

# **GENDER RECOGNITION ACT 2004**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Section 3: Evidence***

16. This stipulates what evidence must be provided as part of an application for a gender recognition certificate. *Subsections (1) to (3)* set out what medical evidence is needed for an application on the basis of ‘living in the other gender’ (*section 1(1)(a)*). There must be a report from a registered medical practitioner, or a chartered psychologist, either of whom must be practising in the field of gender dysphoria. This report must include details of diagnosis. The second report need not be from a medical professional practising in the field of gender dysphoria, but could be from any registered medical practitioner or chartered psychologist. At least one of the reports must include details of any treatment that the applicant has undergone, is undergoing or that is prescribed or planned, for the purposes of modifying sexual characteristics.
17. Under *subsection (4)*, an application must also include a statutory declaration by the applicant, stating that the applicant meets the conditions as to having lived in the acquired gender for at least two years and intending to continue to do so.
18. *Subsection (5)* provides that for applications under *section 1(1)(b)*, having changed gender under the law of another country or territory, evidence of this change is required.
19. There are also some evidence provisions shared by both types of application, and these are set out in *subsection (6)*. Hence, an application must include a statutory declaration as to whether or not the applicant is married. *Subsection (6)(b)* provides the Secretary of State with the power to specify, in effect, the further content of an application form. Hence, for example, an application will need to include details of name, date of birth, and correspondence address. This will be done by way of an order. *Subsection (6)(c)* provides the Panel with the flexibility to specify other evidence that will enable them better to determine whether the applicant meets the criteria for a successful application. The Panel must provide reasons for requiring any further information or evidence (*subsection (8)*). *Subsection (6)* also provides the applicant with the right to supply other evidence pertaining to the criteria. When the Panels have been established there will be notes for applicants clarifying what evidence the Panel will regard as useful for satisfying the criteria set out in *section 2*.