by the applicant that the applicant meets the conditions in section 3C(3) and (4).
- (6) The application must include—
  - (a) a statutory declaration as to whether or not the applicant is married or a civil partner,



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- (b) any other information or evidence required by an order made by the Scottish Ministers, and
  - (c) any other information or evidence which the Panel which is to determine the application may require,
- and may include any other information or evidence which the applicant wishes to include.
- (7) If the applicant is married, the application must include a statutory declaration as to whether the marriage is a protected Scottish marriage.
  - (8) If the applicant is married, and the marriage is a protected Scottish marriage, the application must also include—
    - (a) a statutory declaration of consent (within the meaning of section 3(6D)(b)(i)) by the applicant's spouse (if the spouse has made such a declaration), or
    - (b) a statutory declaration by the applicant that no such declaration by the applicant's spouse is included.
  - (9) If the application includes a statutory declaration of consent by the applicant's spouse, the Panel must give the spouse notice that the application has been made.
  - (10) If the Panel which is to determine the application requires information or evidence under subsection (6)(c) it must give reasons for doing so.]

#### **Textual Amendments**

**F33** S. 3D inserted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 2 para. 17](#); [S.S.I. 2014/212, art. 2, Sch.](#) (as amended (1.9.2014) by [S.S.I. 2014/218, art. 2\(3\), Sch.](#)); [S.S.I. 2014/287, art. 3, Sch.](#)

#### **[<sup>F34</sup>3E Alternative grounds for granting applications: Scotland (English and Welsh residents)**

- (1) This section applies to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with this section.
- (2) In this section, and section 3F, in so far as those sections extend to England and Wales, “protected Scottish civil partnership” and “protected Scottish marriage” have the meanings given by section 25.
- (3) The Panel must grant the application if satisfied that the applicant complies with the requirements imposed by and under section 3F and meets the conditions in subsections (4) to (7).
- (4) The first condition is that the applicant was a party to a protected Scottish marriage or a protected Scottish civil partnership on or before the date the application was made.
- (5) The second condition is that the applicant—
  - (a) was living in the acquired gender six years before the commencement of section 29 of the Marriage and Civil Partnership (Scotland) Act 2014;
  - (b) continued to live in the acquired gender until the date the application was made; and
  - (c) intends to continue to live in the acquired gender until death.

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- (6) The third condition is that the applicant—
  - (a) has or has had gender dysphoria; or
  - (b) has undergone surgical treatment for the purpose of modifying sexual characteristics.
- (7) The fourth condition is that the applicant is ordinarily resident in England or Wales.
- (8) The Panel must reject the application if not required by subsection (3) to grant it.

#### Textual Amendments

**F34** Ss. 3E, 3F inserted (E.W.S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), [Sch. 5 para. 15\(4\)](#)

### 3F Evidence for granting applications on alternative grounds: Scotland (English and Welsh residents)

- (1) This section applies to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3E.
- (2) The application must include either—
  - (a) a report made by a registered medical practitioner; or
  - (b) a report made by a registered psychologist practising in the field of gender dysphoria.
- (3) If the application is based on the applicant having or having had gender dysphoria—
  - (a) the reference in subsection (2) to a registered medical practitioner is to one practising in the field of gender dysphoria; and
  - (b) that subsection is not complied with unless the report includes details of the diagnosis of the applicant's gender dysphoria.
- (4) Subsection (2) is not complied with in a case where—
  - (a) the applicant has undergone or is undergoing treatment for the purpose of modifying sexual characteristics; or
  - (b) treatment for that purpose has been prescribed or planned for the applicant, unless the report required by that subsection includes details of it.
- (5) The application must also include a statutory declaration by the applicant that the applicant meets the conditions in section 3E(3) and (4).
- (6) The application must include—
  - (a) a statutory declaration as to whether or not the applicant is married or a civil partner; and
  - (b) any other information or evidence which the Panel which is to determine the application may require,
 and may include any other information or evidence which the applicant wishes to include.
- (7) If the applicant is married, the application must include a statutory declaration as to whether the marriage is a protected Scottish marriage.

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

- (8) If the applicant is married, and the marriage is a protected Scottish marriage, the application must also include—
  - (a) a statutory declaration by the applicant’s spouse that the spouse consents to the marriage continuing after the issue of a full gender recognition certificate (“a statutory declaration of consent”) (if the spouse has made such a declaration); or
  - (b) a statutory declaration by the applicant that no such declaration by the applicant’s spouse is included.
- (9) If the application includes a statutory declaration of consent by the applicant’s spouse, the Panel must give the spouse notice that the application has been made.
- (10) If the Panel which is to determine the application requires information or evidence under subsection (6)(b) it must give reasons for doing so.]

**Textual Amendments**

**F34** Ss. 3E, 3F inserted (E.W.S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), [Sch. 5 para. 15\(4\)](#)

**4 Successful applications**

- (1) If a Gender Recognition Panel grants an application under section 1(1) it must issue a gender recognition certificate to the applicant.

[<sup>F35</sup>(1A) The certificate is to be a full gender recognition certificate if the applicant is neither married nor in a civil partnership.]

[<sup>F36</sup>(2) The certificate is [<sup>F37</sup>also] to be a full gender recognition certificate if—

- [<sup>F38</sup>(a) the applicant is neither a civil partner nor married,]
- (b) the applicant is a party to a protected marriage and the applicant's spouse consents to the marriage continuing after the issue of a full gender recognition certificate, or
- (c) the applicant is a party to a protected civil partnership and [<sup>F39</sup>the applicant’s civil partner consents to the civil partnership continuing after the issue of a full gender recognition certificate.]

(3) The certificate is to be an interim gender recognition certificate if—

- (a) the applicant is a party to a protected marriage and the applicant's spouse does not consent to the marriage continuing after the issue of a full gender recognition certificate,
- (b) [<sup>F40</sup>subject to subsection (3C)(a),] the applicant is a party to a marriage that is not a protected marriage,
- (c) the applicant is a party to a protected civil partnership and the other party to the civil partnership [<sup>F41</sup>does not consent to the civil partnership continuing after the issue of a full gender recognition certificate, or]

<sup>F42</sup>(d) .....

- (e) [<sup>F43</sup>subject to subsection (3C)(b),] the applicant is a party to a civil partnership that is not a protected civil partnership.

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

(3A) If a Gender Recognition Panel issues a full gender recognition certificate under this section to an applicant who is a party to a protected marriage [<sup>F44</sup>or a protected civil partnership], the Panel must give the applicant's spouse [<sup>F45</sup>or civil partner] notice of the issue of the certificate.]

<sup>F46</sup>(3B) .....

[<sup>F47</sup>(3C) The certificate is also to be a full gender recognition certificate if—

- (a) the applicant is a party to a protected Scottish marriage and both parties to the marriage consent to the marriage continuing after the issue of a full gender recognition certificate, or
- (b) the applicant is a party to a protected Scottish civil partnership and the Gender Recognition Panel has decided to issue a full gender recognition certificate to the other party to the civil partnership.

(3D) The certificate is to be an interim gender recognition certificate if—

- (a) the applicant is a party to a protected Scottish marriage and either party to the marriage does not consent to the marriage continuing after the issue of a full gender recognition certificate,
- (b) subject to subsection (2)(b), the applicant is a party to a marriage which is not a protected Scottish marriage,
- (c) the applicant is a party to a protected Scottish civil partnership and the other party to the civil partnership has not made an application under section 1(1),
- (d) the applicant is a party to a protected Scottish civil partnership and the Gender Recognition Panel has decided not to issue a full gender recognition certificate to the other party to the civil partnership, or
- (e) subject to subsection (2)(c), the applicant is a party to a civil partnership which is not a protected Scottish civil partnership.

(3E) If a Gender Recognition Panel issues a full gender recognition certificate under this section to an applicant who is a party to a protected Scottish marriage, the Panel must give the applicant's spouse notice of the issue of the certificate.

(3F) Subsection (3C)(b) is subject to section 5C.]

(4) Schedule 2 (annulment or dissolution of marriage after issue of interim gender recognition certificate) has effect.

(5) The Secretary of State may, after consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland, specify the content and form of gender recognition certificates.

#### Textual Amendments

**F35** S. 4(1A) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 4\(a\)](#); S.S.I. 2014/287, art. 3, Sch.

**F36** S. 4(2)-(3B) substituted for s. 4(2)(3) (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), [Sch. 5 para. 3](#); S.I. 2014/3169, art. 2

**F37** Word in s. 4(2) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 4\(b\)\(i\)](#); S.S.I. 2014/287, art. 3, Sch.

**F38** S. 4(2)(a) repealed (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 4\(b\)\(ii\)](#); S.S.I. 2014/287, art. 3, Sch.

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

- F39** Words in s. 4(2)(c) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), **regs. 1(2), 26(2)** (with reg. 35)
- F40** Words in s. 4(3)(b) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, **Sch. 2 para. 4(c)(i)**; S.S.I. 2014/287, art. 3, Sch.
- F41** Words in s. 4(3)(c) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), **regs. 1(2), 26(3)(a)** (with reg. 35)
- F42** S. 4(3)(d) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), **regs. 1(2), 26(3)(b)** (with reg. 35)
- F43** Words in s. 4(3)(e) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, **Sch. 2 para. 4(c)(ii)**; S.S.I. 2014/287, art. 3, Sch.
- F44** Words in s. 4(3A) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), **regs. 1(2), 26(4)(a)** (with reg. 35)
- F45** Words in s. 4(3A) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), **regs. 1(2), 26(4)(b)** (with reg. 35)
- F46** S. 4(3B) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), **regs. 1(2), 26(5)** (with reg. 35)
- F47** S. 4(3C)-(3F) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, **Sch. 2 para. 4(d)**; S.S.I. 2014/287, art. 3, Sch.

*[<sup>F48</sup>Issue of full certificate after interim certificate: applicant married [<sup>F49</sup>or a civil partner]*

#### **Textual Amendments**

- F48** Ss. 4A, 4B and cross-heading inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), **Sch. 5 para. 4**; S.I. 2014/3169, art. 2
- F49** Words in s. 4A cross-heading inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), **regs. 1(2), 27** (with reg. 35)

#### **4A Married person [<sup>F50</sup>or civil partner] with interim certificate: issue of full certificate**

- (1) A Gender Recognition Panel must issue a full gender recognition certificate to a person [<sup>F51</sup>if subsection (2) applies].
- (2) [<sup>F52</sup>This subsection applies if], on an application by the person, the Panel is satisfied that—
  - (a) an interim gender recognition certificate has been issued to the person;
  - (b) the person was a party to a protected marriage [<sup>F53</sup>or a protected civil partnership] at the time when the interim gender recognition certificate was issued;
  - (c) the person is a party to a protected marriage [<sup>F54</sup>or a protected civil partnership]; and
  - (d) the person's spouse [<sup>F55</sup>or civil partner] now consents to the marriage [<sup>F56</sup>or civil partnership] continuing after the issue of the full gender recognition certificate.

<sup>F57</sup>(3) .....

- (4) If, on an application under subsection (2) <sup>F58</sup>..., the Panel is not satisfied as mentioned in that subsection, the Panel must reject the application.

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

- (5) An application under subsection (2) must be made within the period of six months beginning with the day on which the interim gender recognition certificate is issued.
- <sup>F59</sup>(6) .....
- (7) An application under subsection (2) <sup>F60</sup>... must include a statutory declaration of consent made by the person's spouse [<sup>F61</sup>or civil partner].
- <sup>F62</sup>(8) .....
- (9) If an application is made under [<sup>F63</sup>subsection (2)], the Gender Recognition Panel must give the applicant's spouse [<sup>F64</sup>or civil partner]—
- (a) notice of the application; and
  - (b) if the Panel grants the application, notice of the issue of the full gender recognition certificate.
- <sup>F65</sup>(10) .....

#### Textual Amendments

- F50** Words in s. 4A heading inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(2)** (with reg. 35)
- F51** Words in s. 4A(1) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(3)** (with reg. 35)
- F52** Words in s. 4A(2) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(4)(a)** (with reg. 35)
- F53** Words in s. 4A(2)(b) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(4)(b)** (with reg. 35)
- F54** Words in s. 4A(2)(c) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(4)(c)** (with reg. 35)
- F55** Words in s. 4A(2)(d) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(4)(d)(i)** (with reg. 35)
- F56** Words in s. 4A(2)(d) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(4)(d)(ii)** (with reg. 35)
- F57** S. 4A(3) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(5)** (with reg. 35)
- F58** Words in s. 4A(4) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(6)** (with reg. 35)
- F59** S. 4A(6) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(7)** (with reg. 35)
- F60** Words in s. 4A(7) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(8)(a)** (with reg. 35)
- F61** Words in s. 4A(7) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(8)(b)** (with reg. 35)
- F62** S. 4A(8) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(9)** (with reg. 35)
- F63** Words in s. 4A(9) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(10)(a)** (with reg. 35)
- F64** Words in s. 4A(9) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(10)(b)** (with reg. 35)
- F65** S. 4A(10) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **28(11)** (with reg. 35)

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

#### **4B Application under section 4A: death of spouse [<sup>F66</sup>or civil partner]**

- (1) In a case where an application is made under section 4A(2) <sup>F67</sup>... and the applicant's spouse [<sup>F68</sup>or civil partner] dies before the application is determined—
  - (a) the application is to be treated as an application, made under section 5(2) in a case where a spouse has died [<sup>F69</sup>or under section 5A(2) in a case where a civil partner has died], for a full gender recognition certificate to be issued; and
  - (b) that application is to be treated as having been made at the time when the application under section 4A was made.
- (2) The Gender Recognition Panel determining the application must specify the period within which the applicant is to produce the required evidence in support of the new application.
- (3) In this section—
  - “ new application ” means the application under section 5(2) [<sup>F70</sup>or (as the case may be) section 5A(2)] which the person is, by virtue of subsection (1), treated as having made;
  - “ required evidence ” means the evidence required by section 5(4) [<sup>F71</sup>or (as the case may be) section 5A(4)]. ]

#### **Textual Amendments**

- F66** Words in s. 4B heading inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **29(2)** (with reg. 35)
- F67** Words in s. 4B(1) omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **29(3)(a)(i)** (with reg. 35)
- F68** Words in s. 4B(1) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **29(3)(a)(ii)** (with reg. 35)
- F69** Words in s. 4B(1)(a) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **29(3)(b)** (with reg. 35)
- F70** Words in s. 4B(3) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **29(4)(a)** (with reg. 35)
- F71** Words in s. 4B(3) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **29(4)(b)** (with reg. 35)

#### **[<sup>F72</sup> 4C Married person with interim certificate: issue of full certificate (Scotland)]**

- (1) A Gender Recognition Panel must issue a full gender recognition certificate to a person in either of the following cases.
- (2) Case A is where, on an application by the person, the Panel is satisfied that—
  - (a) an interim gender recognition certificate has been issued to the person,
  - (b) the person was a party to a protected Scottish marriage at the time when the interim gender recognition certificate was issued,
  - (c) the person is still a party to that protected Scottish marriage, and
  - (d) both parties to the marriage now consent to the marriage continuing after the issue of the full gender recognition certificate.
- (3) Case B is where, on an application by the person, the Panel is satisfied that—
  - (a) an interim gender recognition certificate has been issued to the person,

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

- (b) the person was a party to a protected Scottish civil partnership at the time when the interim gender recognition certificate was issued,
  - (c) the protected civil partnership was a qualifying civil partnership (within the meaning of section 5(6) of the Marriage (Scotland) Act 1977) and the parties to the civil partnership submitted notice of intention to marry under section 3(1) of that Act within the period of six months beginning with the day on which that certificate was issued,
  - (d) the submitting of notice has resulted in the civil partnership becoming a marriage,
  - (e) the person is a party to that marriage, and
  - (f) the person's spouse consents to the marriage continuing after the issue of the full gender recognition certificate.
- (4) If, on an application under subsection (2) or (3), the Panel is not satisfied as mentioned in that subsection, the Panel must reject the application.
- (5) An application under subsection (2) must be made within the period of six months beginning with the day on which the interim gender recognition certificate is issued.
- (6) An application under subsection (3) must be made within the period of six months beginning with the day on which the civil partnership becomes a marriage.
- (7) An application under subsection (2) or (3) must include a statutory declaration of consent (within the meaning of section 3(6D)(b)(i)) made by the person's spouse.
- (8) An application under subsection (3) must also include—
- (a) evidence of the date on which the notice referred to in subsection (3)(c) was submitted, and
  - (b) evidence that the civil partnership has become a marriage.
- (9) If an application is made under this section, the Panel must give the applicant's spouse—
- (a) notice of the application, and
  - (b) if the Panel grants the application, notice of the issue of the full gender recognition certificate.

#### Textual Amendments

**F72** Ss. 4C-4F inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 5](#); S.S.I. 2014/287, art. 3, Sch.

#### Modifications etc. (not altering text)

**C1** S. 4C modified (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), arts. 1(2), [15\(2\)](#)

**C2** S. 4C modified (16.12.2014) by [The Marriage Between Civil Partners \(Procedure for Change and Fees\) \(Scotland\) Regulations 2014 \(S.S.I. 2014/361\)](#), regs. 1, [8\(2\)](#)

#### 4D Application under section 4C: death of spouse

- (1) In a case where an application is made under section 4C(2) or (3) and the applicant's spouse dies before the application is determined—



*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

- (a) the application is to be treated as an application, made under section 5(2) in a case where a spouse has died, for a full gender recognition certificate to be issued, and
  - (b) that application is to be treated as having been made at the time when the application under section 4C was made.
- (2) The Gender Recognition Panel determining the application must specify the period within which the applicant is to produce the required evidence in support of the new application.
- (3) In this section—
- “ new application ” means the application under section 5(2) which the person is, by virtue of subsection (1), treated as having made,
  - “ required evidence ” means the evidence required by section 5(4).

#### **Textual Amendments**

**F72** Ss. 4C-4F inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 5](#); S.S.I. 2014/287, art. 3, Sch.

#### **4E Married person with interim certificate: issue of full certificate on application to the sheriff (Scotland)**

- (1) A person may make a summary application to the sheriff for the issue of a full gender recognition certificate where—
  - (a) an interim gender recognition certificate has been issued to the person,
  - (b) the person is a party to a protected Scottish marriage, and
  - (c) the person is not in possession of a statutory declaration by the person's spouse that the spouse consents to the marriage continuing after the issue of a full gender recognition certificate.
- (2) The sheriff must grant an application made under subsection (1) if the sheriff is satisfied that—
  - (a) the applicant was a party to a protected Scottish marriage at the time when the interim gender recognition certificate was issued,
  - (b) the applicant is still a party to that protected Scottish marriage, and
  - (c) the application was made within the period of six months beginning with the day on which the interim gender recognition certificate was issued.
- (3) If an application is made under this section, the sheriff must give the applicant's spouse—
  - (a) notice of the application, and
  - (b) if the sheriff grants the application, notice of the issue of the full gender recognition certificate.
- (4) Where the sheriff issues a full gender recognition certificate, the sheriff must send a copy to the Gender Recognition Panel.

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

### Textual Amendments

**F72** Ss. 4C-4F inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 5](#); [S.S.I. 2014/287](#), art. 3, Sch.

## 4F Death of civil partner or spouse: issue of full certificate (Scotland)

- (1) A Gender Recognition Panel must issue a full gender recognition certificate to a person in either of the following cases.
- (2) Case A is where, on an application by the person, the Panel is satisfied that—
  - (a) an interim gender recognition certificate has been issued to the person,
  - (b) the person was a party to a protected Scottish civil partnership at the time when the interim gender recognition certificate was issued,
  - (c) the protected civil partnership was a qualifying civil partnership (within the meaning of section 5(6) of the Marriage (Scotland) Act 1977) and the parties to the civil partnership submitted notice of intention to marry under section 3(1) of that Act within the period of six months beginning with the day on which that certificate was issued, and
  - (d) the person's civil partner died—
    - (i) before the submitting of notice had resulted in the civil partnership becoming a marriage, and
    - (ii) after the period of six months beginning with the day on which the interim gender recognition certificate was issued.
- (3) Case B is where, on an application by the person, the Panel is satisfied that—
  - (a) an interim gender recognition certificate has been issued to the person,
  - (b) the person was a party to a protected Scottish civil partnership at the time when the interim gender recognition certificate was issued,
  - (c) the protected civil partnership was a qualifying civil partnership (within the meaning of section 5(6) of the Marriage (Scotland) Act 1977) and the parties to the civil partnership submitted notice of intention to marry under section 3(1) of that Act within the period of six months beginning with the day on which that certificate was issued,
  - (d) the submitting of notice resulted in the civil partnership becoming a marriage, and
  - (e) the person's spouse died—
    - (i) within the period of six months beginning with the day on which the civil partnership became a marriage, and
    - (ii) after the period of six months beginning with the day on which the interim gender recognition certificate was issued.
- (4) If, on an application under subsection (2) or (3), the Panel is not satisfied—
  - (a) as mentioned in that subsection, or
  - (b) that the person is neither married nor a civil partner,
 the Panel must reject the application.
- (5) An application under subsection (2) or (3) must be made within the period of six months beginning with the day on which the death occurs.

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

- (6) An application under subsection (2) or (3) must include evidence of—
- (a) the death of the person's civil partner or, as the case may be, spouse and the date on which it occurred,
  - (b) the date on which the notice under section 3(1) of the 1977 Act was submitted.]

#### **Textual Amendments**

**F72** Ss. 4C-4F inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 5](#); [S.S.I. 2014/287](#), art. 3, [Sch.](#)

#### **Modifications etc. (not altering text)**

**C3** S. 4F modified (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), arts. 1(2), [15\(3\)](#)

**C4** S. 4F modified (16.12.2014) by [The Marriage Between Civil Partners \(Procedure for Change and Fees\) \(Scotland\) Regulations 2014 \(S.S.I. 2014/361\)](#), regs. 1, [8\(3\)](#)

## **5 [F73] Issue of full certificates where applicant has been married]**

- (1) A court which—
- (a) makes absolute a decree of nullity granted on the ground that an interim gender recognition certificate has been issued to a party to the marriage, or
  - (b) (in Scotland) grants a decree of divorce on that ground,
- must, on doing so, issue a full gender recognition certificate to that party and send a copy to the Secretary of State.

[F74(1A) Subsection (1) does not apply where a full gender recognition certificate has already been issued, to the party to whom the interim gender recognition certificate was issued, by the sheriff under section 4E.]

- (2) If an interim gender recognition certificate has been issued to a person and either—
- (a) the person's marriage is dissolved or annulled (otherwise than on the ground mentioned in subsection (1)) in proceedings instituted during the period of six months beginning with the day on which it was issued, or
  - (b) the person's spouse dies within that period,
- the person may make an application for a full gender recognition certificate at any time within the period specified in subsection (3) (unless the person is again married [F75 or is a civil partner]).
- (3) That period is the period of six months beginning with the day on which the marriage is dissolved or annulled or the death occurs.
- (4) An application under subsection (2) must include evidence of the dissolution or annulment of the marriage and the date on which proceedings for it were instituted, or of the death of the spouse and the date on which it occurred.
- (5) An application under subsection (2) is to be determined by a Gender Recognition Panel.
- (6) The Panel—

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

- (a) must grant the application if satisfied that the applicant [<sup>F76</sup>is neither married nor a civil partner], and
  - (b) otherwise must reject it.
- (7) If the Panel grants the application it must issue a full gender recognition certificate to the applicant.

#### Textual Amendments

- F73** S. 5: heading substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(3)(c)**, 263; S.I. 2005/3175, **art. 3**, Sch. 2
- F74** S. 5(1A) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, **Sch. 2 para. 6**; S.S.I. 2014/287, **art. 3**, Sch.
- F75** Words in s. 5(2) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(3)(a)**, 263; S.I. 2005/3175, **art. 3**, Sch. 2
- F76** Words in s. 5(6)(a) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(3)(b)**, 263; S.I. 2005/3175, **art. 3**, Sch. 2

#### [<sup>F77</sup>5A Issue of full certificates where applicant has been a civil partner

- (1) A court which—
  - (a) makes final a nullity order made on the ground that an interim gender recognition certificate has been issued to a civil partner, or
  - (b) (in Scotland) grants a decree of dissolution on that ground,
 must, on doing so, issue a full gender recognition certificate to that civil partner and send a copy to the Secretary of State.
- (2) If an interim gender recognition certificate has been issued to a person and either—
  - (a) the person's civil partnership is dissolved or annulled (otherwise than on the ground mentioned in subsection (1)) in proceedings instituted during the period of six months beginning with the day on which it was issued, or
  - (b) the person's civil partner dies within that period,
 the person may make an application for a full gender recognition certificate at any time within the period specified in subsection (3) (unless the person is again a civil partner or is married).
- (3) That period is the period of six months beginning with the day on which the civil partnership is dissolved or annulled or the death occurs.
- (4) An application under subsection (2) must include evidence of the dissolution or annulment of the civil partnership and the date on which proceedings for it were instituted, or of the death of the civil partner and the date on which it occurred.
- (5) An application under subsection (2) is to be determined by a Gender Recognition Panel.
- (6) The Panel—
  - (a) must grant the application if satisfied that the applicant is neither a civil partner nor married, and
  - (b) otherwise must reject it.

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

- (7) If the Panel grants the application it must issue a full gender recognition certificate to the applicant.]

**Textual Amendments**

**F77** S. 5A inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 250\(4\)](#), 263; S.I. 2005/3175, [art. 3](#), [Sch. 2](#)

*[<sup>F78</sup>Other provision about applications and certificates]*

**Textual Amendments**

**F78** S. 5B and cross-heading inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), [s. 21\(3\)](#), [Sch. 5 para. 5](#); S.I. 2014/3169, [art. 2](#)

<sup>F79</sup>**5B Applications by both civil partners**

.....

**Textual Amendments**

**F79** S. 5B omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), [regs. 1\(2\)](#), [30](#) (with [reg. 35](#))

[<sup>F80</sup>**5C Protected Scottish civil partnership: applications by both civil partners**

- (1) This section applies where a Gender Recognition Panel decides to issue a full gender recognition certificate to a party to a protected Scottish civil partnership.
- (2) The Panel must not issue the full gender recognition certificate to that person unless the Panel issues a full gender recognition certificate to the other party to the protected Scottish civil partnership.
- (3) In such a case, the Panel must issue both certificates on the same day.
- (4) Those certificates take effect at the beginning of the day on which they are issued.

**Textual Amendments**

**F80** Ss. 5C, 5D inserted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), [s. 36](#), [Sch. 2 para. 7](#); S.S.I. 2014/212, [art. 2](#), [Sch.](#) (as amended (1.9.2014) by S.S.I. 2014/218, [art. 2\(3\)](#), [Sch.](#)); S.S.I. 2014/287, [art. 3](#), [Sch.](#)

**5D Protected Scottish civil partnership: power to make further provision for issue of full certificate**

- (1) The Scottish Ministers may by order provide for the issue by a Gender Recognition Panel, on an application under section 1(1) by a qualifying person, of a full gender

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

recognition certificate in additional circumstances to those specified in section 4(3C)(b) or 5C.

- (2) In subsection (1), “ qualifying person ” means a person who is a party to a protected Scottish civil partnership.
- (3) An order under subsection (1) may include, in particular, provision about—
  - (a) the evidence or other information that is to be included with an application,
  - (b) the procedure to be followed in determining an application, including provision for the giving of notice to any person,
  - (c) the effect of the issuing to the applicant of a full gender recognition certificate in relation to the civil partnership to which the applicant is party.
- (4) Provision under subsection (3)(c) may include, in particular, provision for changing the civil partnership into a marriage.
- (5) An order under subsection (1) may modify this Act or any other enactment.
- (6) Before making an order under subsection (1), the Scottish Ministers must consult the following persons on a copy of the proposed draft order—
  - (a) the Registrar General for Scotland,
  - (b) the Gender Recognition Panel, and
  - (c) such other persons as the Scottish Ministers consider appropriate.]

#### Textual Amendments

**F80** Ss. 5C, 5D inserted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 7](#); [S.S.I. 2014/212](#), art. 2, [Sch.](#) (as amended (1.9.2014) by [S.S.I. 2014/218](#), art. 2(3), [Sch.](#)); [S.S.I. 2014/287](#), art. 3, [Sch.](#)

## 6 <sup>F81</sup>Errors]

- <sup>F82</sup>(1) Where a gender recognition certificate has been issued to a person, the person or the Secretary of State may make an application for—
- (a) an interim gender recognition certificate, on the ground that a full gender recognition certificate has incorrectly been issued instead of an interim certificate;
  - (b) a full gender recognition certificate, on the ground that an interim gender recognition certificate has incorrectly been issued instead of a full certificate; or
  - (c) a corrected certificate, on the ground that the certificate which has been issued contains an error.]
- (2) If the certificate was issued by a court the application is to be determined by the court but in any other case it is to be determined by a Gender Recognition Panel.
- (3) The court or Panel—
- <sup>F83</sup>(a) must grant the application if satisfied that the ground on which the application is made is correct, and]
  - (b) otherwise must reject it.
- (4) If the court or Panel grants the application it must issue <sup>F84</sup>a correct, or a corrected,] gender recognition certificate to the applicant.

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*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

#### Textual Amendments

- F81** S. 6 title substituted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 6\(a\)](#); S.I. 2014/3169, art. 2
- F82** S. 6(1) substituted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 6\(b\)](#); S.I. 2014/3169, art. 2
- F83** S. 6(3)(a) substituted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 6\(c\)](#); S.I. 2014/3169, art. 2
- F84** Words in s. 6(4) substituted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 6\(d\)](#); S.I. 2014/3169, art. 2

### 7 Applications: supplementary

- (1) An application to a Gender Recognition Panel under section 1(1), <sup>[F85 4A, ]</sup>[<sup>F86</sup>4C, 4F,] 5(2) <sup>[F87, 5A(2)]</sup> or 6(1) must be made in a form and manner specified by the Secretary of State after consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland.
- (2) The applicant must pay to the Secretary of State a non-refundable fee of an amount prescribed by order made by the Secretary of State unless the application is made in circumstances in which, in accordance with provision made by the order, no fee is payable; and fees of different amounts may be prescribed for different circumstances.

#### Textual Amendments

- F85** Word in s. 7 inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 7](#); S.I. 2014/3169, art. 2
- F86** Words in s. 7(1) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 2 para. 19\(1\)](#); S.S.I. 2014/287, art. 3, Sch.
- F87** Word in s. 7(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), ss. 250\(5\)\(a\), 263](#); S.I. 2005/3175, art. 3, Sch. 2

### 8 Appeals etc.

- (1) An applicant to a Gender Recognition Panel under section 1(1), <sup>[F88 4A, ]</sup>[<sup>F89</sup>4C, 4F,] 5(2) <sup>[F90, 5A(2)]</sup> or 6(1) may appeal to the High Court <sup>[F91, family court]</sup> or Court of Session on a point of law against a decision by the Panel to reject the application.
- (2) An appeal under subsection (1) must be heard in private if the applicant so requests.
- (3) On such an appeal the court must—
  - (a) allow the appeal and issue the certificate applied for,
  - (b) allow the appeal and refer the matter to the same or another Panel for re-consideration, or
  - (c) dismiss the appeal.
- (4) If an application under section 1(1) is rejected, the applicant may not make another application before the end of the period of six months beginning with the date on which it is rejected.
- (5) If an application under section 1(1), <sup>[F92 4A, ]</sup>[<sup>F93</sup>4C, 4E, 4F,] 5(2) <sup>[F94, 5A(2)]</sup> or 6(1) is granted but the Secretary of State considers that its grant was secured by fraud, the

*Status: Point in time view as at 02/12/2019.*

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Secretary of State may refer the case to the High Court [<sup>F95</sup>, family court ] or Court of Session.

[<sup>F96</sup>(5A) If an application under section 1(1), 4A, 5(2), 5A(2) or 6(1) is granted, the applicant's spouse [<sup>F97</sup>or civil partner] may apply to the High Court or Court of Session to quash the decision to grant the application on the grounds that its grant was secured by fraud.]

[<sup>F98</sup>(5B) If an application under section 1(1), 4C, 4E, 4F, 5(2), 5A(2) or 6(1) is granted, the applicant's spouse or civil partner may apply to the Court of Session to quash the decision to grant the application on the grounds that its grant was secured by fraud.]

[<sup>F99</sup>(5C) If an application under section 4C is granted, the applicant's spouse or civil partner may apply to the High Court to quash the decision to grant the application on the grounds that its grant was secured by fraud.]

(6) On a reference under subsection (5) [<sup>F100</sup>or an application under subsection (5A) ] [<sup>F101</sup>or an application under subsection (5B)] the court—

- (a) must either quash or confirm the decision to grant the application, and
- (b) if it quashes it, must revoke the gender recognition certificate issued on the grant of the application and may make any order which it considers appropriate in consequence of, or otherwise in connection with, doing so.

#### Textual Amendments

**F88** Word in s. 8(1) inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 8\(a\)](#); S.I. 2014/3169, art. 2

**F89** Words in s. 8(1) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 2 para. 8\(a\)](#); S.S.I. 2014/287, art. 3, Sch.

**F90** Word in s. 8(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), ss. 250\(5\)\(b\)](#), 263; S.I. 2005/3175, art. 3, Sch. 2

**F91** Words in s. 8(1) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 160](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**F92** Word in s. 8(5) inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 8\(b\)](#); S.I. 2014/3169, art. 2

**F93** Words in s. 8(5) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 2 para. 8\(b\)](#); S.S.I. 2014/287, art. 3, Sch.

**F94** Words in s. 8(5) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), ss. 250\(5\)\(b\)](#), 263; S.I. 2005/3175, art. 3, Sch. 2

**F95** Word in s. 8(5) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(3\), Sch. 11 para. 160](#); S.I. 2014/954, art. 2(e) (with art. 3) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

**F96** S. 8(5A) inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 8\(c\)](#); S.I. 2014/3169, art. 2

**F97** Words in s. 8(5A) inserted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\), regs. 1\(2\), 31](#) (with reg. 35)

**F98** S. 8(5B) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 2 para. 8\(c\)](#); S.S.I. 2014/287, art. 3, Sch.

**F99** S. 8(5C) inserted (S.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\), art. 1\(2\), Sch. 5 para. 15\(5\)](#)

**F100** Words in s. 8(6) inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 8\(d\)](#); S.I. 2014/3169, art. 2



*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

**F101** Words in s. 8(6) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 8\(d\)](#); S.S.I. 2014/287, art. 3, Sch.

*Consequences of issue of gender recognition certificate etc.*

## 9 General

- (1) Where a full gender recognition certificate is issued to a person, the person's gender becomes for all purposes the acquired gender (so that, if the acquired gender is the male gender, the person's sex becomes that of a man and, if it is the female gender, the person's sex becomes that of a woman).
- (2) Subsection (1) does not affect things done, or events occurring, before the certificate is issued; but it does operate for the interpretation of enactments passed, and instruments and other documents made, before the certificate is issued (as well as those passed or made afterwards).
- (3) Subsection (1) is subject to provision made by this Act or any other enactment or any subordinate legislation.

## 10 Registration

- (1) Where there is a UK birth register entry in relation to a person to whom a full gender recognition certificate is issued, the Secretary of State must send a copy of the certificate to the appropriate Registrar General.

[<sup>F102</sup>(1A) Where a full gender recognition certificate is issued to a person who is a party to—  
(a) a marriage under the law of England and Wales, or  
(b) a civil partnership under that law,  
the Secretary of State must send a copy of the certificate to the Registrar General for England and Wales.]

[<sup>F103</sup>(1B) Where a full gender recognition certificate is issued by a Gender Recognition Panel or the sheriff to a person who is a party to a protected Scottish marriage or a protected Scottish civil partnership, the Panel must send a copy of the certificate to the Registrar General for Scotland.]

- (2) In this Act “UK birth register entry”, in relation to a person to whom a full gender recognition certificate is issued, means—
  - (a) an entry of which a certified copy is kept by a Registrar General, or
  - (b) an entry in a register so kept,  
containing a record of the person's birth or adoption (or, if there would otherwise be more than one, the most recent).
- (3) “The appropriate Registrar General” means whichever of—
  - (a) the Registrar General for England and Wales,
  - (b) the Registrar General for Scotland, or
  - (c) the Registrar General for Northern Ireland,keeps a certified copy of the person's UK birth register entry or the register containing that entry.
- (4) Schedule 3 (provisions about registration) has effect.

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

### Textual Amendments

**F102** S. 10(1A) inserted (30.6.2014 for specified purposes, 10.12.2014 in so far as not already in force) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), [Sch. 5 para. 9\(1\)](#); S.I. 2014/1662, art. 2(b); S.I. 2014/3169, art. 2

**F103** S. 10(1B) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 9\(1\)](#); S.S.I. 2014/287, art. 3, Sch.

## 11 Marriage

Schedule 4 (amendments of marriage law) has effect.

### [<sup>F104</sup>11A Change in gender of party to marriage

- (1) This section applies in relation to a protected marriage if (by virtue of section 4(2)(b) or 4A) a full gender recognition certificate is issued to a party to the marriage.
- (2) The continuity of the protected marriage is not affected by the relevant change in gender.
- (3) If the protected marriage is a foreign marriage—
  - (a) the continuity of the marriage continues by virtue of subsection (2) notwithstanding any impediment under the proper law of the marriage;
  - (b) the proper law of the marriage is not affected by its continuation by virtue of subsection (2).

- (4) In this section—

“foreign marriage” means a marriage under the law of a country or territory outside the United Kingdom;

“impediment” means anything which affects the continuation of a marriage merely by virtue of the relevant change in gender;

“proper law”, in relation to a protected marriage, means the law of the country or territory under which the marriage was entered into;

“relevant change in gender” means the change or changes of gender occurring by virtue of the issue of the full gender recognition certificate or certificates. ]

### Textual Amendments

**F104** S. 11A inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), [Sch. 5 para. 10](#); S.I. 2014/3169, art. 2

### [<sup>F105</sup>11B Change in gender of civil partner **E+W**

- (1) This section applies in relation to a protected civil partnership if (by virtue of section 4(2)(c) or 4A) a full gender recognition certificate is issued to a party to the partnership.
- (2) The continuity of the protected civil partnership is not affected by the relevant change in gender.

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

- (3) If the protected civil partnership is a protected overseas relationship—
- (a) the continuity of the civil partnership continues by virtue of subsection (2) notwithstanding any impediment under the relevant law;
  - (b) the relevant law is not affected by the continuation of the civil partnership by virtue of subsection (2).

- (4) In this section—

“impediment” means anything which would affect the continuation of the overseas relationship merely by virtue of the relevant change in gender;

“relevant change in gender” means the change or changes in gender occurring by virtue of the issue of the full gender recognition certificate or certificates;

“relevant law”, in relation to the protected overseas relationship in question, has the same meaning as in Chapter 2 of Part 5 of the Civil Partnership Act 2004.]

#### Extent Information

- E1** This version of this provision extends to England and Wales only; a separate version has been created for Scotland and Northern Ireland only

#### Textual Amendments

- F105** S. 11B substituted (E.W.) (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **32** (with reg. 35)

### [<sup>F134</sup>11B Change in gender of civil partner **S+N.I.**

The continuity of a civil partnership is not affected by the issuing of full gender recognition certificates (by virtue of section 4(2)(c)) to both civil partners.]

#### Extent Information

- E2** This version of this provision extends to Scotland and Northern Ireland only; a separate version has been created for England and Wales only

#### Textual Amendments

- F134** S. 11B inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), **Sch. 5 para. 11**; [S.I. 2014/3169](#), **art. 2**

### [<sup>F106</sup>11C Continuity of marriage: Scotland

- (1) This section applies in relation to a protected Scottish marriage if (by virtue of section 4(3C)(a), 4C or 4E) a full gender recognition certificate is issued to a party to the marriage.
- (2) The continuity of the protected Scottish marriage is not affected by the issuing of a full gender recognition certificate.

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

### Textual Amendments

**F106** Ss. 11C, 11D inserted (E.W) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), **Sch. 5 para. 15(6)**; and inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, Sch. 2 paras. 10, **11**; [S.S.I. 2014/287](#), art. 3, **Sch.**; and which insertion is extended to N.I. (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **45(2)** (with regs. 6-9)

## 11D Continuity of civil partnership: Scotland

The continuity of a protected Scottish civil partnership is not affected by the issuing of full gender recognition certificates (by virtue of section 4(3C)(b)) to both civil partners.]

### Textual Amendments

**F106** Ss. 11C, 11D inserted (E.W) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), **Sch. 5 para. 15(6)**; and inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, Sch. 2 paras. 10, **11**; [S.S.I. 2014/287](#), art. 3, **Sch.**; and which insertion is extended to N.I. (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **45(2)** (with regs. 6-9)

## 12 Parenthood

The fact that a person's gender has become the acquired gender under this Act does not affect the status of the person as the father or mother of a child.

## 13 Social security benefits and pensions

Schedule 5 (entitlement to benefits and pensions) has effect.

## 14 Discrimination

Schedule 6 (amendments of Sex Discrimination Act 1975 (c. 65) and Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15))) has effect.

## 15 Succession etc.

The fact that a person's gender has become the acquired gender under this Act does not affect the disposal or devolution of property under a will or other instrument made before the appointed day.

## 16 Peerages etc.

The fact that a person's gender has become the acquired gender under this Act—  
(a) does not affect the descent of any peerage or dignity or title of honour, and

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*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

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- (b) does not affect the devolution of any property limited (expressly or not) by a will or other instrument to devolve (as nearly as the law permits) along with any peerage or dignity or title of honour unless an intention that it should do so is expressed in the will or other instrument.

## **17 Trustees and personal representatives**

- (1) A trustee or personal representative is not under a duty, by virtue of the law relating to trusts or the administration of estates, to enquire, before conveying or distributing any property, whether a full gender recognition certificate has been issued to any person or revoked (if that fact could affect entitlement to the property).
- (2) A trustee or personal representative is not liable to any person by reason of a conveyance or distribution of the property made without regard to whether a full gender recognition certificate has been issued to any person or revoked if the trustee or personal representative has not received notice of the fact before the conveyance or distribution.
- (3) This section does not prejudice the right of a person to follow the property, or any property representing it, into the hands of another person who has received it unless that person has purchased it for value in good faith and without notice.

## **18 Orders where expectations defeated**

- (1) This section applies where the disposition or devolution of any property under a will or other instrument (made on or after the appointed day) is different from what it would be but for the fact that a person's gender has become the acquired gender under this Act.
- (2) A person may apply to the High Court or Court of Session for an order on the ground of being adversely affected by the different disposition or devolution of the property.
- (3) The court may, if it is satisfied that it is just to do so, make in relation to any person benefiting from the different disposition or devolution of the property such order as it considers appropriate.
- (4) An order may, in particular, make provision for—
  - (a) the payment of a lump sum to the applicant,
  - (b) the transfer of property to the applicant,
  - (c) the settlement of property for the benefit of the applicant,
  - (d) the acquisition of property and either its transfer to the applicant or its settlement for the benefit of the applicant.
- (5) An order may contain consequential or supplementary provisions for giving effect to the order or for ensuring that it operates fairly as between the applicant and the other person or persons affected by it; and an order may, in particular, confer powers on trustees.

## **[<sup>F107</sup>19 Sport**

- (1) A body responsible for regulating the participation of persons as competitors in an event or events involving a gender-affected sport may, if subsection (2) is satisfied,

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

prohibit or restrict the participation as competitors in the event or events of persons whose gender has become the acquired gender under this Act.

- (2) This subsection is satisfied if the prohibition or restriction is necessary to secure—
  - (a) fair competition, or
  - (b) the safety of competitors,
 at the event or events.
- (3) “Sport” means a sport, game or other activity of a competitive nature.
- (4) A sport is a gender-affected sport if the physical strength, stamina or physique of average persons of one gender would put them at a disadvantage to average persons of the other gender as competitors in events involving the sport.
- (5) This section does not affect—
  - (a) section 44 of the Sex Discrimination Act 1975 (c. 65) (exception from Parts 2 to 4 of that Act for acts related to sport), or
  - (b) Article 45 of the Sex Discrimination (Northern Ireland) Order 1976 ( S.I. 1976/1042 (N.I. 15)) (corresponding provision for Northern Ireland). ]

#### Textual Amendments

**F107** S. 19 repealed (E.W.S.) by Equality Act 2010, Sch 27 Pt. 1 (as substituted (1.10.2010) by [S.I. 2010/2279](#), [art. 1\(2\)](#), [Sch. 2](#) (see [S.I. 2010/2317](#), [art. 2](#)))

## 20 Gender-specific offences

- (1) Where (apart from this subsection) a relevant gender-specific offence could be committed or attempted only if the gender of a person to whom a full gender recognition certificate has been issued were not the acquired gender, the fact that the person’s gender has become the acquired gender does not prevent the offence being committed or attempted.
- (2) An offence is a “relevant gender-specific offence” if—
  - (a) either or both of the conditions in subsection (3) are satisfied, and
  - (b) the commission of the offence involves the accused engaging in sexual activity.
- (3) The conditions are—
  - (a) that the offence may be committed only by a person of a particular gender, and
  - (b) that the offence may be committed only on, or in relation to, a person of a particular gender,
 and the references to a particular gender include a gender identified by reference to the gender of the other person involved.

## 21 Foreign gender change and marriage

- (1) A person’s gender is not to be regarded as having changed by reason only that it has changed under the law of a country or territory outside the United Kingdom.

[<sup>F108</sup>(1A) Subsections (2) to (5) apply only in <sup>F109</sup> ... Northern Ireland. ]

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

- [<sup>F110</sup>(2) [<sup>F111</sup>In accordance with subsection (1),] a person is not to be regarded as being married by reason of having entered into a foreign post-recognition marriage.
- (3) But if a full gender recognition certificate is issued to a person who has entered into a foreign post-recognition marriage, after the issue of the certificate the marriage is no longer to be regarded as being void on the ground that (at the time when it was entered into) the parties to it were not respectively male and female.
- (4) However, subsection (3) does not apply to a foreign post-recognition marriage if a party to it has entered into a later (valid) marriage [<sup>F112</sup>or civil partnership] before the issue of the full gender recognition certificate.
- (5) For the purposes of this section a person has entered into a foreign post-recognition marriage if (and only if)—
- (a) the person has entered into a marriage in accordance with the law of a country or territory outside the United Kingdom,
  - (b) before the marriage was entered into the person had changed gender under the law of that or any other country or territory outside the United Kingdom,
  - (c) the other party to the marriage was not of the gender to which the person had changed under the law of that country or territory, and
  - (d) by virtue of subsection (1) the person's gender was not regarded as having changed under the law of any part of the United Kingdom.]
- (6) Nothing in this section prevents the exercise of any enforceable [<sup>F113</sup>EU] right.

#### Textual Amendments

- F108** S. 21(1A) inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), **Sch. 5 para. 12(a)**; S.I. 2014/3169, art. 2
- F109** Words in s. 21(1A) omitted (16.12.2014) by virtue of [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), **Sch. 5 para. 15(7)**
- F110** S. 21(2)-(5) repealed (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, **Sch. 2 para. 12**; S.S.I. 2014/287, art. 3, Sch.
- F111** Words in s. 21(2) substituted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), **Sch. 5 para. 12(b)**; S.I. 2014/3169, art. 2
- F112** Words in s. 21(4) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(6)**, 263; S.I. 2005/3175, **art. 3**, Sch. 2
- F113** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

### Supplementary

## 22 Prohibition on disclosure of information

- (1) It is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person.
- (2) “Protected information” means information which relates to a person who has made an application under section 1(1) and which—

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*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

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- (a) concerns that application or any application by the person under section [F114]4A, [F115]4C, 4F,] 5(2) [F116, 5A(2)] or 6(1), or
  - (b) if the application under section 1(1) is granted, otherwise concerns the person's gender before it becomes the acquired gender.
- (3) A person acquires protected information in an official capacity if the person acquires it—
- (a) in connection with the person's functions as a member of the civil service, a constable or the holder of any other public office or in connection with the functions of a local or public authority or of a voluntary organisation,
  - (b) as an employer, or prospective employer, of the person to whom the information relates or as a person employed by such an employer or prospective employer, or
  - (c) in the course of, or otherwise in connection with, the conduct of business or the supply of professional services.
- (4) But it is not an offence under this section to disclose protected information relating to a person if—
- (a) the information does not enable that person to be identified,
  - (b) that person has agreed to the disclosure of the information,
  - (c) the information is protected information by virtue of subsection (2)(b) and the person by whom the disclosure is made does not know or believe that a full gender recognition certificate has been issued,
  - (d) the disclosure is in accordance with an order of a court or tribunal,
  - (e) the disclosure is for the purpose of instituting, or otherwise for the purposes of, proceedings before a court or tribunal,
  - (f) the disclosure is for the purpose of preventing or investigating crime,
  - (g) the disclosure is made to the Registrar General for England and Wales, the Registrar General for Scotland or the Registrar General for Northern Ireland,
  - (h) the disclosure is made for the purposes of the social security system or a pension scheme,
  - (i) the disclosure is in accordance with provision made by an order under subsection (5), or
  - (j) the disclosure is in accordance with any provision of, or made by virtue of, an enactment other than this section.
- (5) The Secretary of State may by order make provision prescribing circumstances in which the disclosure of protected information is not to constitute an offence under this section.
- (6) The power conferred by subsection (5) is exercisable by the Scottish Ministers (rather than the Secretary of State) where the provision to be made is within the legislative competence of the Scottish Parliament.
- [F117](6A) The power conferred by subsection (5) is exercisable by the Department of Justice in Northern Ireland (rather than the Secretary of State) where the provision to be made could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).]
- (7) An order under subsection (5) may make provision permitting—
- (a) disclosure to specified persons or persons of a specified description,
  - (b) disclosure for specified purposes,



*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

- (c) disclosure of specified descriptions of information, or
  - (d) disclosure by specified persons or persons of a specified description.
- (8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

- F114** Word in s. 22(2)(a) inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 13; S.I. 2014/3169, art. 2](#)
- F115** Words in s. 22(2)(a) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 2 para. 19\(2\); S.S.I. 2014/287, art. 3, Sch.](#)
- F116** Words in s. 22(2)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\), ss. 250\(5\)\(c\), 263; S.I. 2005/3175, art. 3, Sch. 2](#)
- F117** S. 22(6A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\), art. 1\(2\), Sch. 14 para. 83\(2\) \(with arts. 28-31\)](#)

## 23 Power to modify statutory provisions

- (1) The Secretary of State may by order make provision for modifying the operation of any enactment or subordinate legislation in relation to—
- (a) persons whose gender has become the acquired gender under this Act, or
  - (b) any description of such persons.
- (2) The power conferred by subsection (1) is exercisable by the Scottish Ministers (rather than the Secretary of State) where the provision to be made is within the legislative competence of the Scottish Parliament.
- (3) The appropriate Northern Ireland department may by order make provision for modifying the operation of any enactment or subordinate legislation which deals with a transferred matter in relation to—
- (a) persons whose gender has become the acquired gender under this Act, or
  - (b) any description of such persons.
- (4) In subsection (3)—
- “the appropriate Northern Ireland department”, in relation to any enactment or subordinate legislation which deals with a transferred matter, means the Northern Ireland department which has responsibility for that matter,
  - “deals with” is to be construed in accordance with section 98(2) and (3) of the Northern Ireland Act 1998 (c. 47), and
  - “transferred matter” has the meaning given by section 4(1) of that Act.
- (5) Before an order is made under this section, appropriate consultation must be undertaken with persons likely to be affected by it.

#### Modifications etc. (not altering text)

- C5** S. 23 modified (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\)\(4\), Sch. 12 para. 47](#)
- C6** S. 23(3)(4) modified (N.I.) (6.4.2016 unless brought into operation earlier by an order under s. 53(1) of the amending Act) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\), Sch. 12 para. 42](#)

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

## 24 Orders and regulations

- (1) Any power of the Secretary of State, <sup>F118</sup>..., the Scottish Ministers or a Northern Ireland department to make an order under this Act includes power to make any appropriate incidental, supplementary, consequential or transitional provision or savings.
  - (2) Any power of the Secretary of State, <sup>F118</sup>... or the Scottish Ministers to make an order under this Act, and any power of the Registrar General for England and Wales or the Registrar General for Scotland to make regulations under this Act, is exercisable by statutory instrument.
  - (3) No order may be made under section 2 <sup>F119</sup>... unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
  - (4) A statutory instrument containing an order made by the Secretary of State under section 7, 22 or 23 is subject to annulment in pursuance of a resolution of either House of Parliament.
  - (5) A statutory instrument containing an order made by the Scottish Ministers under section [<sup>F120</sup>3D(6)(b),] 22 or 23 is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- [<sup>F121</sup>(5A) Regulations made by the Registrar General for Scotland under paragraph 20A of Schedule 3 are subject to the negative procedure.
- (5B) An order under section 3C(5)(b)(ii) or 5D(1) is subject to the affirmative procedure.]
- (6) Any power of a Northern Ireland department to make an order or regulations under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
  - (7) Orders and regulations made by a Northern Ireland department under this Act are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.))).

### Textual Amendments

**F118** Words in s. 24(1)(2) repealed (8.1.2007) by [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#), ss. 30, 33, [Sch.](#) (with s. 30(2)-(5))

**F119** Words in s. 24(3) repealed (8.1.2007) by [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#), ss. 30, 33, [Sch.](#) (with s. 30(2)-(5))

**F120** Word in s. 24(5) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 19\(3\)\(a\)](#); S.S.I. 2014/287, art. 3, [Sch.](#)

**F121** S. 24(5A)(5B) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 19\(3\)\(b\)](#); S.S.I. 2014/287, art. 3, [Sch.](#)

## 25 Interpretation

[<sup>F122</sup>(1)] In this Act—

“the acquired gender” is to be construed in accordance with section 1(2),

“approved country or territory” has the meaning given by section 2(4),

“the appointed day” means the day appointed by order under section 26,

<sup>F123</sup>

.....

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

“enactment” includes an enactment contained in an Act of the Scottish Parliament or in any Northern Ireland legislation,

“ full gender recognition certificate ”and “ interim gender recognition certificate ” mean the certificates issued as such under section 4 <sup>[<sup>F124</sup>]</sup>, <sup>[<sup>F125</sup>]</sup> 5 or 5A <sup>[<sup>F125</sup>4C, 4E, 4F, 5, 5A or 5D]]</sup> and “gender recognition certificate” means either of those sorts of certificate,

“gender dysphoria” means the disorder variously referred to as gender dysphoria, gender identity disorder and transsexualism,

“Gender Recognition Panel” (and “Panel”) is to be construed in accordance with Schedule 1,

<sup>[<sup>F126</sup>]</sup>“protected civil partnership” <sup>[<sup>F127</sup>]</sup>means—

- (a) a civil partnership under the law of England or Wales, or
  - (a) an overseas relationship that is treated as a civil partnership by virtue of Chapter 2 of Part 5 of the Civil Partnership Act 2004,
- and “protected overseas relationship” means a protected civil partnership within paragraph (b),]

“ protected marriage ” means—

- (a) a marriage under the law of England and Wales, or
- (b) a marriage under the law of a country or territory outside the United Kingdom,]

<sup>[<sup>F128</sup>]</sup>“protected Scottish civil partnership” means a civil partnership registered in Scotland,

“protected Scottish marriage” means a marriage solemnised in Scotland, ]

<sup>[<sup>F129</sup>]</sup> “ registered psychologist ” means a person registered in the part of the register maintained under <sup>[<sup>F130</sup>]</sup>the Health Professions Order 2001] which relates to practitioner psychologists; ]

<sup>[<sup>F131</sup>]</sup> “ statutory declaration of consent ” has the meaning given by section 3(6B)(a), ]

“ subordinate legislation ” means an Order in Council, an order, rules, regulations, a scheme, a warrant, bye-laws or any other instrument made under an enactment, and

“ UK birth register entry ” has the meaning given by section 10(2).

- <sup>[<sup>F132</sup>]</sup>(2) A civil partnership which was registered outside the United Kingdom under an Order in Council made under Chapter 1 of Part 5 of the Civil Partnership Act 2004 is to be treated for the purposes of this Act as having been registered in Scotland if—
  - (a) the parties to the civil partnership elected Scotland as the relevant part of the United Kingdom under the Order, and
  - (b) details of the civil partnership have been sent to the Registrar General for Scotland.
- (3) A marriage which was registered outside the United Kingdom under the Foreign Marriage Act 1892 (other than a marriage registered by virtue of section 18 of that Act) is to be treated for the purposes of this Act as having been solemnised in Scotland if details of the marriage have been sent to the Registrar General for Scotland.
- (4) A marriage which was solemnised outside the United Kingdom and registered under an Order in Council made under the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957 is to be treated for the purposes of this Act as having

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

been solemnised in Scotland if details of the marriage have been sent to the Registrar General for Scotland.

(5) A consular marriage in relation to which the relevant part of the United Kingdom is Scotland is to be treated for the purposes of this Act as having been solemnised in Scotland.

(6) In subsection (5)—

“consular marriage” means a marriage solemnised in accordance with Part 1 of Schedule 6 to the Marriage (Same Sex Couples) Act 2013 and any Order in Council made under it,

“relevant part of the United Kingdom”, in relation to such a marriage, means the part of the United Kingdom determined in accordance with paragraph 1(2)(b) of that Part of that Schedule for the purposes of the marriage. ]

#### Textual Amendments

**F122** S. 25 renumbered as s. 25(1) (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, Sch. 2 para. 2(a); [S.S.I. 2014/287](#), art. 3, Sch.

**F123** S. 25: definition of "chartered psychologist" omitted (1.7.2009) by virtue of [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 4(2), **Sch. 5 para. 8(b)** (with arts. 9, 10); [S.I. 2009/1357](#), **art. 2(d)**

**F124** Words in s. 25 substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(7)**, 263; [S.I. 2005/3175](#), art. 3, **Sch. 2**

**F125** Words in s. 25(1) substituted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, **Sch. 2 para. 2(b)**; [S.S.I. 2014/287](#), art. 3, **Sch.**

**F126** S. 25: definitions of "protected civil partnership" and "protected marriage" inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), **Sch. 5 para. 14(a)**; [S.I. 2014/3169](#), **art. 2**

**F127** Words in s. 25 substituted (E.W.) (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **33** (with reg. 35)

**F128** Words in s. 25(1) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, **Sch. 2 para. 2(c)**; [S.S.I. 2014/287](#), art. 3, **Sch.**; and inserted (E.W.N.I.) (27.1.2022) by [The Civil Partnership \(Scotland\) Act 2020 and Marriage and Civil Partnership \(Scotland\) Act 2014 \(Consequential Modifications\) Order 2022 \(S.I. 2022/74\)](#), art. 1, **Sch. 1 para. 1(5)**

**F129** S. 25: definition of "registered psychologist" inserted (1.7.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 4(2), **Sch. 5 para. 8(b)** (with arts. 9, 10); [S.I. 2009/1357](#), **art. 2(d)**

**F130** Words in s. 25 substituted (2.12.2019) by [Children and Social Work Act 2017 \(c. 16\)](#), s. 70(2), **Sch. 5 para. 48(d)**; [S.I. 2019/1436](#), reg. 2(s)

**F131** S. 25: definition of "statutory declaration of consent" inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), **Sch. 5 para. 14(b)**; [S.I. 2014/3169](#), art. 2

**F132** S. 25(2)-(6) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, **Sch. 2 para. 2(d)**; [S.S.I. 2014/287](#), art. 3, **Sch.**

## 26 Commencement

Apart from sections 23 to 25, this section and sections 28 and 29, this Act does not come into force until such day as the Secretary of State may appoint by order made after consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland.

*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

**Subordinate Legislation Made**

P1 S. 26 power fully exercised: 4.5.2005 appointed by {S.I. 2005/54}, art. 2

**27 Applications within two years of commencement**

- (1) This section applies where applications are made under section 1(1)(a) during the period of two years beginning with the appointed day (“the initial period”).
- (2) Section 2(1)(a) has effect as if there were inserted at the end “or has undergone surgical treatment for the purpose of modifying sexual characteristics,”.
- (3) In the case of an application which—
  - (a) is made during the first six months of the initial period, or
  - (b) is made during the rest of the initial period and is based on the applicant having undergone surgical treatment for the purpose of modifying sexual characteristics,section 2(1)(b) has effect as if for “two” there were substituted “six”.
- (4) Subsections (5) and (6) apply in the case of an application to which subsection (3) applies and in the case of an application—
  - (a) made during the rest of the initial period,
  - (b) based on the applicant having or having had gender dysphoria, and
  - (c) including a statutory declaration by the applicant that the applicant has lived in the acquired gender throughout the period of six years ending with the date on which the application is made.
- (5) Section 3 has effect as if for subsections (1) to (3) there were substituted—
  - “(1) An application under section 1(1)(a) must include either—
    - (a) a report made by a registered medical practitioner, or
    - (b) a report made by a [<sup>F133</sup>registered psychologist] practising in the field of gender dysphoria.
  - (2) Where the application is based on the applicant having or having had gender dysphoria—
    - (a) the reference in subsection (1) to a registered medical practitioner is to one practising in the field of gender dysphoria, and
    - (b) that subsection is not complied with unless the report includes details of the diagnosis of the applicant’s gender dysphoria.
  - (3) Subsection (1) is not complied with in a case where—
    - (a) the applicant has undergone or is undergoing treatment for the purpose of modifying sexual characteristics, or
    - (b) treatment for that purpose has been prescribed or planned for the applicant,unless the report required by that subsection includes details of it.”
- (6) Paragraph 4(2) of Schedule 1 has effect with the omission of paragraph (b).

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*Status: Point in time view as at 02/12/2019.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)*

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### Textual Amendments

**F133** Words in s. 27(5) substituted (1.7.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 4(2), [Sch. 5 para. 8\(c\)](#) (with arts. 9, 10); S.I. 2009/1357, [art. 2\(d\)](#)

## 28 Extent

- (1) The following provisions extend only to England and Wales—
  - (a) Part 1 of Schedule 2,
  - (b) Part 1 of Schedule 3, and
  - (c) Part 1 of Schedule 4.
- (2) The following provisions extend only to Scotland—
  - (a) section 24(5),
  - (b) Part 2 of Schedule 2,
  - (c) Part 2 of Schedule 3, and
  - (d) Part 2 of Schedule 4.
- (3) The following provisions extend only to England and Wales and Scotland—
  - (a) paragraphs 12, 14 and 16 of Schedule 5, and
  - (b) Part 1 of Schedule 6.
- (4) The following provisions extend only to Northern Ireland—
  - (a) section 23(3) and (4),
  - (b) section 24(6) and (7),
  - (c) Part 3 of Schedule 2,
  - (d) Part 3 of Schedule 3,
  - (e) Part 3 of Schedule 4,
  - (f) paragraphs 13, 15 and 17 of Schedule 5, and
  - (g) Part 2 of Schedule 6.
- (5) Subject to subsections (1) to (4), this Act extends to Northern Ireland (as well as to England and Wales and Scotland).

## 29 Short title

This Act may be cited as the Gender Recognition Act 2004.

**Status:**

Point in time view as at 02/12/2019.

**Changes to legislation:**

There are currently no known outstanding effects for the Gender Recognition Act 2004.