

2006 No. 758

GENDER RECOGNITION

The Gender Recognition (Application Fees) Order 2006

Made - - - - *9th March 2006*

Laid before Parliament *16th March 2006*

Coming into force - - *6th April 2006*

The Secretary of State, in exercise of the powers conferred upon him by section 7(2) of the Gender Recognition Act 2004(a), makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Gender Recognition (Application Fees) Order 2006 and comes into force on 6th April 2006.

(2) In this Order, any reference to a section by number alone is a reference to the section so numbered in the Gender Recognition Act 2004.

(3) In articles 2 to 4 of this Order, “application” means an application, made on or after 6th April 2006, to a Gender Recognition Panel under section 1(1), 5(2), 5A(2) or 6(1).

(4) In articles 2 and 3 of this Order—

- (a) “relevant income” has the meaning given in article 4; and
- (b) “qualifying benefit” has the meaning given in article 5.

Application fees

2. Subject to article 3, the fee payable under section 7(2) in relation to an application is the amount prescribed in the table below, corresponding to the relevant income of the applicant.

<i>Relevant income of applicant</i>	<i>Application fee</i>
Greater than £23,185	£140
Greater than £15,460 but not greater than £23,185	£30

Circumstances in which no fee is payable

3. No fee is payable in relation to an application if—

- (a) the application is made under section 1(1) and—
 - (i) an interim gender recognition certificate was previously issued to the applicant;
 - (ii) the applicant’s relevant income is £15,460 or less; or
 - (iii) at the date of the application, the applicant is in receipt of any qualifying benefit; or

(a) 2004 c. 7; section 5A was inserted, and sections 5 and 7 were amended, by the Civil Partnership Act 2004 (c.33), section 250.

- (b) the application is made under section 5(2), 5A(2) or 6(1).

Definition of relevant income

4.—(1) "Relevant income", in relation to any applicant, means the sum of the applicant's—

- (a) relevant employment income,
- (b) relevant trading income, and
- (c) relevant chargeable gains.

(2) "Relevant employment income" means employment income chargeable to income tax under Chapter 3 of Part 2 of the Income Tax (Earnings and Pensions) Act 2003(a) for the tax year immediately preceding that in which the application is made.

(3) "Relevant trading income" means the profits of a trade, profession or vocation chargeable to income tax under Chapter 2 of Part 2 of the Income Tax (Trading and Other Income) Act 2005(b) for the tax year immediately preceding that in which the application is made.

(4) "Relevant chargeable gains" means gains on which tax is chargeable in accordance with the Taxation of Chargeable Gains Act 1992(c) in the year of assessment immediately preceding that in which the application is made.

(5) For the purposes of calculating relevant employment income, relevant trading income and relevant chargeable gains in a case where the applicant was not at all material times resident, ordinarily resident and domiciled in the United Kingdom for the purposes of income tax and the taxation of chargeable gains, the applicant is to be treated as if he were so resident, ordinarily resident and domiciled.

Definition of qualifying benefit

5. "Qualifying benefit" means any of the following—

- (a) income support;
- (b) working tax credit, provided that—
 - (i) child tax credit is being paid to the applicant, or otherwise following a claim made jointly by the applicant and another person as a couple pursuant to section 3(3) of the Tax Credits Act 2002(d); or
 - (ii) there is a disability element or severe disability element (or both) to the tax credit received by the applicant;and that the gross annual income taken into account for the calculation of the working tax credit is £15,460 or less;
- (c) income-based jobseeker's allowance under—
 - (i) the Jobseekers Act 1995(e); or
 - (ii) the Jobseekers (Northern Ireland) Order 1995(f);
- (d) guarantee credit under—

(a) 2003 c. 1.

(b) 2005 c. 5.

(c) 1992 c.12; section 2 is amended by the Finance Act 1998 (c. 36) Schedule 21, and the Finance Act 2002 (c. 23) Schedule 11.

(d) 2002 c. 21; section 3 is amended by the Civil Partnership Act 2004 (c. 33) Schedule 24, Part 14.

(e) 1995 c. 18.

(f) S.I. 1995/2705 (N.I. 15)

- (i) the State Pension Credit Act 2002^(a); or
- (ii) the State Pension Credit Act (Northern Ireland) 2002^(b).

Revocation and saving

6. The Gender Recognition (Application Fees) Order 2005^(c) shall continue to apply in relation to any application made before 6th April 2006, but is otherwise revoked.

Signed by authority of the Secretary of State

9th March 2006

Cathy Ashton
Parliamentary Under Secretary of State
Department for Constitutional Affairs

(a) 2002 c. 16.
(b) 2002 c. 14.
(c) S.I. 2005/638.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 7(2) of the Gender Recognition Act 2004 (c.7) (“the Act”), provides for fees to be payable in relation to applications to a Gender Recognition Panel under sections 1(1), 5(2), 5A(2) and 6(1) of the Act. The Gender Recognition (Application Fees) Order 2005 (S.I. 2005/638) (“the 2005 Order”) prescribed the level of the fees payable under sections 1(1), 5(2) and 6(1). It prescribed a fee of £140 for applicants whose relevant income was greater than £22,575, and a fee of £30 for applicants whose relevant income was greater than £15,050 but not greater than £22,575. It prescribed that no fee was payable in circumstances where the applicant’s relevant income was £15,050 or less or the applicant was in receipt of a qualifying benefit.

This Order, which comes into force on 6th April 2006 and applies to applications made on or after that date, revokes and replaces the 2005 Order, increasing the thresholds for relevant income at which the £30 and £140 fees become payable. The fee of £140 will now apply to applicants whose relevant income is greater than £23,185, and the fee of £30 will now apply to applicants whose relevant income is greater than £15,460 but not greater than £23,185. No fee will be payable in circumstances where the applicant’s relevant income is £15,460 or less or the applicant is in receipt of a qualifying benefit. “Relevant income” and “qualifying benefit” are defined in articles 4 and 5.

As in the 2005 Order, this Order prescribes that no fee is payable if the application is made under section 1(1) where the applicant had previously received an interim gender recognition certificate, or under section 5(2) (application for a full gender recognition certificate following grant of an interim gender recognition certificate where applicant has been married) or 6(1) (application for a corrected certificate where the original contains an error). In addition it prescribes that no fee is payable if the application is made under section 5A(2) (application for a full gender recognition certificate following grant of an interim gender recognition certificate where applicant has been a civil partner). Section 5A was inserted into the Act (and consequential amendments made to sections 5 and 7) by section 250 of the Civil Partnership Act 2004 (c.33).

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