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*Changes to legislation: There are currently no known outstanding effects for the Marriage and Civil Partnership (Scotland) Act 2014, Cross Heading: Issue of full gender recognition certificate after interim certificate: applicant married. (See end of Document for details)*

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## SCHEDULE 2 CHANGE OF GENDER OF MARRIED PERSONS OR CIVIL PARTNERS

### PART 1

#### APPLICATIONS BY MARRIED PERSONS AND CIVIL PARTNERS

*Issue of full gender recognition certificate after interim certificate: applicant married*

5 Before section 5 insert—

#### **Married person with interim certificate: issue of full certificate (Scotland)**

“4C (1) A Gender Recognition Panel must issue a full gender recognition certificate to a person in either of the following cases.

(2) Case A is where, on an application by the person, the Panel is satisfied that—

- (a) an interim gender recognition certificate has been issued to the person,
- (b) the person was a party to a protected Scottish marriage at the time when the interim gender recognition certificate was issued,
- (c) the person is still a party to that protected Scottish marriage, and
- (d) both parties to the marriage now consent to the marriage continuing after the issue of the full gender recognition certificate.

(3) Case B is where, on an application by the person, the Panel is satisfied that—

- (a) an interim gender recognition certificate has been issued to the person,
- (b) the person was a party to a protected Scottish civil partnership at the time when the interim gender recognition certificate was issued,
- (c) the protected civil partnership was a qualifying civil partnership (within the meaning of section 5(6) of the Marriage (Scotland) Act 1977) and the parties to the civil partnership submitted notice of intention to marry under section 3(1) of that Act within the period of six months beginning with the day on which that certificate was issued,
- (d) the submitting of notice has resulted in the civil partnership becoming a marriage,
- (e) the person is a party to that marriage, and
- (f) the person's spouse consents to the marriage continuing after the issue of the full gender recognition certificate.

(4) If, on an application under subsection (2) or (3), the Panel is not satisfied as mentioned in that subsection, the Panel must reject the application.

(5) An application under subsection (2) must be made within the period of six months beginning with the day on which the interim gender recognition certificate is issued.

(6) An application under subsection (3) must be made within the period of six months beginning with the day on which the civil partnership becomes a marriage.

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- (7) An application under subsection (2) or (3) must include a statutory declaration of consent (within the meaning of section 3(6D)(b)(i)) made by the person's spouse.
- (8) An application under subsection (3) must also include—
  - (a) evidence of the date on which the notice referred to in subsection (3) (c) was submitted, and
  - (b) evidence that the civil partnership has become a marriage.
- (9) If an application is made under this section, the Panel must give the applicant's spouse—
  - (a) notice of the application, and
  - (b) if the Panel grants the application, notice of the issue of the full gender recognition certificate.

**Application under section 4C: death of spouse**

- 4D (1) In a case where an application is made under section 4C(2) or (3) and the applicant's spouse dies before the application is determined—
  - (a) the application is to be treated as an application, made under section 5(2) in a case where a spouse has died, for a full gender recognition certificate to be issued, and
  - (b) that application is to be treated as having been made at the time when the application under section 4C was made.
- (2) The Gender Recognition Panel determining the application must specify the period within which the applicant is to produce the required evidence in support of the new application.
- (3) In this section—
  - “new application” means the application under section 5(2) which the person is, by virtue of subsection (1), treated as having made,
  - “required evidence” means the evidence required by section 5(4).

**Married person with interim certificate: issue of full certificate on application to the sheriff (Scotland)**

- 4E (1) A person may make a summary application to the sheriff for the issue of a full gender recognition certificate where—
  - (a) an interim gender recognition certificate has been issued to the person,
  - (b) the person is a party to a protected Scottish marriage, and
  - (c) the person is not in possession of a statutory declaration by the person's spouse that the spouse consents to the marriage continuing after the issue of a full gender recognition certificate.
- (2) The sheriff must grant an application made under subsection (1) if the sheriff is satisfied that—
  - (a) the applicant was a party to a protected Scottish marriage at the time when the interim gender recognition certificate was issued,
  - (b) the applicant is still a party to that protected Scottish marriage, and

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- (c) the application was made within the period of six months beginning with the day on which the interim gender recognition certificate was issued.
- (3) If an application is made under this section, the sheriff must give the applicant's spouse—
- (a) notice of the application, and
  - (b) if the sheriff grants the application, notice of the issue of the full gender recognition certificate.
- (4) Where the sheriff issues a full gender recognition certificate, the sheriff must send a copy to the Gender Recognition Panel.

#### **Death of civil partner or spouse: issue of full certificate (Scotland)**

- 4F (1) A Gender Recognition Panel must issue a full gender recognition certificate to a person in either of the following cases.
- (2) Case A is where, on an application by the person, the Panel is satisfied that—
- (a) an interim gender recognition certificate has been issued to the person,
  - (b) the person was a party to a protected Scottish civil partnership at the time when the interim gender recognition certificate was issued,
  - (c) the protected civil partnership was a qualifying civil partnership (within the meaning of section 5(6) of the Marriage (Scotland) Act 1977) and the parties to the civil partnership submitted notice of intention to marry under section 3(1) of that Act within the period of six months beginning with the day on which that certificate was issued, and
  - (d) the person's civil partner died—
    - (i) before the submitting of notice had resulted in the civil partnership becoming a marriage, and
    - (ii) after the period of six months beginning with the day on which the interim gender recognition certificate was issued.
- (3) Case B is where, on an application by the person, the Panel is satisfied that—
- (a) an interim gender recognition certificate has been issued to the person,
  - (b) the person was a party to a protected Scottish civil partnership at the time when the interim gender recognition certificate was issued,
  - (c) the protected civil partnership was a qualifying civil partnership (within the meaning of section 5(6) of the Marriage (Scotland) Act 1977) and the parties to the civil partnership submitted notice of intention to marry under section 3(1) of that Act within the period of six months beginning with the day on which that certificate was issued,
  - (d) the submitting of notice resulted in the civil partnership becoming a marriage, and
  - (e) the person's spouse died—
    - (i) within the period of six months beginning with the day on which the civil partnership became a marriage, and

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- (ii) after the period of six months beginning with the day on which the interim gender recognition certificate was issued.
- (4) If, on an application under subsection (2) or (3), the Panel is not satisfied—
  - (a) as mentioned in that subsection, or
  - (b) that the person is neither married nor a civil partner,the Panel must reject the application.
- (5) An application under subsection (2) or (3) must be made within the period of six months beginning with the day on which the death occurs.
- (6) An application under subsection (2) or (3) must include evidence of—
  - (a) the death of the person's civil partner or, as the case may be, spouse and the date on which it occurred,
  - (b) the date on which the notice under section 3(1) of the 1977 Act was submitted.”.

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**Commencement Information**

**II** Sch. 2 para. 5 in force at 16.12.2014 by S.S.I. 2014/287, art. 3, Sch.

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