

Status: Point in time view as at 30/06/2014. This version of this part contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the Marriage (Same Sex Couples) Act 2013, PART 2. (See end of Document for details)

SCHEDULES

SCHEDULE 5

CHANGE OF GENDER OF MARRIED PERSONS OR CIVIL PARTNERS

PART 2

ALTERNATIVE GROUNDS FOR GRANTING APPLICATIONS FOR GENDER RECOGNITION CERTIFICATES

VALID FROM 10/12/2014

Introduction

- 15 The Gender Recognition Act 2004 is amended in accordance with this Part of this Schedule.

VALID FROM 10/12/2014

Alternative grounds for granting applications

- 16 Section 2 (determination of applications): after subsection (3) insert—
- “(3A) This section does not apply to an application under section 1(1)(a) which states that it is an application for a certificate to be granted in accordance with section 3A.”
- 17 After section 3 insert—
- “3A Alternative grounds for granting applications**
- (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 3B and meets the conditions in subsections (3) to (6).
 - (3) The first condition is that the applicant was a party to a protected marriage or a protected civil partnership on or before the date the application was made.
 - (4) The second condition is that the applicant—

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- (a) was living in the acquired gender six years before the commencement of section 12 of the Marriage (Same Sex Couples) Act 2013,
 - (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 surgical treatment for the purpose of modifying sexual characteristics.
- (6) The fourth condition is that the applicant is ordinarily resident in England, Wales or Scotland.
- (7) The Panel must reject the application if not required by subsection (2) to grant it.”

Evidence for granting applications on alternative grounds

VALID FROM 10/12/2014

18 Section 3 (evidence): after subsection (8) insert—

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

19 After section 3A (inserted by paragraph 17) insert—

“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

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- (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.
- (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.”.

Commencement Information

II Sch. 5 para. 19 in force at 30.6.2014 for specified purposes by S.I. 2014/1662, art. 2(b)

VALID FROM 10/12/2014

Membership of Panels determining applications on alternative grounds

20 Schedule 1 (Gender Recognition Panels), paragraph 4: after sub-paragraph (2) insert—

“(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.”.

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