



Gender Recognition Act 2004

2004 CHAPTER 7

[^{F1}Other provision about applications and certificates]

Textual Amendments

- F1** S. 5B and cross-heading inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), [Sch. 5 para. 5](#); S.I. 2014/3169, art. 2

^{F2}5B Applications by both civil partners

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Textual Amendments

- F2** S. 5B omitted (2.12.2019) by virtue of [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), **30** (with reg. 35)

^{F3}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.

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Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004, Cross Heading: Other provision about applications and certificates. (See end of Document for details)

Textual Amendments

F3 Ss. 5C, 5D inserted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) 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.](#)); S.S.I. 2014/287, art. 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.
- (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

F3 Ss. 5C, 5D inserted (1.9.2014 for specified purposes, 16.12.2014 in so far as not already in force) 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.](#)); S.S.I. 2014/287, art. 3, Sch.

6 ^[F4]Errors]

- ^[F5](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) an interim gender recognition certificate, on the ground that a full gender recognition certificate has incorrectly been issued instead of an interim certificate;
 - (b) a full gender recognition certificate, on the ground that an interim gender recognition certificate has incorrectly been issued instead of a full certificate;
- or

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- (c) 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—
 - [^{F6}(a) must grant the application if satisfied that the ground on which the application is made is correct, and]
 - (b) otherwise must reject it.
- (4) If the court or Panel grants the application it must issue [^{F7}a correct, or a corrected,] gender recognition certificate to the applicant.

Textual Amendments

- F4** S. 6 title substituted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 6\(a\)](#); S.I. 2014/3169, art. 2
- F5** S. 6(1) substituted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 6\(b\)](#); S.I. 2014/3169, art. 2
- F6** S. 6(3)(a) substituted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 6\(c\)](#); S.I. 2014/3169, art. 2
- F7** Words in s. 6(4) substituted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 6\(d\)](#); S.I. 2014/3169, art. 2

7 Applications: supplementary

- (1) An application to a Gender Recognition Panel under section 1(1), [^{F8}4A,][^{F9}4C, 4F,] 5(2) [^{F10}, 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.

Textual Amendments

- F8** Word in s. 7 inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 7](#); S.I. 2014/3169, art. 2
- F9** Words in s. 7(1) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 2 para. 19\(1\)](#); S.S.I. 2014/287, art. 3, Sch.
- F10** 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), [^{F11}4A,][^{F12}4C, 4F,] 5(2) [^{F13}, 5A(2)] or 6(1) may appeal to the High Court [^{F14}, family court] or Court of Session on a point of law against a decision by the Panel to reject the application.

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- (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), [F15 4A,] [F16 4C, 4E, 4F,] 5(2) [F17, 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 [F18, family court] or Court of Session.
- [F19(5A) If an application under section 1(1), 4A, 5(2), 5A(2) or 6(1) is granted, the applicant's spouse [F20 or civil partner] may apply to the High Court or Court of Session to quash the decision to grant the application on the grounds that its grant was secured by fraud.]
- [F21(5B) If an application under section 1(1), 4C, 4E, 4F, 5(2), 5A(2) or 6(1) is granted, the applicant's spouse or civil partner may apply to the Court of Session to quash the decision to grant the application on the grounds that its grant was secured by fraud.]
- [F22(5C) If an application under section 4C is granted, the applicant's spouse or civil partner may apply to the High Court to quash the decision to grant the application on the grounds that its grant was secured by fraud.]
- (6) On a reference under subsection (5) [F23 or an application under subsection (5A)] [F24 or an application under subsection (5B)] 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

- F11** Word in s. 8(1) inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 8\(a\)](#); S.I. 2014/3169, art. 2
- F12** Words in s. 8(1) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 2 para. 8\(a\)](#); S.S.I. 2014/287, art. 3, Sch.
- 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** Word in s. 8(5) inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\), s. 21\(3\), Sch. 5 para. 8\(b\)](#); S.I. 2014/3169, art. 2
- F16** Words in s. 8(5) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\), s. 36, Sch. 2 para. 8\(b\)](#); S.S.I. 2014/287, art. 3, Sch.
- F17** 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

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- F18** 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)
- F19** S. 8(5A) inserted (10.12.2014) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 5 para. 8(c)**; S.I. 2014/3169, art. 2
- F20** Words in s. 8(5A) inserted (2.12.2019) by The Civil Partnership (Opposite-sex Couples) Regulations 2019 (S.I. 2019/1458), regs. 1(2), **31** (with reg. 35)
- F21** S. 8(5B) inserted (S.) (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), s. 36, **Sch. 2 para. 8(c)**; S.S.I. 2014/287, art. 3, Sch.
- F22** S. 8(5C) inserted (S.) (16.12.2014) by The Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014 (S.I. 2014/3229), art. 1(2), **Sch. 5 para. 15(5)**
- F23** Words in s. 8(6) inserted (10.12.2014) by Marriage (Same Sex Couples) Act 2013 (c. 30), s. 21(3), **Sch. 5 para. 8(d)**; S.I. 2014/3169, art. 2
- F24** Words in s. 8(6) inserted (S.) (16.12.2014) by Marriage and Civil Partnership (Scotland) Act 2014 (asp 5), s. 36, **Sch. 2 para. 8(d)**; S.S.I. 2014/287, art. 3, Sch.

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