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*Status: Point in time view as at 04/04/2005.*

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

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## SCHEDULES

### SCHEDULE 1

Section 1

#### GENDER RECOGNITION PANELS

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

- 1 (1) 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.
- (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 chartered 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 solicitor of the Supreme Court of Northern Ireland of at least seven years' standing.

##### *President*

- 2 (1) 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”).
- (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.

##### *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.

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### *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.
- 5 The arrangements must ensure that a Panel determining an application under section 1(1)(b), 5(2) or 6(1) includes at least one legal member.

### *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, after consulting the Council on Tribunals, 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.

### *Staff and facilities*

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

### *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.

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VALID FROM 03/04/2006

### *Delegation*

- [<sup>F1</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**

- F1** 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**

### *Council on Tribunals*

- 9 In Schedule 1 to the Tribunals and Inquiries Act 1992 (c. 53) (tribunals under supervision of Council on Tribunals), before paragraph 22 insert—

“Gender Recognition	21AA. Gender Recognition Panels constituted under Schedule 1 to the Gender Recognition Act 2004 (c. 7).”
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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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## SCHEDULE 2

Section 4

### INTERIM CERTIFICATES: MARRIAGE

#### PART 1

##### ENGLAND AND WALES

- 1 The Matrimonial Causes Act 1973 (c. 18) is amended as follows.
- 2 In section 12 (grounds on which a marriage celebrated after 31st July 1971 is voidable), after paragraph (f) insert—
- “(g) that an interim gender recognition certificate under the Gender Recognition Act 2004 has, after the time of the marriage, been issued to either party to the marriage;”.
- 3 In section 13 (bars to relief), after subsection (2) insert—
- “(2A) Without prejudice to subsection (1) above, the court shall not grant a decree of nullity by virtue of section 12 above on the ground mentioned in paragraph (g) of that section unless it is satisfied that proceedings were instituted within the period of six months from the date of issue of the interim gender recognition certificate.”
- 4 (1) Paragraph 11 of Schedule 1 (grounds on which a marriage celebrated before 1st August 1971 is voidable) is amended as follows.
- (2) In sub-paragraph (1), after paragraph (d) insert “or
- (e) that an interim gender recognition certificate under the Gender Recognition Act 2004 has been issued to either party to the marriage;”.
- (3) After sub-paragraph (3) insert—
- “(3A) The court shall not grant a decree of nullity in a case falling within sub-paragraph (1)(e) above unless it is satisfied that proceedings were instituted within six months from the date of issue of the interim gender recognition certificate.”

#### PART 2

##### SCOTLAND

- 5 The Divorce (Scotland) Act 1976 (c. 39) is amended as follows.
- 6 (1) In subsection (1) of section 1 (grounds on which decree of divorce may be granted)—
- (a) the words “the marriage has broken down irretrievably” become paragraph (a), and
- (b) after that paragraph insert “or
- (b) an interim gender recognition certificate under the Gender Recognition Act 2004 has, after the date of the marriage, been issued to either party to the marriage.”
- (2) Accordingly, the title of that section becomes “ Grounds of divorce ”.

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- 7 In section 2(1) (encouragement of reconciliation), for “in an action for divorce” substitute “ under paragraph (a) of section 1(1) ”.

### PART 3

#### NORTHERN IRELAND

- 8 The Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)) is amended as follows.
- 9 In Article 14 (grounds on which a marriage celebrated after the commencement of that Article is voidable), after paragraph (f) insert—
- “(g) that an interim gender recognition certificate under the Gender Recognition Act 2004 has, after the time of the marriage, been issued to either party to the marriage;”.
- 10 In Article 16 (bars to relief), after paragraph (2) insert—
- “(2A) Without prejudice to paragraph (1), the court shall not grant a decree of nullity by virtue of Article 14 on the ground mentioned in paragraph (g) of that Article unless it is satisfied that proceedings were instituted within the period of six months from the date of issue of the interim gender recognition certificate.”
- 11 (1) Paragraph 18 of Schedule 3 (grounds on which a marriage celebrated before the commencement of Article 14 is voidable) is amended as follows.
- (2) In sub-paragraph (1), after paragraph (d) insert “or
- (e) that an interim gender recognition certificate under the Gender Recognition Act 2004 has been issued to either party to the marriage;”.
- (3) After sub-paragraph (4) insert—
- “(4A) The court shall not grant a decree of nullity in a case falling within sub-paragraph (1)(e) unless it is satisfied that proceedings were instituted within six months from the date of issue of the interim gender recognition certificate.”

## SCHEDULE 3

Section 10

### REGISTRATION

#### PART 1

#### ENGLAND AND WALES

##### *Introductory*

- 1 In this Part—
- “the Registrar General” means the Registrar General for England and Wales, and

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“the 1953 Act” means the Births and Deaths Registration Act 1953 (c. 20).

*Gender Recognition Register*

- 2 (1) The Registrar General must maintain, in the General Register Office, a register to be called the Gender Recognition Register.
- (2) In this Part “the Gender Recognition Register” means the register maintained under sub-paragraph (1).
- (3) The form in which the Gender Recognition Register is maintained is to be determined by the Registrar General.
- (4) The Gender Recognition Register is not to be open to public inspection or search.

*Entries in Gender Recognition Register and marking of existing birth register entries*

- 3 (1) If the Registrar General receives under section 10(1) a copy of a full gender recognition certificate issued to a person, the Registrar General must—
- (a) make an entry in the Gender Recognition Register containing such particulars as may be prescribed in relation to the person’s birth and any other prescribed matter,
  - (b) secure that the UK birth register entry is marked in such manner as may be prescribed, and
  - (c) make traceable the connection between the entry in the Gender Recognition Register and the UK birth register entry.
- (2) Sub-paragraph (1) does not apply if the certificate was issued after an application under section 6(1) and that sub-paragraph has already been complied with in relation to the person.
- (3) No certified copy of the UK birth register entry and no short certificate of birth compiled from that entry is to include anything marked by virtue of sub-paragraph (1) (b).
- (4) Information kept by the Registrar General for the purposes of sub-paragraph (1)(c) is not to be open to public inspection or search.
- (5) “Prescribed” means prescribed by regulations made by the Registrar General with the approval of the Chancellor of the Exchequer.

*Indexing of entries in Gender Recognition Register*

- 4 (1) The Registrar General must make arrangements for each entry made in the Gender Recognition Register to be included in the relevant index kept in the General Register Office.
- (2) Any right to search the relevant index includes the right to search entries included in it by virtue of sub-paragraph (1).
- (3) Where by virtue of sub-paragraph (1) an index includes entries in the Gender Recognition Register, the index must not disclose that fact.

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- (4) “The relevant index”, in relation to an entry made in the Gender Recognition Register in relation to a person, means the index of the certified copies of entries in registers, or of entries in registers, which includes the person’s UK birth register entry.

*Certified copies of entries in Gender Recognition Register*

- 5 (1) Anyone who may have a certified copy of the UK birth register entry of a person issued with a full gender recognition certificate may have a certified copy of the entry made in relation to the person in the Gender Recognition Register.
- (2) Any fee which would be payable for a certified copy of the person’s UK birth register entry is payable for a certified copy of the entry made in relation to the person in the Gender Recognition Register.
- (3) If the person’s UK birth register entry is an entry in the Gender Recognition Register, sub-paragraph (1) applies as if the person’s UK birth register entry were the most recent entry within section 10(2)(a) or (b) containing a record of the person’s birth or adoption which is not an entry in the Gender Recognition Register.
- (4) A certified copy of an entry in the Gender Recognition Register must not disclose the fact that the entry is contained in the Gender Recognition Register.
- (5) A certified copy of an entry in the Gender Recognition Register must be sealed or stamped with the seal of the General Register Office.

*Short certificates of birth compiled from Gender Recognition Register*

- 6 Where a short certificate of birth under section 33 of the 1953 Act is compiled from the Gender Recognition Register, the certificate must not disclose that fact.

*Gender Recognition Register: re-registration*

- 7 (1) Section 10A of the 1953 Act (re-registration where parents not married) applies where an entry relating to a person’s birth has been made in the Gender Recognition Register as where the birth of a child has been registered under that Act.
- (2) In its application by virtue of sub-paragraph (1) section 10A has effect—
- (a) as if the reference to the registrar in subsection (1) were to the Registrar General, and
  - (b) with the omission of subsection (2).
- (3) Sections 14 and 14A of the 1953 Act (re-registration in cases of legitimation and after declaration of parentage) apply where an entry relating to a person’s birth has been made in the Gender Recognition Register as if the references in those sections to the Registrar General authorising re-registration of the person’s birth were to the Registrar General’s re-registering it.

*Correction etc. of Gender Recognition Register*

- 8 (1) Any power or duty of the Registrar General or any other person to correct, alter, amend, mark or cancel the marking of a person’s UK birth register entry is exercisable, or falls to be performed, by the Registrar General in relation to an entry in the Gender Recognition Register which—
- (a) relates to that person, and

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- (b) under paragraph 4(1) is included in the index which includes the person's UK birth register entry.
- (2) If the person's UK birth register entry is an entry in the Gender Recognition Register, the references in sub-paragraph (1) to the person's UK birth register entry are to the most recent entry within section 10(2)(a) or (b) containing a record of the person's birth or adoption which is not an entry in the Gender Recognition Register.
- (3) The Registrar General may correct the Gender Recognition Register by entry in the margin (without any alteration of the original entry) in consequence of the issue of a full gender recognition certificate after an application under section 6(1).

*Revocation of gender recognition certificate etc.*

- 9 (1) This paragraph applies if, after an entry has been made in the Gender Recognition Register in relation to a person, the High Court or the Court of Session makes an order under section 8(6) quashing the decision to grant the person's application under section 1(1) or 5(2).
- (2) The High Court or the Court of Session must inform the Registrar General.
- (3) Subject to any appeal, the Registrar General must—
  - (a) cancel the entry in the Gender Recognition Register, and
  - (b) cancel, or secure the cancellation, of any marking of an entry relating to the person made by virtue of paragraph 3(1)(b).

*Evidence*

- 10 (1) Section 34(5) of the 1953 Act (certified copy of entry in register under that Act deemed to be true copy) applies in relation to the Gender Recognition Register as if it were a register under that Act.
- (2) A certified copy of an entry made in the Gender Recognition Register in relation to a person is to be received, without further or other proof, as evidence—
  - (a) if the relevant index is the index of the Adopted Children Register, of the matters of which a certified copy of an entry in that Register is evidence,
  - (b) if the relevant index is the index of the Parental Order Register, of the matters of which a certified copy of an entry in that Register is evidence, and
  - (c) otherwise, of the person's birth.
- (3) And any certified copy which is receivable in evidence of any matter in Northern Ireland by virtue of paragraph 31(2)(a) or (b) of this Schedule is also receivable as evidence of that matter in England and Wales.

*Regulatory reform*

- 11 The Chancellor of the Exchequer may by order amend this Part in consequence of any order under section 1 of the Regulatory Reform Act 2001 (c. 6) which includes provision relating to the system of registration of births and adoptions in England and Wales.



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## PART 2

### SCOTLAND

#### *Introductory*

- 12 In this Part—
- “the Registrar General” means the Registrar General for Scotland, and
- “the 1965 Act” means the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49).

#### *Gender Recognition Register*

- 13 (1) The Registrar General must maintain, in the General Register Office of Births, Deaths and Marriages in Scotland, a register to be called the Gender Recognition Register.
- (2) In this Part “the Gender Recognition Register” means the register maintained under sub-paragraph (1).
- (3) The form in which the Gender Recognition Register is maintained is to be determined by the Registrar General.
- (4) The Gender Recognition Register is not to be open to public inspection or search.

#### *Entries in Gender Recognition Register*

- 14 (1) If the Registrar General receives under section 10(1) a copy of a full gender recognition certificate issued to a person, the Registrar General must—
- (a) make an entry in the Gender Recognition Register containing such particulars as may be prescribed in relation to the person’s birth and any other prescribed matter, and
- (b) otherwise than by annotating in any way the birth register, make traceable the connection between the UK birth register entry and the entry in the Gender Recognition Register.
- (2) Sub-paragraph (1) does not apply if the gender recognition certificate was issued after an application under section 6(1) and that sub-paragraph has already been complied with in relation to the person.
- (3) Information kept by the Registrar General for the purposes of sub-paragraph (1)(b) is not to be open to public inspection or search.
- (4) “Prescribed” means prescribed by regulations made by the Registrar General with the approval of the Scottish Ministers.

#### *Indexing of entries in Gender Recognition Register*

- 15 (1) The Registrar General must make arrangements for each entry made in the Gender Recognition Register to be included in an index of such entries kept in the General Register Office of Births, Deaths and Marriages in Scotland.
- (2) Whenever the Registrar General causes a search to be made under subsection (2)(a) of section 38 of the 1965 Act (search of indexes of entries in the registers of births,

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deaths and marriages) on behalf of any person, he must also, without payment of any fee additional to the fee or fees prescribed under that section—

- (a) cause a search to be made of the index of entries in the Gender Recognition Register on behalf of that person, and
- (b) issue to that person an extract of any such entry provided that (disregarding, for the purposes of subsection (4)(j) of section 22, this paragraph) disclosure of the entry to the person would not constitute an offence under that section.

*Extracts of entries in Gender Recognition Register*

- 16 (1) This paragraph applies in respect of an extract issued under paragraph 15(2)(b).
- (2) Except as regards the sex and name of the person to whom it relates, the extract must have the form and content it would have had had it been an extract from the register of births of the entry relating to that person.
- (3) The extract must not disclose the fact that the entry is contained in the Gender Recognition Register.

*Abbreviated certificates of birth compiled from Gender Recognition Register*

- 17 Where an abbreviated certificate of birth under section 40 of the 1965 Act is compiled from the Gender Recognition Register, the certificate must not disclose that fact.

*Gender Recognition Register: correction, re-registration etc.*

- 18 Section 18A(2) (decrees of parentage and non-parentage), section 20(1) and (3) (re-registration in certain cases), section 42(1) and (5) (correction of errors), section 43(1), (2) and (5) to (9) (recording change of name or surname) and section 44 (Register of Corrections etc.) of the 1965 Act apply in relation to the Gender Recognition Register as they apply in relation to the register of births.

*Revocation of gender recognition certificate etc.*

- 19 (1) This paragraph applies if, after an entry has been made in the Gender Recognition Register in relation to a person, the High Court or the Court of Session makes an order under section 8(6) quashing the decision to grant the person's application under section 1(1) or 5(2).
- (2) The High Court or the Court of Session must inform the Registrar General.
- (3) Subject to any appeal, the Registrar General must cancel the entry in the Gender Recognition Register.

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*Authentication and admissibility*

- 20 Section 41 of the 1965 Act (authentication of extracts etc. and their admissibility as evidence) applies in relation to the Gender Recognition Register as in relation to the registers kept under the provisions of that Act.

**PART 3**

NORTHERN IRELAND

*Introductory*

- 21 In this Part—  
“the Registrar General” means the Registrar General for Northern Ireland,  
and  
“the 1976 Order” means the Births and Deaths Registration (Northern Ireland) Order 1976 (S.I. 1976/1041 (N.I. 14)).

*Gender Recognition Register*

- 22 (1) The Registrar General must maintain, in the General Register Office in Northern Ireland, a register to be called the Gender Recognition Register.  
(2) In this Part “the Gender Recognition Register” means the register maintained under sub-paragraph (1).  
(3) The form in which the Gender Recognition Register is maintained is to be determined by the Registrar General.  
(4) The Gender Recognition Register is not to be open to public inspection or search.

*Entries in Gender Recognition Register and marking of existing birth register entries*

- 23 (1) If the Registrar General receives under section 10(1) a copy of a full gender recognition certificate issued to a person, the Registrar General must—  
(a) make an entry in the Gender Recognition Register containing such particulars as may be prescribed in relation to the person’s birth and any other prescribed matter,  
(b) secure that the UK birth register entry is marked in such manner as may be prescribed, and  
(c) make traceable the connection between the entry in the Gender Recognition Register and the UK birth register entry.  
(2) Sub-paragraph (1) does not apply if the gender recognition certificate was issued after an application under section 6(1) and that sub-paragraph has already been complied with in relation to the person.  
(3) No certified copy of the UK birth register entry and no short certificate of birth compiled from that entry is to include anything marked by virtue of sub-paragraph (1) (b).

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- (4) Information kept by the Registrar General for the purposes of sub-paragraph (1)(c) is not to be open to public inspection or search.
- (5) “Prescribed” means prescribed by regulations made by the Department of Finance and Personnel.

*Indexing of entries in Gender Recognition Register*

- 24 (1) The Registrar General must make arrangements for each entry made in the Gender Recognition Register to be included in the relevant index kept in the General Register Office in Northern Ireland.
- (2) Any right to search the relevant index includes the right to search entries included in it by virtue of sub-paragraph (1).
- (3) Where by virtue of sub-paragraph (1) an index includes entries in the Gender Recognition Register, the index must not disclose that fact.
- (4) “The relevant index”, in relation to an entry made in the Gender Recognition Register in relation to a person, means the index of the entries in registers which includes the UK birth register entry.

*Certified copies of entries in Gender Recognition Register*

- 25 (1) Anyone who may have a certified copy of the UK birth register entry of a person issued with a full gender recognition certificate may have a certified copy of the entry made in relation to the person in the Gender Recognition Register.
- (2) Any fee which would be payable for a certified copy of the person’s UK birth register entry is payable for a certified copy of the entry made in relation to the person in the Gender Recognition Register.
- (3) If the person’s UK birth register entry is an entry in the Gender Recognition Register, sub-paragraph (1) applies as if the person’s UK birth register entry were the most recent entry within section 10(2)(a) or (b) containing a record of the person’s birth or adoption which is not an entry in the Gender Recognition Register.
- (4) A certified copy of an entry in the Gender Recognition Register must not disclose the fact that the entry is contained in the Gender Recognition Register.
- (5) A certified copy of an entry in the Gender Recognition Register must be sealed or stamped with the seal of the General Register Office in Northern Ireland.

*Short certificates of birth compiled from Gender Recognition Register*

- 26 Where a short certificate of birth under Article 40 of the 1976 Order is compiled from the Gender Recognition Register, the certificate must not disclose that fact.

*Gender Recognition Register: re-registration*

- 27 Articles 18, 19 and 19A of the 1976 Order (re-registration of births) apply where an entry relating to a person’s birth has been made in the Gender Recognition Register as if the references in those Articles to the Registrar General authorising re-registration of the person’s birth were to the Registrar General’s re-registering it.

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#### *Correction of errors in Gender Recognition Register*

- 28 (1) Any power or duty of the Registrar General to correct, alter, amend, mark or cancel the marking of a person's UK birth register entry is exercisable, or falls to be performed, by the Registrar General in relation to an entry in the Gender Recognition Register which—
- (a) relates to that person, and
  - (b) under paragraph 24(1) is included in the index which includes the person's UK birth register entry.
- (2) If the person's UK birth register entry is an entry in the Gender Recognition Register, the references in sub-paragraph (1) to the person's UK birth register entry are to the most recent entry within section 10(2)(a) or (b) containing a record of the person's birth or adoption which is not an entry in the Gender Recognition Register.
- (3) The Registrar General may correct the Gender Recognition Register by entry in the margin (without any alteration of the original entry) in consequence of the issue of a full gender recognition certificate after an application under section 6(1).

#### *Revocation of gender recognition certificate etc.*

- 29 (1) This paragraph applies if, after an entry has been made in the Gender Recognition Register in relation to a person, the High Court or the Court of Session makes an order under section 8(6) quashing the decision to grant the person's application under section 1(1) or 5(2).
- (2) The High Court or the Court of Session must inform the Registrar General.
- (3) Subject to any appeal, the Registrar General must—
- (a) cancel the entry in the Gender Recognition Register, and
  - (b) cancel, or secure the cancellation of, any marking of an entry relating to the person made by virtue of paragraph 23(1)(b).

#### *Change of name*

- 30 Paragraphs (4) to (6) of Article 37 of the 1976 Order (change of name) apply in relation to the Gender Recognition Register as they apply in relation to a register under that Order.

#### *Evidence*

- 31 (1) Article 42 of the 1976 Order (proof of age or death) applies in relation to the Gender Recognition Register as it applies in relation to a register under that Order.
- (2) A certified copy of an entry made in the Gender Recognition Register in relation to a person is to be received, without further or other proof, as evidence—
- (a) if the relevant index is the index of the Adopted Children Register, of the matters of which a certified copy of an entry in that Register is evidence,
  - (b) if the relevant index is the index of the Parental Order Register, of the matters of which a certified copy of an entry in that Register is evidence, and
  - (c) otherwise, of the person's birth.

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- (3) And any certified copy which is receivable in evidence of any matter in England and Wales by virtue of paragraph 10(2)(a) or (b) of this Schedule is also receivable as evidence of that matter in Northern Ireland.

#### *Fees*

- 32 Article 47 of the 1976 Order (fees for searches, certificates etc.) applies in relation to the Gender Recognition Register as it applies in relation to a register under that Order.

## SCHEDULE 4

Section 11

### EFFECT ON MARRIAGE

#### PART 1

#### ENGLAND AND WALES

#### *Marriage Act 1949 (c. 76)*

- 1 The Marriage Act 1949 is amended as follows.
- 2 In section 1 (restrictions on marriage), insert at the end—
- “(6) Subsection (5) of this section and Parts 2 and 3 of the First Schedule to this Act have effect subject to the following modifications in the case of a party to a marriage whose gender has become the acquired gender under the Gender Recognition Act 2004 (“the relevant person”).
- (7) Any reference in those provisions to a former wife or former husband of the relevant person includes (respectively) any former husband or former wife of the relevant person.
- (8) And—
- (a) the reference in paragraph (b) of subsection (5) of this section to the relevant person’s son’s mother is to the relevant person’s son’s father if the relevant person is the son’s mother; and
- (b) the reference in paragraph (d) of that subsection to the relevant person’s daughter’s father is to the relevant person’s daughter’s mother if the relevant person is the daughter’s father.”
- 3 After section 5A insert—

#### **“5B Marriages involving person of acquired gender**

- (1) A clergyman is not obliged to solemnise the marriage of a person if the clergyman reasonably believes that the person’s gender has become the acquired gender under the Gender Recognition Act 2004.

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*Status: Point in time view as at 04/04/2005.*

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

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- (2) A clerk in Holy Orders of the Church in Wales is not obliged to permit the marriage of a person to be solemnised in the church or chapel of which the clerk is the minister if the clerk reasonably believes that the person's gender has become the acquired gender under that Act."

*Matrimonial Causes Act 1973 (c. 18)*

- 4 The Matrimonial Causes Act 1973 is amended as follows.
- 5 In section 12 (grounds on which a marriage celebrated after 31st July 1971 is voidable), insert at the end—
- “(h) that the respondent is a person whose gender at the time of the marriage had become the acquired gender under the Gender Recognition Act 2004.”
- 6 In section 13(2), (3) and (4) (bars to relief), for “or (f)” substitute “, (f) or (h) ”.

**PART 2**

SCOTLAND

*Marriage (Scotland) Act 1977 (c. 15)*

- 7 In section 2 of the Marriage (Scotland) Act 1977 (marriage of related persons), insert at the end—
- “(6) Subsections (1A) and (1B) above and paragraphs 2 and 2A of Schedule 1 to this Act have effect subject to the following modifications in the case of a party to a marriage whose gender has become the acquired gender under the Gender Recognition Act 2004 (“the relevant person”).
- (7) Any reference in those provisions to a former wife or former husband of the relevant person includes (respectively) any former husband or former wife of the relevant person.
- (8) And—
- (a) the reference in paragraph (b) of subsection (1B) above to the relevant person's son's mother is to the relevant person's son's father if the relevant person is the son's mother; and
- (b) the reference in paragraph (d) of that subsection to the relevant person's daughter's father is to the relevant person's daughter's mother if the relevant person is the daughter's father.”

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*Status: Point in time view as at 04/04/2005.*

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

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### PART 3

#### NORTHERN IRELAND

##### *Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 (S.I. 1984/1984 (N.I. 14))*

- 8 In Article 18 of the Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 (restrictions on marriage), after paragraph (2D) insert—
- “(2DA) Paragraph (2D) and Parts 2 and 3 of the Table in paragraph (1) have effect subject to the following modifications in the case of a party to a marriage whose gender has become the acquired gender under the Gender Recognition Act 2004 (“the relevant person”).
- (2DB) Any reference in those provisions to a former wife or former husband of the relevant person includes (respectively) any former husband or former wife of the relevant person.
- (2DC) And—
- (a) the reference in paragraph (2D)(b) to the relevant person’s son’s mother is to the relevant person’s son’s father if the relevant person is the son’s mother, and
  - (b) the reference in paragraph (2D)(d) to the relevant person’s daughter’s father is to the relevant person’s daughter’s mother if the relevant person is the daughter’s father.”

##### *Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15))*

- 9 The Matrimonial Causes (Northern Ireland) Order 1978 is amended as follows.
- 10 In Article 14 (grounds on which a marriage celebrated after the commencement of that Article is voidable), insert at the end—
- “(h) that the respondent is a person whose gender at the time of the marriage had become the acquired gender under the Gender Recognition Act 2004.”
- 11 In Article 16(2), (3) and (4) (bars to relief), for “or (f)” substitute “, (f) or (h) ”.

## SCHEDULE 5

Section 13

### BENEFITS AND PENSIONS

#### PART 1

##### INTRODUCTORY

- 1 This Schedule applies where a full gender recognition certificate is issued to a person.



*Status: Point in time view as at 04/04/2005.*

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

## PART 2

### STATE BENEFITS

#### *Introductory*

- 2 (1) In this Part of this Schedule “the 1992 Act” means—
- (a) in England and Wales and Scotland, the Social Security Contributions and Benefits Act 1992 (c. 4), and
  - (b) in Northern Ireland, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).
- (2) In this Part of this Schedule “the Administration Act” means—
- (a) in England and Wales and Scotland, the Social Security Administration Act 1992 (c. 5), and
  - (b) in Northern Ireland, the Social Security Administration (Northern Ireland) Act 1992 (c. 8).
- (3) Expressions used in this Part of this Schedule and in Part 2 of the 1992 Act have the same meaning in this Part of this Schedule as in Part 2 of the 1992 Act.

#### *Widowed mother’s allowance*

- 3 (1) If (immediately before the certificate is issued) the person is, or but for section 1 of the Administration Act would be, entitled to a widowed mother’s allowance under section 37 of the 1992 Act (allowance for woman whose husband died before 9th April 2001)—
- (a) the person is not entitled to that allowance afterwards, but
  - (b) (instead) subsections (2) to (5) of section 39A of the 1992 Act (widowed parent’s allowance) apply in relation to the person.
- (2) If (immediately before the certificate is issued) the person is (actually) entitled to a widowed mother’s allowance, the entitlement to widowed parent’s allowance conferred by sub-paragraph (1) is not subject to section 1 of the Administration Act.

#### *Widow’s pension*

- 4 If (immediately before the certificate is issued) the person is entitled to a widow’s pension under section 38 of the 1992 Act (pension for woman whose husband died before 9th April 2001), the person is not entitled to that pension afterwards.

#### *Widowed parent’s allowance*

- 5 If (immediately before the certificate is issued) the person is, or but for section 1 of the Administration Act would be, entitled to a widowed parent’s allowance by virtue of subsection (1)(b) of section 39A of the 1992 Act (allowance for man whose wife died before 9th April 2001), subsections (2) to (5) of that section continue to apply in relation to the person afterwards.

#### *Long-term incapacity benefit etc.*

- 6 If (immediately before the certificate is issued) the person is entitled to incapacity benefit, or a Category A retirement pension, under—

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*Status: Point in time view as at 04/04/2005.*

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

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- (a) section 40 of the 1992 Act (long-term incapacity benefit etc. for woman whose husband died before 9th April 2001), or
  - (b) section 41 of the 1992 Act (long-term incapacity benefit etc. for man whose wife died before that date),
- the person is not so entitled afterwards.

*Category A retirement pension*

- 7 (1) Any question—
- (a) whether the person is entitled to a Category A retirement pension (under section 44 of the 1992 Act) for any period after the certificate is issued, and
  - (b) (if so) the rate at which the person is so entitled for the period,
- is to be decided as if the person's gender had always been the acquired gender.
- (2) Accordingly, if (immediately before the certificate is issued) the person—
- (a) is a woman entitled to a Category A retirement pension, but
  - (b) has not attained the age of 65,
- the person ceases to be so entitled when it is issued.
- (3) And, conversely, if (immediately before the certificate is issued) the person—
- (a) is a man who has attained the age at which a woman of the same age attains pensionable age, but
  - (b) has not attained the age of 65,
- the person is to be treated for the purposes of section 44 of the 1992 Act as attaining pensionable age when it is issued.
- (4) But sub-paragraph (1) does not apply if and to the extent that the decision of any question to which it refers is affected by—
- (a) the payment or crediting of contributions, or the crediting of earnings, in respect of a period ending before the certificate is issued, or
  - (b) preclusion from regular employment by responsibilities at home for such a period.
- (5) Paragraph 10 makes provision about deferment of Category A retirement pensions.

*Category B retirement pension etc.*

- 8 (1) Any question whether the person is entitled to—
- (a) a Category B retirement pension (under section 48A, 48B, 48BB or 51 of the 1992 Act), or
  - (b) an increase in a Category A retirement pension under section 51A or 52 of the 1992 Act (increase in Category A retirement pension by reference to amount of Category B retirement pension),
- for any period after the certificate is issued is (in accordance with section 9(1)) to be decided as if the person's gender were the acquired gender (but subject to sub-paragraph (4)).
- (2) Accordingly, if (immediately before the certificate is issued) the person is a woman entitled to—
- (a) a Category B retirement pension, or

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*Status: Point in time view as at 04/04/2005.*

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

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- (b) an increase in a Category A retirement pension under section 51A or 52 of the 1992 Act,  
the person may cease to be so entitled when it is issued.
- (3) And, conversely, if (immediately before the certificate is issued) the person—
  - (a) is a man who has attained the age at which a woman of the same age attains pensionable age, but
  - (b) has not attained the age of 65,the person is to be treated for the purposes of sections 48A, 48B and 48BB of the 1992 Act as attaining pensionable age when it is issued.
- (4) But a person who is a man (immediately before the certificate is issued) is not entitled to a Category B retirement pension under section 48B of the 1992 Act for any period after it is issued if the person—
  - (a) attains (or has attained) the age of 65 before 6th April 2010, and
  - (b) would not have been entitled to a Category B retirement pension under section 51 of the 1992 Act for that period if still a man.
- (5) Paragraph 10 makes provision about deferment of Category B retirement pensions.

#### *Shared additional pension*

- 9 (1) Any question—
  - (a) whether the person is entitled to a shared additional pension (under section 55A of the 1992 Act) for any period after the certificate is issued, and
  - (b) (if so) the rate at which the person is so entitled for the period,is to be decided on the basis of the person attaining pensionable age on the same date as someone of the acquired gender (and the same age).
- (2) Accordingly, if (immediately before the certificate is issued) the person—
  - (a) is a woman entitled to a shared additional pension, but
  - (b) has not attained the age of 65,the person ceases to be so entitled when it is issued.
- (3) And, conversely, if (immediately before the certificate is issued) the person—
  - (a) is a man who has attained the age at which a woman of the same age attains pensionable age, but
  - (b) has not attained the age of 65,the person is to be treated for the purposes of section 55A of the 1992 Act as attaining pensionable age when it is issued.
- (4) Paragraph 10 makes provision about deferment of shared additional pensions.

#### *Deferment of pensions*

- 10 (1) The person's entitlement to—
  - (a) a Category A retirement pension,
  - (b) a Category B retirement pension, or
  - (c) a shared additional pension,is not to be taken to have been deferred for any period ending before the certificate is issued unless the condition in sub-paragraph (2) is satisfied.

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*Status: Point in time view as at 04/04/2005.*

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

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- (2) The condition is that the entitlement both—
- (a) was actually deferred during the period, and
  - (b) would have been capable of being so deferred had the person’s gender been the acquired gender.

*Category C retirement pension for widows*

- 11 If (immediately before the certificate is issued) the person is entitled to a Category C retirement pension under section 78(2) of the 1992 Act, the person is not entitled to that pension afterwards.

*Graduated retirement benefit: Great Britain*

- 12 (1) The provision that may be made by regulations under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (c. 6) (power to retain provisions repealed by Social Security Act 1973 (c. 38), with or without modification, for transitional purposes) includes provision modifying the preserved graduated retirement benefit provisions in consequence of this Act.
- (2) “The preserved graduated retirement benefit provisions” are the provisions of the National Insurance Act 1965 (c. 51) relating to graduated retirement benefit continued in force, with or without modification, by regulations having effect as if made under that paragraph.

*Graduated retirement benefit: Northern Ireland*

- 13 (1) The provision that may be made by regulations under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9) (corresponding power for Northern Ireland) includes provision modifying the Northern Ireland preserved graduated retirement benefit provisions in consequence of this Act.
- (2) “The Northern Ireland preserved graduated retirement benefit provisions” are the provisions of the National Insurance Act (Northern Ireland) 1966 (c. 6 (N.I.)) relating to graduated retirement benefit continued in force, with or without modification, by regulations having effect as if made under that paragraph.

### **PART 3**

#### **OCCUPATIONAL PENSION SCHEMES**

*Guaranteed minimum pensions etc.: Great Britain*

- 14 (1) In this paragraph “the 1993 Act” means the Pension Schemes Act 1993 (c. 48); and expressions used in this paragraph and in that Act have the same meaning in this paragraph as in that Act.
- (2) The fact that the person’s gender has become the acquired gender does not affect the operation of section 14 of the 1993 Act (guaranteed minimum) in relation to the person, except to the extent that its operation depends on section 16 of the 1993 Act (revaluation); and sub-paragraphs (3) and (5) have effect subject to that.

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*Status: Point in time view as at 04/04/2005.*

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- (3) If (immediately before the certificate is issued) the person is a woman who is entitled to a guaranteed minimum pension but has not attained the age of 65—
- (a) the person is for the purposes of section 13 of the 1993 Act and the guaranteed minimum pension provisions to be treated after it is issued as not having attained pensionable age (so that the entitlement ceases) but as attaining pensionable age on subsequently attaining the age of 65, and
  - (b) in a case where the person’s guaranteed minimum pension has commenced before the certificate is issued, it is to be treated for the purposes of Chapter 3 of Part 4 of the 1993 Act (anti-franking) as if it had not.
- (4) But sub-paragraph (3)(a) does not—
- (a) affect any pension previously paid to the person, or
  - (b) prevent section 15 of the 1993 Act (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed) operating to increase the person’s guaranteed minimum by reason of a postponement of the commencement of the person’s guaranteed minimum pension for a period ending before the certificate is issued.
- (5) If (immediately before the certificate is issued) the person is a man who—
- (a) has attained the age of 60, but
  - (b) has not attained the age of 65,
- the person is to be treated for the purposes of section 13 of the 1993 Act and the guaranteed minimum pension provisions as attaining pensionable age when it is issued.
- (6) If at that time the person has attained the age of 65, the fact that the person’s gender has become the acquired gender does not affect the person’s pensionable age for those purposes.
- (7) The fact that the person’s gender has become the acquired gender does not affect any guaranteed minimum pension to which the person is entitled as a widow or widower immediately before the certificate is issued (except in consequence of the operation of the previous provisions of this Schedule).
- (8) If a transaction to which section 19 of the 1993 Act applies which is carried out before the certificate is issued discharges a liability to provide a guaranteed minimum pension for or in respect of the person, it continues to do so afterwards.
- (9) “The guaranteed minimum pension provision” means so much of the 1993 Act (apart from section 13) and of any other enactment as relates to guaranteed minimum pensions.

*Guaranteed minimum pensions etc.: Northern Ireland*

- 15 (1) In this paragraph “the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993 (c. 49); and expressions used in this paragraph and in that Act have the same meaning in this paragraph as in that Act.
- (2) The fact that the person’s gender has become the acquired gender does not affect the operation of section 10 of the 1993 Act (guaranteed minimum) in relation to the person, except to the extent that its operation depends on section 12 of the 1993 Act (revaluation); and sub-paragraphs (3) and (5) have effect subject to that.

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*Status: Point in time view as at 04/04/2005.*

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

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- (3) If (immediately before the certificate is issued) the person is a woman who is entitled to a guaranteed minimum pension but has not attained the age of 65—
- (a) the person is for the purposes of section 9 of the 1993 Act and the guaranteed minimum pension provisions to be treated after it is issued as not having attained pensionable age (so that the entitlement ceases) but as attaining pensionable age on subsequently attaining the age of 65, and
  - (b) in a case where the person's guaranteed minimum pension has commenced before the certificate is issued, it is to be treated for the purposes of Chapter 3 of Part 4 of the 1993 Act (anti-franking) as if it had not.
- (4) But sub-paragraph (3)(a) does not—
- (a) affect any pension previously paid to the person, or
  - (b) prevent section 11 of the 1993 Act (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed) operating to increase the person's guaranteed minimum by reason of a postponement of the commencement of the person's guaranteed minimum pension for a period ending before the certificate is issued.
- (5) If (immediately before the certificate is issued) the person is a man who—
- (a) has attained the age of 60, but
  - (b) has not attained the age of 65,
- the person is to be treated for the purposes of section 9 of the 1993 Act and the guaranteed minimum pension provisions as attaining pensionable age when it is issued.
- (6) If at that time the person has attained the age of 65, the fact that the person's gender has become the acquired gender does not affect the person's pensionable age for those purposes.
- (7) The fact that the person's gender has become the acquired gender does not affect any guaranteed minimum pension to which the person is entitled as a widow or widower immediately before the certificate is issued (except in consequence of the operation of the previous provisions of this Schedule).
- (8) If a transaction to which section 15 of the 1993 Act applies which is carried out before the certificate is issued discharges a liability to provide a guaranteed minimum pension for or in respect of the person, it continues to do so afterwards.
- (9) "The guaranteed minimum pension provision" means so much of the 1993 Act (apart from section 9) and of any other enactment as relates to guaranteed minimum pensions.

*Equivalent pension benefits: Great Britain*

- 16 (1) The provision that may be made by regulations under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (c. 6) (power to retain provisions repealed by Social Security Act 1973 (c. 38), with or without modification, for transitional purposes) includes provision modifying the preserved equivalent pension benefits provisions in consequence of this Act.
- (2) "The preserved equivalent pension benefits provisions" are the provisions of the National Insurance Act 1965 (c. 51) relating to equivalent pension benefits continued

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in force, with or without modification, by regulations having effect as if made under that paragraph.

*Equivalent pension benefits: Northern Ireland*

- 17 (1) The provision that may be made by regulations under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9) (corresponding power for Northern Ireland) includes provision modifying the Northern Ireland preserved equivalent pension benefits provisions in consequence of this Act.
- (2) “The Northern Ireland preserved equivalent pension benefits provisions” are the provisions of the National Insurance Act (Northern Ireland) 1966 (c. 6 (N.I.)) relating to equivalent pension benefits continued in force, with or without modification, by regulations having effect as if made under that paragraph.

SCHEDULE 6

Section 14

SEX DISCRIMINATION

**PART 1**

GREAT BRITAIN

- 1 The Sex Discrimination Act 1975 (c. 65) is amended as follows.
- 2 In section 7A (gender reassignment: exception for genuine occupational qualification), insert at the end—
- “(4) Subsection (1) does not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.”
- 3 In section 7B (supplementary exceptions relating to gender reassignment), for subsection (3) substitute—
- “(3) Subsection (2) does not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.”
- 4 In section 9 (discrimination against contract workers), after subsection (3C) insert—
- “(3D) Subsections (3B) and (3C) do not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.”
- 5 In section 11 (partnerships), after subsection (3C) insert—
- “(3D) Subsections (3B) and (3C) do not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.”

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*Status: Point in time view as at 04/04/2005.*

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

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## PART 2

### NORTHERN IRELAND

- 6 The Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15)) is amended as follows.
- 7 In Article 10A (gender reassignment: exception for genuine occupational qualification), insert at the end—
- “ (4) Paragraph (1) does not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.”
- 8 In Article 10B (supplementary exceptions relating to gender reassignment), for paragraph (3) substitute—
- “ (3) Paragraph (2) does not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.”
- 9 In Article 12 (discrimination against contract workers), after paragraph (3C) insert—
- “ (3D) Paragraphs (3B) and (3C) do not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.”
- 10 In Article 14 (partnerships), after paragraph (3C) insert—
- “ (3D) Paragraphs (3B) and (3C) do not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.”



**Status:**

Point in time view as at 04/04/2005.

**Changes to legislation:**

There are currently no known outstanding effects for the Gender Recognition Act 2004.