



# Gender Recognition Act 2004

## 2004 CHAPTER 7

### *Supplementary*

#### **22 Prohibition on disclosure of information**

- (1) It is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person.
- (2) “Protected information” means information which relates to a person who has made an application under section 1(1) and which—
  - (a) concerns that application or any application by the person [<sup>F1</sup>under section [<sup>F2</sup>4A,][<sup>F3</sup>4C, 4F,] 5(2)[<sup>F4</sup>, 5A(2)] or 6(1)][<sup>F1</sup>under any other section of this Act], or
  - (b) if the application under section 1(1) is granted, otherwise concerns the person’s gender before it becomes the acquired gender.
- (3) A person acquires protected information in an official capacity if the person acquires it—
  - (a) in connection with the person’s functions as a member of the civil service, a constable or the holder of any other public office or in connection with the functions of a local or public authority or of a voluntary organisation,
  - (b) as an employer, or prospective employer, of the person to whom the information relates or as a person employed by such an employer or prospective employer, or
  - (c) in the course of, or otherwise in connection with, the conduct of business or the supply of professional services.
- (4) But it is not an offence under this section to disclose protected information relating to a person if—
  - (a) the information does not enable that person to be identified,
  - (b) that person has agreed to the disclosure of the information,
  - (c) the information is protected information by virtue of subsection (2)(b) and the person by whom the disclosure is made does not know or believe that a full gender recognition certificate has been issued,

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*Changes to legislation: There are currently no known outstanding effects for the Gender Recognition Act 2004, Section 22. (See end of Document for details)*

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- (d) the disclosure is in accordance with an order of a court or tribunal,
  - (e) the disclosure is for the purpose of instituting, or otherwise for the purposes of, proceedings before a court or tribunal,
  - (f) the disclosure is for the purpose of preventing or investigating crime,
  - (g) the disclosure is made to the Registrar General for England and Wales, the Registrar General for Scotland or the Registrar General for Northern Ireland,
  - (h) the disclosure is made for the purposes of the social security system or a pension scheme,
  - (i) the disclosure is in accordance with provision made by an order under subsection (5), or
  - (j) the disclosure is in accordance with any provision of, or made by virtue of, an enactment other than this section.
- (5) The Secretary of State may by order make provision prescribing circumstances in which the disclosure of protected information is not to constitute an offence under this section.
- (6) The power conferred by subsection (5) is exercisable by the Scottish Ministers (rather than the Secretary of State) where the provision to be made is within the legislative competence of the Scottish Parliament.
- [<sup>F5</sup>(6A) The power conferred by subsection (5) is exercisable by the Department of Justice in Northern Ireland (rather than the Secretary of State) where the provision to be made could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).]
- (7) An order under subsection (5) may make provision permitting—
- (a) disclosure to specified persons or persons of a specified description,
  - (b) disclosure for specified purposes,
  - (c) disclosure of specified descriptions of information, or
  - (d) disclosure by specified persons or persons of a specified description.
- (8) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### Textual Amendments

- F1** Words in s. 22(2)(a) substituted (S.) (30.11.2021) by [Civil Partnership \(Scotland\) Act 2020 \(asp 15\)](#), s. 16, [sch. 2 para. 5\(16\)](#); S.S.I. 2021/351, reg. 2, sch. (with reg. 3)
- F2** Word in s. 22(2)(a) inserted (10.12.2014) by [Marriage \(Same Sex Couples\) Act 2013 \(c. 30\)](#), s. 21(3), [Sch. 5 para. 13](#); S.I. 2014/3169, art. 2
- F3** Words in s. 22(2)(a) inserted (S.) (16.12.2014) by [Marriage and Civil Partnership \(Scotland\) Act 2014 \(asp 5\)](#), s. 36, [Sch. 2 para. 19\(2\)](#); S.S.I. 2014/287, art. 3, Sch.
- F4** Words in s. 22(2)(a) inserted (5.12.2005) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 250\(5\)\(c\)](#), 263; S.I. 2005/3175, [art. 3](#), Sch. 2
- F5** S. 22(6A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 14 para. 83\(2\)](#) (with arts. 28-31)

**Changes to legislation:**

There are currently no known outstanding effects for the Gender Recognition Act 2004, Section 22.