

Status: Point in time view as at 02/12/2019.

Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 1

GENDER RECOGNITION PANELS

List of persons eligible to sit

- 1 (1) [^{F1}Subject to sub-paragraph (1A), the Lord Chancellor] must, after consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland, make appointments to a list of persons eligible to sit as members of Gender Recognition Panels.
- [^{F2}(1A) The Lord Chancellor may appoint a person under sub-paragraph (1) only with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
 - (b) the Lord President of the Court of Session;
 - (c) the Lord Chief Justice of Northern Ireland.]
- (2) The only persons who may be appointed to the list are persons who—
- (a) have a relevant legal qualification (“legal members”), or
 - (b) are registered medical practitioners or [^{F3}registered psychologists] (“medical members”).
- (3) The following have a relevant legal qualification—
- (a) a person who has a 7 year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41),
 - (b) an advocate or solicitor in Scotland of at least seven years' standing, and
 - (c) a member of the Bar of Northern Ireland or [^{F4}solicitor of the Court of Judicature of Northern Ireland] of at least seven years' standing.

Textual Amendments

- F1** Words in Sch. 1 para. 1(1) substituted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, **Sch. 1 para. 13**
- F2** Sch. 1 para. 1(1A) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, **Sch. 1 para. 14**
- F3** Words in Sch. 1 para. 1(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(d)** (with arts. 9, 10); S.I. 2009/1357, **art. 2(d)**
- F4** Words in Sch. 1 para. 1(3)(c) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, **Sch. 11 para. 5**; S.I. 2009/1604, **art. 2(d)**

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President

- 2 (1) [^{F5}Subject to sub-paragraph (1A), the Lord Chancellor] must, after consulting the Scottish Ministers and the Department of Finance and Personnel in Northern Ireland—
- (a) appoint one of the legal members to be the President of Gender Recognition Panels (“the President”), and
 - (b) appoint another of the legal members to be the Deputy President of Gender Recognition Panels (“the Deputy President”).
- [^{F6}(1A) The Lord Chancellor may appoint a person under sub-paragraph (1) only with the concurrence of all of the following—
- (a) the Lord Chief Justice of England and Wales;
 - (b) the Lord President of the Court of Session;
 - (c) the Lord Chief Justice of Northern Ireland.]
- (2) The Deputy President has the functions of the President—
- (a) if the President is unavailable, and
 - (b) during any vacancy in the office of President.

Textual Amendments

- F5** Words in Sch. 1 para. 2(1) substituted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, **Sch. 1 para. 15**
- F6** Sch. 1 para. 2(1A) inserted (3.4.2006) by [The Lord Chancellor \(Transfer of Functions and Supplementary Provisions\) \(No.2\) Order 2006 \(S.I. 2006/1016\)](#), art. 2, **Sch. 1 para. 16**

Tenure of persons appointed to list

- 3 Persons on the list—
- (a) hold and vacate their appointments in accordance with the terms on which they are appointed, and
 - (b) are eligible for re-appointment at the end of their period of appointment.

Membership of Panels

- 4 (1) The President must make arrangements for determining the membership of Panels.
- (2) The arrangements must ensure that a Panel determining an application under section 1(1)(a) includes—
- (a) at least one legal member, and
 - (b) at least one medical member.
- [^{F7}(3) 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 3A.]
- [^{F8}(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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Textual Amendments

- F7** Sch. 1 para. 4(3) inserted (E.W.S.) (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), [Sch. 5 para. 20](#); S.I. 2014/3169, art. 2
- F8** Sch. 1 para. 4(4) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 18](#); S.S.I. 2014/287, art. 3, Sch.

- 5 The arrangements must ensure that a Panel determining an application under section 1(1)(b), 5(2) [^{F9}, 5A(2)] or 6(1) includes at least one legal member.

Textual Amendments

- F9** Words in Sch. 1 para. 5 inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 250\(8\)](#), 263; S.I. 2005/3175, [art. 3](#), Sch. 2

Procedure

- 6 (1) Where a Panel consists of more than one member, either the President or Deputy President or another legal member nominated by the President must preside.
- (2) Decisions of a Panel consisting of more than one member may be taken by majority vote (and, if its members are evenly split, the member presiding has a casting vote).
- (3) Panels are to determine applications in private.
- (4) A Panel must determine an application without a hearing unless the Panel considers that a hearing is necessary.
- (5) The President may^{F10}... give directions about the practice and procedure of Panels.
- (6) Panels must give reasons for their decisions.
- (7) Where a Panel has determined an application, the Secretary of State must communicate to the applicant the Panel's decision and its reasons for making its decision.

Textual Amendments

- F10** Words in Sch. 1 para. 6(5) omitted (19.9.2013) by virtue of [The Public Bodies \(Abolition of Administrative Justice and Tribunals Council\) Order 2013 \(S.I. 2013/2042\)](#), art. 1(2), [Sch. para. 28\(a\)](#)

Staff and facilities

- 7 The Secretary of State may make staff and other facilities available to Panels.

Money

- 8 (1) The Secretary of State may pay sums by way of remuneration, allowances and expenses to members of Panels.

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- (2) The Secretary of State may pay compensation to a person who ceases to be on the list if the Secretary of State thinks it appropriate to do so because of special circumstances.

Delegation

- [^{F11}8A (1) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise any of his functions under this Schedule.
- (2) The Lord President of the Court of Session may nominate a judge of the Court of Session who is a member of the First or Second Division of the Inner House of that Court to exercise his functions under this Schedule.
- (3) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this Schedule—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

Textual Amendments

- F11** Sch. 1 para. 8A inserted (3.4.2006) by The Lord Chancellor (Transfer of Functions and Supplementary Provisions) (No.2) Order 2006 (S.I. 2006/1016), **Sch. 1 para. 17**

[^{F12}Tribunals and Inquiries Act 1992]

Textual Amendments

- F12** Sch. 1 cross-heading substituted (19.9.2013) by The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 28(b)**

- 9 In Schedule 1 to the Tribunals and Inquiries Act 1992 (c. 53) ([^{F13}tribunals to which that Act applies]), before paragraph 22 insert—

“Gender Recognition

21AA. Gender Recognition Panels constituted under Schedule 1 to the Gender Recognition Act 2004 (c. 7).”

Textual Amendments

- F13** Words in Sch. 1 para. 9 substituted (19.9.2013) by The Public Bodies (Abolition of Administrative Justice and Tribunals Council) Order 2013 (S.I. 2013/2042), art. 1(2), **Sch. para. 28(c)**

Disqualification

- 10 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (offices disqualifying person from membership of House of Commons), at the

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appropriate place insert— “ Person on the list of those eligible to sit as members of a Gender Recognition Panel. ”

- 11 In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (offices disqualifying persons from membership of Northern Ireland Assembly), at the appropriate place insert— “ Person on the list of those eligible to sit as members of a Gender Recognition Panel. ”

SCHEDULE 2

Section 4

INTERIM CERTIFICATES: MARRIAGE

PART 1

ENGLAND AND WALES

- 1 The Matrimonial Causes Act 1973 (c. 18) is amended as follows.
- 2 In section 12 (grounds on which a marriage celebrated after 31st July 1971 is voidable), after paragraph (f) insert—
- “(g) that an interim gender recognition certificate under the Gender Recognition Act 2004 has, after the time of the marriage, been issued to either party to the marriage;”.
- 3 In section 13 (bars to relief), after subsection (2) insert—
- “(2A) Without prejudice to subsection (1) above, the court shall not grant a decree of nullity by virtue of section 12 above on the ground mentioned in paragraph (g) of that section unless it is satisfied that proceedings were instituted within the period of six months from the date of issue of the interim gender recognition certificate.”
- 4 (1) Paragraph 11 of Schedule 1 (grounds on which a marriage celebrated before 1st August 1971 is voidable) is amended as follows.
- (2) In sub-paragraph (1), after paragraph (d) insert “or
- (e) that an interim gender recognition certificate under the Gender Recognition Act 2004 has been issued to either party to the marriage;”.
- (3) After sub-paragraph (3) insert—
- “(3A) The court shall not grant a decree of nullity in a case falling within sub-paragraph (1)(e) above unless it is satisfied that proceedings were instituted within six months from the date of issue of the interim gender recognition certificate.”

PART 2

SCOTLAND

- 5 The Divorce (Scotland) Act 1976 (c. 39) is amended as follows.

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- 6 (1) In subsection (1) of section 1 (grounds on which decree of divorce may be granted)—
- (a) the words “the marriage has broken down irretrievably” become paragraph (a), and
- (b) after that paragraph insert “or
- (b) an interim gender recognition certificate under the Gender Recognition Act 2004 has, after the date of the marriage, been issued to either party to the marriage.”
- (2) Accordingly, the title of that section becomes “ Grounds of divorce ”.
- 7 In section 2(1) (encouragement of reconciliation), for “in an action for divorce” substitute “ under paragraph (a) of section 1(1) ”.

PART 3

NORTHERN IRELAND

- 8 The Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)) is amended as follows.
- 9 In Article 14 (grounds on which a marriage celebrated after the commencement of that Article is voidable), after paragraph (f) insert—
- “(g) that an interim gender recognition certificate under the Gender Recognition Act 2004 has, after the time of the marriage, been issued to either party to the marriage;”.
- 10 In Article 16 (bars to relief), after paragraph (2) insert—
- “(2A) Without prejudice to paragraph (1), the court shall not grant a decree of nullity by virtue of Article 14 on the ground mentioned in paragraph (g) of that Article unless it is satisfied that proceedings were instituted within the period of six months from the date of issue of the interim gender recognition certificate.”
- 11 (1) Paragraph 18 of Schedule 3 (grounds on which a marriage celebrated before the commencement of Article 14 is voidable) is amended as follows.
- (2) In sub-paragraph (1), after paragraph (d) insert “or
- (e) that an interim gender recognition certificate under the Gender Recognition Act 2004 has been issued to either party to the marriage;”.
- (3) After sub-paragraph (4) insert—
- “(4A) The court shall not grant a decree of nullity in a case falling within sub-paragraph (1)(e) unless it is satisfied that proceedings were instituted within six months from the date of issue of the interim gender recognition certificate.”

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SCHEDULE 3

Section 10

REGISTRATION

PART 1

ENGLAND AND WALES

Introductory

- 1 In this Part—
- “the Registrar General” means the Registrar General for England and Wales, and
 - “the 1953 Act” means the Births and Deaths Registration Act 1953 (c. 20).

Gender Recognition Register

- 2
- (1) The Registrar General must maintain, in the General Register Office, a register to be called the Gender Recognition Register.
 - (2) In this Part “the Gender Recognition Register” means the register maintained under sub-paragraph (1).
 - (3) The form in which the Gender Recognition Register is maintained is to be determined by the Registrar General.
 - (4) The Gender Recognition Register is not to be open to public inspection or search.

Entries in Gender Recognition Register and marking of existing birth register entries

- 3
- (1) If the Registrar General receives under section 10(1) a copy of a full gender recognition certificate issued to a person, the Registrar General must—
 - (a) make an entry in the Gender Recognition Register containing such particulars as may be prescribed in relation to the person’s birth and any other prescribed matter,
 - (b) secure that the UK birth register entry is marked in such manner as may be prescribed, and
 - (c) make traceable the connection between the entry in the Gender Recognition Register and the UK birth register entry.
 - (2) Sub-paragraph (1) does not apply if the certificate was issued after an application under section 6(1) and that sub-paragraph has already been complied with in relation to the person.
 - (3) No certified copy of the UK birth register entry and no short certificate of birth compiled from that entry is to include anything marked by virtue of sub-paragraph (1) (b).
 - (4) Information kept by the Registrar General for the purposes of sub-paragraph (1)(c) is not to be open to public inspection or search.
 - (5) “Prescribed” means prescribed by regulations made by the Registrar General with the approval of [^{F14}the Secretary of State].

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Textual Amendments

F14 Words in Sch. 3 para. 3(5) substituted (3.4.2008) by [The Transfer of Functions \(Registration\) Order 2008](#) (S.I. 2008/678), art. 5(1), **Sch. 2 para. 13** (with art. 4)

Modifications etc. (not altering text)

C1 Sch. 3 para. 3(5): functions transferred (3.4.2008) by [The Transfer of Functions \(Registration\) Order 2008](#) (S.I. 2008/678), art. 3(1), **Sch. 1 para. 13** (with art. 4)

Indexing of entries in Gender Recognition Register

- 4
- (1) The Registrar General must make arrangements for each entry made in the Gender Recognition Register to be included in the relevant index kept in the General Register Office.
 - (2) Any right to search the relevant index includes the right to search entries included in it by virtue of sub-paragraph (1).
 - (3) Where by virtue of sub-paragraph (1) an index includes entries in the Gender Recognition Register, the index must not disclose that fact.
 - (4) “The relevant index”, in relation to an entry made in the Gender Recognition Register in relation to a person, means the index of the certified copies of entries in registers, or of entries in registers, which includes the person’s UK birth register entry.

Certified copies of entries in Gender Recognition Register

- 5
- (1) Anyone who may have a certified copy of the UK birth register entry of a person issued with a full gender recognition certificate may have a certified copy of the entry made in relation to the person in the Gender Recognition Register.
 - (2) Any fee which would be payable for a certified copy of the person’s UK birth register entry is payable for a certified copy of the entry made in relation to the person in the Gender Recognition Register.
 - (3) If the person’s UK birth register entry is an entry in the Gender Recognition Register, sub-paragraph (1) applies as if the person’s UK birth register entry were the most recent entry within section 10(2)(a) or (b) containing a record of the person’s birth or adoption which is not an entry in the Gender Recognition Register.
 - (4) A certified copy of an entry in the Gender Recognition Register must not disclose the fact that the entry is contained in the Gender Recognition Register.
 - (5) A certified copy of an entry in the Gender Recognition Register must be sealed or stamped with the seal of the General Register Office.

Short certificates of birth compiled from Gender Recognition Register

- 6
- Where a short certificate of birth under section 33 of the 1953 Act is compiled from the Gender Recognition Register, the certificate must not disclose that fact.

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Gender Recognition Register: re-registration

- 7
- (1) Section 10A of the 1953 Act (re-registration where parents not married) applies where an entry relating to a person's birth has been made in the Gender Recognition Register as where the birth of a child has been registered under that Act.
 - (2) In its application by virtue of sub-paragraph (1) section 10A has effect—
 - (a) as if the reference to the registrar in subsection (1) were to the Registrar General, and
 - (b) with the omission of subsection (2).
 - (3) Sections 14 and 14A of the 1953 Act (re-registration in cases of legitimation and after declaration of parentage) apply where an entry relating to a person's birth has been made in the Gender Recognition Register as if the references in those sections to the Registrar General authorising re-registration of the person's birth were to the Registrar General's re-registering it.

Correction etc. of Gender Recognition Register

- 8
- (1) Any power or duty of the Registrar General or any other person to correct, alter, amend, mark or cancel the marking of a person's UK birth register entry is exercisable, or falls to be performed, by the Registrar General in relation to an entry in the Gender Recognition Register which—
 - (a) relates to that person, and
 - (b) under paragraph 4(1) is included in the index which includes the person's UK birth register entry.
 - (2) If the person's UK birth register entry is an entry in the Gender Recognition Register, the references in sub-paragraph (1) to the person's UK birth register entry are to the most recent entry within section 10(2)(a) or (b) containing a record of the person's birth or adoption which is not an entry in the Gender Recognition Register.
 - (3) The Registrar General may correct the Gender Recognition Register by entry in the margin (without any alteration of the original entry) in consequence of the issue of a full gender recognition certificate after an application under section 6(1).

Revocation of gender recognition certificate etc.

- 9
- (1) This paragraph applies if, after an entry has been made in the Gender Recognition Register in relation to a person, the High Court or the Court of Session makes an order under section 8(6) quashing the decision to grant the person's application under section 1(1) [^{F15}, 5(2) or 5A(2)].
 - (2) The High Court or the Court of Session must inform the Registrar General.
 - (3) Subject to any appeal, the Registrar General must—
 - (a) cancel the entry in the Gender Recognition Register, and
 - (b) cancel, or secure the cancellation, of any marking of an entry relating to the person made by virtue of paragraph 3(1)(b).

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Textual Amendments

- F15** Words in Sch. 3 para. 9(1) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), **ss. 250(9)**, 263; [S.I. 2005/3175](#), **art. 3**, Sch. 2

Evidence

- 10 (1) Section 34(5) of the 1953 Act (certified copy of entry in register under that Act deemed to be true copy) applies in relation to the Gender Recognition Register as if it were a register under that Act.
- (2) A certified copy of an entry made in the Gender Recognition Register in relation to a person is to be received, without further or other proof, as evidence—
- if the relevant index is the index of the Adopted Children Register, of the matters of which a certified copy of an entry in that Register is evidence,
 - if the relevant index is the index of the Parental Order Register, of the matters of which a certified copy of an entry in that Register is evidence, and
 - otherwise, of the person's birth.
- (3) And any certified copy which is receivable in evidence of any matter in Northern Ireland by virtue of paragraph 31(2)(a) or (b) of this Schedule is also receivable as evidence of that matter in England and Wales.

Regulatory reform

- 11 **F16**

Textual Amendments

- F16** Sch. 3 para. 11 repealed (8.1.2007) by [Legislative and Regulatory Reform Act 2006 \(c. 51\)](#), **ss. 30, 33**, **Sch.** (with [s. 30\(2\)-\(5\)](#))

[^{F17}Registration of marriages and civil partnerships

Textual Amendments

- F17** Sch. 3 para. 11A and cross-heading inserted (30.6.2014 for specified purposes, 10.12.2014 in so far as not already in force) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), **s. 21(3)**, **Sch. 5 para. 9(2)**; [S.I. 2014/1662](#), **art. 2(b)**; [S.I. 2014/3169](#), **art. 2**

- 11A (1) The Registrar General may make regulations about—
- the registration of qualifying marriages, and
 - the registration of qualifying civil partnerships.
- (2) The regulations may, in particular, provide for the maintenance of—
- a separate register in relation to qualifying marriages, and
 - a separate register in relation to qualifying civil partnerships.
- (3) In this paragraph—

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“qualifying civil partnership” means a civil partnership under the law of England and Wales in a case where a full gender recognition certificate has been issued to [^{F18}one, or each,] of the civil partners;

“qualifying marriage” means a marriage under the law of England and Wales in a case where a full gender recognition certificate has been issued to one, or each, of the spouses.]

Textual Amendments

F18 Words in Sch. 3 para. 11A(3) substituted (2.12.2019) by [The Civil Partnership \(Opposite-sex Couples\) Regulations 2019 \(S.I. 2019/1458\)](#), regs. 1(2), 34 (with reg. 35)

PART 2

SCOTLAND

Introductory

- 12 In this Part—
- “the Registrar General” means the Registrar General for Scotland, and
- “the 1965 Act” means the Registration of Births, Deaths and Marriages (Scotland) Act 1965 (c. 49).

Gender Recognition Register

- 13 (1) The Registrar General must maintain, in the General Register Office of Births, Deaths and Marriages in Scotland, a register to be called the Gender Recognition Register.
- (2) In this Part “the Gender Recognition Register” means the register maintained under sub-paragraph (1).
- (3) The form in which the Gender Recognition Register is maintained is to be determined by the Registrar General.
- (4) The Gender Recognition Register is not to be open to public inspection or search.

Entries in Gender Recognition Register

- 14 (1) If the Registrar General receives under section 10(1) a copy of a full gender recognition certificate issued to a person, the Registrar General must—
- (a) make an entry in the Gender Recognition Register containing such particulars as may be prescribed in relation to the person’s birth and any other prescribed matter, and
- (b) otherwise than by annotating in any way the birth register, make traceable the connection between the UK birth register entry and the entry in the Gender Recognition Register.
- (2) Sub-paragraph (1) does not apply if the gender recognition certificate was issued after an application under section 6(1) and that sub-paragraph has already been complied with in relation to the person.

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- (3) Information kept by the Registrar General for the purposes of sub-paragraph (1)(b) is not to be open to public inspection or search.
- (4) “Prescribed” means prescribed by regulations made by the Registrar General with the approval of the Scottish Ministers.

Indexing of entries in Gender Recognition Register

- 15 (1) The Registrar General must make arrangements for each entry made in the Gender Recognition Register to be included in an index of such entries kept in the General Register Office of Births, Deaths and Marriages in Scotland.
- (2) Whenever the Registrar General causes a search to be made under subsection (2)(a) of section 38 of the 1965 Act (search of indexes of entries in the registers of births, deaths and marriages) on behalf of any person, he must also, without payment of any fee additional to the fee or fees prescribed under that section—
- (a) cause a search to be made of the index of entries in the Gender Recognition Register on behalf of that person, and
- (b) issue to that person an extract of any such entry provided that (disregarding, for the purposes of subsection (4)(j) of section 22, this paragraph) disclosure of the entry to the person would not constitute an offence under that section.

Extracts of entries in Gender Recognition Register

- 16 (1) This paragraph applies in respect of an extract issued under paragraph 15(2)(b).
- (2) Except as regards the sex and name of the person to whom it relates, the extract must have the form and content it would have had had it been an extract from the register of births of the entry relating to that person.
- (3) The extract must not disclose the fact that the entry is contained in the Gender Recognition Register.

[^{F19}Abbreviated extracts of birth compiled from Gender Recognition Register^{F19}]

Textual Amendments

F19 S. 17 and preceding cross-heading substituted (1.1.2007) by [The Registration Services \(Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/596\)](#), **art. 2(2)**

[^{F20}17 Where an abbreviated extract of birth under section 39E ^{F21} of the 1965 Act is compiled from the Gender Recognition Register, the extract must not disclose that fact.^{F20}]

Textual Amendments

F20 S. 17 and preceding cross-heading substituted (1.1.2007) by [The Registration Services \(Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/596\)](#), **art. 2(2)**

F21 As inserted by the Local Electoral Administration and Registration Services (Scotland) Act 2006 (“the 2006 Act”), section 44(5).

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Gender Recognition Register: correction, re-registration etc.

- 18 Section 18A(2) (decrees of parentage and non-parentage), [F22]section 20(1)(re-registration in certain cases), section 42(1) and (5) (correction of errors), section 43(1), (2) and (5) to (9) (recording change of name or surname) and section 44 (Register of Corrections etc.) of the 1965 Act apply in relation to the Gender Recognition Register as they apply in relation to the register of births.

Textual Amendments

- F22** Words in Sch. 3 para. 18 substituted (1.1.2007) by [The Registration Services \(Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/596\)](#), [art. 2\(3\)](#)

Revocation of gender recognition certificate etc.

- 19 (1) This paragraph applies if, after an entry has been made in the Gender Recognition Register in relation to a person, the High Court or the Court of Session makes an order under section 8(6) quashing the decision to grant the person's application under section 1(1) [F23]4C, 4E, 4F, [F24]5(2) or 5A(2)].
- (2) The High Court or the Court of Session must inform the Registrar General.
- (3) Subject to any appeal, the Registrar General must cancel the entry in the Gender Recognition Register.

Textual Amendments

- F23** Words in Sch. 3 para. 19(1) inserted (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 9\(2\)\(a\)](#); S.S.I. 2014/287, [art. 3](#), Sch.
- F24** Words in Sch. 3 para. 19(1) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 250\(9\)](#), 263; S.I. 2005/3175, [art. 3](#), Sch. 2

Authentication and admissibility

- 20 [F25]sections 41 and 41A [F26]of the 1965 Act (authentication of extracts etc. and their admissibility as evidence) [F27]apply] in relation to the Gender Recognition Register as in relation to the registers kept under the provisions of that Act.

Textual Amendments

- F25** Words in Sch. 3 para. 20 substituted (1.1.2007) by [The Registration Services \(Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/596\)](#), [art. 2\(4\)\(a\)](#)
- F26** As inserted by the 2006 Act, section 44(6).
- F27** Word in Sch. 3 para. 20 substituted (1.1.2007) by [The Registration Services \(Consequential Provisions\) \(Scotland\) Order 2006 \(S.S.I. 2006/596\)](#), [art. 2\(4\)\(b\)](#)

- [F28]20A(1) The Registrar General may, with the approval of the Scottish Ministers, make regulations about—

- (a) the registration of qualifying Scottish marriages, and
- (b) the registration of qualifying Scottish civil partnerships.

Status: Point in time view as at 02/12/2019.

Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

- (2) Regulations under sub-paragraph (1) may in particular make provision for fees to be payable in respect of things done under the regulations.
- (3) Regulations under sub-paragraph (1) may make different provision for different cases or circumstances.
- (4) In this paragraph—
“qualifying Scottish civil partnership” means a civil partnership registered in Scotland in a case where a full gender recognition certificate has been issued to each of the civil partners,
“qualifying Scottish marriage” means a marriage solemnised in Scotland in a case where a full gender recognition certificate has been issued to one, or each, of the spouses.]

Textual Amendments

F28 Sch. 3 para. 20A 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. 9(2)(b); 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.

PART 3

NORTHERN IRELAND

Introductory

- 21 In this Part—
“the Registrar General” means the Registrar General for Northern Ireland,
and
“the 1976 Order” means the Births and Deaths Registration (Northern Ireland) Order 1976 (S.I. 1976/1041 (N.I. 14)).

Gender Recognition Register

- 22 (1) The Registrar General must maintain, in the General Register Office in Northern Ireland, a register to be called the Gender Recognition Register.
- (2) In this Part “the Gender Recognition Register” means the register maintained under sub-paragraph (1).
- (3) The form in which the Gender Recognition Register is maintained is to be determined by the Registrar General.
- (4) [^{F29}Subject to sub-paragraph (5), the] Gender Recognition Register is not to be open to public inspection or search.
- [^{F30}(5) The Department of Finance and Personnel may by regulations make provision for any person to have access, on payment of the prescribed fee, to any information contained in the Gender Recognition Register.
- (6) Regulations under sub-paragraph (5) may provide that the relevant period must have expired in relation to the information.

Status: Point in time view as at 02/12/2019.

Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

- (7) In sub-paragraph (6) “ the relevant period ” in relation to information relating to a person means the period of 100 years from the date of that person's birth or such other period as may be prescribed.
- (8) Regulations under sub-paragraph (5) may provide for the Registrar General—
- (a) to make arrangements with any person for the purpose of providing access to information as mentioned in that sub-paragraph; and
 - (b) for that purpose to transfer information to that person subject to conditions (including conditions as to the making of payments by that person to the Registrar General).]

Textual Amendments

- F29** Words in Sch. 3 para. 22(4) substituted (16.11.2012) by [Civil Registration Act \(Northern Ireland\) 2011 \(c. 20\)](#), **ss. 26(2), 34**; S.R. 2012/406, art. 2, Sch.
- F30** Sch. 3 para. 22(5)-(8) added (16.11.2012) by [Civil Registration Act \(Northern Ireland\) 2011 \(c. 20\)](#), **ss. 26(3), 34**; S.R. 2012/406, art. 2, Sch.

Entries in Gender Recognition Register and marking of existing birth register entries

- 23 (1) If the Registrar General receives under section 10(1) a copy of a full gender recognition certificate issued to a person, the Registrar General must—
- (a) make an entry in the Gender Recognition Register containing such particulars as may be prescribed in relation to the person's birth and any other prescribed matter,
 - (b) secure that the UK birth register entry is marked in such manner as may be prescribed, and
 - (c) make traceable the connection between the entry in the Gender Recognition Register and the UK birth register entry.
- (2) Sub-paragraph (1) does not apply if the gender recognition certificate was issued after an application under section 6(1) and that sub-paragraph has already been complied with in relation to the person.
- (3) No certified copy of the UK birth register entry and no short certificate of birth compiled from that entry is to include anything marked by virtue of sub-paragraph (1) (b).
- (4) Information kept by the Registrar General for the purposes of sub-paragraph (1)(c) is not to be open to public inspection or search.
- (5) “Prescribed” means prescribed by regulations made by the Department of Finance and Personnel.

Indexing of entries in Gender Recognition Register

- 24 (1) The Registrar General must make arrangements for each entry made in the Gender Recognition Register to be included in the relevant index kept in the General Register Office in Northern Ireland.
- (2) Any right to search the relevant index includes the right to search entries included in it by virtue of sub-paragraph (1).

Status: Point in time view as at 02/12/2019.

Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

- (3) Where by virtue of sub-paragraph (1) an index includes entries in the Gender Recognition Register, the index must not disclose that fact.
- (4) “The relevant index”, in relation to an entry made in the Gender Recognition Register in relation to a person, means the index of the entries in registers which includes the UK birth register entry.

Certified copies of entries in Gender Recognition Register

- 25 (1) Anyone who may have a certified copy of the UK birth register entry of a person issued with a full gender recognition certificate may have a certified copy of the entry made in relation to the person in the Gender Recognition Register.
- (2) Any fee which would be payable for a certified copy of the person’s UK birth register entry is payable for a certified copy of the entry made in relation to the person in the Gender Recognition Register.
- (3) If the person’s UK birth register entry is an entry in the Gender Recognition Register, sub-paragraph (1) applies as if the person’s UK birth register entry were the most recent entry within section 10(2)(a) or (b) containing a record of the person’s birth or adoption which is not an entry in the Gender Recognition Register.
- (4) A certified copy of an entry in the Gender Recognition Register must not disclose the fact that the entry is contained in the Gender Recognition Register.
- (5) A certified copy of an entry in the Gender Recognition Register must be sealed or stamped with the seal of the General Register Office in Northern Ireland.

Short certificates of birth compiled from Gender Recognition Register

- 26 Where a short certificate of birth under Article 40 of the 1976 Order is compiled from the Gender Recognition Register, the certificate must not disclose that fact.

Gender Recognition Register: re-registration

- 27 Articles 18, 19 and 19A of the 1976 Order (re-registration of births) apply where an entry relating to a person’s birth has been made in the Gender Recognition Register as if the references in those Articles to the Registrar General authorising re-registration of the person’s birth were to the Registrar General’s re-registering it.

Correction of errors in Gender Recognition Register

- 28 (1) Any power or duty of the Registrar General to correct, alter, amend, mark or cancel the marking of a person’s UK birth register entry is exercisable, or falls to be performed, by the Registrar General in relation to an entry in the Gender Recognition Register which—
 - (a) relates to that person, and
 - (b) under paragraph 24(1) is included in the index which includes the person’s UK birth register entry.
- (2) If the person’s UK birth register entry is an entry in the Gender Recognition Register, the references in sub-paragraph (1) to the person’s UK birth register entry are to the most recent entry within section 10(2)(a) or (b) containing a record of the person’s birth or adoption which is not an entry in the Gender Recognition Register.

Status: Point in time view as at 02/12/2019.

Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

- (3) The Registrar General may correct the Gender Recognition Register by entry in the margin (without any alteration of the original entry) in consequence of the issue of a full gender recognition certificate after an application under section 6(1).

Revocation of gender recognition certificate etc.

- 29 (1) This paragraph applies if, after an entry has been made in the Gender Recognition Register in relation to a person, the High Court or the Court of Session makes an order under section 8(6) quashing the decision to grant the person's application under section 1(1) [^{F31}, 5(2) or 5A(2)].
- (2) The High Court or the Court of Session must inform the Registrar General.
- (3) Subject to any appeal, the Registrar General must—
- (a) cancel the entry in the Gender Recognition Register, and
 - (b) cancel, or secure the cancellation of, any marking of an entry relating to the person made by virtue of paragraph 23(1)(b).

Textual Amendments

F31 Words in Sch. 3 para. 29(1) substituted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 250\(9\)](#), [263](#); [S.I. 2005/3175](#), [art. 3](#), [Sch. 2](#)

Change of name

- 30 Paragraphs (4) to (6) of Article 37 of the 1976 Order (change of name) apply in relation to the Gender Recognition Register as they apply in relation to a register under that Order.

Evidence

- 31 (1) Article 42 of the 1976 Order (proof of age or death) applies in relation to the Gender Recognition Register as it applies in relation to a register under that Order.
- (2) A certified copy of an entry made in the Gender Recognition Register in relation to a person is to be received, without further or other proof, as evidence—
- (a) if the relevant index is the index of the Adopted Children Register, of the matters of which a certified copy of an entry in that Register is evidence,
 - (b) if the relevant index is the index of the Parental Order Register, of the matters of which a certified copy of an entry in that Register is evidence, and
 - (c) otherwise, of the person's birth.
- (3) And any certified copy which is receivable in evidence of any matter in England and Wales by virtue of paragraph 10(2)(a) or (b) of this Schedule is also receivable as evidence of that matter in Northern Ireland.

Fees

- 32 Article 47 of the 1976 Order (fees for searches, certificates etc.) applies in relation to the Gender Recognition Register as it applies in relation to a register under that Order.

Status: Point in time view as at 02/12/2019.

Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

SCHEDULE 4

Section 11

EFFECT ON MARRIAGE

PART 1

ENGLAND AND WALES

Marriage Act 1949 (c. 76)

1 The Marriage Act 1949 is amended as follows.

2 F32

Textual Amendments

F32 Sch. 4 para. 2 repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), ss. 261(4), 263, Sch. 30; S.I. 2005/3175, art. 2(1), Sch. 1

3 After section 5A insert—

“5B Marriages involving person of acquired gender

(1) A clergyman is not obliged to solemnise the marriage of a person if the clergyman reasonably believes that the person’s gender has become the acquired gender under the Gender Recognition Act 2004.

(2) A clerk in Holy Orders of the Church in Wales is not obliged to permit the marriage of a person to be solemnised in the church or chapel of which the clerk is the minister if the clerk reasonably believes that the person’s gender has become the acquired gender under that Act.”

Matrimonial Causes Act 1973 (c. 18)

4 The Matrimonial Causes Act 1973 is amended as follows.

5 In section 12 (grounds on which a marriage celebrated after 31st July 1971 is voidable), insert at the end—

“(h) that the respondent is a person whose gender at the time of the marriage had become the acquired gender under the Gender Recognition Act 2004.”

6 In section 13(2), (3) and (4) (bars to relief), for “or (f)” substitute “, (f) or (h)”.

PART 2

SCOTLAND

Marriage (Scotland) Act 1977 (c. 15)

7 In section 2 of the Marriage (Scotland) Act 1977 (marriage of related persons), insert at the end—

Status: Point in time view as at 02/12/2019.

Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

- “(6) Subsections (1A) and (1B) above and paragraphs 2 and 2A of Schedule 1 to this Act have effect subject to the following modifications in the case of a party to a marriage whose gender has become the acquired gender under the Gender Recognition Act 2004 (“the relevant person”).
- (7) Any reference in those provisions to a former wife or former husband of the relevant person includes (respectively) any former husband or former wife of the relevant person.
- (8) And—
- (a) the reference in paragraph (b) of subsection (1B) above to the relevant person’s son’s mother is to the relevant person’s son’s father if the relevant person is the son’s mother; and
 - (b) the reference in paragraph (d) of that subsection to the relevant person’s daughter’s father is to the relevant person’s daughter’s mother if the relevant person is the daughter’s father.”

PART 3

NORTHERN IRELAND

Family Law (Miscellaneous Provisions) (Northern Ireland) Order 1984 (S.I. 1984/1984 (N.I. 14))

8 F33

Textual Amendments

F33 Sch. 8 para. 4 repealed (20.9.2006) by [The Law Reform \(Miscellaneous Provisions\) \(Northern Ireland\) Order 2006 \(S.I. 2006/1945 \(N.I. 14\)\)](#), arts. 1(3), 5(c)

Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15))

- 9 The Matrimonial Causes (Northern Ireland) Order 1978 is amended as follows.
- 10 In Article 14 (grounds on which a marriage celebrated after the commencement of that Article is voidable), insert at the end—
- “(h) that the respondent is a person whose gender at the time of the marriage had become the acquired gender under the Gender Recognition Act 2004.”
- 11 In Article 16(2), (3) and (4) (bars to relief), for “or (f)” substitute “, (f) or (h)”.

Status: Point in time view as at 02/12/2019.

Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

SCHEDULE 5

Section 13

BENEFITS AND PENSIONS

PART 1

INTRODUCTORY

- 1 This Schedule applies where a full gender recognition certificate is issued to a person.

PART 2

STATE BENEFITS

Introductory

- 2 (1) In this Part of this Schedule “the 1992 Act” means—
- (a) in England and Wales and Scotland, the Social Security Contributions and Benefits Act 1992 (c. 4), and
 - (b) in Northern Ireland, the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7).
- (2) In this Part of this Schedule “the Administration Act” means—
- (a) in England and Wales and Scotland, the Social Security Administration Act 1992 (c. 5), and
 - (b) in Northern Ireland, the Social Security Administration (Northern Ireland) Act 1992 (c. 8).
- (3) Expressions used in this Part of this Schedule and in Part 2 of the 1992 Act have the same meaning in this Part of this Schedule as in Part 2 of the 1992 Act.

Widowed mother’s allowance

- 3 (1) If (immediately before the certificate is issued) the person is, or but for section 1 of the Administration Act would be, entitled to a widowed mother’s allowance under section 37 of the 1992 Act (allowance for woman whose husband died before 9th April 2001)—
- (a) the person is not entitled to that allowance afterwards, but
 - (b) (instead) subsections (2) to (5) of section 39A of the 1992 Act (widowed parent’s allowance) apply in relation to the person.
- (2) If (immediately before the certificate is issued) the person is (actually) entitled to a widowed mother’s allowance, the entitlement to widowed parent’s allowance conferred by sub-paragraph (1) is not subject to section 1 of the Administration Act.

Widow’s pension

- 4 If (immediately before the certificate is issued) the person is entitled to a widow’s pension under section 38 of the 1992 Act (pension for woman whose husband died before 9th April 2001), the person is not entitled to that pension afterwards.

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Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

Widowed parent's allowance

- 5 If (immediately before the certificate is issued) the person is, or but for section 1 of the Administration Act would be, entitled to a widowed parent's allowance by virtue of subsection (1)(b) of section 39A of the 1992 Act (allowance for man whose wife died before 9th April 2001), subsections (2) to (5) of that section continue to apply in relation to the person afterwards.

Long-term incapacity benefit etc.

- 6 If (immediately before the certificate is issued) the person is entitled to incapacity benefit, or a Category A retirement pension, under—
- (a) section 40 of the 1992 Act (long-term incapacity benefit etc. for woman whose husband died before 9th April 2001), or
 - (b) section 41 of the 1992 Act (long-term incapacity benefit etc. for man whose wife died before that date),
- the person is not so entitled afterwards.

^{F34}Pension under Part 1 of the Pensions Act 2014

Textual Amendments

F34 Sch. 5 para. 6A and cross-heading inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 12 para. 48\(2\)](#)

- 6A (1) Any question—
- (a) whether the person is entitled to a state pension under Part 1 of the Pensions Act 2014 for any period after the certificate is issued, and
 - (b) (if so) the rate at which the person is so entitled for the period, is to be decided as if the person's gender were the acquired gender.
- (2) Accordingly, if (immediately before the certificate is issued) the person—
- (a) is a woman entitled to a state pension under Part 1 of the Pensions Act 2014, but
 - (b) has not attained the age of 65,
- the person ceases to be so entitled when it is issued.
- (3) And, conversely, if (immediately before the certificate is issued) the person—
- (a) is a man who has attained the age at which a woman of the same age attains pensionable age, but
 - (b) has not attained the age of 65,
- the person is to be treated for the purposes of Part 1 of the Pensions Act 2014 as attaining pensionable age when it is issued.
- (4) But sub-paragraph (1) does not apply if and to the extent that the decision of any question to which it refers is affected by the payment or crediting of contributions, or the crediting of earnings, in respect of a period ending before the certificate is issued.
- (5) If the person's acquired gender is the male gender, sections 11 and 12 of, and Schedules 6 and 7 to, the Pensions Act 2014 (effect of reduced rate elections) apply

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in relation to the person as they apply in relation to a woman (but only once the person has reached pensionable age for a man).

- (6) Paragraph 10 makes provision about deferment of state pensions under Part 1 of the Pensions Act 2014.]

[^{F35}Pension under Part 1 of the Pensions Act (Northern Ireland) 2015

Textual Amendments

F35 Sch. 5 para. 6B and cross-heading inserted (N.I.) (6.4.2016 unless brought into operation earlier by an order under s. 53(1) of the amending Act) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\), s. 53\(3\)](#), [Sch. 12 para. 43\(2\)](#)

- 6B (1) Any question—
- (a) whether the person is entitled to a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015 for any period after the certificate is issued, and
 - (b) (if so) the rate at which the person is so entitled for the period, is to be decided as if the person's gender were the acquired gender.
- (2) Accordingly, if (immediately before the certificate is issued) the person—
- (a) is a woman entitled to a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015, but
 - (b) has not attained the age of 65,
- the person ceases to be so entitled when it is issued.
- (3) And, conversely, if (immediately before the certificate is issued) the person—
- (a) is a man who has attained the age at which a woman of the same age attains pensionable age, but
 - (b) has not attained the age of 65,
- the person is to be treated for the purposes of Part 1 of the Pensions Act (Northern Ireland) 2015 as attaining pensionable age when it is issued.
- (4) But sub-paragraph (1) does not apply if and to the extent that the decision of any question to which it refers is affected by the payment or crediting of contributions, or the crediting of earnings, in respect of a period ending before the certificate is issued.
- (5) If the person's acquired gender is the male gender, sections 11 and 12 of, and Schedules 6 and 7 to, the Pensions Act (Northern Ireland) 2015 (effect of reduced rate elections) apply in relation to the person as they apply in relation to a woman (but only once the person has reached pensionable age for a man).
- (6) Paragraph 10 makes provision about deferment of state pensions under Part 1 of the Pensions Act (Northern Ireland) 2015.]

Category A retirement pension

- 7 (1) Any question—
- (a) whether the person is entitled to a Category A retirement pension (under section 44 of the 1992 Act) for any period after the certificate is issued, and
 - (b) (if so) the rate at which the person is so entitled for the period,

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is to be decided as if the person's gender had always been the acquired gender [^{F36}(but this is subject to sub-paragraph (3))] .

- (2) Accordingly, if (immediately before the certificate is issued) the person—
 - (a) is a woman entitled to a Category A retirement pension, but
 - (b) has not attained the age of 65,the person ceases to be so entitled when it is issued.
- (3) And, conversely, if (immediately before the certificate is issued) the person—
 - (a) is a man who has attained the age at which a woman of the same age attains pensionable age, but
 - (b) has not attained the age of 65,the person is to be treated for the purposes of section 44 of the 1992 Act as attaining pensionable age when it is issued.
- (4) But sub-paragraph (1) does not apply if and to the extent that the decision of any question to which it refers is affected by—
 - (a) the payment or crediting of contributions, or the crediting of earnings, in respect of a period ending before the certificate is issued, or
 - (b) preclusion from regular employment by responsibilities at home for such a period.
- (5) Paragraph 10 makes provision about deferment of Category A retirement pensions.

Textual Amendments

F36 Words in Sch. 5 para. 7(1) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 12 para. 48\(3\)](#)

Category B retirement pension etc.

- 8
- (1) Any question whether the person is entitled to—
 - (a) a Category B retirement pension (under section 48A, [^{F37}48AA,] 48B, 48BB or 51 of the 1992 Act), or
 - (b) an increase in a Category A retirement pension under section 51A or 52 of the 1992 Act (increase in Category A retirement pension by reference to amount of Category B retirement pension),for any period after the certificate is issued is (in accordance with section 9(1)) to be decided as if the person's gender were the acquired gender (but subject to sub-paragraph (4)).
 - (2) Accordingly, if (immediately before the certificate is issued) the person is a woman entitled to—
 - (a) a Category B retirement pension, or
 - (b) an increase in a Category A retirement pension under section 51A or 52 of the 1992 Act,the person may cease to be so entitled when it is issued.
 - (3) And, conversely, if (immediately before the certificate is issued) the person—
 - (a) is a man who has attained the age at which a woman of the same age attains pensionable age, but

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- (b) has not attained the age of 65,
the person is to be treated for the purposes of sections 48A, [F38 48AA,] 48B and 48BB of the 1992 Act as attaining pensionable age when it is issued.
- (4) But a person who is a man (immediately before the certificate is issued) is not entitled to a Category B retirement pension under section 48B of the 1992 Act for any period after it is issued if the person—
- (a) attains (or has attained) the age of 65 before 6th April 2010, and
 - (b) would not have been entitled to a Category B retirement pension under section 51 of the 1992 Act for that period if still a man.
- (5) Paragraph 10 makes provision about deferment of Category B retirement pensions.

Textual Amendments

- F37** Word in Sch. 5 para. 8(1)(a) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\), Sch. 12 para. 76](#)
- F38** Word in Sch. 5 para. 8(3) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\), Sch. 12 para. 76](#)

Shared additional pension

- 9 (1) Any question—
- (a) whether the person is entitled to a shared additional pension (under section 55A [F39 or 55AA] of the 1992 Act) for any period after the certificate is issued, and
 - (b) (if so) the rate at which the person is so entitled for the period,
is to be decided on the basis of the person attaining pensionable age on the same date as someone of the acquired gender (and the same age).
- (2) Accordingly, if (immediately before the certificate is issued) the person—
- (a) is a woman entitled to a shared additional pension, but
 - (b) has not attained the age of 65,
the person ceases to be so entitled when it is issued.
- (3) And, conversely, if (immediately before the certificate is issued) the person—
- (a) is a man who has attained the age at which a woman of the same age attains pensionable age, but
 - (b) has not attained the age of 65,
the person is to be treated for the purposes of section 55A [F40 or 55AA] of the 1992 Act as attaining pensionable age when it is issued.
- (4) Paragraph 10 makes provision about deferment of shared additional pensions.

Textual Amendments

- F39** Words in Sch. 5 para. 9(1)(a) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\), Sch. 11 para. 16](#)
- F40** Words in Sch. 5 para. 9(3) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\), s. 56\(4\), Sch. 11 para. 16](#)

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Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

Deferment of pensions

- 10 (1) The person's entitlement to—
- [^{F41}(za) a state pension under Part 1 of the Pensions Act 2014,]
 - [^{F42}(zb) a state pension under Part 1 of the Pensions Act (Northern Ireland) 2015,]
 - (a) a Category A retirement pension,
 - (b) a Category B retirement pension, or
 - (c) a shared additional pension,
- is not to be taken to have been deferred for any period ending before the certificate is issued unless the condition in sub-paragraph (2) is satisfied.
- (2) The condition is that the entitlement both—
- (a) was actually deferred during the period, and
 - (b) would have been capable of being so deferred had the person's gender been the acquired gender.

Textual Amendments

- F41** Sch. 5 para. 10(1)(za) inserted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 12 para. 48\(4\)](#)
- F42** Sch. 5 para. 10(1)(zb) inserted (N.I.) (6.4.2016 unless brought into operation earlier by an order under s. 53(1) of the amending Act) by [Pensions Act \(Northern Ireland\) 2015 \(c. 5\)](#), s. 53(3), [Sch. 12 para. 43\(3\)](#)

F43 ...

Textual Amendments

- F43** Sch. 5 para. 11 and crossheading omitted (6.4.2016 unless brought into force earlier by an order under s. 56(1) of the amending Act) by virtue of [Pensions Act 2014 \(c. 19\)](#), s. 56(4), [Sch. 12 para. 83](#)

^{F43}11

Graduated retirement benefit: Great Britain

- 12 (1) The provision that may be made by regulations under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (c. 6) (power to retain provisions repealed by Social Security Act 1973 (c. 38), with or without modification, for transitional purposes) includes provision modifying the preserved graduated retirement benefit provisions in consequence of this Act.
- (2) “The preserved graduated retirement benefit provisions” are the provisions of the National Insurance Act 1965 (c. 51) relating to graduated retirement benefit continued in force, with or without modification, by regulations having effect as if made under that paragraph.

Graduated retirement benefit: Northern Ireland

- 13 (1) The provision that may be made by regulations under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9) (corresponding power for Northern Ireland) includes provision modifying the

Status: Point in time view as at 02/12/2019.

Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

Northern Ireland preserved graduated retirement benefit provisions in consequence of this Act.

- (2) “The Northern Ireland preserved graduated retirement benefit provisions” are the provisions of the National Insurance Act (Northern Ireland) 1966 (c. 6 (N.I.)) relating to graduated retirement benefit continued in force, with or without modification, by regulations having effect as if made under that paragraph.

PART 3

OCCUPATIONAL PENSION SCHEMES

Guaranteed minimum pensions etc.: Great Britain

- 14 (1) In this paragraph “the 1993 Act” means the Pension Schemes Act 1993 (c. 48); and expressions used in this paragraph and in that Act have the same meaning in this paragraph as in that Act.
- (2) The fact that the person’s gender has become the acquired gender does not affect the operation of section 14 of the 1993 Act (guaranteed minimum) in relation to the person, except to the extent that its operation depends on section 16 of the 1993 Act (revaluation); and sub-paragraphs (3) and (5) have effect subject to that.
- (3) If (immediately before the certificate is issued) the person is a woman who is entitled to a guaranteed minimum pension but has not attained the age of 65—
- (a) the person is for the purposes of section 13 of the 1993 Act and the guaranteed minimum pension provisions to be treated after it is issued as not having attained pensionable age (so that the entitlement ceases) but as attaining pensionable age on subsequently attaining the age of 65, and
 - (b) in a case where the person’s guaranteed minimum pension has commenced before the certificate is issued, it is to be treated for the purposes of Chapter 3 of Part 4 of the 1993 Act (anti-franking) as if it had not.
- (4) But sub-paragraph (3)(a) does not—
- (a) affect any pension previously paid to the person, or
 - (b) prevent section 15 of the 1993 Act (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed) operating to increase the person’s guaranteed minimum by reason of a postponement of the commencement of the person’s guaranteed minimum pension for a period ending before the certificate is issued.
- (5) If (immediately before the certificate is issued) the person is a man who—
- (a) has attained the age of 60, but
 - (b) has not attained the age of 65,
- the person is to be treated for the purposes of section 13 of the 1993 Act and the guaranteed minimum pension provisions as attaining pensionable age when it is issued.
- (6) If at that time the person has attained the age of 65, the fact that the person’s gender has become the acquired gender does not affect the person’s pensionable age for those purposes.

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- (7) The fact that the person's gender has become the acquired gender does not affect any guaranteed minimum pension to which the person is entitled as a widow or widower immediately before the certificate is issued (except in consequence of the operation of the previous provisions of this Schedule).
- (8) If a transaction to which section 19 of the 1993 Act applies which is carried out before the certificate is issued discharges a liability to provide a guaranteed minimum pension for or in respect of the person, it continues to do so afterwards.
- (9) "The guaranteed minimum pension provision" means so much of the 1993 Act (apart from section 13) and of any other enactment as relates to guaranteed minimum pensions.

Guaranteed minimum pensions etc.: Northern Ireland

- 15
- (1) In this paragraph "the 1993 Act" means the Pension Schemes (Northern Ireland) Act 1993 (c. 49); and expressions used in this paragraph and in that Act have the same meaning in this paragraph as in that Act.
 - (2) The fact that the person's gender has become the acquired gender does not affect the operation of section 10 of the 1993 Act (guaranteed minimum) in relation to the person, except to the extent that its operation depends on section 12 of the 1993 Act (revaluation); and sub-paragraphs (3) and (5) have effect subject to that.
 - (3) If (immediately before the certificate is issued) the person is a woman who is entitled to a guaranteed minimum pension but has not attained the age of 65—
 - (a) the person is for the purposes of section 9 of the 1993 Act and the guaranteed minimum pension provisions to be treated after it is issued as not having attained pensionable age (so that the entitlement ceases) but as attaining pensionable age on subsequently attaining the age of 65, and
 - (b) in a case where the person's guaranteed minimum pension has commenced before the certificate is issued, it is to be treated for the purposes of Chapter 3 of Part 4 of the 1993 Act (anti-franking) as if it had not.
 - (4) But sub-paragraph (3)(a) does not—
 - (a) affect any pension previously paid to the person, or
 - (b) prevent section 11 of the 1993 Act (increase of guaranteed minimum where commencement of guaranteed minimum pension postponed) operating to increase the person's guaranteed minimum by reason of a postponement of the commencement of the person's guaranteed minimum pension for a period ending before the certificate is issued.
 - (5) If (immediately before the certificate is issued) the person is a man who—
 - (a) has attained the age of 60, but
 - (b) has not attained the age of 65,the person is to be treated for the purposes of section 9 of the 1993 Act and the guaranteed minimum pension provisions as attaining pensionable age when it is issued.
 - (6) If at that time the person has attained the age of 65, the fact that the person's gender has become the acquired gender does not affect the person's pensionable age for those purposes.

Status: Point in time view as at 02/12/2019.

Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

- (7) The fact that the person’s gender has become the acquired gender does not affect any guaranteed minimum pension to which the person is entitled as a widow or widower immediately before the certificate is issued (except in consequence of the operation of the previous provisions of this Schedule).
- (8) If a transaction to which section 15 of the 1993 Act applies which is carried out before the certificate is issued discharges a liability to provide a guaranteed minimum pension for or in respect of the person, it continues to do so afterwards.
- (9) “The guaranteed minimum pension provision” means so much of the 1993 Act (apart from section 9) and of any other enactment as relates to guaranteed minimum pensions.

Equivalent pension benefits: Great Britain

- 16 (1) The provision that may be made by regulations under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) Act 1992 (c. 6) (power to retain provisions repealed by Social Security Act 1973 (c. 38), with or without modification, for transitional purposes) includes provision modifying the preserved equivalent pension benefits provisions in consequence of this Act.
- (2) “The preserved equivalent pension benefits provisions” are the provisions of the National Insurance Act 1965 (c. 51) relating to equivalent pension benefits continued in force, with or without modification, by regulations having effect as if made under that paragraph.

Equivalent pension benefits: Northern Ireland

- 17 (1) The provision that may be made by regulations under paragraph 15 of Schedule 3 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9) (corresponding power for Northern Ireland) includes provision modifying the Northern Ireland preserved equivalent pension benefits provisions in consequence of this Act.
- (2) “The Northern Ireland preserved equivalent pension benefits provisions” are the provisions of the National Insurance Act (Northern Ireland) 1966 (c. 6 (N.I.)) relating to equivalent pension benefits continued in force, with or without modification, by regulations having effect as if made under that paragraph.

SCHEDULE 6

Section 14

SEX DISCRIMINATION

^{F44}PART 1

GREAT BRITAIN

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Status: Point in time view as at 02/12/2019.

Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004. (See end of Document for details)

Textual Amendments

F44 Sch. 6 Pt. 1 repealed (1.10.2010) by Equality Act 2010 (c. 15) Sch. 27 Pt. 1 (as substituted by [S.I. 2010/2279, art. 1\(2\)](#), [Sch. 2](#) (see [S.I. 2010/2317, art. 2](#)))

PART 2

NORTHERN IRELAND

- 6 The Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15)) is amended as follows.
- 7 In Article 10A (gender reassignment: exception for genuine occupational qualification), insert at the end—
- “(4) Paragraph (1) does not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.”
- 8 In Article 10B (supplementary exceptions relating to gender reassignment), for paragraph (3) substitute—
- “(3) Paragraph (2) does not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.”
- 9 In Article 12 (discrimination against contract workers), after paragraph (3C) insert—
- “(3D) Paragraphs (3B) and (3C) do not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.”
- 10 In Article 14 (partnerships), after paragraph (3C) insert—
- “(3D) Paragraphs (3B) and (3C) do not apply in relation to discrimination against a person whose gender has become the acquired gender under the Gender Recognition Act 2004.”

Status:

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Changes to legislation:

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