

Gender Recognition Reform (Scotland) Bill — Stage 2

Section 3

Christine Grahame

38 In section 3, page 2, line 17, at end insert—

<() if the applicant is aged 16 or 17 when the application is made, the effect of sections 8BA(2) and 8C(1)(c).>

After section 3

Christine Grahame

39 After section 3, insert—

<Guidance, advice and support for young applicants

After section 8B of the 2004 Act (inserted by section 3) insert—

“8BA Additional guidance, advice and support for young applicants

- (1) This section applies where a person who makes an application under section 8A is aged 16 or 17 when the application is made.
- (2) The applicant must, before or at the same time as giving the Registrar General for Scotland notice of confirmation under section 8B(3), confirm to the Registrar General that the applicant has discussed the implications for the applicant of obtaining a gender recognition certificate with an individual who—
 - (a) has a role which involves giving guidance, advice or support to young people, or
 - (b) is aged at least 18 and knows the applicant personally.”>

Section 4

Christine Grahame

40 In section 4, page 2, line 31, leave out <8B> and insert <8BA>

Christine Grahame

41 In section 4, page 2, line 31, leave out <3> and insert <(Guidance, advice and support for young applicants)>

Christine Grahame

42 In section 4, page 2, leave out line 38

Christine Grahame

43 In section 4, page 2, line 40, at beginning insert <either—

- (A) is aged 16 or 17 and has lived in the acquired gender throughout the period of six months ending with the day on which the application is made, or
- (B) is aged at least 18 and>

Christine Grahame

- 44 In section 4, page 2, line 44, leave out <and>

Michael Marra

- 45 In section 4, page 2, line 44, at end insert—
- <() the statutory declaration under paragraph (a) complies with the requirements of section 8CA,>

Christine Grahame

- 46 In section 4, page 3, line 4, at end insert <, and
- (c) if the applicant is aged 16 or 17 when the application is made, the applicant has complied with section 8BA(2).>

Shona Robison

- 47 In section 4, page 3, line 4, at end insert—
- <() Subsection (1) is subject to section 8PA (order authorising rejection of application by Registrar General for Scotland).>

After section 4

Michael Marra

- 48 In section 4, page 3, line 9, at end insert—
- <8CA Statutory declarations: countersignatory**
 - (1) A statutory declaration under section 8C(1)(a) must be accompanied by a signed statement by a person (“the countersignatory”) who—
 - (a) has personally known the applicant for at least 2 years and,
 - (b) works in a recognised profession (or has retired from one).
 - (2) A signed statement under subsection (1) must confirm that the applicant, to the best of the countersignatory’s knowledge, meets the criteria in section 8C(1)(a).
 - (3) In this section, “recognised profession” includes—
 - (a) accountant,
 - (b) civil servant,
 - (c) dentist,
 - (d) doctor,
 - (e) nurse,

- (f) member of the armed forces,
 - (g) police officer,
 - (h) solicitor,
 - (i) teacher.
- (4) The Scottish Ministers may by regulations make further provision for the purposes of this section including provision relating to the form and content of a signed statement.>

After section 6

Shona Robison

49 After section 6, insert—

<Early determination of application made by person nearing end of life

After section 8E of the 2004 Act (inserted by section 6) insert—

“8EA Early determination of application made to Registrar General for Scotland by person nearing end of life

- (1) The Registrar General for Scotland may determine an application under section 8A(1) before the expiry of the reflection period (within the meaning of section 8B(5)) if—
 - (a) the applicant requests in writing that the Registrar General determines the application before the end of that period, and
 - (b) the Registrar General is satisfied that the applicant is gravely ill and not expected to recover.
- (2) Where the Registrar General grants a request made under subsection (1)(a), the Registrar General must notify the applicant of that fact in writing.
- (3) Where the Registrar General grants a request made at the same time as the application to which it relates, the notice given by the Registrar General to the applicant under section 8B(1) is not to include the matters mentioned in paragraphs (b), (c) and (f) of that section.
- (4) Where the Registrar General grants a request made under subsection (1)(a), this Act applies to the application to which the request relates with the following modifications—
 - (a) subsections (3) and (4) of section 8B do not apply,
 - (b) section 8C(1)(b) applies as if for the words “and the notice of confirmation under section 8B(3) comply” there was substituted “complies”,
 - (c) section 8D applies as if—
 - (i) in subsection (2)(b), for the words “the applicant gives notice of confirmation under section 8B(3)”, there were substituted “the Registrar General for Scotland determines the application”,
 - (ii) in subsection (3), for the words “or the notice of confirmation must include”, there were substituted “must include, or the applicant must, before the Registrar General determines the application, give the Registrar General”,

- (iii) in subsection (4)(a), for the words “the notice of confirmation may include”, there were substituted “the applicant may give the Registrar General”,
- (iv) in subsection (5), for “or notice of confirmation includes”, substitute “includes, or the applicant gives the Registrar General”,
- (v) in subsection (6)(b), for the words “the applicant gives notice of confirmation under section 8B(3)”, there were substituted “the Registrar General determines the application”,
- (vi) in subsection (7), for the words “The notice of confirmation must include”, there were substituted “The applicant must give the Registrar General”,
- (d) section 8E applies as if —
 - (i) in subsection (3)(b), for the words “the applicant gave notice of confirmation under section 8B(3)”, there were substituted “the Registrar General determines the application”,
 - (ii) in subsection (4)(b), for the words “the applicant gave notice of confirmation under section 8B(3)”, there were substituted “the Registrar General determines the application”.>

Section 7

Shona Robison

- 50** In section 7, page 5, line 4, leave out <8E> and insert <8EA>

Shona Robison

- 51** In section 7, page 5, line 4, leave out <6> and insert <(Early determination of application made by person nearing end of life)>

Shona Robison

- 52** In section 7, page 5, line 30, at end insert—
- <() Subsection (1) is subject to section 8PA (order authorising rejection of application by Registrar General for Scotland).>

Shona Robison

- 53** In section 7, page 6, line 27, after <sheriff> insert <clerk>

Shona Robison

- 54** In section 7, page 7, line 29, at end insert—
- <() Subsection (1) is subject to section 8PA (order authorising rejection of application by Registrar General for Scotland).>

Shona Robison

- 55** In section 7, page 8, line 7, at end insert—

<() Subsection (1) is subject to section 8PA (order authorising rejection of application by Registrar General for Scotland).>

Section 8

Shona Robison

- 56 In section 8, page 8, line 26, after <Ireland> insert <(and that certificate has not been revoked)>

Shona Robison

- 57 In section 8, page 8, line 35, after <recognition> insert <(and that recognition has not ceased to have effect)>

Shona Robison

- 58 In section 8, page 8, line 41, at end insert—

<(2A) Subsection (2B) applies where—

- (a) a person's gender is the acquired gender by virtue of subsection (1),
- (b) the person's overseas gender recognition ceases to have effect under the law of the country or territory in which it was obtained, and
- (c) after the overseas gender recognition ceases to have such effect, the person's gender under that law is neither male nor female.

(2B) Subsection (1) continues to apply to the person as if the overseas gender recognition had not ceased to have effect.>

Shona Robison

- 59 In section 8, page 10, line 2, at end insert—

<() Subsection (6) is subject to section 8PA (order authorising rejection of application by Registrar General for Scotland).>

Before section 9

Shona Robison

- 60 Before section 9, insert—

<Order authorising rejection of application for certificate

After section 8P of the 2004 Act (inserted by section 8) insert—

“Order authorising rejection of application for certificate

8PA Order authorising rejection of application by Registrar General for Scotland

- (1) A sheriff may, on the application of the Registrar General for Scotland, order the Registrar General to reject an application made under—
 - (a) section 8A(1), 8F(1), 8J(1) or 8K(1) for a gender recognition certificate, on the grounds mentioned in subsection (2),
 - (b) section 8O(1) for a confirmatory gender recognition certificate, on the grounds mentioned in subsection (3).

- (2) The grounds referred to in subsection (1)(a) are that—
 - (a) the application for the certificate is fraudulent, or
 - (b) the applicant is incapable of—
 - (i) understanding the effect of obtaining the certificate, or
 - (ii) validly making the application.
- (3) The grounds referred to in subsection (1)(b) are that—
 - (a) the application for the certificate is fraudulent, or
 - (b) the overseas gender recognition to which the application for the certificate relates has ceased to have effect.
- (4) The sheriff may make an order under subsection (1) on the grounds mentioned in subsection (2)(a) or (3)(a) if satisfied, on the balance of probabilities, that the application for the certificate is fraudulent.
- (5) Where the sheriff makes an order under subsection (1), the sheriff may make such other order as the sheriff considers appropriate in consequence of, or otherwise in connection with, the order under subsection (1).
- (6) Where the sheriff makes an order under subsection (1), the Registrar General may reject the application even if the applicant has not given the Registrar General a notice under section 8B(3).
- (7) Proceedings under this section—
 - (a) are to be heard in private if—
 - (i) the applicant so requests, or
 - (ii) the application to the sheriff is made on the grounds mentioned in subsection (2)(b) and another person with an interest in the wellbeing of the applicant so requests,
 - (b) may, if the application to the sheriff is made on the grounds mentioned in subsection (2)(b), be heard in private if—
 - (i) the Registrar General so requests, and
 - (ii) the sheriff is satisfied that it is in the best interests of the applicant for the proceedings to be so heard.
- (8) In this section, “applicant” means the applicant for the certificate to which the proceedings relate.”.>

Section 9

Shona Robison

- 61** In section 9, page 10, line 37, leave out <8P> and insert <8PA>

Shona Robison

- 62** In section 9, page 10, line 37, leave out <8> and insert <(Order authorising rejection of application for certificate)>

Shona Robison

- 63** In section 9, page 11, line 29, at end insert—

<() This section does not apply where the Registrar General has rejected the application in accordance with an order made under section 8PA(1) (order authorising rejection of application by Registrar General for Scotland).>

Shona Robison

64 In section 9, page 12, line 17, after <sheriff> insert <clerk>

Shona Robison

65 In section 9, page 12, line 18, after <sheriff> insert <clerk>

Shona Robison

66 In section 9, page 12, line 30, after <that> insert <—
(a)>

Shona Robison

67 In section 9, page 12, line 31, after <fraudulent> insert <, or
(b) the overseas gender recognition to which the certificate relates has ceased to have effect>

Shona Robison

68 In section 9, page 12, line 31, at end insert—
<() The sheriff may make an order on an application under subsection (1)(b) or (2)(a) if satisfied, on the balance of probabilities, that the application for the certificate was fraudulent.>

Shona Robison

69 In section 9, page 13, line 7, after <sheriff> insert <clerk>

Shona Robison

70 In section 9, page 13, line 8, after <sheriff> insert <clerk>

After section 11

Christine Grahame

71 After section 11, insert—
<Publication by Registrar General for Scotland of information about application process
After section 8U of the 2004 Act (inserted by section 11) insert—
“8V Publication of information about application process by Registrar General for Scotland
(1) The Registrar General for Scotland must publish information about—
(a) the effect of obtaining a gender recognition certificate,

- (b) how to make an application for a gender recognition certificate,
 - (c) the requirement to make a statutory declaration under section 8C(1)(a),
 - (d) the consequences of making an application for a gender recognition certificate or statutory declaration under this Act which is false in a material particular,
 - (e) such other information relating to the making of an application for a gender recognition certificate as the Registrar General considers appropriate.
- (2) Information published under subsection (1) must be published on a website maintained by or on behalf of the Registrar General.”.>

Section 14

Shona Robison

- 72 In section 14, page 16, line 2, leave out <or>

Shona Robison

- 73 In section 14, page 16, line 3, at end insert <or,
- () a request under section 8EA(1) (early determination of application made by person nearing end of life), or any information which the person provides to the Registrar General in connection with such a request>

After section 14

Pam Gosal

- 74 After section 14, insert—

<Duty to provide information on single-sex spaces

Duty to provide information on single-sex spaces

The Scottish Ministers must publish and publicise information on the impact of this Act on—

- (a) single-sex spaces,
- (b) exceptions to single-sex spaces.>

Pam Gosal

- 75 After section 14, insert—

<Duty to provide information of single-sex services

Duty to provide information on single-sex services

The Scottish Ministers must publish and publicise information on the impact of this Act—

- (a) single-sex services,
- (b) exceptions to single-sex services.>

Pam Gosal

76 After section 14, insert—

<Impact of Act on religious groups

- (1) The Scottish Ministers must prepare and publish a report on a review of the impact of this Act on patients where knowledge of the biological sex of a health professional carrying out a medical examination or treatment is required, including on religious grounds.
- (2) In carrying out the review under subsection (1), the Scottish Ministers must consult such persons as they consider appropriate.
- (3) A report under subsection (1) must set out any steps the Scottish Ministers are planning to take to respond to any concerns expressed as a result of the review.>

Brian Whittle

77 After section 14, insert—

<Guidance on sporting activities

Guidance on sporting activities

- (1) The Scottish Ministers must prepare and produce guidance for—
 - (a) sports governing bodies,
 - (b) teachers,
 - (c) any authority required to make a decision on inclusion in sporting activities,on the impact of this Act in relation to the inclusion of trans people.
- (2) Guidance under subsection (1) must include information on—
 - (a) any safety concerns resulting from this Act,
 - (b) how the Scottish Ministers propose to address these.>

Section 15

Shona Robison

78 In section 15, page 16, line 29, after <sheriff> insert <clerk>

Schedule

Shona Robison

79 In the schedule, page 18, line 22, at end insert—

<() subsection (1C) is repealed.”>

Pam Gosal

80 In the schedule, page 18, line 33, after <22> insert—

<()>

Pam Gosal

81 In the schedule, page 19, line 5, at end insert—

<() after subsection (8) insert—

“() The Scottish Ministers must review the operation of this section in light of changes made by the Gender Recognition Reform (Scotland) Act 2022 considering, in particular—

(a) whether the criminal offences remain appropriate,

(b) whether any further exceptions are necessary under subsection (4).”>

Shona Robison

82 In the schedule, page 20, line 37, after <sheriff> insert <clerk>