

GENDER RECOGNITION ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 10: Registration

30. This provides the mechanisms by which individuals who have received recognition in the acquired gender and who have a UK birth register entry will have new entries created to reflect the acquired gender. *Subsection (4)* brings *Schedule 3* into effect. The UK has three Registrars General, covering England and Wales, Scotland, and Northern Ireland. There is separate legislation covering the functions of each and hence *Schedule 3* is divided into three parts.
31. *Paragraph 2* of *Schedule 3* requires the Registrar General for England and Wales to create a Gender Recognition Register (“GRR”). This Register will not be open to public inspection or search.
32. *Paragraph 3* ensures that the issue of a gender recognition certificate obliges the Registrar General to make an entry in the GRR and to mark the original entry referring to the birth (or adoption) of the transsexual person to show that the original entry has been superseded. This will ensure that caution is exercised when an application is received for a certificate from the original birth (or adoption) record. If applicants for a birth certificate provide details of the name recorded on the birth certificate, they will be issued with a certificate from the birth record. If they supply the details recorded on the GRR, they will receive a certificate compiled from the entry in the GRR. The mark linking the two entries will be chosen carefully to ensure that the fact that an entry is contained in the GRR is not apparent. The mark will not be included in any certificate compiled from the entries on the register.
33. *Paragraph 4* provides that the annual index to birth records will include entries relating to the GRR. Such entries will be recorded in the index in the year in which the new record is created. The entry for a transsexual person’s birth record will remain in the index for the year in which the birth was originally registered. The index will not disclose the fact that an entry relates to a record in the GRR.
34. *Paragraphs 5 and 6* make provision for certified copies to be made of any entry in the GRR and to be issued to anyone who would be entitled to a certified copy of the original entry relating to the transsexual person. They ensure that it will not be apparent from the certified copy that it is compiled from the GRR. Such certificates will look the same as any other birth (or adoption) certificate.
35. *Paragraph 7* gives the Register General the same power to re-register a birth recorded in the GRR to show a person as the father as a registrar would have under section 10 of the Births and Deaths Registration Act 1953. *Paragraph 8* gives the Registrar General the power to correct an entry in the GRR in the same way as the original entry could be corrected.
36. *Paragraph 9* provides for any entry in the GRR, or mark relating to that entry in the original register, to be cancelled if the gender recognition certificate is revoked.

*These notes refer to the Gender Recognition Act 2004
(c.7) which received Royal Assent on 1 July 2004*

Paragraph 10 provides that a certified copy of an entry in the GRR will have the same evidential value as a certified copy of the entry in the original register.

37. *Paragraph 11* gives the Chancellor of the Exchequer an express power to make an order amending Part 1 of *Schedule 3* in consequence of any order made under the Regulatory Reform Act 2001 which includes provisions in relation to the system of registration of births and adoptions in England and Wales. Any order made by the Chancellor under this paragraph must, by *section 24(3)* of the Act, be made by the affirmative resolution procedure. An order is expected to be made under the Regulatory Reform Act to reform the legislation relating to the registration of births, marriages and deaths. Because of the restrictions contained in the Regulatory Reform Act (which prevent an order made under that Act reforming any law passed less than two years before the order is made) it will not be possible for that order to contain provisions amending *Schedule 3*. Without the power conferred by paragraph 11, either the order would have to be delayed, or the GRR would need to be kept in the 'old' format even though the format of other registers had been updated.
38. *Parts 2 and 3* of *Schedule 3* make equivalent provision in relation to Scotland and Northern Ireland.