

*Status: Point in time view as at 18/01/2021.*

*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004, SCHEDULE 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 1

#### GENDER RECOGNITION PANELS

##### *List of persons eligible to sit*

- 1 (1) [<sup>F1</sup>Subject to sub-paragraph (1A), the Lord Chancellor] must, after consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland, make appointments to a list of persons eligible to sit as members of Gender Recognition Panels.
- [<sup>F2</sup>(1A) The Lord Chancellor may appoint a person under sub-paragraph (1) only with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
  - (b) the Lord President of the Court of Session;
  - (c) the Lord Chief Justice of Northern Ireland.]
- (2) The only persons who may be appointed to the list are persons who—
- (a) have a relevant legal qualification (“legal members”), or
  - (b) are registered medical practitioners or [<sup>F3</sup>registered psychologists] (“medical members”).
- (3) The following have a relevant legal qualification—
- (a) a person who has a 7 year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41),
  - (b) an advocate or solicitor in Scotland of at least seven years' standing, and
  - (c) a member of the Bar of Northern Ireland or [<sup>F4</sup>solicitor of the Court of Judicature of Northern Ireland] of at least seven years' standing.

#### Textual Amendments

- F1** Words in Sch. 1 para. 1(1) substituted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, **Sch. 1 para. 13**
- F2** Sch. 1 para. 1(1A) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, **Sch. 1 para. 14**
- F3** Words in Sch. 1 para. 1(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(d)** (with arts. 9, 10); S.I. 2009/1357, **art. 2(d)**
- F4** Words in Sch. 1 para. 1(3)(c) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, **Sch. 11 para. 5**; S.I. 2009/1604, **art. 2(d)**

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### *President*

- 2 (1) [<sup>F5</sup>Subject to sub-paragraph (1A), the Lord Chancellor] must, after consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland—
- (a) appoint one of the legal members to be the President of Gender Recognition Panels (“the President”), and
  - (b) appoint another of the legal members to be the Deputy President of Gender Recognition Panels (“the Deputy President”).
- [<sup>F6</sup>(1A) The Lord Chancellor may appoint a person under sub-paragraph (1) only with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
  - (b) the Lord President of the Court of Session;
  - (c) the Lord Chief Justice of Northern Ireland.]
- (2) The Deputy President has the functions of the President—
- (a) if the President is unavailable, and
  - (b) during any vacancy in the office of President.

#### **Textual Amendments**

- F5** Words in Sch. 1 para. 2(1) substituted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, **Sch. 1 para. 15**
- F6** Sch. 1 para. 2(1A) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, **Sch. 1 para. 16**

### *Tenure of persons appointed to list*

- 3 Persons on the list—
- (a) hold and vacate their appointments in accordance with the terms on which they are appointed, and
  - (b) are eligible for re-appointment at the end of their period of appointment.

### *Membership of Panels*

- 4 (1) The President must make arrangements for determining the membership of Panels.
- (2) The arrangements must ensure that a Panel determining an application under section 1(1)(a) includes—
- (a) at least one legal member, and
  - (b) at least one medical member.
- [<sup>F7</sup>(3) But a Panel need not include a medical member when determining an application under section 1(1)(a) for a certificate to be granted in accordance with section 3A.]
- [<sup>F8</sup>(4) But a Panel need not include a medical member when determining an application under section 1(1)(a) for a certificate to be granted in accordance with section 3C.]

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#### Textual Amendments

- F7** Sch. 1 para. 4(3) inserted (E.W.S.) (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), [Sch. 5 para. 20](#); S.I. 2014/3169, art. 2
- F8** Sch. 1 para. 4(4) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 18](#); S.S.I. 2014/287, art. 3, Sch.

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

- C1** Sch. 1 para. 4(3) 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)

- 5 The arrangements must ensure that a Panel determining an application under section 1(1)(b), 5(2) [<sup>F9</sup>, 5A(2)] or 6(1) includes at least one legal member.

#### Textual Amendments

- F9** Words in Sch. 1 para. 5 inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 250\(8\)](#), 263; S.I. 2005/3175, [art. 3](#), Sch. 2

#### *Procedure*

- 6 (1) Where a Panel consists of more than one member, either the President or Deputy President or another legal member nominated by the President must preside.
- (2) Decisions of a Panel consisting of more than one member may be taken by majority vote (and, if its members are evenly split, the member presiding has a casting vote).
- (3) Panels are to determine applications in private.
- (4) A Panel must determine an application without a hearing unless the Panel considers that a hearing is necessary.
- (5) The President may<sup>F10</sup>... give directions about the practice and procedure of Panels.
- (6) Panels must give reasons for their decisions.
- (7) Where a Panel has determined an application, the Secretary of State must communicate to the applicant the Panel's decision and its reasons for making its decision.

#### Textual Amendments

- F10** Words in Sch. 1 para. 6(5) omitted (19.9.2013) by virtue of [The Public Bodies \(Abolition of Administrative Justice and Tribunals Council\) Order 2013 \(S.I. 2013/2042\)](#), art. 1(2), [Sch. para. 28\(a\)](#)

#### *Staff and facilities*

- 7 The Secretary of State may make staff and other facilities available to Panels.

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### *Money*

- 8 (1) The Secretary of State may pay sums by way of remuneration, allowances and expenses to members of Panels.
- (2) The Secretary of State may pay compensation to a person who ceases to be on the list if the Secretary of State thinks it appropriate to do so because of special circumstances.

### *Delegation*

- [<sup>F11</sup>8A (1) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise any of his functions under this Schedule.
- (2) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this Schedule.
- (3) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this Schedule—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### **Textual Amendments**

**F11** Sch. 1 para. 8A inserted (3.4.2006) by The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006 (S.I. 2006/1016), **Sch. 1 para. 17**

### *[<sup>F12</sup>Tribunals and Inquiries Act 1992]*

#### **Textual Amendments**

**F12** Sch. 1 cross-heading substituted (19.9.2013) by The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 28(b)**

- 9 In Schedule 1 to the Tribunals and Inquiries Act 1992 (c. 53) ([<sup>F13</sup>tribunals to which that Act applies]), before paragraph 22 insert—

“Gender Recognition

21AA. Gender Recognition Panels constituted under Schedule 1 to the Gender Recognition Act 2004 (c. 7).”

#### **Textual Amendments**

**F13** Words in Sch. 1 para. 9 substituted (19.9.2013) by The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 28(c)**

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### *Disqualification*

- 10 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (offices disqualifying person from membership of House of Commons), at the appropriate place insert— “ Person on the list of those eligible to sit as members of a Gender Recognition Panel. ”
- 11 In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (offices disqualifying persons from membership of Northern Ireland Assembly), at the appropriate place insert— “ Person on the list of those eligible to sit as members of a Gender Recognition Panel. ”

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