



# Gender Recognition Act 2004

## 2004 CHAPTER 7

### *Consequences of issue of gender recognition certificate etc.*

#### **9 General**

- (1) Where a full gender recognition certificate is issued to a person, the person's gender becomes for all purposes the acquired gender (so that, if the acquired gender is the male gender, the person's sex becomes that of a man and, if it is the female gender, the person's sex becomes that of a woman).
- (2) Subsection (1) does not affect things done, or events occurring, before the certificate is issued; but it does operate for the interpretation of enactments passed, and instruments and other documents made, before the certificate is issued (as well as those passed or made afterwards).
- (3) Subsection (1) is subject to provision made by this Act or any other enactment or any subordinate legislation.

#### **10 Registration**

- (1) Where there is a UK birth register entry in relation to a person to whom a full gender recognition certificate is issued, the Secretary of State must send a copy of the certificate to the appropriate Registrar General.

[<sup>F1</sup>(1A) Where a full gender recognition certificate is issued to a person who is a party to—  
(a) a marriage under the law of England and Wales, or  
(b) a civil partnership under that law,  
the Secretary of State must send a copy of the certificate to the Registrar General for England and Wales.]

[<sup>F2</sup>(1B) Where a full gender recognition certificate is issued by a Gender Recognition Panel or the sheriff to a person who is a party to a protected Scottish marriage or a protected Scottish civil partnership, the Panel must send a copy of the certificate to the Registrar General for Scotland.]

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- (2) In this Act “UK birth register entry”, in relation to a person to whom a full gender recognition certificate is issued, means—
- (a) an entry of which a certified copy is kept by a Registrar General, or
  - (b) an entry in a register so kept,
- containing a record of the person’s birth or adoption (or, if there would otherwise be more than one, the most recent).
- (3) “The appropriate Registrar General” means whichever of—
- (a) the Registrar General for England and Wales,
  - (b) the Registrar General for Scotland, or
  - (c) the Registrar General for Northern Ireland,
- keeps a certified copy of the person’s UK birth register entry or the register containing that entry.
- (4) Schedule 3 (provisions about registration) has effect.

**Annotations:**

**Amendments (Textual)**

- F1** S. 10(1A) inserted (30.6.2014 for specified purposes, 10.12.2014 in so far as not already in force) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\)](#), [Sch. 5 para. 9\(1\)](#); S.I. 2014/1662, art. 2(b); S.I. 2014/3169, art. 2
- F2** S. 10(1B) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36](#), [Sch. 2 para. 9\(1\)](#); S.S.I. 2014/287, art. 3, Sch.

## 11 Marriage

Schedule 4 (amendments of marriage law) has effect.

### [<sup>F3</sup>11A Change in gender of party to marriage

- (1) This section applies in relation to a protected marriage if (by virtue of section 4(2)(b) or 4A) a full gender recognition certificate is issued to a party to the marriage.
- (2) The continuity of the protected marriage is not affected by the relevant change in gender.
- (3) If the protected marriage is a foreign marriage—
- (a) the continuity of the marriage continues by virtue of subsection (2) notwithstanding any impediment under the proper law of the marriage;
  - (b) the proper law of the marriage is not affected by its continuation by virtue of subsection (2).
- (4) In this section—
- “foreign marriage” means a marriage under the law of a country or territory outside the United Kingdom;
- “impediment” means anything which affects the continuation of a marriage merely by virtue of the relevant change in gender;
- “proper law”, in relation to a protected marriage, means the law of the country or territory under which the marriage was entered into;

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“relevant change in gender” means the change or changes of gender occurring by virtue of the issue of the full gender recognition certificate or certificates. ]

**Annotations:**

**Amendments (Textual)**

- F3** S. 11A inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 10](#); S.I. 2014/3169, art. 2

**[<sup>F4</sup>11B Change in gender of civil partners**

The continuity of a civil partnership is not affected by the issuing of full gender recognition certificates (by virtue of section 4(2)(c)) to both civil partners.]

**Annotations:**

**Amendments (Textual)**

- F4** S. 11B inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 11](#); S.I. 2014/3169, art. 2

**[<sup>F5</sup><sup>F6</sup>11C Continuity of marriage: Scotland**

(1) This section applies in relation to a protected Scottish marriage if (by virtue of section 4(3C)(a), 4C or 4E) a full gender recognition certificate is issued to a party to the marriage.

(2) The continuity of the protected Scottish marriage is not affected by the issuing of a full gender recognition certificate.]

**Annotations:**

**Amendments (Textual)**

- F5** Ss. 11C, 11D inserted (E.W.) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\), art. 1\(2\), Sch. 5 para. 15\(6\)](#)
- F6** S. 11C inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 2 para. 10](#); S.S.I. 2014/287, art. 3, Sch.

**[<sup>F7</sup>11D Continuity of civil partnership: Scotland**

The continuity of a protected Scottish civil partnership is not affected by the issuing of full gender recognition certificates (by virtue of section 4(3C)(b)) to both civil partners.]

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#### Annotations:

#### Amendments (Textual)

- F5** Ss. 11C, 11D inserted (E.W) (16.12.2014) by [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#), art. 1(2), **Sch. 5 para. 15(6)**
- F7** S. 11D inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, **Sch. 2 para. 11**; S.S.I. 2014/287, art. 3, Sch.

### 12 Parenthood

The fact that a person's gender has become the acquired gender under this Act does not affect the status of the person as the father or mother of a child.

### 13 Social security benefits and pensions

Schedule 5 (entitlement to benefits and pensions) has effect.

### 14 Discrimination

Schedule 6 (amendments of Sex Discrimination Act 1975 (c. 65) and Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15))) has effect.

### 15 Succession etc.

The fact that a person's gender has become the acquired gender under this Act does not affect the disposal or devolution of property under a will or other instrument made before the appointed day.

### 16 Peerages etc.

The fact that a person's gender has become the acquired gender under this Act—

- (a) does not affect the descent of any peerage or dignity or title of honour, and
- (b) does not affect the devolution of any property limited (expressly or not) by a will or other instrument to devolve (as nearly as the law permits) along with any peerage or dignity or title of honour unless an intention that it should do so is expressed in the will or other instrument.

### 17 Trustees and personal representatives

- (1) A trustee or personal representative is not under a duty, by virtue of the law relating to trusts or the administration of estates, to enquire, before conveying or distributing any property, whether a full gender recognition certificate has been issued to any person or revoked (if that fact could affect entitlement to the property).
- (2) A trustee or personal representative is not liable to any person by reason of a conveyance or distribution of the property made without regard to whether a full gender recognition certificate has been issued to any person or revoked if the trustee or personal representative has not received notice of the fact before the conveyance or distribution.

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- (3) This section does not prejudice the right of a person to follow the property, or any property representing it, into the hands of another person who has received it unless that person has purchased it for value in good faith and without notice.

## **18 Orders where expectations defeated**

- (1) This section applies where the disposition or devolution of any property under a will or other instrument (made on or after the appointed day) is different from what it would be but for the fact that a person's gender has become the acquired gender under this Act.
- (2) A person may apply to the High Court or Court of Session for an order on the ground of being adversely affected by the different disposition or devolution of the property.
- (3) The court may, if it is satisfied that it is just to do so, make in relation to any person benefiting from the different disposition or devolution of the property such order as it considers appropriate.
- (4) An order may, in particular, make provision for—
- (a) the payment of a lump sum to the applicant,
  - (b) the transfer of property to the applicant,
  - (c) the settlement of property for the benefit of the applicant,
  - (d) the acquisition of property and either its transfer to the applicant or its settlement for the benefit of the applicant.
- (5) An order may contain consequential or supplementary provisions for giving effect to the order or for ensuring that it operates fairly as between the applicant and the other person or persons affected by it; and an order may, in particular, confer powers on trustees.

## **[19] <sup>F8</sup>Sport**

- (1) A body responsible for regulating the participation of persons as competitors in an event or events involving a gender-affected sport may, if subsection (2) is satisfied, prohibit or restrict the participation as competitors in the event or events of persons whose gender has become the acquired gender under this Act.
- (2) This subsection is satisfied if the prohibition or restriction is necessary to secure—
- (a) fair competition, or
  - (b) the safety of competitors,
- at the event or events.
- (3) "Sport" means a sport, game or other activity of a competitive nature.
- (4) A sport is a gender-affected sport if the physical strength, stamina or physique of average persons of one gender would put them at a disadvantage to average persons of the other gender as competitors in events involving the sport.
- (5) This section does not affect—
- (a) section 44 of the Sex Discrimination Act 1975 (c. 65) (exception from Parts 2 to 4 of that Act for acts related to sport), or
  - (b) Article 45 of the Sex Discrimination (Northern Ireland) Order 1976 ( S.I. 1976/1042 (N.I. 15)) (corresponding provision for Northern Ireland). ]

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**Annotations:**

**Amendments (Textual)**

- F8** S. 19 repealed (E.W.S.) by Equality Act 2010, Sch 27 Pt. 1 (as substituted (1.10.2010) by [S.I. 2010/2279](#), art. 1(2), [Sch. 2](#) (see [S.I. 2010/2317](#), art. 2))

## 20 Gender-specific offences

- (1) Where (apart from this subsection) a relevant gender-specific offence could be committed or attempted only if the gender of a person to whom a full gender recognition certificate has been issued were not the acquired gender, the fact that the person's gender has become the acquired gender does not prevent the offence being committed or attempted.
- (2) An offence is a "relevant gender-specific offence" if—
  - (a) either or both of the conditions in subsection (3) are satisfied, and
  - (b) the commission of the offence involves the accused engaging in sexual activity.
- (3) The conditions are—
  - (a) that the offence may be committed only by a person of a particular gender, and
  - (b) that the offence may be committed only on, or in relation to, a person of a particular gender,
 and the references to a particular gender include a gender identified by reference to the gender of the other person involved.

## 21 Foreign gender change and marriage

- (1) A person's gender is not to be regarded as having changed by reason only that it has changed under the law of a country or territory outside the United Kingdom.
- <sup>F9</sup>(1A) Subsections (2) to (5) apply only in <sup>F10</sup> ... Northern Ireland. ]
- <sup>F11</sup>(2) [<sup>F12</sup>In accordance with subsection (1),] a person is not to be regarded as being married by reason of having entered into a foreign post-recognition marriage.
- (3) But if a full gender recognition certificate is issued to a person who has entered into a foreign post-recognition marriage, after the issue of the certificate the marriage is no longer to be regarded as being void on the ground that (at the time when it was entered into) the parties to it were not respectively male and female.
- (4) However, subsection (3) does not apply to a foreign post-recognition marriage if a party to it has entered into a later (valid) marriage [<sup>F13</sup>or civil partnership] before the issue of the full gender recognition certificate.
- (5) For the purposes of this section a person has entered into a foreign post-recognition marriage if (and only if)—
  - (a) the person has entered into a marriage in accordance with the law of a country or territory outside the United Kingdom,
  - (b) before the marriage was entered into the person had changed gender under the law of that or any other country or territory outside the United Kingdom,

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- (c) the other party to the marriage was not of the gender to which the person had changed under the law of that country or territory, and
- (d) by virtue of subsection (1) the person's gender was not regarded as having changed under the law of any part of the United Kingdom.]

(6) Nothing in this section prevents the exercise of any enforceable [F14EU] right.

**Annotations:**

**Amendments (Textual)**

- F9** S. 21(1A) inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#) , s. 21(3) , **Sch. 5 para. 12(a)** ; S.I. 2014/3169 , art. 2
- F10** Words in s. 21(1A) omitted (16.12.2014) by virtue of [The Marriage and Civil Partnership \(Scotland\) Act 2014 and Civil Partnership Act 2004 \(Consequential Provisions and Modifications\) Order 2014 \(S.I. 2014/3229\)](#) , art. 1(2) , **Sch. 5 para. 15(7)**
- F11** S. 21(2)-(5) repealed (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#) , s. 36 , **Sch. 2 para. 12** ; S.S.I. 2014/287 , art. 3 , Sch.
- F12** Words in s. 21(2) substituted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#) , s. 21(3) , **Sch. 5 para. 12(b)** ; S.I. 2014/3169 , art. 2
- F13** Words in s. 21(4) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#) , **ss. 250(6)** , 263 ; S.I. 2005/3175 , **art. 3** , Sch. 2
- F14** Word in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#) , arts. 2 , **3** , 6 (with arts. 3(2)(3) , 4(2) , 6(4)(5))

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