

SCHEDULE 2  
CHANGE OF GENDER OF MARRIED PERSONS OR CIVIL PARTNERS

PART 2

ALTERNATIVE GROUNDS FOR GRANTING APPLICATIONS  
FOR GENDER RECOGNITION CERTIFICATES

*Introductory*

- 13 The Gender Recognition Act 2004 is further amended in accordance with this Part of this schedule.

**Commencement Information**

- I1** Sch. 2 para. 13 in force at 16.12.2014 by S.S.I. 2014/287, art. 3, Sch.

*Alternative grounds for granting applications*

- 14 In section 2 (determination of applications), after subsection (3A) insert—  
“(3B) This section does not apply to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3C.”.

**Commencement Information**

- I2** Sch. 2 para. 14 in force at 16.12.2014 by S.S.I. 2014/287, art. 3, Sch.

- 15 After section 3B insert—

**“3C Alternative grounds for granting applications: Scotland**

**“3C “3C Alternative grounds for granting applications: Scotland**

- (1) This section applies to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with this section.
- (2) The Panel must grant the application if satisfied that the applicant complies with the requirements imposed by and under section 3D and meets the conditions in subsections (3) to (6).
- (3) The first condition is that the applicant was a party to a protected Scottish marriage or a protected Scottish civil partnership on or before the date the application was made.
- (4) The second condition is that the applicant—
  - (a) was living in the acquired gender six years before the commencement of section 29 of the Marriage and Civil Partnership (Scotland) Act 2014,

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- (b) continued to live in the acquired gender until the date the application was made, and
- (c) intends to continue to live in the acquired gender until death.
- (5) The third condition is that the applicant—
  - (a) has or has had gender dysphoria, or
  - (b) has undergone—
    - (i) surgical treatment, or
    - (ii) such other treatment as the Scottish Ministers may by order prescribe,
 for the purpose of modifying sexual characteristics.
- (6) The fourth condition is that the applicant is ordinarily resident in Scotland.
- (7) Before making an order under subsection (5)(b)(ii) the Scottish Ministers must consult the following persons on a copy of the proposed draft order—
  - (a) the Gender Recognition Panel,
  - (b) such other persons as the Scottish Ministers consider appropriate.
- (8) An order under subsection (5)(b)(ii)—
  - (a) may make different provision for different cases or circumstances,
  - (b) may amend any enactment (including this Act).
- (9) The Panel must reject the application if not required by subsection (2) to grant it.”.

**Commencement Information**

**I3** Sch. 2 para. 15 in force at 1.9.2014 for specified purposes by S.S.I. 2014/212, art. 2, Sch.

**I4** Sch. 2 para. 15 in force at 16.12.2014 in so far as not already in force by S.S.I. 2014/287, art. 3, Sch.

*Evidence for granting applications on alternative grounds*

16 In section 3 (evidence), after subsection (9) insert—

“(10) This section does not apply to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3C.”.

**Commencement Information**

**I5** Sch. 2 para. 16 in force at 16.12.2014 by S.S.I. 2014/287, art. 3, Sch.

17 After section 3C (inserted by paragraph 15) insert—

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### **“3D Evidence for granting applications on alternative grounds: Scotland**

#### **“3D “3D Evidence for granting applications on alternative grounds: Scotland**

- (1) This section applies to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3C.
- (2) The application must include either—
  - (a) a report made by a registered medical practitioner, or
  - (b) a report made by a registered psychologist practising in the field of gender dysphoria.
- (3) If the application is based on the applicant having or having had gender dysphoria—
  - (a) the reference in subsection (2) to a registered medical practitioner is to one practising in the field of gender dysphoria, and
  - (b) that subsection is not complied with unless the report includes details of the diagnosis of the applicant's gender dysphoria.
- (4) Subsection (2) is not complied with in a case where—
  - (a) the applicant has undergone or is undergoing treatment for the purpose of modifying sexual characteristics, or
  - (b) treatment for that purpose has been prescribed or planned for the applicant,unless the report required by that subsection includes details of it.
- (5) The application must also include a statutory declaration by the applicant that the applicant meets the conditions in section 3C(3) and (4).
- (6) The application must include—
  - (a) a statutory declaration as to whether or not the applicant is married or a civil partner,
  - (b) any other information or evidence required by an order made by the Scottish Ministers, and
  - (c) any other information or evidence which the Panel which is to determine the application may require,and may include any other information or evidence which the applicant wishes to include.
- (7) If the applicant is married, the application must include a statutory declaration as to whether the marriage is a protected Scottish marriage.
- (8) If the applicant is married, and the marriage is a protected Scottish marriage, the application must also include—
  - (a) a statutory declaration of consent (within the meaning of section 3(6D)(b)(i)) by the applicant's spouse (if the spouse has made such a declaration), or
  - (b) a statutory declaration by the applicant that no such declaration by the applicant's spouse is included.

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- (9) If the application includes a statutory declaration of consent by the applicant's spouse, the Panel must give the spouse notice that the application has been made.
- (10) If the Panel which is to determine the application requires information or evidence under subsection (6)(c) it must give reasons for doing so.”.

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**Commencement Information**

- I6** [Sch. 2 para. 17](#) in force at 1.9.2014 for specified purposes by [S.S.I. 2014/212, art. 2, Sch.](#)
- I7** [Sch. 2 para. 17](#) in force at 16.12.2014 in so far as not already in force by [S.S.I. 2014/287, art. 3, Sch.](#)

*Membership of Panels determining applications on alternative grounds*

- 18 In schedule 1 (Gender Recognition Panels), in paragraph 4, after sub-paragraph (3) insert—
- “(4) But a Panel need not include a medical member when determining an application under section 1(1)(a) for a certificate to be granted in accordance with section 3C.”.

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**Commencement Information**

- I8** [Sch. 2 para. 18](#) in force at 16.12.2014 by [S.S.I. 2014/287, art. 3, Sch.](#)

**Changes to legislation:**

There are currently no known outstanding effects for the Marriage and Civil Partnership (Scotland) Act 2014, PART 2.