

Draft Order laid before Parliament under section 24(3) of the Gender Recognition Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2023 No. 0000

GENDER RECOGNITION

**The Gender Recognition (Approved Countries
and Territories and Saving Provision) Order 2023**

Made - - - -

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 2(4) and 24(1) of the Gender Recognition Act 2004⁽¹⁾.

In accordance with section 2(4) of that Act, the Secretary of State has consulted the Scottish Ministers and the Department of Finance⁽²⁾ in Northern Ireland.

In accordance with section 24(3) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Gender Recognition (Approved Countries and Territories and Saving Provision) Order 2023 and comes into force 21 days after the date on which it is made.

(2) In this Order—

“the 2004 Act” means the Gender Recognition Act 2004;

“the 2011 Order” means the Gender Recognition (Approved Countries and Territories) Order 2011⁽³⁾.

Approved countries and territories

2. The countries and territories set out in the Schedule are each prescribed as an “approved country or territory” for the purposes of the 2004 Act.

(1) 2004 c. 7.

(2) The Department of Finance and Personnel was renamed the Department of Finance by section 1(4) of the Departments Act (Northern Ireland) 2016 (c. 5).

(3) S.I. 2011/1630.

Revocation of the 2011 Order

3. The 2011 Order is revoked.

Saving of the 2011 Order

4. Notwithstanding the revocation of the 2011 Order by article 3, that Order continues to apply to an application under section 1(1)(b) of the 2004 Act made before the date on which this Order comes into force, but not determined before that date.

Kemi Badenoch
Secretary of State for Business and Trade and
Minister for Women and Equalities
Department for Business and Trade

Date

SCHEDULE

Article 2

Approved Countries and Territories

The Australian Capital Territory, and the states of New South Wales, Queensland and Western Australia,

Belarus,

Bosnia and Herzegovina,

China,

Croatia,

Cuba,

Republic of Cyprus,

Czech Republic,

Estonia,

Georgia,

Germany,

India,

Iran,

Italy,

Japan,

Kazakhstan,

Mongolia,

Montenegro,

Namibia,

Panama,

Romania,

Slovakia,

South Africa,

South Korea,

Sri Lanka,

Sweden,

Taiwan,

Turkey,

Ukraine,

The following states of the United States of America: Alabama, Alaska, Arizona, Arkansas, Connecticut, Delaware, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Missouri, Nebraska, New Hampshire, North Carolina, North Dakota, Pennsylvania, Wisconsin.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 1(1)(b) of the Gender Recognition Act 2004 (c. 7) (“the Act”) permits applications for a gender recognition certificate on the basis of having changed gender under the law of a country or territory outside the United Kingdom. Applicants under section 1(1)(b) of the Act are required by section 3(5) to provide evidence that they have changed gender under the law of an “approved country or territory” outside the United Kingdom. An “approved country or territory” is defined by section 2(4) of the Act as one prescribed by order made by the Secretary of State.

Applicants under section 1(1)(b) need not meet the evidential requirements in sections 3(1) to (4), which apply to applications under section 1(1)(a) of the Act. These include a requirement to provide one or more medical reports from a registered medical practitioner or psychologist.

This Order prescribes the approved countries and territories for the purpose of the Act. It revokes the Gender Recognition (Approved Countries and Territories) Order 2011 (S.I. 2011/1630) (“the 2011 Order”).

This Order lists the following countries and territories which were not listed in the 2011 Order: Belarus; Bosnia and Herzegovina; China; Cuba; Georgia; India; Iran; Kazakhstan; Mongolia; Montenegro; Namibia; Panama; Sri Lanka and Taiwan.

This Order does not list the following countries and territories which were listed in the 2011 Order: the Australian Northern Territory and the Australian states of South Australia, Tasmania and Victoria; Austria; Belgium; Bulgaria; the Canadian provinces of Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, Saskatchewan and Yukon Territory; Denmark; Finland; France; Greece; Iceland; Liechtenstein; Luxembourg; Malta; Mexico; Moldova; The Netherlands; New Zealand; Norway; Poland; the Russian Federation; Serbia; Singapore; Slovenia; Spain; Switzerland; the following states of the United States of America: California, Colorado, District of Columbia, Florida, Hawaii, Illinois, Maine, Michigan, Minnesota, Mississippi, Montana, Nevada, New Jersey, New Mexico, New York City, New York State, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Virginia, Washington, West Virginia, Wyoming; and Uruguay.

Article 4 makes saving provision for applications which have been made but not determined before this Order comes into force. Those applications will be decided with reference to the 2011 Order.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.