

Gender Recognition Reform (Scotland) Bill

Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Sections 1 to 16	Schedule
Sections 17 to 19	Long Title

Amendments marked * are new (including manuscript amendments) or have been altered.

Section 2

Rachael Hamilton

- 18 In section 2, page 1, line 15, leave out <16> and insert <18>

Russell Findlay

- 114 In section 2, page 1, line 15, after <16,> insert—
<() is not subject to the notification requirements of Part 2 of the Sexual Offences Act 2003,>

Roz McCall

- 83 In section 2, page 1, line 16, after <(2)> insert <or (2A)>

Sue Webber

- 2 In section 2, page 1, line 19, at end insert—
<() An application under subsection (1) must be approved by a Gender Recognition Panel.>

Roz McCall

- 84 In section 2, page 1, line 19, at end insert—
<(2A) The condition is that the person has obtained overseas gender recognition. >

Roz McCall

- 85 In section 2, page 1, line 20, after <Act,> insert <—
<(za) “overseas gender recognition” means gender recognition obtained in an approved country or territory outwith the United Kingdom which resulted in a person’s gender under the law of that country or territory becoming male instead of female, or female instead of male,

(zb) “approved country or territory”, in relation to a person mentioned in paragraph (za), means a country or territory prescribed by regulations by the Scottish Ministers,

(zc)>

Pam Duncan-Glancy

115 In section 2, page 1, line 20, after <Act,> insert <—

<() “ordinarily resident in Scotland” includes a person who is seeking asylum in Scotland,

()>

Tess White

116 In section 2, page 1, line 20, after <Act,> insert <—

<() a person is “ordinarily resident in Scotland” if the person has been living, or intends to live, in Scotland for a minimum period of one year,

()>

Roz McCall

86 In section 2, page 1, line 26, at end insert—

<() Regulations under subsection (3)(zb) are subject to the affirmative procedure.”>

After section 2

Carol Mochan

117 After section 2, insert—

<Persons aged 16 or 17 who apply

After section 8A of the 2004 Act (inserted by section 2 insert)—

“Persons aged 16 or 17 who apply to the Registrar General for Scotland for a gender recognition certificate

- (1) Where a person aged 16 or 17 applies for a gender recognition certificate under section 8A, free confidential and balanced support is to be available at the request of that person.
- (2) The support required by virtue of subsection (1) must include, should it be requested—
 - (a) wellbeing support from a professional and trusted source,
 - (b) family liaison support in communicating the applicant’s decision to family members.”.>

Section 3

Maggie Chapman

87 In section 3, page 2, leave out lines 7 and 8

Maggie Chapman

88 In section 3, page 2, leave out line 17

Christine Grahame

Supported by: Jackson Carlaw

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).>

Maggie Chapman

89 In section 3, page 2, line 21, leave out subsections (3) to (5)

Sue Webber

3 Leave out section 3

After section 3

Christine Grahame

Supported by: Jackson Carlaw

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

Supported by: Jackson Carlaw

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

Christine Grahame

Supported by: Jackson Carlaw

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

Russell Findlay

- 118 In section 4, page 2, line 34, at the beginning insert <Subject to section 8CA,>

Russell Findlay

- 119 In section 4, page 2, line 34, at the beginning insert <Subject to section 8CB,>

Martin Whitfield

- 120 In section 4, page 2, line 34, at the beginning insert <Subject to subsection (2A),>

Christine Grahame

Supported by: Jackson Carlaw

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

Rachael Hamilton

- 19 In section 4, page 2, line 38, leave out <16> and insert <18>

Roz McCall

- 90 In section 4, page 2, line 39, after <8A(2)> insert <or (2A)>

Christine Grahame

Supported by: Jackson Carlaw

- 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>

Maggie Chapman

- 91 In section 4, page 2, leave out lines 40 to 42

Pam Duncan-Glancy

121 In section 4, page 2, line 42, leave out <and>

Christine Grahame

Supported by: Jackson Carlaw

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

Pam Duncan-Glancy

122 In section 4, page 2, line 44, at end insert—

<() understands that it is an offence to knowingly make a statutory declaration under this section which is false in a material particular, 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

Supported by: Jackson Carlaw

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).>

Russell Findlay

123 In section 4, page 3, line 4, at end insert <, and

() the application includes a statutory declaration disclosing any convictions for criminal offences.>

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).>

Martin Whitfield

124* In section 4, page 3, line 6, at end insert—

<(2A) The Register General for Scotland must reject an application under section 8A(1) if—

(a) the applicant is aged 16 or 17, and

(b) the condition in subsection (2B) is met.

- (2B) The condition is that the Register General for Scotland is satisfied that the applicant—
- (a) is incapable of understanding—
 - (i) the effect of obtaining the certificate, or
 - (ii) the importance of a statutory declaration, or
 - (b) has made the application under coercion.
- (2C) For the purposes of subsection (2B)(a), in considering whether the applicant has the capacity to understand, the Register General for Scotland is to start with the presumption that the applicant does.>

Graham Simpson

20 In section 4, page 3, line 9, at end insert—

- <(4) The Scottish Ministers must, by regulations, make further provision on the meaning of “living in the acquired gender”.
- (5) Regulations under subsection (4) must specify what changes would be considered evidence that a new gender had been acquired.>".

Sue Webber

4 Leave out section 4

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.”>

Roz McCall

92 After section 4, insert—

<Overseas gender recognition: exceptions

After section 8C of the 2004 Act (inserted by section 4) insert—

“Overseas gender recognition: reflection period

The following provisions do not apply where an applicant meets the condition in section 8A(2A)—

- (a) section 8B(1)(b), (c) and (f),
- (b) section 8B(3), (4) and (5),
- (c) section 8C(1)(a)(iii).”>

Russell Findlay

125* After section 4, insert—

<Further process for applicants with certain convictions

After section 8C of the 2004 Act (inserted by section 4) insert—

“8CA Further process for applicants with certain convictions

- (1) This section applies where an application under section 8A(1) is made by a person—
 - (a) has been convicted of—
 - (i) a sexual offence,
 - (ii) a violent offence,
 - (iii) domestic abuse, or
 - (iv) fraud, or
 - (b) is listed in either, or both, of the lists kept by the Scottish Ministers under section 1 of the Protection of Vulnerable Groups (Scotland) Act 2007.
- (2) Where subsection (1) applies, the Registrar General for Scotland must not grant an application under section 8A(1) unless satisfied that the applicant has provided authentic evidence that the applicant has gender dysphoria.”>

Pam Duncan-Glancy

126 After section 4, insert—

<Reflection period: exception

After section 8C of the 2004 Act (inserted by section 4) insert—

“Reflection period: exception

- (1) The following provisions do not apply where the applicant meets the condition in subsection (2)—
 - (a) section 8B(1)(b), (c) and (f),
 - (b) section 8B(3) to (5).
- (2) The condition is that the person is terminally ill.
- (3) For the purposes of this Act—
 - (a) a person is terminally ill if it is the clinical judgement of an appropriate healthcare professional that the individual has a progressive disease that can reasonably be expected to cause the individual’s death,
 - (b) an “appropriate healthcare professional” means a registered medical practitioner or a registered nurse who is—
 - (i) involved in the diagnosis or care of the individual, and
 - (ii) acting in their professional capacity.”.>

Russell Findlay

127 After section 4, insert—

<Paused applications

After section 8C of the 2004 Act (inserted by section 4) insert—

“8CB Paused applications

- (1) This section applies where an application under section 8A(1) is made by a person who has been charged with an offence subject to solemn proceedings.
- (2) Where subsection (1) applies, the Registrar General for Scotland must not grant an application under section 8A(1) until such time as the case against the applicant has been disposed of.”.>

Sarah Boyack

128* After section 4, insert—

<Support for applicants

The Scottish Ministers must take steps to ensure that individuals who are considering making an application for a gender recognition certificate under section 8A(1) of the 2004 Act have access to appropriate support and information.>

Section 5

Sue Webber

5 Leave out section 5

Section 6

Sue Webber

6 Leave out section 6

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).>

Sue Webber

- 7 Leave out section 7

Section 8

Shona Robison

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

Roz McCall

- 32 In section 8, page 8, line 34, leave out from beginning to line 15 on page 9

Roz McCall

- 93 In section 8, page 8, line 34, leave out from beginning to line 34 on page 10

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).>

Roz McCall

- 33 In section 8, page 10, line 9, at end insert—
- <(10) In this Act—
 - (a) “overseas gender recognition” means gender recognition obtained in an approved country or territory outwith the United Kingdom which resulted in a person’s gender under the law of that country or territory becoming male instead of female, or female instead of male,
 - (b) “approved country or territory”, in relation to a person mentioned in paragraph (a), means a country or territory prescribed by regulations by the Scottish Ministers.>

Roz McCall

- 34 In section 8, page 10, line 12, leave out from <or> to end of line 16

Sue Webber

- 8 Leave out section 8

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.”.>

Russell Findlay

129 Before section 9, insert—

<Notification of decisions

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

“Notification of decisions by Registrar General for Scotland

8PA Notification of decisions by Registrar General for Scotland

The chief constable of the Police Service of Scotland must be notified by the Registrar General for Scotland when a person who has been convicted of a criminal offence, excluding a spent conviction within the meaning of the Rehabilitation of Offenders Act 1974, has been issued with—

- (a) a gender recognition certificate under section 8A(1),
- (b) a full gender recognition certificate under section 8F(1), 8J(1) or 8K(1),
or
- (c) a confirmatory gender recognition certificate under section 8O(1).”.>

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)>

Roz McCall

94 In section 9, page 11, leave out line 9

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>

Maggie Chapman

95 In section 9, page 12, line 20, at end insert—

<(A1) Before a person who has an interest in a gender recognition certificate, or confirmatory gender recognition certificate, applies to the sheriff for the revocation of the certificate under subsection (1) or (2), that person must apply to the Registrar General for Scotland for leave to apply to the sheriff.

(B1) The Registrar General for Scotland is required to grant leave to apply to the sheriff under subsection (A1) unless the Registrar General for Scotland is satisfied that the application is malicious.>

Pam Duncan-Glancy

130 In section 9, page 12, line 20, at end insert—

<(A1) Before a person who has an interest in a gender recognition certificate, or confirmatory gender recognition certificate, applies to the sheriff for the revocation of the certification under subsection (1) or (2), that person must apply to the Registrar General for leave to apply to the sheriff.

(B1) The Registrar general is required to grant leave to apply to the sheriff under subsection (A1) unless the Registrar General is satisfied that—

(a) the application is malicious,

(b) the person applying does not have a genuine interest in the gender recognition certificate.>

Russell Findlay

131 In section 9, page 12, line 25, after <fraudulent,> insert—

<() the person to whom the certificate was issued has, since the certificate issued, been convicted of—

(i) rape,

(ii) sexual assault involving the perpetrator's genitalia of sex at birth,>

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>

Maggie Chapman

- 96 In section 9, page 13, line 22, at end insert—
<(8) A person commits an offence if the person maliciously makes an application to the sheriff under subsections (1)(b) or (2).
(9) A person who commits an offence under subsection (8) is liable—
(a) on summary conviction to imprisonment for a term not exceeding 12 months or a fine not exceeding the statutory maximum (or both),
(b) on conviction on indictment to imprisonment for a term not exceeding two years or a fine (or both).”.>

Maggie Chapman

- 97 In section 9, page 13, line 22, at end insert—
<() In this section, “a person who has an interest in a gender recognition certificate” means—
(a) the applicant’s spouse or civil partner,
(b) the Registrar General for Scotland,
(c) the Secretary of State.”.>

Pam Duncan-Glancy

- 132 In section 9, page 13, line 22, at end insert—
<**Malicious applications under section 8S: civil court jurisdiction and remedies**
(1) The sheriff has jurisdiction to determine a claim that an application under section 8S was made maliciously.>

- (2) If the sheriff finds that an application under section 8S was made maliciously, the sheriff has power to make any order which could be made by the Court of Session—
 - (a) in proceedings for reparation,
 - (b) on a petition for judicial review.
- (3) An award of damages may include compensation for injured feelings (whether or not it includes compensation on any other basis).”.>

Sue Webber

- 9 Leave out section 9

Section 10

Sue Webber

- 10 Leave out section 10

Section 11

Roz McCall

- 98 In section 11, page 14, leave out line 17

Sue Webber

- 11 Leave out section 11

After section 11

Christine Grahame

Supported by: Jackson Carlaw

- 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 12

Sue Webber

- 12 Leave out section 12

Section 13

Sue Webber

- 13 Leave out section 13

After section 13

Rachael Hamilton

- 21 After section 13, insert—

<Parenthood

For the avoidance of doubt, this Act does not affect the status of a person whose gender has become the acquired gender under the 2004 Act as the father or mother of a child.>

Section 14

Graham Simpson

- 22 In section 14, page 15, line 36, at end insert—

<() The Scottish Ministers must, by regulations, make further provision about—

- (a) what would constitute a false statutory declaration under subsection (1), and
- (b) what would constitute evidence tending to show that a person had made a false statutory declaration under subsection (1).>

Roz McCall

- 99 In section 14, page 16, leave out lines 1 and 2

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,>

Jamie Greene

133 In section 14, page 16, line 12, at end insert—

<22B Aggravation of offence

- (1) An offence is aggravated if the circumstances of the offence are proven to be connected to the fact that the person has fraudulently obtained a gender recognition certificate.
- (2) Subsection (3) applies where it is—
 - (a) libelled in an indictment, or specified in a complaint, that an offence is aggravated by being connected to the fact that the person has fraudulently obtained a gender recognition certificate, and
 - (b) proved that the offence is so aggravated.
- (3) The court must—
 - (a) state on conviction that the offence is aggravated by the fact that a person has fraudulently obtained a gender recognition certificate,
 - (b) record the conviction in a way that shows that the offence is so aggravated,
 - (c) take the aggravation into account in determining the appropriate sentence, and
 - (d) state—
 - (i) where the sentence in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or
 - (ii) otherwise, the reasons for there being no such difference.”.>

Jamie Greene

134 In section 14, page 16, line 12, at end insert—

<22B Aggravation of offence

- (1) An offence is aggravated if—
 - (a) the circumstances of the offence are proven to be connected to the fact that the person has fraudulently obtained a gender recognition certificate, and
 - (b) the person is convicted of an offence listed in subsection (2).
- (2) The offences are—
 - (a) an offence listed in schedule 3 of the Sexual Offences Act 2003,
 - (b) an offence under the Human Trafficking and Exploitation (Scotland) Act 2015,
 - (c) an offence under the Abusive Behaviour and Sexual Harm (Scotland) Act 2016,
 - (c) an offence under the Domestic Abuse (Scotland) Act 2018.
- (3) The Scottish Ministers may by regulations modify the offences listed in subsection (2).

- (4) Subsection (5) applies where it is—
 - (a) libelled in an indictment, or specified in a complaint, that an offence is aggravated by being connected to the fact that the person has fraudulently obtained a gender recognition certificate, and
 - (b) proved that the offence is so aggravated.
- (5) The court must—
 - (a) state on conviction that the offence is aggravated by the fact that a person has fraudulently obtained a gender recognition certificate,
 - (b) record the conviction in a way that shows that the offence is so aggravated,
 - (c) take the aggravation into account in determining the appropriate sentence, and
 - (d) state—
 - (i) where the sentence in respect of the offence is different from that which the court would have imposed if the offence were not so aggravated, the extent of and the reasons for that difference, or
 - (ii) otherwise, the reasons for there being no such difference.
- (6) Regulations made under subsection (3) are subject to the negative procedure.”.>

Sue Webber

- 14 Leave out section 14

After section 14

Tess White

- 135 After section 14, insert—

<Public understanding of gender recognition

14A Duty to encourage public understanding

The Scottish Ministers must take steps to encourage public understanding of the provisions and effect of this Act. >

Brian Whittle

- 1* After section 14, insert—

<Impact of this Act on sport

Impact of this Act on sport

- (1) The Scottish Ministers must, no later than one year after the date of Royal Assent, prepare and publish a report on the impact of this Act on the participation of transgender people in sport.
- (2) A report under subsection (1) must set out, in particular, any change in the number of—
 - (a) trans women participating in women’s sport,
 - (b) trans women participating in men’s sport,
 - (c) trans men participating in women’s sport,

(d) trans men participating in men’s sport.>

Rachael Hamilton

23 After section 14, insert—

<Effect on the Equality Act 2010

Effect on the Equality Act 2010

- (1) For the avoidance of doubt, nothing in this Act affects—
 - (a) the definition of “sex” in section 11 of the 2010 Act,
 - (b) any of the protections afforded by the 2010 Act.
- (2) In this section, “the 2010 Act” means the Equality Act 2010.>

Rachael Hamilton

24 After section 14, insert—

<Effect on the Equality Act 2010: Sport

Effect on the Equality Act 2010: Sport

For the avoidance of doubt, nothing in this Act affects the protections offered by section 195 of the Equality Act 2010.>

Daniel Johnson

25 After section 14, insert—

<Guidance

Guidance

- (1) The Scottish Ministers must issue guidance on the interaction of this Act with the provisions of the Equality Act 2010.
- (2) The Scottish Ministers must publish the guidance in such manner as they consider appropriate.
- (3) The Scottish Ministers may vary or revoke guidance prepared under subsection (1).>

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

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.>

Pauline McNeill

101 After section 14, insert—

<Guidance on effect of having a gender recognition certificate

Guidance on effect of having a gender recognition certificate

- (1) The Scottish Ministers must prepare and publish guidance on the effect of having a gender recognition certificate.
- (2) Guidance under subsection (1) must, in particular, set out how obtaining a gender recognition certificate impacts on the rights in the Equality Act 2010.>

Brian Whittle

103 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 or concerns about material advantage that may be gained as a result of change of gender resulting from this Act,

- (b) how the Scottish Ministers propose to address these.>

Foyso! Choudhury

104 After section 14, insert—

<Effect on the Equality Act 2010

Effect on the Equality Act 2010

- (1) For the avoidance of doubt, nothing in this Act affects—
 - (a) the definition of “sex” in section 11 of the 2010 Act,
 - (b) the definition of “man” or “woman” in section 212(1) of the 2010 Act,
 - (c) any of the protections afforded by the 2010 Act.
- (2) In this section, “the 2010 Act” means the Equality Act 2010.>

Jamie Greene

136 After section 14, insert—

<Impact of this Act on prisons

Impact of this Act on prisons

- (1) The Scottish Ministers must, no later than three years after section 2 comes into force, prepare and publish a report on the impact of this Act on the placement of transgender people within prisons.
- (2) A report under subsection (1) must set out, in particular, any change in the number of—
 - (a) trans women residing in women’s prisons,
 - (b) trans women residing in men’s prisons,
 - (c) trans men residing in women’s prisons,
 - (d) trans men residing in men’s prisons.>

Jeremy Balfour

137 After section 14, insert—

<European Convention on Human Rights

European Convention on Human Rights

- (1) For the avoidance of doubt, nothing in this Act alters the effect of Article 9 of the European Convention on Human Rights and the rights and protections that it affords.
- (2) For the purposes of this Act, “European Convention on Human Rights” means the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950.>

Jeremy Balfour

138 After section 14, insert—

<European Convention on Human Rights

European Convention on Human Rights

- (1) The Scottish Ministers must, by regulations, make further provision about the interaction between this Act and Article 9 of the European Convention on Human Rights.
- (2) Regulations made under subsection (1) are subject to the affirmative procedure.
- (3) For the purposes of this Act, “European Convention on Human Rights” means the Convention for the Protection of Human Rights and Fundamental Freedoms agreed by the Council of Europe at Rome on 4 November 1950.>

Sarah Boyack

139* After section 14, insert—

<Review: Gender identity healthcare

Review: Gender identity healthcare

- (1) Within two years of Royal Assent, the Scottish Ministers must review the impact of this Act on the provision of gender identity healthcare.
- (2) Before carrying out a review under subsection (1), the Scottish Ministers must consult as it considers appropriate on the remit of the review.
- (3) A review under subsection (1) must consider what further steps could be taken to improve access to and provision of gender identity healthcare.
- (4) The Scottish Ministers must prepare and publish a report on the review under subsection (1).>

Rachael Hamilton

140 After section 14, insert—

<Review of healthcare for trans people>

<Review of healthcare for trans people

- (1) The Scottish Ministers must review the interaction of this Act with healthcare for trans people.
- (2) A review under subsection (1) must consider, in particular—
 - (a) whether a bespoke healthcare pathway needs to be created for those applying for a gender recognition certificate,
 - (b) any issues experienced by people applying for a gender recognition certificate in relation to healthcare,
 - (c) what further steps could be taken to improve healthcare for trans people.
- (3) The Scottish Ministers must prepare and publish a report on the review under subsection (1).
- (4) The report under subsection (3) must set out, in particular, any steps that the Scottish Ministers propose to take as a result of the review.>

Maggie Chapman

141 After section 14, insert—

<Review of time periods

Review of time periods

- (1) The Scottish Ministers must, no later than three years after section 2 comes into force, prepare and publish a report on a review of the impacts on trans people of—
 - (a) the period a trans person is required to live in the acquired gender under section 8C(1)(a)(iii) of the 2004 Act (inserted by section 4),
 - (b) the reflection period under section 8B of the 2004 Act (inserted by section 3).
- (2) The report under subsection (1) must set out any changes that the Scottish Ministers propose to make to the time periods as a result of the review.>

Before section 15

Tess White

142 Before section 15, insert—

<Scottish Ministers' duty to report

- (1) The Scottish Ministers must prepare a report on the steps they have taken to meet the requirement in section 14A.
- (2) The Scottish Ministers must lay a copy of the report before the Scottish Parliament no later than 6 months after the day after Royal Assent.>

Tess White

143 Before section 15, insert—

<Scottish Ministers' duty to report

- (1) The Scottish Ministers must, in respect of each reporting period—
 - (a) undertake a review of the operation of this Act, and
 - (b) prepare a report on that review.
- (2) A report prepared under subsection (1) must include information on the effect of the operation of the Act on—
 - (a) educational establishments,
 - (b) the health system,
 - (c) the criminal justice system.
- (3) Each of the following is a “reporting period”—
 - (a) the period beginning with the day after Royal Assent and ending on 31 December 2023,
 - (b) each successive period of two years.>

Section 15

Tess White

144 In section 15, page 16, line 24, at end insert—

<() a gender recognition certificate under section 8A(1), 8F(1), 8J(1) or 8K(1) of the Gender Recognition Act 2004 where the applicant has previously obtained a gender recognition certificate under one of those sections,>

Roz McCall

105 In section 15, page 16, leave out lines 25 and 26

Roz McCall

106 In section 15, page 16, line 27, leave out <and confirmatory gender recognition certificates>

Shona Robison

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

Roz McCall

107 In section 15, page 16, leave out line 33

Roz McCall

108 In section 15, page 16, line 38, leave out <or a confirmatory gender recognition certificate>

Roz McCall

109 In section 15, page 16, line 40, leave out <“confirmatory gender recognition certificate”,>

Sue Webber

15 Leave out section 15

After section 15

Pam Duncan-Glancy

37 After section 15, insert—

<Impact of Act on Equality Act 2010

Impact of Act on Equality Act 2010

For the avoidance of doubt, nothing in this Act modifies the Equality Act 2010.>

Pauline McNeill

110 After section 15, insert—

<Reporting on sex

Reporting on sex

- (1) For the avoidance of doubt, nothing in this Act affects any requirement to collect data on sex.
- (2) For the purposes of this Act, “sex” has the meaning in section 11 of the Equality Act 2010.>

Pam Duncan-Glancy

145 After section 15, insert—

<Review of the Act

Initial review

- (1) Scottish Ministers must, no later than 3 years after section 2 of this Act has come into force, initiate a review of the operation of the Act.
- (2) The review under subsection (1) must consider, in particular—
 - (a) whether the Registrar General for Scotland has been able to carry out the functions specified in the Act effectively,
 - (b) how many people have obtained gender recognition certificates,
 - (c) the operation of section 22 of the 2004 Act in light of changes made by this Act considering, in particular, whether further exceptions are necessary under subsection (4) of that Act,
 - (d) if any further provision related to the Act is being considered by the Scottish Ministers, in particular any provision related to gender recognition for non-binary people,
 - (e) anything else that the Scottish Ministers consider to be relevant.
- (3) No later than 2 years after a review is initiated under subsection (1), the Scottish Ministers must—
 - (a) prepare a report setting out the findings of that review and conclusions drawn from those findings, and
 - (b) lay that report before the Scottish Parliament.>

Pam Duncan-Glancy

146 After section 15, insert—

<Impact assessment

Impact assessment

- (1) Scottish Ministers must, no later than 3 years after section 2 of this Act has come into force initiate an assessment of the impact of this Act.
- (2) The assessment under subsection (1) must include consideration of—
 - (a) the effect of the Act on the operation of the Equality Act 2010 in Scotland, including
 - (i) the exemptions set out in the Equality Act 2010, and
 - (ii) single-sex spaces as provided for in paragraph 27 of Schedule 2 of the Equality Act 2010,

- (b) the number of individuals seeking gender affirming medical care,
 - (c) the number of people with gender recognition certificates and confirmatory gender recognition certificates imprisoned or on remand in prisons in Scotland,
 - (d) The number of people charged with an offence under section 22A of the 2004 Act,
 - (e) Information on the disclosure of information under section 22(4), including—
 - (i) any cases brought under section 22 of the 2004 Act,
 - (ii) any exceptions to section 22 relied upon in each case,
 - (iii) the outcome of those cases,
 - (f) Information on any legal challenges where—
 - (i) the interaction of the provisions of the 2004 Act inserted by this Act and the Equality Act 2010,
 - (ii) the provisions of the 2004 Act inserted by this Act,
 are matters in dispute.
- (3) As soon as practicable after the conclusion of the assessment under subsection (1), the Scottish Ministers must—
- (a) publish a report on the findings of the assessment and,
 - (b) lay that report before the Parliament.>

Pam Duncan-Glancy

147* After section 15, insert—

<Duty to publish information

Duty to publish information

- (1) Scottish Ministers must collect and publish (in a form that ensures no individual applicant is identified or identifiable) the information in this section.
- (2) In relation to section 8A of the 2004 Act, the number of applications—
 - (a) received,
 - (b) granted,
 - (c) rejected.
- (3) In relation to section 8O of the 2004 Act—
 - (a) received,
 - (b) granted,
 - (c) rejected.
- (4) The reasons for rejection of applications under section 8A or 8O of the 2004 Act.
- (5) The number of applicants who have applications under section 8O of the 2004 Act rejected who subsequently make an application under section 8A, and the result of those applications.
- (6) The number of applications withdrawn.
- (7) The number of interim gender recognition certificates granted.

- (8) The number of full gender recognition certificates granted and—
 - (a) how many of these were granted to a person with an interim gender recognition certificate,
 - (b) information on the length of time taken between interim gender recognition certificates being issued and a subsequent full gender recognition certificate being issued to the same person.
- (9) The number of requests for review under section 8Q of the 2004 Act.
- (10) The number of appeals under section 8R of the 2004 Act
- (11) In relation to section 8S of the 2004 Act, the number of applications—
 - (a) received under each ground in subsection (1),
 - (b) granted in respect of each ground in subsection (1),
 - (c) received under subsection (2),
 - (d) granted in respect of subsection (2).
- (12) The number of corrected certificates issued under section 8T of the 2004 Act,
- (13) Information on applicants’—
 - (a) marital status at the time of making the application (including whether the applicant was in a civil partnership),
 - (b) acquired gender,
 - (c) place of birth.
- (14) The number of applications received from prison and the details specified in subsections (2) to (13) in respect of these applications.>

Tess White

148* After section 15, insert—

<Scottish Ministers’ duty to consult: women and girls

15A Scottish Ministers’ duty to consult: women and girls

- (1) Within six months of Royal Assent, the Scottish Ministers must consult publicly on how it should report on the impact of the operation of the Act on women and girls, in particular—
 - (a) the form that such reporting should take, and
 - (b) the regularity of the reporting.
- (2) The Scottish Ministers must publish a report within six months of carrying out the consultation setting out—
 - (a) information on the consultation undertaken,
 - (b) the responses received, and
 - (c) the timescale for laying regulations in accordance with subsection (3).
- (3) The Scottish Ministers must make regulations setting out its plans for reporting on the impact of the operation of the Act on women and girls, including—
 - (a) the form of the reporting,
 - (b) the data that must be collected,

- (c) the timescale for publication of the first report, and
- (d) frequency of subsequent reports.
- (4) For the purposes of subsection (3), any data collected should record the sex as recorded at birth.
- (5) Regulations made under subsection (3) are subject to the affirmative procedure.>

Sarah Boyack

149* After section 15, insert—

<Scottish Ministers' duty to collect data

Scottish Ministers' duty to collect data

- (1) The Scottish Ministers must by regulations set out the data that is required to be collected (in addition to that specified in section 15) in order to monitor the operation and impact of this Act.
- (2) Regulations under this section must require—
 - (a) the collection of data on the impact of the Act on trans healthcare waiting times,
 - (b) in specified circumstances, the collection of data on an individual's acquired gender and gender at birth for the purposes of monitoring—
 - (i) access to and provision of healthcare,
 - (ii) the commission of specific offences.
- (3) The Scottish Ministers may modify the data required to be collected under subsection (2).
- (4) Regulations under subsection (1) are subject to the affirmative procedure.>

Section 16

Sue Webber

16 Leave out section 16

After section 16

Rachael Hamilton

26 After section 16, insert—

<Evidence to be included with application

Evidence: details to be included in report

In the 2004 Act—

- (a) in section 3, subsection (3) is repealed,
- (b) in section 3B, subsection (4) is repealed,
- (c) in section 3D, subsection (4) is repealed,
- (d) in section 3F, subsection (4) is repealed.>

Fulton MacGregor

111 After section 16, insert—

<Impact of this Act on prisons

Impact of this Act on prisons

For the avoidance of doubt, nothing in this Act affects the ability of the Scottish Prison Service to take a risk based approach to where trans people are housed within the prison estate.>

Claire Baker

150 After section 16, insert—

<Review of section 22 of the 2004 Act

Review of section 22 of the 2004 Act

- (1) The Scottish Ministers must, no later than 3 years after section 2 comes into force, review the operation of section 22 of the 2004 Act in light of changes made by this Act considering, in particular—
 - (a) whether the criminal offences remain appropriate,
 - (b) whether any further exceptions are necessary under subsection (4) of section 22 of that Act.
- (2) The Scottish Ministers must publish a report on the review under subsection (1).
- (3) The report under subsection (1) must set out whether the Scottish Ministers intend, by order under subsection (5) of section 22 of the 2004 Act, to make provision specifying further exceptions, particularly in relation to sharing information to ensure the effective operation of schedule 9 of the Equality Act 2010.
- (4) If the Scottish Ministers do not intend to make provision by order as a result of a review under subsection (1), the report under subsection (2) must specify why not.>

Claire Baker

151 After section 16, insert—

<Guidance on occupational exemptions

Guidance on occupational exemptions

- (1) The Scottish Ministers must issue guidance on the interaction between—
 - (a) this Act,
 - (b) section 22 of the 2004 Act,
 - (c) schedule 9 of the Equality Act 2010.
- (2) The Scottish Ministers must make guidance issued under subsection (1) publicly available.
- (3) The Scottish Ministers may at any time vary or revoke any guidance issued under subsection (1).>

Carol Mochan

152 After section 16, insert—

<Interaction with the Equality Act 2010

Interaction with the Equality Act 2010

The functions to be exercised by virtue of this Act must be exercised in accordance with the Equality Act 2010.>

Schedule

Roz McCall

112 In the schedule, page 18, leave out line 11

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).”>

Graham Simpson

27 In the schedule, page 19, line 7, at end insert—
<“(5ZZA)Regulations made by the Scottish Ministers under section 8C(4) are subject to the affirmative procedure.>

Pam Duncan-Glancy

153 In the schedule, page 19, line 16, leave out from <if> to end of line 18.

Graham Simpson

28 In the schedule, page 19, line 19, at end insert—
<() after subsection (5B) insert—
“(5C) Regulations made by the Scottish Ministers under section 22A are subject to the affirmative procedure.”>

Roz McCall

35 In the schedule, page 19, line 22, leave out <and 8N(3)(b)>

Roz McCall

36 In the schedule, page 19, line 38, leave out <8N(3)(a)> and insert <8O(10)(a)>

Roz McCall

113 In the schedule, page 19, line 38, leave out <8N(3)(a)> and insert <8A(3)(za)>

Pam Duncan-Glancy

154 In the schedule, page 19, line 39, at end insert—

<“statutory declaration” means a declaration made by virtue of the Statutory Declarations Act 1835,”>

Shona Robison

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

Sue Webber

17 Leave out the schedule

Section 18

Graham Simpson

29 In section 18, page 17, line 19 after <sections> insert <4,>

Rachael Hamilton

31 In section 18, page 17, line 21, at end insert—

<() The Scottish Ministers may not bring into force any provisions by regulations under subsection (2) until—

- (a) the Independent Review of Gender Identity Services for Children and Young People (“the Cass Review”) has published its final report, and
- (b) the Scottish Ministers have considered the report, and set out—
 - (i) their response to the report’s findings,
 - (ii) the implications of the report for the provisions of this Act and
 - (iii) the steps that they intend to take.>

Graham Simpson

30 In section 18, page 17, line 21, at end insert—

<() The Scottish Ministers may not bring into force any provisions by regulations under subsection (2) until regulations under section 8C(4) (inserted by section 4) have been made.>

Tess White

155 In section 18, page 17, line 21, at end insert—

<() Regulations under subsection (2) may not bring section 2 into force until regulations have been made under section 15A(3).>

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