
STATUTORY INSTRUMENTS

2019 No. 1514

**The Marriage (Same-sex Couples) and Civil Partnership
(Opposite-sex Couples) (Northern Ireland) Regulations 2019**

PART 5

Amendments: Gender Recognition

Amendments of the Gender Recognition Act 2004: introductory

41. The Gender Recognition Act 2004(1) is amended in accordance with regulations [42](#) to [48](#).

Alternative grounds for granting certificates in Northern Ireland

42.—(1) Sections 2(3A), 3(9), 3A and 3B, and paragraph 4(3) of Schedule 1(2), (alternative grounds for granting gender recognition certificates) extend also to Northern Ireland.

(2) Section 3A (as it has effect in accordance with paragraph (1)) is amended as follows.

(3) In subsection (4)(a) (applicant must have been living in the acquired gender as at 10th December 2008), after “2013” insert “(but see subsection (8))”.

(4) In subsection (6) (ordinary residence in Great Britain), for “or Scotland” substitute “, Scotland or Northern Ireland”.

(5) After subsection (7) insert—

“(8) Where the applicant—

- (a) is a party to a protected marriage that is a marriage under the law of Northern Ireland, or
- (b) is a party to a protected civil partnership that is a civil partnership under the law of Northern Ireland, or
- (c) is ordinarily resident in Northern Ireland,

subsection (4)(a) has effect as if for the words after “was living in the acquired gender” there were substituted “on 13 January 2014”.

43.—(1) Sections 2(3C), 3(11), 3E and 3F(3) (alternative grounds: person party to Scottish relationship but resident in England or Wales) extend also to Northern Ireland.

(2) In the headings of sections 3E and 3F, after “Welsh” insert “and Northern Ireland”.

(3) Section 3E (as it has effect in accordance with paragraph (1)) is amended as follows.

(4) In subsection (2) (interpretation), after “England and Wales” insert “or to Northern Ireland”.

(1) [2004 c.7](#).

(2) Sections 2(3A), 3(9), 3A and 3B, and paragraph 4(3) of Schedule 1, were inserted (with England and Wales, and Scotland, extent) by Part 2 of Schedule 5 to the Marriage (Same Sex Couples) Act 2013. Section 3B is amended by [S.I. 2019/1458](#).

(3) Sections 2(3C), 3(11), 3E and 3F were inserted (with England and Wales, and Scotland, extent) by paragraph 15(1) to (4) of Schedule 5 to [S.I. 2014/3229](#).

(5) In subsection (5)(a) (applicant must have been living in the acquired gender as at 16th December 2008), after “2014” insert “(but see subsection (5A))”.

(6) After subsection (5) insert—

“(5A) Where the applicant is ordinarily resident in Northern Ireland, subsection (5)(a) has effect as if for the words after “was living in the acquired gender” there was substituted “on 13 January 2014”.”.

(7) In subsection (7) (ordinary residence in England or Wales), after “Wales” insert “or in Northern Ireland”.

Certificates to be copied to Registrar General

44. In section 10 (registration), before subsection (2) insert—

“(1C) Where a full gender recognition certificate is issued to a person who is a party to—

- (a) a marriage under the law of Northern Ireland, or
- (b) a civil partnership under the law of Northern Ireland,

the Secretary of State must send a copy of the certificate to the Registrar General for Northern Ireland.”.

Continuity of civil partnership or marriage on change of gender

45.—(1) For section 11B (4) (change in gender of civil partners) substitute—

“Change in gender of civil partner

11B.—(1) This section applies in relation to a protected civil partnership if (by virtue of section 4(2)(c) or 4A) a full gender recognition certificate is issued to a party to the partnership.

(2) The continuity of the protected civil partnership is not affected by the relevant change in gender.

(3) If the protected civil partnership is a protected overseas relationship—

- (a) the continuity of the civil partnership continues by virtue of subsection (2) notwithstanding any impediment under the relevant law;
- (b) the relevant law is not affected by the continuation of the civil partnership by virtue of subsection (2).

(4) In this section—

“impediment” means anything which would affect the continuation of the overseas relationship merely by virtue of the relevant change in gender;

“relevant change in gender” means the change or changes in gender occurring by virtue of the issue of the full gender recognition certificate or certificates;

“relevant law”, in relation to the protected overseas relationship in question, has the same meaning as in Chapter 2 of Part 5 of the Civil Partnership Act 2004.”.

(2) Sections 11C and 11D(5) (change in gender of spouses or civil partners) extend also to Northern Ireland.

(4) Section 11B was inserted (with UK extent) by Part 1 of Schedule 5 to the Marriage (Same Sex Couples) Act 2013 and is substituted (as it extends to England & Wales) by [S.I. 2019/1458](#).

(5) Sections 11C and 11D (so far as extending to Scotland) were inserted by the Marriage and Civil Partnership (Scotland) Act 2014 ([asp 5](#)) and (so far as extending to England and Wales) by [S.I. 2014/3229](#).

Foreign gender change and marriage

46.—(1) Section 21 (foreign gender change and marriage) is amended as follows.

(2) Omit subsection (1A)(6) (subsections (2) to (5) apply to Northern Ireland only).

(3) Omit subsections (2) to (5)(7) (non-recognition of foreign marriage following foreign gender change).

Definitions of protected relationships

47.—(1) Section 25(8) (interpretation), as it extends to England and Wales, is amended as follows—

(a) in the definition of “protected civil partnership”, in paragraph (a), after “England and Wales” insert “or under the law of Northern Ireland”, and

(b) in the definition of “protected marriage”, in paragraph (a), after “England and Wales” insert “or under the law of Northern Ireland”.

(2) Section 25, as it extends to Northern Ireland, is amended as follows—

(a) in the definition of “protected civil partnership”, for the words from “means” to the end substitute—

“means—

(a) a civil partnership under the law of England and Wales or under the law of Northern Ireland, or

(b) an overseas relationship that is treated as a civil partnership by virtue of Chapter 2 of Part 5 of the Civil Partnership Act 2004,

and “protected overseas relationship” means a protected civil partnership within paragraph (b),” and

(b) in the definition of “protected marriage”, in paragraph (a), after “England and Wales” insert “or under the law of Northern Ireland”.

(3) In section 25, as it extends to Scotland, subsection (1) is amended as follows—

(a) in the definition of “protected civil partnership”, after “England and Wales” insert “or under the law of Northern Ireland”, and

(b) in the definition of “protected marriage”, in paragraph (a), after “England and Wales” insert “or under the law of Northern Ireland”.

Regulations about registration of marriages and civil partnerships in gender-change cases

48. In Part 3 of Schedule 3 (registration: Northern Ireland), after paragraph 32 insert—

“Registration of marriages and civil partnerships

33.—(1) The Department of Finance in Northern Ireland may by regulations make provision about—

(6) Section 21(1A) was inserted by Part 1 of Schedule 5 to the Marriage (Same Sex Couples) Act 2013 and amended by [S.I. 2014/3229](#).

(7) Section 21(2) to (5) were amended by the Civil Partnership Act 2004 and Part 1 of Schedule 5 to the Marriage (Same Sex Couples) Act 2013, and repealed (so far as extending to Scotland) by the Marriage and Civil Partnership (Scotland) Act 2014 ([asp 5](#)).

(8) The definitions of “protected civil partnership” and “protected marriage” were inserted (with UK extent and with effect from 10.12.2014) by Part 1 of Schedule 5 to the Marriage (Same Sex Couples) Act 2013. Section 25, as it extends to Scotland, was renumbered (with effect from 16.12.2014) as section 25(1) by the Marriage and Civil Partnership (Scotland) Act 2014 ([asp 5](#)). The definition of “protected civil partnership”, as it extends to England & Wales, is amended by [S.I. 2019/1458](#).

- (a) the registration of qualifying marriages, and
 - (b) the registration of qualifying civil partnerships.
- (2) Regulations under sub-paragraph (1) may, in particular, make provision for—
- (a) the maintenance of—
 - (i) a separate register in relation to qualifying marriages, and
 - (ii) a separate register in relation to qualifying civil partnerships;
 - (b) 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 civil partnership” means a civil partnership under the law of Northern Ireland in a case where a full gender recognition certificate has been issued to one, or each, of the civil partners;
- “qualifying marriage” means a marriage under the law of Northern Ireland in a case where a full gender recognition certificate has been issued to one, or each, of the spouses.”.

Transitional provision about applications

- 49.**—(1) Paragraph (2) applies where—
- (a) an application under section 1(1) or 4A(9) of the Gender Recognition Act 2004 (“the Act”) has been received by a Gender Recognition Panel before 13th January 2020,
 - (b) the Panel has not, before that date, granted or rejected the application, and
 - (c) it appears to the Panel that the outcome of the application may be different if the application were dealt with in accordance with the Act as amended by this Part.
- (2) The Panel must—
- (a) inform the applicant of the difference of outcome that appears possible,
 - (b) ask the applicant if the applicant wishes for the application to be dealt with in accordance with the Act as amended by this Part, and
 - (c) give the applicant a reasonable opportunity to provide any further information that would be required for the application to be so dealt with.
- (3) If the applicant—
- (a) expresses a wish for the application to be dealt with in accordance with the Act as amended by this Part, and
 - (b) duly provides any information required under paragraph (2)(c),
- the Panel must deal with the application in accordance with the Act as amended by this Part.
- (4) If paragraph (3) does not apply, the Panel must continue to deal with the application in accordance with the Act as it would have effect without the amendments made by this Part.

Amendments relating to registration

- 50.**—(1) In Article 27 of the Marriage (Northern Ireland) Order 2003 (corrections and cancellations), after paragraph (2) insert—

(9) Section 4A was inserted by Part 1 of Schedule 5 to the Marriage (Same Sex Couples) Act 2013.

“(3) Paragraph (4) applies in relation to a marriage solemnised before, on or after 13th January 2020 where, before the marriage is solemnised, a full gender recognition certificate has been issued under the Gender Recognition Act 2004 to either or each of the parties.

(4) The Registrar General, after consulting the parties, may—

- (a) modify, or direct a registrar to modify, the recorded status of either or both of the parties in the registration of the marriage, or
- (b) direct a registrar to modify the way in which the status of either or both of the parties is to be recorded when registering the marriage,

for the purpose of reducing the risk that the recorded status of the parties in the registration of the marriage will disclose the issue of the gender recognition certificate or either of the certificates.”.

(2) In section 147 of the Civil Partnership Act 2004 (corrections and cancellations: Northern Ireland), after subsection (2) insert—

“(3) Subsection (4) applies in relation to a civil partnership formed in Northern Ireland before, on or after 13th January 2020 where, before the civil partnership is formed, a full gender recognition certificate has been issued under the Gender Recognition Act 2004 to either or each of the parties.

(4) The Registrar General, after consulting the parties, may—

- (a) modify, or direct a registrar to modify, the recorded status of either or both of the parties in the registration of the civil partnership, or
- (b) direct a registrar to modify the way in which the status of either or both of the parties is to be recorded when registering the civil partnership,

for the purpose of reducing the risk that the recorded status of the parties in the registration of the civil partnership will disclose the issue of the gender recognition certificate or either of the certificates.”.

Consequential amendments

51. In section 20(9) of the Marriage (Same Sex Couples) Act 2013 (amendments made by Part 2 of Schedule 5 do not extend to Northern Ireland), after “Northern Ireland” insert “(but see regulation 42(1) of the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019)”.

52. In article 3(2) of the Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Provisions and Modifications) Order 2014(10) (provisions of the Order extending to England and Wales, and Scotland, only), after “Scotland only” insert “(but see regulation 43(1) of the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019)”.