

CIVIL PARTNERSHIP (SCOTLAND) ACT 2020

EXPLANATORY NOTES

COMMENTARY ON PROVISIONS

Final provisions [Schedule 2](#)

Change of gender of civil partners

Modification of the Gender Recognition Act 2004

Overview of the modifications to the Gender Recognition Act

59. The Gender Recognition Act enables people to change their legal gender. A change in legal gender is effected by the issuing of a full gender recognition certificate. The process for obtaining a full gender recognition certificate begins with an application to a gender recognition panel under [section 1 of the Gender Recognition Act](#).
60. [Section 4 of that Act](#) sets out the circumstances in which a gender recognition panel, having granted an application, must issue a full gender recognition certificate or an interim gender recognition certificate. If the person who made the application is in a civil partnership, and the person's partner is not also changing gender, section 4 provides that a gender recognition panel can only issue an interim gender recognition certificate. This is because issuing a full gender recognition certificate to only one of the partners would result in a different sex civil partnership which, as mentioned in paragraph 58 above, was not permitted when the Gender Recognition Act was enacted.
61. The issuing of an interim gender recognition certificate allows the civil partnership to be dissolved (under [section 117\(2\)\(b\) of the Civil Partnership Act 2004](#)), at which point the court must issue a full gender recognition certificate under [section 5A of the Gender Recognition Act](#). The issuing of an interim gender recognition certificate can also lead to the issuing of a full gender recognition if the civil partnership ends as a result of the other partner's death (see [section 4F of the Gender Recognition Act](#)).
62. Paragraph 5 of schedule 2 modifies the Gender Recognition Act so that being in a civil partnership will cease to be an absolute barrier to one partner obtaining a full gender recognition certificate. In their effect, the modifications largely mirror those made to the Gender Recognition Act by [the Marriage and Civil Partnership \(Scotland\) Act 2014](#), which made same sex marriage possible and in consequence modified the Gender Recognition Act so that being married ceased to be an absolute barrier to one spouse obtaining a full gender recognition certificate.