

GENDER RECOGNITION ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 21: Foreign gender change and marriage

85. *Subsection (1)* makes explicit that a person who has changed gender in another country or territory is not thereby recognised in the acquired gender in the UK. Subject to *subsection (6)*, a person in this position will have to make an application under *section 1*.
86. *Subsections (2) to (5)* set out the legal status of marriages formed in another country or territory by a person who had already changed gender in that or any other country or territory. These marriages are to have no standing under UK law until the party who has changed gender in another country or territory has also gained recognition in the acquired gender in the UK. The marriage will only be recognised in this way if no other valid marriage has been entered into in the interim and so long as one party had already changed gender in the other country or territory and the other party was not also of that acquired gender.
87. *Subsection (6)* adds the proviso that section 21 is subject to any enforceable community right. This means that a national of another country within the European Union or European Economic Area who has been granted legal recognition of their gender change under the law of that country will not need to make an application under *section 1*. Similarly, a post-recognition opposite-sex marriage where one of the parties is a EU or EEA national will be accepted as a valid marriage in the UK without the need for further application under *section 1*.