

SCHEDULES

SCHEDULE 5

CHANGE OF GENDER OF MARRIED PERSONS OR CIVIL PARTNERS

PART 2

ALTERNATIVE GROUNDS FOR GRANTING APPLICATIONS FOR GENDER RECOGNITION CERTIFICATES

Introduction

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

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—
 - (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—

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- (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

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
 - (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

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- (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.”.

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.”.