



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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Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004, Cross Heading: Applications for gender recognition certificate. (See end of Document for details)

- (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.

[^{F1}(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.]

- (3) The Panel must reject an application under section 1(1) if not required by subsection (1) or (2) to grant it.
- (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](#)

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 [^{F2}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 [^{F2}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—
- (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—

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- (a) a statutory declaration as to whether or not the applicant is married [^{F3}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.
- [^{F4}(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.
- (6B) If the applicant is married, and the marriage is a protected marriage, an application under section 1(1) 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 the applicant's spouse 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, the Gender Recognition Panel must give the spouse notice that the application has been made.]
- (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.
- [^{F5}(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.]

Textual Amendments

- F2** 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\(d\)](#)
- F3** 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](#)
- F4** 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](#)
- F5** 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](#)

[^{F6}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.

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- (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

F6 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

[^{F7}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.

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- (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.
- (8) If the applicant is married, and the marriage is a protected marriage, the application must also include—
 - (a) a statutory declaration of consent by the applicant's spouse (if the spouse has made such a declaration), or
 - (b) a statutory declaration by the applicant that the applicant's spouse has not made a statutory declaration of consent (if that is the case).
- (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

- F7** 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](#)

[^{F8}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—
 - (a) was living in the acquired gender six years before the commencement of section 29 of the Marriage and Civil Partnership (Scotland) Act 2014,

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- (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—
 - (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

- F8** S. 3C inserted (S.) (1.9.2014 for specified purposes) 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.)

[^{F9}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.

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- (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,
 - (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

- F9** S. 3D inserted (S.) (1.9.2014 for specified purposes) 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.)

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.
- [^{F10}(2) The certificate is to be a full gender recognition certificate if—
 - (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 the Panel has decided to issue a full gender recognition certificate to the other party to the civil partnership.
- (3) The certificate is to be an interim gender recognition certificate if—

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- (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) 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 has not made an application under section 1(1),
 - (d) the applicant is a party to a protected civil partnership and the Panel has decided not to issue a full gender recognition certificate to the other party to the civil partnership, or
 - (e) the applicant is a party to a civil partnership that is not a protected civil partnership.
- (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, the Panel must give the applicant's spouse notice of the issue of the certificate.
- (3B) Subsection (2)(c) is subject to section 5B.]
- (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

F10 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

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