
Changes to legislation: There are currently no known outstanding effects for the Civil Partnership (Scotland) Act 2020, Cross Heading: Modification of the Gender Recognition Act 2004. (See end of Document for details)

SCHEDULE 2 CONSEQUENTIAL MODIFICATIONS

Modification of the Gender Recognition Act 2004

- 5 (1) The Gender Recognition Act 2004 is modified as follows.
- (2) In section 3 (evidence), after subsection (6F) insert—
- “(6G) If the applicant is a party to a protected Scottish civil partnership, an application under section 1(1) must also include—
- (a) a statutory declaration by the applicant that the applicant wishes the civil partnership to continue after the issue of a full gender recognition certificate (if that is the case), and
 - (b) either—
 - (i) a statutory declaration by the applicant's civil partner that the civil partner consents to the civil partnership continuing after the issue of a full gender recognition certificate (“a statutory declaration of consent”) (if the civil partner has made such a declaration), or
 - (ii) a statutory declaration by the applicant that no such declaration by the applicant's civil partner is included.
- (6H) If an application includes a statutory declaration of consent by the applicant's civil partner under subsection (6G)(b)(i), the Gender Recognition Panel must give the civil partner notice that the application has been made.”.
- (3) In section 3D (evidence for granting applications on alternative grounds: Scotland)—
- (a) for subsection (7) substitute—

“(7) If the applicant is—

 - (a) married, the application must include a statutory declaration as to whether the marriage is a protected Scottish marriage,
 - (b) a party to a civil partnership, the application must include a statutory declaration as to whether the civil partnership is a protected Scottish civil partnership.”,
 - (b) after subsection (8) insert—

“(8A) If the applicant is a party to a protected Scottish civil partnership, the application must also include—

 - (a) a statutory declaration of consent (within the meaning of section 3(6G)(b)(i)) by the applicant's civil partner (if the civil partner has made such a declaration), or
 - (b) a statutory declaration by the applicant that no such declaration by the applicant's civil partner is included.”,
 - (c) in subsection (9)—
 - (i) after “applicant's spouse” insert “ or (as the case may be) civil partner ”,
 - (ii) after “the spouse” insert “ or civil partner ”.
- (4) In section 4 (successful applications)—
- (a) in subsection (3)(e), for “(3C)(b)” substitute “ (3C)(c) ”,
 - (b) in subsection (3C)—

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- (i) paragraph (b) is repealed,
 - (ii) after paragraph (a) insert—
 - “(c) the applicant is a party to a protected Scottish civil partnership and both parties to the partnership consent to it continuing after the issue of a full gender recognition certificate,”
 - (c) in subsection (3D)—
 - (i) paragraphs (c) and (d) are repealed,
 - (ii) after paragraph (b) insert—
 - “(ba) the applicant is a party to a protected Scottish civil partnership and either party to the partnership does not consent to it continuing after the issue of a full gender recognition certificate,”
 - (d) after subsection (3E) insert—
 - “(3EA) If a Gender Recognition Panel issues a full gender recognition certificate under this section to an applicant who is a party to a protected Scottish civil partnership, the Panel must give the applicant's civil partner notice of the issue of the certificate.”
 - (e) subsection (3F) is repealed.
- (5) In section 4C (married person with interim certificate: issue of full certificate (Scotland))—
- (a) in subsection (1), for “in either of the following cases” substitute “ if, on an application by the person (“the applicant”), the Panel is satisfied that the conditions set out in subsection (1A) are met ”,
 - (b) after subsection (1) insert—
 - “(1A) The conditions referred to in subsection (1) are—
 - (a) an interim gender recognition certificate has been issued to the applicant,
 - (b) when the interim gender recognition certificate was issued, the applicant and another person (“P”) were the parties to—
 - (i) a protected Scottish marriage, or
 - (ii) a protected Scottish civil partnership,
 - (c) the applicant and P are still, or have since become, the parties to—
 - (i) a protected Scottish marriage, or
 - (ii) a protected Scottish civil partnership, and
 - (d) P consents to the marriage or civil partnership continuing after the issue of a full gender recognition certificate.”
 - (c) subsections (2) and (3) are repealed,
 - (d) in subsection (4), for “(2) or (3)” substitute “ (1) ”,
 - (e) in subsection (5), for “(2)” substitute “ (1) ”,
 - (f) subsection (6) is repealed,
 - (g) in subsection (7)—
 - (i) for “(2) or (3)” substitute “ (1) ”,
 - (ii) after “3(6D)(b)(i)” insert “ or (6G)(b)(i) ”,
 - (iii) after “spouse” insert “ or (as the case may be) civil partner ”,

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- (h) subsection (8) is repealed,
 - (i) in subsection (9), after “spouse” insert “ or (as the case may be) civil partner ”,
 - (j) the section title becomes “ **Married person or civil partner with interim certificate: issue of full certificate (Scotland)** ”.
- (6) In section 4D (application under section 4C: death of spouse)—
- (a) in subsection (1)—
 - (i) for “4C(2) or (3)” substitute “ 4C ”,
 - (ii) after “applicant's spouse” insert “ or (as the case may be) civil partner ”,
 - (iii) in paragraph (a) after “spouse” insert “ or civil partner ”,
 - (b) the section title becomes “ **Application under section 4C: death of spouse or civil partner** ”.
- (7) In section 4E (married person with interim certificate: issue of full certificate on application to the sheriff (Scotland))—
- (a) in subsection (1)—
 - (i) for paragraph (b) substitute—
 - “(b) the person and another person (“P”) are the parties to—
 - (i) a protected Scottish marriage, or
 - (ii) a protected Scottish civil partnership,”
 - (ii) in paragraph (c)—
 - (A) for “the person's spouse” substitute “ P ”,
 - (B) for “the spouse” substitute “ P ”,
 - (C) after “marriage” insert “ or (as the case may be) civil partnership ”,
 - (b) in subsection (2), for paragraphs (a) and (b) substitute—
 - “(a) at the time when the interim gender recognition certificate was issued, the applicant and P were the parties to—
 - (i) a protected Scottish marriage, or
 - (ii) a protected Scottish civil partnership,
 - (b) the applicant and P are still, or have since become, the parties to—
 - (i) a protected Scottish marriage, or
 - (ii) a protected Scottish civil partnership, and”,
 - (c) in subsection (3), after “spouse” insert “ or (as the case may be) civil partner ”,
 - (d) the section title becomes “ **Married person or civil partner with interim certificate: issue of full certificate on application to the sheriff (Scotland)** ”.
- (8) Section 4F is repealed.
- (9) In section 5A (issue of full certificate where applicant has been a civil partner), after subsection (1) insert—

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“(1A) Subsection (1) does not apply where a full gender recognition certificate has already been issued, to the party to whom the interim gender recognition certificate was issued, by the sheriff under section 4E.”.

- (10) Section 5C is repealed.
- (11) Section 5D is repealed.
- (12) In section 7 (applications: supplementary), in subsection (1) the word “4F,” is repealed.
- (13) In section 8 (appeals etc.)—
 - (a) in subsection (1), the word “4F,” is repealed,
 - (b) in subsection (5), the word “4F,” is repealed,
 - (c) in subsection (5B), the word “4F,” is repealed.
- (14) For section 11B substitute—

“11B Change in gender of civil partner

- (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, the continuity of the civil partnership continues by virtue of subsection (2) notwithstanding any impediment under the relevant law.
- (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.”.
- (15) In section 11D (continuity of civil partnership: Scotland), for the words from “full” to the end substitute “ a full gender recognition certificate to either (or both) of the civil partners. ”.
- (16) In section 22 (prohibition on disclosure of information), in subsection (2)(a) for the words from “under” to “6(1)” substitute “ under any other section of this Act ”.
- (17) In section 24 (orders and regulations), in subsection (5B) the words “or 5D(1)” are repealed.
- (18) In section 25 (interpretation), in subsection (1)—
 - (a) in the definition of “full gender recognition certificate”, for “5A or 5D” substitute “ or 5A ”,

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(b) 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), ”.

(19) In schedule 3 (registration)—

(a) in paragraph 19, the word “4F,” is repealed,

(b) in paragraph 20A(4), in the definition of qualifying Scottish civil partnership, for “each” substitute “ one, or each, ”.

Commencement Information

- I1** Sch. 2 para. 5(1)(19)(b) in force at 18.1.2021 for specified purposes by [S.S.I. 2020/457](#), [reg. 2\(c\)](#)
- I2** Sch. 2 para. 5(1)(19)(b) in force at 30.11.2021 in so far as not already in force by [S.S.I. 2021/351](#), [reg. 2](#), [sch.](#) (with [reg. 3](#))
- I3** Sch. 2 para. 5(2)-(18)(19)(a) in force at 30.11.2021 by [S.S.I. 2021/351](#), [reg. 2](#), [sch.](#) (with [reg. 3](#))

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