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STATUTORY INSTRUMENTS

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**2005 No. 638**

**GENDER RECOGNITION**

**Gender Recognition (Application Fees) Order 2005**

<i>Made</i>	- - - -	<i>9th March 2005</i>
<i>Laid before Parliament</i>		<i>10th March 2005</i>
<i>Coming into force</i>	- -	<i>4th April 2005</i>

The Secretary of State, in exercise of the powers conferred upon him by section 7(2) of the Gender Recognition Act 2004<sup>(1)</sup>, hereby makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Gender Recognition (Application Fees) Order 2005 and comes into force on 4th April 2005.

(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 this Order—

- (a) “application” means an application to a Gender Recognition Panel under section 1(1), 5(2) or 6(1);
- (b) “relevant income” has the meaning given in article 4; and
- (c) “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.

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<i>Relevant income of applicant</i>	<i>Application fee</i>
Greater than £22,575	£140

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(1) 2004 c. 7.

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<i>Relevant income of applicant</i>	<i>Application fee</i>
Greater than £15,050 but not greater than £22,575	£30

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### **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 £15,050 or less; or
    - (iii) at the date of the application, the applicant is in receipt of any qualifying benefit; or
  - (b) the application is made under section 5(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<sup>(2)</sup> for the tax year immediately preceding that in which the application is made.

(3) “Relevant trading income” means annual profits or gains arising or accruing from any trade, profession or vocation, whether carried on in the United Kingdom or elsewhere, chargeable to income tax under Case I or Case II of Schedule D for the tax year immediately preceding that in which the application is made.

(4) “Schedule D” means the Schedule set out in section 18 of the Income and Corporation Taxes Act 1988<sup>(3)</sup>.

(5) “Relevant chargeable gains” means gains on which tax is chargeable in accordance with the Taxation of Chargeable Gains Act 1992<sup>(4)</sup> in the year of assessment immediately preceding that in which the application is made.

(6) 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—

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(2) 2003 c. 1.

(3) 1988 c. 1; section 18 is amended by the Finance Act 1996 (c. 8) Schedule 7, paragraphs 4(4) and 32, and the Finance Act 2004 (c. 12) section 105(4).

(4) 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.

- (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<sup>(5)</sup>; 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 £15,050 or less;
- (c) income-based jobseeker's allowance under—
    - (i) the Jobseekers Act 1995<sup>(6)</sup>; or
    - (ii) the Jobseekers (Northern Ireland) Order 1995<sup>(7)</sup>;
  - (d) guarantee credit under—
    - (i) the State Pension Credit Act 2002<sup>(8)</sup>; or
    - (ii) the State Pension Credit Act (Northern Ireland) 2002<sup>(9)</sup>.

Signed by authority of the Secretary of State

9th March 2005

*Cathy Ashton*  
Parliamentary Under-Secretary of State  
Department for Constitutional Affairs

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<sup>(5)</sup> 2002 c. 21.  
<sup>(6)</sup> 1995 c. 18.  
<sup>(7)</sup> S.I. 1995/2705 (N.I. 15)  
<sup>(8)</sup> 2002 c. 16.  
<sup>(9)</sup> 2002 c. 14.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Section 7(2) of the Gender Recognition Act 2004 (“the Act”), provides for fees to be payable in relation to applications to a Gender Recognition Panel under section 1(1), 5(2) and 6(1) of the Act. This Order prescribes the level of those fees. It prescribes a fee of £140 for applicants whose relevant income is greater than £22,575, and a fee of £30 for applicants whose relevant income is greater than £15,050 but not greater than £22,575. It prescribes that no fee is payable in circumstances where the applicant’s relevant income is £15,050 or less or the applicant is in receipt of a qualifying benefit. “Relevant income” and “qualifying benefit” are defined in articles 4 and 5.

The Order also prescribes that no fee is payable if the application is made under section 5(2) (application for a full gender recognition certificate within 6 months of grant of an interim gender recognition certificate) or under section 1(1) where the applicant had previously received an interim gender recognition certificate, or under section 6(1) (application for a corrected certificate where the original contains an error).