



# Gender Recognition Act 2004

## 2004 CHAPTER 7

### *Applications for gender recognition certificate*

#### **1 Applications**

- (1) A person of either gender who is aged at least 18 may make an application for a gender recognition certificate on the basis of—
  - (a) living in the other gender, or
  - (b) having changed gender under the law of a country or territory outside the United Kingdom.
- (2) In this Act “the acquired gender”, in relation to a person by whom an application under subsection (1) is or has been made, means—
  - (a) in the case of an application under paragraph (a) of that subsection, the gender in which the person is living, or
  - (b) in the case of an application under paragraph (b) of that subsection, the gender to which the person has changed under the law of the country or territory concerned.
- (3) An application under subsection (1) is to be determined by a Gender Recognition Panel.
- (4) Schedule 1 (Gender Recognition Panels) has effect.

#### **2 Determination of applications**

- (1) In the case of an application under section 1(1)(a), the Panel must grant the application if satisfied that the applicant—
  - (a) has or has had gender dysphoria,
  - (b) has lived in the acquired gender throughout the period of two years ending with the date on which the application is made,
  - (c) intends to continue to live in the acquired gender until death, and
  - (d) complies with the requirements imposed by and under section 3.

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- (2) In the case of an application under section 1(1)(b), the Panel must grant the application if satisfied—
  - (a) that the country or territory under the law of which the applicant has changed gender is an approved country or territory, and
  - (b) that the applicant complies with the requirements imposed by and under section 3.
- (3) The Panel must reject an application under section 1(1) if not required by subsection (1) or (2) to grant it.
- (4) In this Act “approved country or territory” means a country or territory prescribed by order made by the Secretary of State after consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland.

### 3 Evidence

- (1) An application under section 1(1)(a) must include either—
  - (a) a report made by a registered medical practitioner practising in the field of gender dysphoria and a report made by another registered medical practitioner (who may, but need not, practise in that field), or
  - (b) a report made by a [<sup>F1</sup>registered psychologist] practising in that field and a report made by a registered medical practitioner (who may, but need not, practise in that field).
- (2) But subsection (1) is not complied with unless a report required by that subsection and made by—
  - (a) a registered medical practitioner, or
  - (b) a [<sup>F1</sup>registered psychologist],
 practising in the field of gender dysphoria includes details of the diagnosis of the applicant’s gender dysphoria.
- (3) And subsection (1) 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 at least one of the reports required by that subsection includes details of it.
- (4) An application under section 1(1)(a) must also include a statutory declaration by the applicant that the applicant meets the conditions in section 2(1)(b) and (c).
- (5) An application under section 1(1)(b) must include evidence that the applicant has changed gender under the law of an approved country or territory.
- (6) Any application under section 1(1) must include—
  - (a) a statutory declaration as to whether or not the applicant is married [<sup>F2</sup>or a civil partner],
  - (b) any other information or evidence required by an order made by the Secretary of State, 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.

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- (7) The Secretary of State may not make an order under subsection (6)(b) without consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland.
- (8) If the Panel which is to determine the application requires information or evidence under subsection (6)(c) it must give reasons for doing so.

#### Textual Amendments

- F1** Words in s. 3(1)(b)(2)(b) substituted (1.7.2009) by [The Health Care and Associated Professions \(Miscellaneous Amendments and Practitioner Psychologists\) Order 2009 \(S.I. 2009/1182\)](#), art. 4(2), [Sch. 5 para. 8\(a\)](#) (with arts. 9, 10); S.I. 2009/1357, [art. 2\(d\)](#)
- F2** Words in s. 3(6)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 250\(2\)\(a\)](#), 263; S.I. 2005/3175, [art. 3](#), [Sch. 2](#)

### [<sup>F3</sup>3B Evidence for granting applications on alternative grounds

- (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 3A.
- (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 3A(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 Secretary of State, 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.

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- (7) If the applicant is married, the application must include a statutory declaration as to whether the marriage is a marriage under the law of England and Wales, of Scotland, of Northern Ireland, or of a country or territory outside the United Kingdom.
- (8) If the applicant is married, and the marriage is a protected marriage, the application must also include—
  - (a) a statutory declaration of consent by the applicant's spouse (if the spouse has made such a declaration), or
  - (b) a statutory declaration by the applicant that the applicant's spouse has not made a statutory declaration of consent (if that is the case).
- (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.]

**Textual Amendments**

**F3** S. 3B inserted (E.W.S.) (30.6.2014 for specified purposes) by [Marriage \(Same Sex Couples\) Act 2013](#) (c. 30), s. 21(3), [Sch. 5 para. 19](#); S.I. 2014/1662, art. 2(b)

**[<sup>F4</sup>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,
  - (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—

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- (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.]

#### Textual Amendments

- F4** S. 3C inserted (S.) (1.9.2014 for specified purposes) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 15](#); S.S.I. 2014/212, art. 2, [Sch.](#) (as amended (1.9.2014) by [S.S.I. 2014/218](#), art. 2(3), [Sch.](#))

### [<sup>F5</sup>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.

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- (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.
- (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.]

**Textual Amendments**

- F5** S. 3D inserted (S.) (1.9.2014 for specified purposes) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 17](#); S.S.I. 2014/212, art. 2, [Sch.](#) (as amended (1.9.2014) by S.S.I. 2014/218, art. 2(3), [Sch.](#))

**4 Successful applications**

- (1) If a Gender Recognition Panel grants an application under section 1(1) it must issue a gender recognition certificate to the applicant.
- (2) Unless the applicant is married [<sup>F6</sup>or a civil partner], the certificate is to be a full gender recognition certificate.
- (3) If the applicant is married [<sup>F6</sup>or a civil partner], the certificate is to be an interim gender recognition certificate.
- (4) Schedule 2 (annulment or dissolution of marriage after issue of interim gender recognition certificate) has effect.
- (5) The Secretary of State may, after consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland, specify the content and form of gender recognition certificates.

**Textual Amendments**

- F6** Words in s. 4(2)(3) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 250\(2\)\(b\)](#), 263; S.I. 2005/3175, [art. 3](#), [Sch. 2](#)

**5 [<sup>F7</sup>Issue of full certificates where applicant has been married]**

- (1) A court which—
- (a) makes absolute a decree of nullity granted on the ground that an interim gender recognition certificate has been issued to a party to the marriage, or
  - (b) (in Scotland) grants a decree of divorce on that ground,
- must, on doing so, issue a full gender recognition certificate to that party and send a copy to the Secretary of State.
- (2) If an interim gender recognition certificate has been issued to a person and either—

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- (a) the person's marriage is dissolved or annulled (otherwise than on the ground mentioned in subsection (1)) in proceedings instituted during the period of six months beginning with the day on which it was issued, or
  - (b) the person's spouse dies within that period,
- the person may make an application for a full gender recognition certificate at any time within the period specified in subsection (3) (unless the person is again married [<sup>F8</sup>or is a civil partner]).
- (3) That period is the period of six months beginning with the day on which the marriage is dissolved or annulled or the death occurs.
  - (4) An application under subsection (2) must include evidence of the dissolution or annulment of the marriage and the date on which proceedings for it were instituted, or of the death of the spouse and the date on which it occurred.
  - (5) An application under subsection (2) is to be determined by a Gender Recognition Panel.
  - (6) The Panel—
    - (a) must grant the application if satisfied that the applicant [<sup>F9</sup>is neither married nor a civil partner], and
    - (b) otherwise must reject it.
  - (7) If the Panel grants the application it must issue a full gender recognition certificate to the applicant.

#### Textual Amendments

- F7** S. 5: heading substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(3)(c)**, 263; S.I. 2005/3175, **art. 3**, Sch. 2
- F8** Words in s. 5(2) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(3)(a)**, 263; S.I. 2005/3175, **art. 3**, Sch. 2
- F9** Words in s. 5(6)(a) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(3)(b)**, 263; S.I. 2005/3175, **art. 3**, Sch. 2

#### [<sup>F10</sup>5A Issue of full certificates where applicant has been a civil partner

- (1) A court which—
  - (a) makes final a nullity order made on the ground that an interim gender recognition certificate has been issued to a civil partner, or
  - (b) (in Scotland) grants a decree of dissolution on that ground,must, on doing so, issue a full gender recognition certificate to that civil partner and send a copy to the Secretary of State.
- (2) If an interim gender recognition certificate has been issued to a person and either—
  - (a) the person's civil partnership is dissolved or annulled (otherwise than on the ground mentioned in subsection (1)) in proceedings instituted during the period of six months beginning with the day on which it was issued, or
  - (b) the person's civil partner dies within that period,the person may make an application for a full gender recognition certificate at any time within the period specified in subsection (3) (unless the person is again a civil partner or is married).

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- (3) That period is the period of six months beginning with the day on which the civil partnership is dissolved or annulled or the death occurs.
- (4) An application under subsection (2) must include evidence of the dissolution or annulment of the civil partnership and the date on which proceedings for it were instituted, or of the death of the civil partner and the date on which it occurred.
- (5) An application under subsection (2) is to be determined by a Gender Recognition Panel.
- (6) The Panel—
  - (a) must grant the application if satisfied that the applicant is neither a civil partner nor married, and
  - (b) otherwise must reject it.
- (7) If the Panel grants the application it must issue a full gender recognition certificate to the applicant.]

**Textual Amendments**

**F10** S. 5A inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(4)**, 263; S.I. 2005/3175, **art. 3**, **Sch. 2**

**[<sup>F11</sup>5C Protected Scottish civil partnership: applications by both civil partners**

- (1) This section applies where a Gender Recognition Panel decides to issue a full gender recognition certificate to a party to a protected Scottish civil partnership.
- (2) The Panel must not issue the full gender recognition certificate to that person unless the Panel issues a full gender recognition certificate to the other party to the protected Scottish civil partnership.
- (3) In such a case, the Panel must issue both certificates on the same day.
- (4) Those certificates take effect at the beginning of the day on which they are issued.

**Textual Amendments**

**F11** Ss. 5C, 5D inserted (S.) (1.9.2014 for specified purposes) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, **Sch. 2 para. 7**; S.S.I. 2014/212, **art. 2**, **Sch.** (as amended (1.9.2014) by S.S.I. 2014/218, art. 2(3), Sch.)

**5D Protected Scottish civil partnership: power to make further provision for issue of full certificate**

- (1) The Scottish Ministers may by order provide for the issue by a Gender Recognition Panel, on an application under section 1(1) by a qualifying person, of a full gender recognition certificate in additional circumstances to those specified in section 4(3C) (b) or 5C.
- (2) In subsection (1), “qualifying person” means a person who is a party to a protected Scottish civil partnership.



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- (3) An order under subsection (1) may include, in particular, provision about—
  - (a) the evidence or other information that is to be included with an application,
  - (b) the procedure to be followed in determining an application, including provision for the giving of notice to any person,
  - (c) the effect of the issuing to the applicant of a full gender recognition certificate in relation to the civil partnership to which the applicant is party.
- (4) Provision under subsection (3)(c) may include, in particular, provision for changing the civil partnership into a marriage.
- (5) An order under subsection (1) may modify this Act or any other enactment.
- (6) Before making an order under subsection (1), the Scottish Ministers must consult the following persons on a copy of the proposed draft order—
  - (a) the Registrar General for Scotland,
  - (b) the Gender Recognition Panel, and
  - (c) such other persons as the Scottish Ministers consider appropriate.]

#### Textual Amendments

**F11** Ss. 5C, 5D inserted (S.) (1.9.2014 for specified purposes) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 2 para. 7; S.S.I. 2014/212, art. 2, Sch.](#) (as amended (1.9.2014) by [S.S.I. 2014/218, art. 2\(3\), Sch.](#))

## 6 Errors in certificates

- (1) Where a gender recognition certificate has been issued to a person, the person or the Secretary of State may make an application for a corrected certificate on the ground that the certificate which has been issued contains an error.
- (2) If the certificate was issued by a court the application is to be determined by the court but in any other case it is to be determined by a Gender Recognition Panel.
- (3) The court or Panel—
  - (a) must grant the application if satisfied that the gender recognition certificate contains an error, and
  - (b) otherwise must reject it.
- (4) If the court or Panel grants the application it must issue a corrected gender recognition certificate to the applicant.

## 7 Applications: supplementary

- (1) An application to a Gender Recognition Panel under section 1(1), 5(2) [<sup>F12</sup>, 5A(2)] or 6(1) must be made in a form and manner specified by the Secretary of State after consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland.
- (2) The applicant must pay to the Secretary of State a non-refundable fee of an amount prescribed by order made by the Secretary of State unless the application is made in circumstances in which, in accordance with provision made by the order, no fee is payable; and fees of different amounts may be prescribed for different circumstances.

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- F12** Word in s. 7(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(5)(a)**, 263; S.I. 2005/3175, **art. 3**, Sch. 2

**8 Appeals etc.**

- (1) An applicant to a Gender Recognition Panel under section 1(1), 5(2) [<sup>F13</sup>, 5A(2)] or 6(1) may appeal to the High Court [<sup>F14</sup>, family court ] or Court of Session on a point of law against a decision by the Panel to reject the application.
- (2) An appeal under subsection (1) must be heard in private if the applicant so requests.
- (3) On such an appeal the court must—
  - (a) allow the appeal and issue the certificate applied for,
  - (b) allow the appeal and refer the matter to the same or another Panel for re-consideration, or
  - (c) dismiss the appeal.
- (4) If an application under section 1(1) is rejected, the applicant may not make another application before the end of the period of six months beginning with the date on which it is rejected.
- (5) If an application under section 1(1), 5(2) [<sup>F15</sup>, 5A(2)] or 6(1) is granted but the Secretary of State considers that its grant was secured by fraud, the Secretary of State may refer the case to the High Court [<sup>F16</sup>, family court ] or Court of Session.
- (6) On a reference under subsection (5) the court—
  - (a) must either quash or confirm the decision to grant the application, and
  - (b) if it quashes it, must revoke the gender recognition certificate issued on the grant of the application and may make any order which it considers appropriate in consequence of, or otherwise in connection with, doing so.

**Textual Amendments**

- F13** Word in s. 8(1) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(5)(b)**, 263; S.I. 2005/3175, **art. 3**, Sch. 2
- F14** Words in s. 8(1) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 160**; S.I. 2014/954, **art. 2(e)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)
- F15** Words in s. 8(5) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(5)(b)**, 263; S.I. 2005/3175, **art. 3**, Sch. 2
- F16** Word in s. 8(5) inserted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), **Sch. 11 para. 160**; S.I. 2014/954, **art. 2(e)** (with **art. 3**) (with transitional provisions and savings in S.I. 2014/956, arts. 3-11)

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