
STATUTORY INSTRUMENTS

2019 No. 1458

The Civil Partnership (Opposite-sex Couples) Regulations 2019

PART 5

Gender recognition

Gender Recognition Act 2004 amended

23. The Gender Recognition Act 2004(1) is amended as set out in regulations 24 to 34.

Ordinary applications: evidence about civil partnership

24.—(1) Section 3 is amended as follows.

(2) After subsection (6A)(2) insert—

“(6AA) If the applicant is a civil partner, an application under section 1(1) must include a 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.”.

(3) In subsection (6B)—

(a) in the words before paragraph (a)—

(i) after “married” insert “or a civil partner”;

(ii) after “the marriage” insert “or civil partnership”;

(iii) after “protected marriage” insert “or a protected civil partnership”;

(b) in paragraph (a)—

(i) after “spouse”, where it first occurs, insert “or civil partner”;

(ii) after “spouse”, in both remaining places it occurs, insert “or partner”;

(iii) after “marriage” insert “or partnership”;

(c) in paragraph (b), after “spouse” insert “or civil partner”.

(4) In subsection (6C)—

(a) after “spouse”, where it first occurs, insert “or civil partner”;

(b) after “spouse”, in the remaining place it occurs, insert “or partner”.

Applications on alternative ground: evidence about civil partnership

25.—(1) Section 3B(3) is amended as follows.

(1) 2004 c. 7.

(2) Section 3(6A)-(6C) was inserted by the Marriage (Same Sex Couples) Act 2013, Schedule 5, paragraph 2.

(3) Section 3B was added by the Marriage (Same Sex Couples) Act 2013, Schedule 5, paragraph 19.

(2) After subsection (7) insert—

“(7A) If the applicant is a civil partner, the application must include a 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.”

(3) In subsection (8)—

(a) in the words before paragraph (a)—

(i) after “married” insert “or a civil partner”;

(ii) after “the marriage” insert “or civil partnership”;

(iii) after “protected marriage” insert “or a protected civil partnership”;

(b) in paragraph (a)—

(i) after “spouse”, where it first occurs, insert “or civil partner”;

(ii) after “spouse”, in the remaining place it occurs, insert “or partner”;

(c) in paragraph (b), after “spouse” insert “or civil partner”.

(4) In subsection (9)—

(a) after “spouse”, where it first occurs, insert “or civil partner”;

(b) after “spouse”, in the remaining place it occurs, insert “or partner”.

Grant of full gender recognition certificate to one civil partner with consent of other partner

26.—(1) Section 4(4) is amended as follows.

(2) In subsection (2)(c), for the words from “the Panel” to the end substitute “the applicant’s civil partner consents to the civil partnership continuing after the issue of a full gender recognition certificate.”

(3) In subsection (3)—

(a) in paragraph (c), for the words from “has not made” to the end substitute “does not consent to the civil partnership continuing after the issue of a full gender recognition certificate, or”;

(b) omit paragraph (d) (including the final “or”).

(4) In subsection (3A)—

(a) after “protected marriage” insert “or a protected civil partnership”;

(b) after “spouse” insert “or civil partner”.

(5) Omit subsection (3B).

Grant of full certificate where other civil partner consents after interim certificate issued

27. In the italic heading before section 4A, after “married” insert “or a civil partner”.

28.—(1) Section 4A(5) is amended as follows.

(2) In the heading, after “Married person” insert “or civil partner”.

(3) In subsection (1), for “in either of the following cases” substitute “if subsection (2) applies”.

(4) In subsection (2)—

(4) Section 4(2) to (3B) was substituted for section 4(2) and (3) by the Marriage (Same Sex Couples) Act 2013, Schedule 5, paragraph 3.

(5) Section 4A was inserted by the Marriage (Same Sex Couples) Act 2013, Schedule 5, paragraph 4.

- (a) in the words before paragraph (a), for “Case A is where” substitute “This subsection applies if”;
- (b) in paragraph (b), after “protected marriage” insert “or a protected civil partnership”;
- (c) in paragraph (c), after “protected marriage” insert “or a protected civil partnership”;
- (d) in paragraph (d)—
 - (i) after “spouse” insert “or civil partner”;
 - (ii) after “marriage” insert “or civil partnership”.
- (5) Omit subsection (3).
- (6) In subsection (4), omit “or (3)”.
- (7) Omit subsection (6).
- (8) In subsection (7)—
 - (a) omit “or (3)”;
 - (b) after “spouse” insert “or civil partner”.
- (9) Omit subsection (8).
- (10) In subsection (9)—
 - (a) for “this section” substitute “subsection (2)”;
 - (b) after “spouse” insert “or civil partner”.
- (11) Omit subsection (10).

Grant of full gender recognition certificate after death of civil partner while section 4A application pending

- 29.**—(1) Section 4B(6) is amended as follows.
- (2) In the heading, after “spouse” insert “or civil partner”.
 - (3) In subsection (1)—
 - (a) in the words before paragraph (a)—
 - (i) omit “or (3)”;
 - (ii) after “spouse” insert “or civil partner”;
 - (b) in paragraph (a), after “has died” insert “or under section 5A(2) in a case where a civil partner has died”.
 - (4) In subsection (3)—
 - (a) in the definition of “new application”, after “section 5(2)” insert “or (as the case may be) section 5A(2)”;
 - (b) in the definition of “required evidence”, after “section 5(4)” insert “or (as the case may be) section 5A(4)”.

Removal of requirement for both civil partners to obtain full gender recognition certificate

- 30.** Omit section 5B(7).

(6) Section 4B was inserted by the Marriage (Same Sex Couples) Act 2013, Schedule 5, paragraph 4.

(7) Section 5B was inserted by the Marriage (Same Sex Couples) Act 2013, Schedule 5, paragraph 5.

Applications by civil partners to quash certificates secured by fraud

31. In section 8(5A)(8) , after “spouse” insert “or civil partner”.

Continuity of civil partnership on change of gender

32. For section 11B(9) substitute—

“Change in gender of civil partner

11B.—(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.

(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.”.

Amendment of definition relating to civil partnership to include overseas relationships

33. In section 25(10), in the definition of “protected civil partnership”, for the words from “means” to the end substitute—

“means—

- (a) a civil partnership under the law of England or Wales, or
- (b) 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),”.

Regulations about registration of civil partnership following a change of gender by either party

34. In Schedule 3, in paragraph 11A(3)(11), in the definition of “qualifying civil partnership”, for “each” substitute “one, or each,”.

(8) Section 8(5A) was inserted by the Marriage (Same Sex Couples) Act 2013, Schedule 5, paragraph 8(c).

(9) Section 11B was inserted by the Marriage (Same Sex Couples) Act 2013, Schedule 5, paragraph 11.

(10) The definition of “protected civil partnership” was inserted by the Marriage (Same Sex Couples) Act 2013, Schedule 5, paragraph 14(a).

(11) Schedule 3, paragraph 11A was inserted by the Marriage (Same Sex Couples) Act 2013, Schedule 5, paragraph 9(2).

Transitional provision about applications

35.—(1) This regulation applies where—

- (a) an application under section 1 or 4A(12) of the Gender Recognition Act 2004 (“the Act”) has been received by the Gender Recognition Panel (“the Panel”) before the date on which these Regulations come into force, and
- (b) the Panel has not, before that date, granted or rejected the application.

(2) Paragraphs (3) and (4) apply if it appears to the Panel that the outcome of the application may be different if the application were dealt with in accordance with the Act as amended by this Part.

(3) The Panel must—

- (a) inform the applicant of the difference of outcome that appears possible,
- (b) ask the applicant if he or she wishes for the application to be dealt with in accordance with the Act as amended by this Part, and
- (c) give the applicant a reasonable opportunity to provide any further information that would be required for the application to be so dealt with.

(4) If the applicant—

- (a) expresses a wish for the application to be dealt with in accordance with the Act as amended by this Part, and
- (b) duly provides any information required under paragraph (3)(c),

the Panel must deal with the application in accordance with the Act as amended by this Part.

(5) If paragraph (4) does not apply, the Panel must continue to deal with the application in accordance with the Act as it would have effect without the amendments made by this Part.

Registration of civil partnership following a change of gender by either party

36.—(1) The Gender Recognition Register (Marriage and Civil Partnership) Regulations 2015(13) are amended as follows.

(2) In regulation 2, after the definition of “civil partnership register entry” insert—

““civil partnership registrar” has the same meaning as in section 29 of the Civil Partnership Act 2004(14);”.

(3) In regulation 16—

- (a) in paragraph (1), after “paragraph (2)” insert “and regulations 16A to 16D”;
- (b) in paragraph (2), for “certificates granted to” substitute “certificate, or certificates, granted to one or”.
- (c) in paragraph (4), for “the parties’ civil partnership was” substitute “a civil partnership is registered in the Gender Recognition Civil Partnership Register as having been”;

(d) after paragraph (4) insert—

“(5) In regulations 16A to 16C—

- (a) references to a register office mean the register office that is agreed between the Registrar General and the parties to the qualifying civil partnership;
- (b) references to a civil partnership registrar are to a civil partnership registrar in post on the applicable date for the area in which the register office is situated;

(12) Section 4A was inserted by the Marriage (Same Sex Couples) Act 2013, Schedule 5, paragraph 4.

(13) S.I. 2015/50.

(14) Section 29 was amended by S.I. 2005/2000.

- (c) “applicable date” means the date on which the qualifying civil partnership is recorded in the Gender Recognition Civil Partnership Register as having been formed.”.

(4) After regulation 16 insert—

“Qualifying civil partnerships of opposite sex couples

16A.—(1) Unless the parties to the qualifying civil partnership specifically request the Registrar General to do so, the Registrar General must not register in the Gender Recognition Civil Partnership Register any of the particulars required by regulation 16(1) if to do so would indicate that a civil partnership was formed by two people of the opposite sex before the date on which the civil partnership could have been formed by virtue of the Civil Partnership (Opposite-sex Couples) Regulations 2019.

(2) If, by virtue of the prohibition in paragraph (1), the Registrar General is unable to register the date on which the qualifying civil partnership was formed, the civil partnership is to be registered as if it had been entered into on the date on which it is registered in the Gender Recognition Civil Partnership Register, and, except as mentioned in paragraphs (3) and (4), the particulars to be recorded (including particulars relating to the civil partnership registrar) must be those applicable on that date.

(3) Where paragraph (2) applies—

- (a) the condition of each of the parties is to be recorded in the Gender Recognition Civil Partnership Register as it was before they formed the civil partnership, in the manner prescribed under section 2(4) of the Civil Partnership Act 2004 on the applicable date (but see regulation 16(2));
- (b) the witnesses to the formation of the civil partnership are to be recorded in the Gender Recognition Civil Partnership Register as they were in the parties’ civil partnership register entry; and
- (c) subject to paragraph (4) and regulations 16B and 16C, the place at which the civil partnership was formed is to be registered in the Gender Recognition Civil Partnership Register as it was in the parties’ civil partnership register entry.

(4) If the place required to be registered under paragraph (3)(c) is a place at which, on the date of registration in the Gender Recognition Civil Partnership Register, the parties’ civil partnership could not be formed under the law of England and Wales, the civil partnership is to be registered as if it had been formed in a register office in the presence of a civil partnership registrar, in the manner prescribed on the applicable date under section 2(4) of the Civil Partnership Act 2004.

(5) Nothing in this regulation affects the continuity of any qualifying civil partnership.

Qualifying civil partnerships registered on religious premises

16B.—(1) The Registrar General must not register in the Gender Recognition Civil Partnership Register any particulars that would indicate that a qualifying civil partnership was formed on religious premises.

(2) Where paragraph (1) applies, the civil partnership is to be registered in the Gender Recognition Civil Partnership Register as if it had been formed in a register office in the presence of a civil partnership registrar, in the manner prescribed on the applicable date under section 2(4) of the Civil Partnership Act 2004.

Qualifying civil partnerships formed outside the United Kingdom

16C.—(1) Unless paragraph (2) applies, the Registrar General must not register in the Gender Recognition Civil Partnership Register any particulars that would indicate that a qualifying civil partnership was formed outside the United Kingdom according to the law of England and Wales.

(2) Paragraph (1) does not apply if the Registrar General is satisfied that the authorities of the country or territory in which the civil partnership was formed would not, on the applicable date, have objected to the formation of a civil partnership in that country or territory between two parties of the respective genders that are to be registered in the Gender Recognition Civil Partnership Register under regulation 16(1) and (2).

(3) Where paragraph (1) applies, the civil partnership is to be registered in the Gender Recognition Civil Partnership Register as if it had been formed in a register office in the presence of a civil partnership registrar, in the manner prescribed on the applicable date under section 2(4) of the Civil Partnership Act 2004.

Power to amend particulars

16D.—(1) The Registrar General may, after consulting the parties to a qualifying civil partnership, amend the particulars required to be registered under these Regulations as the Registrar General considers necessary to ensure that the particulars registered in the Gender Recognition Civil Partnership Register do not disclose that one party has, or both parties have, obtained a gender recognition certificate.

(2) Under paragraph (1), the Registrar General may, in particular, substitute for the name or names of one or both witnesses to the formation of the civil partnership the name or names of one or two other persons who were present at the formation of the civil partnership.”