



# 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.
- (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\(2\)](#)

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

- C1** S. 2(3A) extended to Northern Ireland (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\(2\), 42\(1\)](#) (with regs. 6-9)
- C2** S. 2(3C) extended to Northern Ireland (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\(2\), 43\(1\)](#) (with regs. 6-9)

### 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).

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- (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—
- (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.]

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- [<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—
    - (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.]
- [<sup>F18</sup>(6G) If the applicant is a party to a protected Scottish civil partnership, an application under section 1(1) must also include—
- (a) a statutory declaration by the applicant that the applicant wishes the civil partnership to continue after the issue of a full gender recognition certificate (if that is the case), and
  - (b) either—
    - (i) a statutory declaration by the applicant's civil partner that the civil partner consents to the civil partnership continuing after the issue of a full gender recognition certificate (“a statutory declaration of consent”) (if the civil partner has made such a declaration), or
    - (ii) a statutory declaration by the applicant that no such declaration by the applicant's civil partner is included.
- (6H) If an application includes a statutory declaration of consent by the applicant's civil partner under subsection (6G)(b)(i), the Gender Recognition Panel must give the civil partner 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.
- [<sup>F19</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>F20</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.]

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[<sup>F21</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)
- 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(6G)(6H) inserted (S.) (30.11.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 5(2)**; S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F19** 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
- F20** 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.
- F21** 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)**

### Modifications etc. (not altering text)

- C3** S. 3(9) extended to Northern Ireland (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), **reg. 42(1)** (with regs. 6-9)
- C4** S. 3(11) extended to Northern Ireland (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), **reg. 43(1)** (with regs. 6-9)

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### [<sup>F22</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 [<sup>F23</sup>(but see subsection (8))],
  - (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 [<sup>F24</sup>, Scotland or Northern Ireland].
- (7) The Panel must reject the application if not required by subsection (2) to grant it.]
- [<sup>F25</sup>(8) Where the applicant—
  - (a) is a party to a protected marriage that is a marriage under the law of Northern Ireland, or
  - (b) is a party to a protected civil partnership that is a civil partnership under the law of Northern Ireland, or
  - (c) is ordinarily resident in Northern Ireland,
 subsection (4)(a) has effect as if for the words after “was living in the acquired gender” there were substituted “on 13 January 2014”.]

#### Textual Amendments

- F22** 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](#)
- F23** Words in s. 3A(4)(a) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), [reg. 42\(3\)](#) (with regs. 6-9)
- F24** Words in s. 3A(6) substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), [reg. 42\(4\)](#) (with regs. 6-9)
- F25** S. 3A(8) inserted (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\(2\), 42\(5\)](#) (with regs. 6-9)

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

- C5** S. 3A extended to Northern Ireland (N.I.) (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), [reg. 42\(1\)](#) (with regs. 6-9)

**[<sup>F26</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>F27</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>F28</sup>or a civil partner], and the marriage [<sup>F29</sup>or civil partnership] is a protected marriage [<sup>F30</sup>or a protected civil partnership], the application must also include—

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- (a) a statutory declaration of consent by the applicant's spouse [<sup>F31</sup>or civil partner] (if the spouse [<sup>F32</sup>or partner] has made such a declaration), or
  - (b) a statutory declaration by the applicant that the applicant's spouse [<sup>F33</sup>or civil partner] 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 [<sup>F34</sup>or civil partner], the Panel must give the spouse [<sup>F35</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

- F26** 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
- F27** 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)
- F28** 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)
- F29** 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)
- F30** 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)
- F31** 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)
- F32** 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)
- F33** 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)
- F34** 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)
- F35** 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)

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

- C6** S. 3B extended to Northern Ireland (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\(2\), 42\(1\)](#) (with regs. 6-9)

#### [<sup>F36</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.



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- (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,
  - (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**

**F36** 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>F37</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—

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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 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,
  - (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.
- [<sup>F38</sup>(7) If the applicant is—
- (a) married, the application must include a statutory declaration as to whether the marriage is a protected Scottish marriage,
  - (b) a party to a civil partnership, the application must include a statutory declaration as to whether the civil partnership is a protected Scottish civil partnership.]
- (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.
- [ If the applicant is a party to a protected Scottish civil partnership, the application must <sup>F39</sup>(8A) also include—
- (a) a statutory declaration of consent (within the meaning of section 3(6G)(b)(i)) by the applicant's civil partner (if the civil partner has made such a declaration), or
  - (b) a statutory declaration by the applicant that no such declaration by the applicant's civil partner is included.]
- (9) If the application includes a statutory declaration of consent by the applicant's spouse [<sup>F40</sup>or (as the case may be) civil partner], the Panel must give the spouse [<sup>F41</sup>or civil 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

**F37** 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.**

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- F38** S. 3D(7) substituted (30.11.2021) by [Civil Partnership \(Scotland\) Act 2020 \(asp 15\)](#), s. 16, **sch. 2 para. 5(3)(a)**; S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F39** S. 3D(8A) inserted (30.11.2021) by [Civil Partnership \(Scotland\) Act 2020 \(asp 15\)](#), s. 16, **sch. 2 para. 5(3)(b)**; S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F40** Words in s. 3D(9) inserted (30.11.2021) by [Civil Partnership \(Scotland\) Act 2020 \(asp 15\)](#), s. 16, **sch. 2 para. 5(3)(c)(i)**; S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F41** Words in s. 3D(9) inserted (30.11.2021) by [Civil Partnership \(Scotland\) Act 2020 \(asp 15\)](#), s. 16, **sch. 2 para. 5(3)(c)(ii)**; S.S.I. 2021/351, reg. 2, sch. (with reg. 3)

[<sup>F42</sup>**3E** **Alternative grounds for granting applications: Scotland (English and Welsh**  
[<sup>F43</sup>**and Northern Ireland] 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 [<sup>F44</sup>or to Northern Ireland], “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 [<sup>F45</sup>(but see subsection (5A))];
  - (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.

[ Where the applicant is ordinarily resident in Northern Ireland, subsection (5)(a) has <sup>F46</sup>(5A) effect as if for the words after “was living in the acquired gender” there was substituted “on 13 January 2014”.]

- (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 [<sup>F47</sup>or in Northern Ireland].
- (8) The Panel must reject the application if not required by subsection (3) to grant it.

**Textual Amendments**

- F42** 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)**

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- F43** Words in s. 3E heading inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), **reg. 43(2)** (with regs. 6-9)
- F44** Words in s. 3E(2) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), **reg. 43(4)** (with regs. 6-9)
- F45** Words in s. 3E(5)(a) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), **reg. 43(5)** (with regs. 6-9)
- F46** S. 3E(5A) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), **reg. 43(6)** (with regs. 6-9)
- F47** Words in s. 3E(7) inserted (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), **43(7)** (with regs. 6-9)

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

- C7** S. 3E extended to Northern Ireland (N.I.) (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), **reg. 43(1)** (with regs. 6-9)

**3F Evidence for granting applications on alternative grounds: Scotland (English and Welsh [<sup>F48</sup>and Northern Ireland] 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,

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and may include any other information or evidence which the applicant wishes to include.

[<sup>F49</sup>(7) If the applicant is—

- (a) married, the application must include a statutory declaration as to whether the marriage is a protected Scottish marriage;
- (b) a party to a civil partnership, the application must include a statutory declaration as to whether the civil partnership is a protected Scottish civil partnership.]

(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.

[ If the applicant is a party to a protected Scottish civil partnership, the application must <sup>F50</sup>(8A) also include—

- (a) a statutory declaration by the applicant’s civil partner that the civil partner consents to the civil partnership continuing after the issue of a full gender recognition certificate (“a statutory declaration of consent”) (if the civil partner has made such a declaration); or
- (b) a statutory declaration by the applicant that no such declaration by the applicant’s civil partner is included.]

(9) If the application includes a statutory declaration of consent by the applicant’s spouse [<sup>F51</sup>or (as the case may be) civil partner], the Panel must give the spouse [<sup>F52</sup>or civil 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)(b) it must give reasons for doing so.]

#### Textual Amendments

- F42** 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\(4\)](#)
- F48** Words in s. 3F heading inserted (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), [43\(2\)](#) (with regs. 6-9)
- F49** S. 3F(7) substituted (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\(2\)\(a\)](#)
- F50** S. 3F(8A) inserted (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\(2\)\(b\)](#)
- F51** Words in s. 3F(9) inserted (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\(2\)\(c\)\(i\)](#)

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**F52** Words in s. 3F(9) inserted (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\(2\)\(c\)\(ii\)](#)

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

**C8** S. 3F extended to Northern Ireland (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), [43\(1\)](#) (with regs. 6-9)

**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>F53</sup>(1A) The certificate is to be a full gender recognition certificate if the applicant is neither married nor in a civil partnership.]

[<sup>F54</sup>(2) The certificate is [<sup>F55</sup>also] to be a full gender recognition certificate if—

- [<sup>F56</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>F57</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>F58</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>F59</sup>does not consent to the civil partnership continuing after the issue of a full gender recognition certificate, or]

<sup>F60</sup>(d) .....

(e) [<sup>F61</sup>subject to subsection [<sup>F62</sup>(3C)(b)][<sup>F62</sup>(3C)(c)],] 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 [<sup>F63</sup>or a protected civil partnership], the Panel must give the applicant's spouse [<sup>F64</sup>or civil partner] notice of the issue of the certificate.]

<sup>F65</sup>(3B) .....

[<sup>F66</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

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- [<sup>F67</sup>(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.]
- [<sup>F68</sup>(c) the applicant is a party to a protected Scottish civil partnership and both parties to the partnership consent to it continuing after the issue of a full gender recognition certificate,]
- (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,
  - [<sup>F69</sup>(ba) the applicant is a party to a protected Scottish civil partnership and either party to the partnership does not consent to it continuing after the issue of a full gender recognition certificate,]
  - [<sup>F70</sup>(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.
- [ If a Gender Recognition Panel issues a full gender recognition certificate under this <sup>F71</sup>(3EA) section to an applicant who is a party to a protected Scottish civil partnership, the Panel must give the applicant's civil partner notice of the issue of the certificate.]
- [<sup>F72</sup>(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

- F53** 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.
- F54** 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
- F55** 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.
- F56** 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.
- F57** 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)

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- F58** 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.
- F59** 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)
- F60** 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)
- F61** 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.
- F62** Word in s. 4(3)(e) substituted (S.) (30.11.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 5(4)(a)**; S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F63** 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)
- F64** 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)
- F65** 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)
- F66** 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.
- F67** S. 4(3C)(b) repealed (S.) (30.11.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 5(4)(b)(i)**; S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F68** S. 4(3C)(c) inserted (S.) (30.11.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 5(4)(b)(ii)**; S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F69** S. 4(3D)(ba) inserted (S.) (30.11.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 5(4)(c)(ii)**; S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F70** S. 4(3D)(c)(d) repealed (S.) (30.11.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 5(4)(c)(i)**; S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F71** S. 4(3EA) inserted (S.) (30.11.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 5(4)(d)**; S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F72** S. 4(3F) repealed (S.) (30.11.2021) by Civil Partnership (Scotland) Act 2020 (asp 15), s. 16, **sch. 2 para. 5(4)(e)**; S.S.I. 2021/351, reg. 2, sch. (with reg. 3)



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