

# GENDER RECOGNITION ACT 2004

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Section 11: Marriage*

39. This gives effect to *Schedule 4*.
40. *Paragraphs 1 and 2 of Schedule 4* adjust the restrictions on marriage under section 1 of the Marriage Act 1949. There are, for example, restrictions on marriage between a woman and her ex-husband's father. The adjustments made here will mean that where one party to the marriage is regarded as being of the acquired gender, the restrictions cover relationships flowing from any previous marriage in the birth gender, i.e. a woman who is a male-to-female transsexual person may not marry her ex-wife's father. This provision is mirrored for Scotland in *paragraph 7* and for Northern Ireland in *paragraph 8*.
41. *Paragraph 3* amends the Marriage Act 1949 to provide an additional exception to the obligation on clergy in the Church of England and the Church in Wales to solemnise marriages. A clergyman will not be obliged to marry a person he reasonably believes to have changed gender under the Act. No such provision is needed for Northern Ireland or Scotland as there is no obligation to solemnise marriages on the clergy of churches in those jurisdictions.
42. *Paragraphs 4 to 6* amend the Matrimonial Causes Act 1973 so that if at the time of a marriage one party to the marriage did not know that the other was previously of another gender, the former may seek to annul the marriage. Equivalent provision is made for Northern Ireland in *paragraphs 9 to 11*. Scotland does not have the same concept of voidable marriage.