

# Gender Recognition Reform (Scotland) Bill

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## Groupings of Amendments for Stage 3

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- the text of amendments to be debated on the day of Stage 3 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

### Groupings of amendments

#### **Group 1: Applications by 16 and 17 year olds**

6, 93, 94, 7, 98, 24, 15, 25, 99, 8, 26, 9, 12, 101, 37, 105

##### *Notes on amendments in this group*

Amendment 9 pre-empts amendments 10 and 11 in Group 6

Amendment 12 pre-empts amendment 101

#### **Group 2: Applicants with criminal charges or convictions**

18, 22, 28, 39, 39A, 39B, 39C, 40, 40A, 40B, 40C, 40D, 40E, 41, 42, 50, 52, 53

#### **Group 3: Meaning of “ordinarily resident in Scotland”**

19

#### **Group 4: Support and information for applicants and potential applicants**

23, 20, 21

##### *Notes on amendments in this group*

Amendment 20 pre-empts amendment 96 in Group 5

Amendment 21 pre-empts amendment 97 in Group 5

#### **Group 5: Grounds on which the application is to be granted: medical evidence and time living in the acquired gender**

95, 96, 97, 10, 11, 16, 102, 107, 137

##### *Notes on amendments in this group*

Amendment 96 is pre-empted by amendment 20 in Group 4

Amendment 97 is pre-empted by amendment 21 in Group 4

Amendments 10 and 11 are pre-empted by amendment 9 in Group 1

**Group 6: Minor and technical**

27, 29

**Group 7: Statutory declarations: formalities and supporting evidence**

100, 1, 103, 104, 140, 106, 2, 3, 4, 5, 47, 47A, 48, 49, 141

**Group 8: Background checks for applicants**

30, 31, 32, 33, 35, 36, 38, 43, 44, 45

**Group 9: Applications by adults with incapacity**

34, 46

**Group 10: Certificates obtained by fraud**

108, 110, 114, 115, 116, 138, 139

**Group 11: Late application for review of Registrar General's decision**

109

**Group 12: Manifestly unfounded application to sheriff to revoke certificate**

51

**Group 13: Interaction with the Equality Act 2010, the concept of sex, and single-sex services**

54, 111, 112, 113, 117, 118, 119, 120, 121, 61, 123, 72, 73, 74, 127, 128, 129, 130, 133, 92

**Group 14: Copying of certificates to other Registrars General**

55

**Group 15: Review of Act**

56, 60, 75, 76, 76A, 77, 78, 79, 80, 81, 82, 83, 83A, 84, 84A, 85, 86, 87, 88, 89, 90, 90A, 134, 91

**Group 16: Operation and impact of the Act**

122, 57, 58, 59, 67, 68, 13, 14, 71, 131, 136

**Group 17: Gender identity healthcare**

62, 132, 135

**Group 18: Reporting**

124, 63, 64, 65, 125, 66

**Group 19: Data collection**

69, 70, 126

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## Amendments in debating order

### Group 1: Applications by 16 and 17 year olds

**Rachael Hamilton**

**Supported by: Kenneth Gibson**

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

**Claire Baker**

- 93 In section 2, page 1, line 15, after <16> insert <(subject to subsection (1A))>

**Claire Baker**

- 94 In section 2, page 1, line 16, at end insert—

<(1A) Subsection (1)(a) has effect as if for the word “16” there were substituted “18” until such time as—

- (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—
  - (i) considered the impact of the findings of the Cass Review, and
  - (ii) set out any steps the Scottish Ministers intend to take as a result of the findings of the Cass Review.>

**Rachael Hamilton**

**Supported by: Kenneth Gibson**

- 7 In section 3, page 2, leave out lines 21 and 22

**Jamie Greene**

- 98 In section 3A, page 2, line 42, after <General> insert <, and be able to provide reasonable evidence if requested,>

**Martin Whitfield**

- 24 In section 3A, page 2, line 42, after <General> insert—

<(a)>

**Kenneth Gibson**

- 15 In section 3A, page 3, leave out lines 1 to 3 and insert <is suitably qualified to provide advice or support to young people, such as a medical practitioner.>

**Martin Whitfield**

- 25 In section 3A, page 3, line 3, at end insert—

<(b) the name and contact details of the individual described in paragraph (a).”.>

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### **Christine Grahame**

- 99 In section 3A, page 3, line 3, at end insert—

<( ) The applicant must tell the Registrar General what role the individual mentioned in subsection (2) has, or how the individual knows the applicant.>

### **Rachael Hamilton**

**Supported by: Kenneth Gibson**

- 8 Leave out section 3A

### **Martin Whitfield**

- 26 In section 4, page 3, line 8, at beginning insert <Subject to subsection (2A),>

### **Rachael Hamilton**

**Supported by: Kenneth Gibson**

- 9 In section 4, page 3, line 13, leave out from <either> to end of line 16

### **Rachael Hamilton**

**Supported by: Kenneth Gibson**

- 12 In section 4, page 3, leave out lines 28 and 29

### **Jamie Greene**

- 101 In section 4, page 3, line 29 after <8BA(2)> insert <and the Registrar General is satisfied that the appropriate guidance, advice and support has been given to the applicant>

### **Martin Whitfield**

- 37 In section 4, page 3, line 33, at end insert—

<(2A) The Register General 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 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 is to start with the presumption that the applicant does.>

### **Jackie Baillie**

- 105 In section 4, page 3, line 33, at end insert—

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<( ) For the purposes of subsection (1)(a)(iii)(A), the applicant must have been aged 16 at the beginning of the period of six months. >

### **Group 2: Applicants with criminal charges or convictions**

**Russell Findlay**

18 In section 2, page 1, line 15, after <16,> insert—

<(ab) subject to section 8PB (order authorising application), is not subject to the notification requirements of Part 2 of the Sexual Offences Act 2003,>

**Russell Findlay**

22 After section 3, insert—

#### **<Notification requirements**

In section 84 of the Sexual Offences Act 2003, after subsection (1)(f) insert—

“( ) his submitting an application under sections 8A(1), 8F(1), 8J(1), 8K(1) or 8O(1) of the Gender Recognition Act 2004.”.>

**Russell Findlay**

28 In section 4, page 3, line 23, after <particular,> insert—

<( ) is not subject to the notification requirements of Part 2 of the Sexual Offences Act 2003, or has obtained an order under section 8PB (order authorising application),>

**Michelle Thomson**

**Supported by: Russell Findlay**

39 After section 4, insert—

#### **<Paused applications**

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

#### **“8CA Paused applications**

- 5 (1) This section applies where an application under section 8A(1) is made by a person who has been charged with a sexual offence listed in Schedule 3 of the Sexual Offences Act 2003.
- 10 (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.”.>

**Russell Findlay**

39A As an amendment to amendment 39, line 6, after <with> insert <—

<( )>

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### Russell Findlay

**39B** As an amendment to amendment 39, line 7, at end insert—

<( ) an offence aggravated as described in section 1 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.>

### Russell Findlay

**39C** As an amendment to amendment 39, line 7, at end insert—

<( ) fraud.>

### Gillian Martin

**Supported by: Jamie Greene**

**40** After section 6A, insert—

#### **<Notification by chief constable in connection with applications by certain offenders**

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

#### **“8EB Notification by chief constable in connection with applications by certain offenders (Scotland)**

(1) Subsection (2) applies where the chief constable makes an application for a sexual harm prevention order or a sexual offences prevention order which, if made, would prevent a person from making an application for a gender recognition certificate.

(2) The chief constable must notify the Registrar General for Scotland of—

- (a) the making of the application for the order,
- (b) the making of any interim order preventing the person from making an application for a gender recognition certificate,
- (c) the outcome of the application for the order, when the application has been finally determined,
- (d) where an order preventing the person from making an application for a gender recognition certificate is made—
  - (i) the terms of the order, and
  - (ii) any subsequent variation, renewal or discharge of the order.

(3) An application for a gender recognition certificate made in breach of an order mentioned in subsection (2)(b) or (d) is of no effect (and, accordingly, is to be treated by the Registrar General as if it had never been made).

(4) Subsections (5) and (6) apply where—

- (a) the chief constable makes an application for a sexual harm prevention order or a sexual offences prevention order in relation to a person who has made an application for a gender recognition certificate (“the applicant”),
- (b) the application for the certificate has not yet been determined by the Registrar General, and
- (c) the order would, if made, require the applicant to withdraw that application.

(5) The chief constable must notify the Registrar General of—

- (a) the making of the application for the order,
- (b) the outcome of that application, when the application has been finally determined.

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- 35 (6) Where the Registrar General receives notification under subsection (5)(a), the Registrar General must not take any further steps in relation to the application for the certificate unless the chief constable notifies the Registrar General under subsection (5)(b) that either—
- (a) no order has been made, or
  - (b) an order has been made, but it does not require the applicant to withdraw the application for the certificate.
- 40 (7) For the purposes of this section, an application for a sexual harm prevention order or a sexual offences prevention order is finally determined when—
- (a) any appeal in respect of the application is finally determined or withdrawn, or
  - 45 (b) the period for making such an appeal expires with no appeal having been made.
- (8) In this section—
- “application for a gender recognition certificate” means an application under section 8A(1), 8F(1), 8J(1) or 8K(1) for a gender recognition certificate or under section 8O(1) for a confirmatory gender recognition certificate,
  - 50 “chief constable” means the chief constable of the Police Service of Scotland,
  - “sexual harm prevention order” and “interim sexual harm prevention order” have the meanings given by section 25(1) of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016,
  - 55 “sexual offences prevention order” and “interim sexual offences prevention order” have the meanings given by section 133(1) of the Sexual Offences Act 2003.”.>

### Shona Robison

40A As an amendment to amendment 40, line 7, after first <order> insert <, a sexual risk order>

### Shona Robison

40B As an amendment to amendment 40, line 24, after first <order> insert <, a sexual risk order>

### Shona Robison

40C As an amendment to amendment 40, line 40, after <order> insert <, a sexual risk order>

### Shona Robison

40D As an amendment to amendment 40, line 50, at end insert—

<“interim order” means an interim sexual harm prevention order, interim sexual risk order or interim sexual offences prevention order,>

### Shona Robison

40E As an amendment to amendment 40, line 56, at end insert—

<“sexual risk order” and “interim sexual risk order” have the meanings given by section 36 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016.>

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**Gillian Martin**

**Supported by: Jamie Greene**

- 41 In section 7, page 6, line 40, leave out <8EA> and insert <8EB>

**Gillian Martin**

**Supported by: Jamie Greene**

- 42 In section 7, page 6, line 40, leave out <6A> and insert <(Notification by chief constable in connection with applications by certain offenders)>

**Russell Findlay**

- 50 After section 8A, insert—

**<Order authorising application**

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

*“Order authorising application*

**8PB Order authorising application**

- (1) A sheriff may, on the application of a person intending to apply for a gender recognition certificate (“P”), order the Registrar General for Scotland to accept the application if—
  - (a) P is not permitted to apply by virtue of section 8A(1)(ab) and,
  - (b) the sheriff considers it manifestly unfair in the circumstances to prohibit P from applying.
- (2) In determining whether it is manifestly unfair in the circumstances to prohibit P from applying, the sheriff must consider, in particular—
  - (a) the nature of the offences that has made P subject to notification requirements,
  - (b) the seriousness of those offences,
  - (c) any relationship between those offences and the obtaining of a gender recognition certificate,
  - (d) any other matter that the Scottish Ministers specify in regulations.”>

**Russell Findlay**

- 52 In section 9, page 15, line 39, at end insert <,or
- (d) 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,>

**Russell Findlay**

- 53 In section 9, page 16, line 3, at end insert—

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- <( ) The sheriff may make an order on an application under subsection (1)(d) if satisfied that it would be unreasonable in the circumstances for the person to whom the certificate was issued to continue to hold a certificate.>

### **Group 3: Meaning of “ordinarily resident in Scotland”**

**Shona Robison**

- 19 In section 2, page 1, leave out lines 21 and 22

### **Group 4: Support and information for applicants and potential applicants**

**Sarah Boyack**

- 23 After section 3, insert—

#### **<Support and information for applicants**

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

#### **“8BZA Support and information 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 support and information.”>

**Sarah Boyack**

- 20 In section 3A, page 2, line 36, leave out <8B> and insert <8BZA>

**Sarah Boyack**

- 21 In section 3A, page 2, line 36, leave out <3> and insert <(Support and information for applicants)>

### **Group 5: Grounds on which the application is to be granted: medical evidence and time living in the acquired gender**

**Rachael Hamilton**

- 95 After section 3, insert—

#### **<Support for applicants**

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

#### **“8BZB Support for applicants**

- (1) 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 intention of the applicant to obtain a gender recognition certificate with a medical professional and received any mental health support that was considered by that professional to be necessary.

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- (2) The applicant must provide the Registrar General with the name and contact details of the medical professional under subsection (1).”.>

**Rachael Hamilton**

- 96 In section 3A, page 2, line 36, leave out <8B> and insert <8BZB>

**Rachael Hamilton**

- 97 In section 3A, page 2, line 36, leave out <3> and insert <(Support for applicants)>

**Rachael Hamilton**

**Supported by: Kenneth Gibson**

- 10 In section 4, page 3, line 15, leave out <six months> and insert <2 years>

**Rachael Hamilton**

**Supported by: Kenneth Gibson**

- 11 In section 4, page 3, line 18, leave out <three months> and insert <2 years>

**Jeremy Balfour**

- 16 In section 4, page 3, line 23, at end insert—

- <( ) the application includes a report by a registered medical practitioner which—
- (i) has been prepared no more than a period of one month before the day on which the application is made,
  - (ii) confirms that the applicant has discussed the application with the medical practitioner.>

**Rachael Hamilton**

- 102 In section 4, page 3, line 29, at end insert—

<( ) the applicant has complied with section 8BZB.>

**Rachael Hamilton**

- 107 After section 4, insert—

**<Alternative grounds on which application to be granted.**

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

**“8CB Alternative grounds on which application to be granted**

- (1) The Registrar General for Scotland may grant an application under section 8A(1) if the application complies with the requirements in—
  - (a) section 8C(1), and
  - (b) subsection (2).
- (2) An application under this section must include either—
  - (a) a report made by a registered medical practitioner practising in the field of gender dysphoria and a report made by another registered

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medical practitioner (who may, but need not, practise in that field),  
or

- (b) a report made by a registered psychologist practising in that field and a report made by a registered medical practitioner (who may, but need not, practise in that field).
- (3) But subsection (2) is not complied with unless a report required by that subsection and made by—
  - (a) a registered medical practitioner, or
  - (b) a registered psychologist,practising in the field of gender dysphoria includes details of the diagnosis of the applicant's gender dysphoria.
- (4) The Scottish Ministers must specify in regulations the circumstances when a gender recognition certificate may be granted under this section.
- (5) The circumstances mentioned in subsection (4) may include circumstances where an applicant requires confirmation that a gender recognition certificate has been granted on the grounds that an applicant has or has had gender dysphoria.”.>

### **Rachael Hamilton**

137 In the schedule, page 25, line 14, at end insert—

<(5ZB) Regulations made by the Scottish Ministers under section 8CB are subject to the affirmative procedure.”.>

### **Group 6: Minor and technical**

#### **Shona Robison**

27 In section 4, page 3, line 20, at end insert <and>

#### **Shona Robison**

29 In section 4, page 3, line 23, leave out <and>

### **Group 7: Statutory declarations: formalities and supporting evidence**

#### **Paul O'Kane**

100 In section 4, page 3, line 23, at end insert—

<( ) the application includes copies of the pieces of proof of identity provided under section 8PZA that are certified as true copies by the person who took and received the statutory declaration.>

#### **Graham Simpson**

1 In section 4, page 3, line 25, at end insert—

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<( ) section 8CA, and>

**Paul O'Kane**

**103** In section 4, page 3, line 29, at end insert—

- <( ) A statutory declaration under subsection (1)(a) must—
- (a) not have been taken and received by a councillor, and
  - (b) be in the form provided for in regulations made by the Registrar General for Scotland.>

**Paul O'Kane**

**104** In section 4, page 3, line 29, at end insert—

- <( ) A statutory declaration under subsection (1)(a) must be in the form provided for in regulations made by the Registrar General for Scotland.>

**Paul O'Kane**

**140** In section 4, page 3, line 29, at end insert—

- <( ) Regulations made by the Registrar General under this section are subject to the affirmative procedure.>

**Michael Marra**

**106** In section 4, page 3, line 36, at end insert—

**<8CZA Application: countersignatory**

- (1) An application under section 8A(1) must be accompanied by a signed statement by a person (“the countersignatory”) who—
  - (a) has known the applicant for at least 2 years, and
  - (b) is a person of good standing in the community, or
  - (c) works in a recognised profession (or has retired from one).
- (2) The signed statement must confirm that the applicant, to the best of the countersignatory’s knowledge, meets the criteria in section 8C(1)(a).
- (3) The Scottish Ministers must by regulations specify the meaning of “recognised profession” for the purposes of subsection (1)(c).>

**Graham Simpson**

**2** After section 4, insert—

**<Evidence of living in the acquired gender**

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

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### **“8CA Evidence to be given to Registrar General for Scotland in relation to living in the acquired gender**

- (1) An application under section 8A(1) must include copies of at least two pieces of evidence that the applicant has lived in the acquired gender for the period specified in section 8C(1)(a)(iii)(A) or (B), as the case may be.
- (2) Each piece of evidence must contain at least one of the following pieces of information—
  - (a) a name,
  - (b) a title,
  - (c) a gender marker.
- (3) The information in subsection (2) must match the acquired gender of the applicant.
- (4) The Registrar General must publish guidance for applicants in relation to the requirements of this section.”>

### **Graham Simpson**

**3** After section 4, insert—

#### **<Evidence of living in the acquired gender**

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

### **“8CA Evidence to be given to Registrar General for Scotland in relation to living in the acquired gender**

- (1) An application under section 8A(1) must include copies of at least two pieces of evidence that the applicant has lived in the acquired gender for the period specified in section 8C(1)(a)(iii)(A) or (B), as the case may be.
- (2) Each piece of evidence must contain at least one of the following pieces of information—
  - (a) a name,
  - (b) a title,
  - (c) a gender marker.
- (3) The information in subsection (2) must match the acquired gender of the applicant.
- (4) For the purposes of this section, “a piece of evidence” means—
  - (a) a driving licence,
  - (b) a passport,
  - (c) an identity card,
  - (d) a letter from the applicant’s—
    - (i) solicitor,
    - (ii) accountant,
    - (iii) doctor,
    - (iv) dentist, or
    - (v) employer,

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- (e) a bank statement,
  - (f) a payslip,
  - (g) a P60,
  - (h) a P45,
  - (i) a letter from—
    - (i) a UK government department,
    - (ii) a Scottish government department, or
    - (iii) a local authority,
  - (j) a credit report,
  - (k) a letter confirming the applicant's inclusion on the electoral register,
  - (l) a student loan statement,
  - (m) a utility bill,
  - (n) a rental agreement, or
  - (o) an academic certificate or document.
- (5) The Scottish Ministers may by regulations modify the list in subsection (4) so as to add, remove, or vary a reference to a piece of evidence.”>

### Graham Simpson

- 4 In section 5, page 3, line 38, leave out <8C> and insert <8CA>

### Graham Simpson

- 5 In section 5, page 3, line 38, leave out <4> and insert <(Evidence of living in the acquired gender)>

### Shona Robison

- 47 Before section 8A, insert—

#### <Identification of person making statutory declaration

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

*“Identification of person making statutory declaration*

#### 5 **8PZA Requirement for proof of identity**

- (1) This section applies where a person makes a statutory declaration in accordance with this Act or regulations made under it.
- (2) The person must, before making the declaration, provide the person taking and receiving the declaration with two pieces of proof of the identity of the person making the application.”.>

10

### Paul O'Kane

- 47A As an amendment to amendment 47, line 10, at end insert—

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- <(3) Each piece of proof of identity must contain the following pieces of information in relation to the person—
  - (a) name, and
  - (b) title.
- (4) The information provided in subsection (3) must match the person's acquired gender and be dated no later than—
  - (a) three months prior to the date of the declaration if the person making the declaration is aged 18 or over,
  - (b) six months prior to the date of the declaration if the person making the declaration is aged 16 or 17.
- (5) For the purposes of this section “piece of proof of identity” means—
  - (a) a driving licence,
  - (b) a passport,
  - (c) an identity card,
  - (d) a letter from the person's—
    - (i) solicitor,
    - (ii) accountant,
    - (iii) employer,
    - (iv) social worker,
    - (v) support worker,
  - (e) a bank statement,
  - (f) a payslip,
  - (g) a P60,
  - (h) a P45,
  - (i) a letter from—
    - (i) a UK government department,
    - (ii) a Scottish government department,
    - (iii) a local authority,
    - (iv) a health board or NHS trust,
  - (j) a credit report,
  - (k) a letter confirming the person's inclusion on the electoral register,
  - (l) a student loan statement,
  - (m) a utility bill,
  - (n) a rental agreement, or
  - (o) an academic certificate or document.
- (6) The Scottish Ministers may by regulations modify the list in subsection (5) so as to add, remove, or vary a reference to a piece of proof of identity.
- (7) Regulations under subsection (6) are subject to the affirmative procedure.”>

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### Shona Robison

- 48 In section 8A, page 13, line 6, leave out <8P> and insert <8PZA>

### Shona Robison

- 49 In section 8A, page 13, line 6, leave out <8> and insert <(Identification of person making statutory declaration)>

### Michael Marra

- 141 In the schedule, page 25, line 14, at end insert—  
    <(5ZAB) Regulations made by the Scottish Ministers under section 8CZA are subject to the affirmative procedure.”>

## **Group 8: Background checks for applicants**

### Russell Findlay

- 30 In section 4, page 3, line 29, at end insert—  
    <(d) the application includes a Level 2 disclosure (as defined in section 8 of the Disclosure (Scotland) Act 2020) and the Registrar General for Scotland is satisfied that nothing in the disclosure would make the granting of the application unreasonable.>

### Russell Findlay

- 31 In section 4, page 3, line 29, at end insert—  
    <(d) the Registrar General for Scotland has applied for a Level 1 disclosure (as defined in section 1 of the Disclosure (Scotland) Act 2020) on behalf of the applicant and the Registrar General for Scotland is satisfied that nothing in the disclosure would make the granting of the application unreasonable.>

### Russell Findlay

- 32 In section 4, page 3, line 29, at end insert—  
    <(d) the Registrar General for Scotland has established whether the applicant 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 and, having given consideration to this matter, is satisfied that it is not unreasonable to grant the application.>

### Russell Findlay

- 33 In section 4, page 3, line 29, at end insert—  
    <( ) The Registrar General for Scotland must be registered in the register of accredited bodies maintained under section 46 of the Disclosure (Scotland) Act 2020 in relation to the making of applications for Level 1 disclosures under section 2 of that Act on behalf of an individual.>

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### Ruth Maguire

35 In section 4, page 3, line 31, at end insert—

- <(1B) Before granting an application under section 8A(1), the Registrar General must—
  - (a) contact Police Scotland with a request for any relevant information on the applicant, and
  - (b) obtain and consider proper advice about whether any relevant information would make the granting of the application unreasonable.
- (1C) The Scottish Ministers must prepare and publish guidance on what should be considered to make the granting of the application unreasonable under subsection (1B)(b).>

### Russell Findlay

36 In section 4, page 3, line 31, at end insert—

- <(1B) The Scottish Ministers must prepare and publish guidance on what should be considered to make the granting of the application unreasonable under subsection (1)(d).
- (1C) The Registrar General must have regard to any guidance produced under subsection (1B).>

### Ruth Maguire

38 In section 4, page 3, line 36, at end insert—

- <( ) In this section—
  - “proper advice” means the advice of a person who is reasonably believed by the Registrar General for Scotland to be qualified to give it on the basis of the person’s professional experience in relation to domestic abuse,
  - “relevant information” means information on previous abusive behaviour towards a partner or ex-partner.>

### Ruth Maguire

43 After section 7, insert—

#### *<Notification requirement*

#### **Notification to Police Scotland**

After section 8L of the 2004 Act (inserted by section 7) insert—

#### *“Notification requirement*

#### **8LA Notification to Police Scotland**

- (1) The Registrar General for Scotland must notify Police Scotland if an application under section 8A(1) is granted to a person about whom relevant information was received under section 8C(1B).
- (2) Notification under subsection (1) must include—
  - (a) the name of the person,
  - (b) the person’s acquired gender, and

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- (c) the date that the person was granted a gender recognition certificate.”.>

### **Ruth Maguire**

- 44 In section 8, page 10, line 21, leave out <8L> and insert <8LA>

### **Ruth Maguire**

- 45 In section 8, page 10, line 21, leave out <7> and insert <(Notification to Police Scotland)>

## **Group 9: Applications by adults with incapacity**

### **Ruth Maguire**

- 34 In section 4, page 3, line 31, at end insert—

- <(1B) Before granting an application under section 8A(1), the Registrar General must—
- (a) contact the Public Guardian to confirm whether the applicant has a registered welfare power or attorney or guardianship order, and
  - (b) if the applicant has a registered welfare power of attorney or guardianship order, consider whether the applicant has capacity to—
    - (i) understand the effect of obtaining the certificate, and
    - (ii) validly make the application.
- (1C) In considering the applicant’s capacity under subsection (1B)(b) the Registrar General must take into account the views of any person with powers under a welfare power of attorney or guardianship order in relation to the applicant.
- (1D) If the Registrar General is not satisfied as to the applicant’s capacity under subsection (1B)(b) the Registrar General must make an application under section 8PA.>

### **Ruth Maguire**

- 46 Before section 8A, insert—

#### **<Adults with incapacity**

- (1) In exercising a function under this Act, the Registrar General for Scotland must have regard to—
  - (a) the provisions of the Adults with Incapacity (Scotland) Act 2000,
  - (b) the importance of communicating in an inclusive way,
  - (c) opportunities to advance equality and non-discrimination,
- (2) The Registrar General for Scotland must make available information, advice and support to applicants and people with an interest in an application (including people with powers under a welfare power of attorney or guardianship order) to promote understanding of the effect and consequences of obtaining a gender recognition certificate with a view to ensuring that applications are not made by those incapable of—
  - (a) understanding the effect of obtaining the certificate, or
  - (b) validly making the application.

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- (3) In subsection (1)(c), “communicating in an inclusive way” means communicating in a way that ensures that individuals who have difficulty communicating (in relation to speech, language or otherwise) can receive information and express themselves in ways that best meet each individual’s needs.>

### **Group 10: Certificates obtained by fraud**

**Jamie Greene**

**108** In section 8A, page 14, line 4, at end insert—

- <( ) For the purposes of this section, an application for a gender recognition certificate or confirmatory gender recognition certificate is fraudulent if the applicant knowingly—
- (a) makes a statutory declaration which is false in a material particular in connection with the application, or
  - (b) includes information which is false in a material particular in—
    - (i) the application, or
    - (ii) a notice of confirmation given under section 8B(3) in connection with the application.”.>

**Jamie Greene**

**110** In section 9, page 16, line 38, at end insert—

- <( ) For the purposes of this section, an application for a gender recognition certificate or confirmatory gender recognition certificate is fraudulent if the applicant knowingly—
- (a) makes a statutory declaration which is false in a material particular in connection with the application, or
  - (b) includes information which is false in a material particular in—
    - (i) the application, or
    - (ii) a notice of confirmation given under section 8B(3) in connection with the application.
- ( ) In subsection (1)(b), the reference to an application for a gender recognition certificate includes, where the certificate is a full gender recognition certificate issued in place of an interim gender recognition certificate under section 8F, 8H, 8I, 8J, 8K, 8Q or 8R, a reference to the application under section 8A(1) which resulted in the interim gender recognition certificate being issued.>

**Jamie Greene**

**114** In section 14, page 20, leave out lines 5 to 26 and insert—

### **<22B Aggravation of offence by connection with gender recognition certificate obtained by fraud (Scotland)**

- (1) This section applies where it is—
- (a) libelled in an indictment, or specified in a complaint, that an offence is aggravated by a connection with a gender recognition certificate obtained by fraud, and
  - (b) proved that the offence is so aggravated.

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- (2) An offence is aggravated by a connection with a gender recognition certificate obtained by fraud if the person's gender, as recognised by the certificate, was material to the commission of the offence.
- (3) For the purposes of this section, a gender recognition certificate is obtained by fraud if the person who makes the application for the certificate knowingly—
  - (a) makes a statutory declaration which is false in a material particular in connection with the application, or
  - (b) includes information which is false in a material particular in—
    - (i) that application, or
    - (ii) a notice of confirmation given under section 8B(3) in connection with the application.
- (4) For the purposes of subsection (3), an application for the certificate—
  - (a) is an application under section 8A(1), 8F(1), 8J(1), 8K(1) or 8O(1) which resulted in the certificate being issued,
  - (b) includes, where the certificate is a full gender recognition issued in place of an interim gender recognition certificate under section 8F, 8H, 8I, 8J, 8K, 8Q, 8R or 8S, a reference to the application under section 8A(1) which resulted in the interim gender recognition certificate being issued.
- (5) Evidence from a single source is sufficient to prove that an offence is aggravated by a connection with a gender recognition certificate obtained by fraud.
- (6) The court must—
  - (a) state on conviction that the offence is aggravated by a connection with a gender recognition certificate obtained by fraud,
  - (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.
- (7) In this section, "gender recognition certificate" includes confirmatory gender recognition certificate.">

### Jamie Greene

115 In section 14, page 20, line 26, at end insert—

#### <22C Revocation of certificate in criminal proceedings (Scotland)

- (1) Subsection (2) applies where a person is convicted of—
  - (a) an offence under section 22A(1) or (2) in connection with a gender recognition certificate or confirmatory gender recognition certificate issued to the person, or
  - (b) an offence which is aggravated under section 22B(1) in connection with a gender recognition certificate issued to the person.
- (2) The court by or before which the person is convicted must—

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- (a) revoke the certificate (if it has not already been revoked),
  - (b) where it does so, notify the Registrar General for Scotland of the revocation.
- (3) Where—
- (a) the gender recognition certificate mentioned in subsection (1)(a) is an interim gender recognition certificate, and
  - (b) a full gender recognition certificate has been issued in place of the interim gender recognition certificate under section 8F, 8H, 8I, 8J, 8K, 8Q, 8R or 8S,
- the reference in subsection (2)(a) is a reference to the full gender recognition certificate.”.>

### **Rachael Hamilton**

**116** In section 14, page 20, line 26, at end insert—

#### **<22D Offence of gaining fraudulent access to single sex services**

- (1) A person commits an offence if the person gains access to a single sex service as a result of having fraudulently obtained a gender recognition certificate.
- (2) A person who commits an offence under subsection (1) 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).”.>

### **Jamie Greene**

**138** In the schedule, page 26, line 34, after <Session> insert <, High Court of Justiciary>

### **Jamie Greene**

**139** In the schedule, page 27, line 1, after second <Session> insert <, High Court of Justiciary>

## **Group 11: Late application for review of Registrar General’s decision**

### **Jamie Greene**

**109** In section 9, page 14, leave out lines 26 and 27 and insert—

- <( ) if the request is made after the end of that period—
- (i) must comply with the request if satisfied that the applicant had a good reason for not making it sooner,
  - (ii) may (but need not) comply with it if not so satisfied.>

## **Group 12: Manifestly unfounded application to sheriff to revoke certificate**

### **Pam Duncan-Glancy**

**51** In section 9, page 16, line 38, at end insert—

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### **<8SA Manifestly unfounded 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 manifestly unfounded.
- (2) For the purposes of subsection (1), it is shown that an application was manifestly unfounded unless it is proved on the balance of probabilities that it was not.
- (3) The feelings of the applicant under section 8S about—
  - (a) gender recognition certificates,
  - (b) the particular application for a gender recognition certificate that is the subject of the application under section 8S,will not be taken as evidence that the application under section 8S was not manifestly unfounded.
- (4) An unsuccessful application under section 8S is not automatically considered to be manifestly unfounded.
- (5) 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.
- (6) An award of damages may include compensation for injured feelings (whether or not it includes compensation on any other basis).
- (7) In this section, a “manifestly unfounded” application is one that was made by the applicant under section 8S that was—
  - (a) intentionally misleading,
  - (b) made in accordance with the applicant’s feelings per subsection (3), or
  - (c) both,and that had no evidential basis.”.>

### **Group 13: Interaction with the Equality Act 2010, the concept of sex, and single-sex services**

**Shona Robison**

**54** After section 11A, insert—

#### **<Guidance about operation of 2004 Act**

After section 8V of the 2004 Act (inserted by section 11A) insert—

*“Guidance*

#### **8W Guidance about operation of Act (Scotland)**

- (1) The Scottish Ministers must publish guidance about the operation of this Act.
- (2) In preparing guidance under subsection (1), the Scottish Ministers must consult—

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- (a) statutory bodies concerned with promoting equality or human rights (or both) in Scotland,
  - (b) such other persons as they consider appropriate.
- (3) Guidance published under subsection (1) may be revised or revoked.”>

**Jackie Baillie**

**111** After section 11A, insert—

### **<Guidance about operation of 2004 Act**

After section 8V of the 2004 Act (inserted by section 11A) insert—

*“Guidance*

#### **8W Guidance about operation of Act (Scotland)**

- (1) The Scottish Ministers must issue guidance on the impact of the operation of this Act for public bodies and service providers in Scotland, in particular—
  - (a) the provision of single-sex services,
  - (b) what would be considered a proportionate means of achieving a legitimate aim in the context of providing single-sex services in schools, healthcare facilities and prisons.
- (2) In preparing guidance under subsection (1), the Scottish Ministers must consult—
  - (a) statutory bodies concerned with promoting equality or human rights (or both) in Scotland,
  - (b) such other persons as they consider appropriate.
- (3) The Scottish Ministers must publish the guidance in such manner as they consider appropriate.
- (4) The Scottish Ministers may vary or revoke guidance prepared under subsection (1).”>

**Ash Regan**

**112** After section 13, insert—

### **<Effect on section 9 of the 2004 Act**

Nothing in this Act affects any provision to which section 9(3) of the 2004 Act applies.>

**Ash Regan**

**113** After section 13, insert—

### **<Effect on the Equality Act 2010**

Nothing in this Act affects—

- (a) the definition of “sex” in section 11 of the Equality Act 2010,
- (b) the definition of “man” or “woman” in section 212(1) of the Equality Act 2010.>

## THIS IS NOT THE MARSHALLED LIST

**Pauline McNeill**

**117** 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.>

**Claire Baker**

**118** After section 14, insert—

*<Guidance on occupational exceptions*

**Guidance on occupational exceptions**

- (1) The Scottish Ministers must issue guidance on the impact of this Act on—
  - (a) section 22 of the 2004 Act,
  - (b) schedule 9 of the Equality Act 2010.
- (2) Guidance under subsection (1) must be approved by a resolution of the Parliament.
- (3) The Scottish Ministers must make guidance issued under subsection (1) publicly available.
- (4) The Scottish Ministers may at any time vary or revoke any guidance issued under subsection (1).>

**Claire Baker**

**119** After section 14, insert—

*<Guidance on occupational exceptions*

**Guidance on occupational exceptions**

- (1) The Scottish Ministers must issue guidance on the impact of this Act on—
  - (a) section 22 of the 2004 Act,
  - (b) 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).>

**Rachael Hamilton**

**120** After section 14, insert—

*<Separate, single and concessionary services, etc: guidance*

**Separate, single and concessionary services, etc: guidance**

The Scottish Ministers must prepare and publish guidance on how the operation of the exceptions in Part 7 of Schedule 3 of the Equality Act 2010 are affected by this Act.>

## THIS IS NOT THE MARSHALLED LIST

**Rachael Hamilton**

**121** After section 14, insert—

*<Impact of this Act on the provision of single sex services*

### **Impact of this Act on the provision of single sex services**

- (1) As soon as practicable after the end of each reporting period, the Scottish Ministers must prepare and publish a report on the impact of this Act on the provision of single sex services.
- (2) In this section, the reporting periods are—
  - (a) the period beginning with the day on which section 2 comes into force and ending with the day one year after the day on which section 2 comes into force,
  - (b) each subsequent period of one year.>

**Pam Gosal**

**61** After section 14B, insert—

*<Impact of the Act on self-exclusion*

### **Impact of the Act on self-exclusion**

- (1) The Scottish Ministers must, no later than one year after section 2 comes into force, prepare and publish a report on the impact of this Act on self-exclusion from activities or services.
- (2) A report under subsection (1) must include information on any change in—
  - (a) levels of self-exclusion by women,
  - (b) levels of self-exclusion by men,
  - (c) levels of self-exclusion in different activity or service types including, in particular, participation in sport.
- (3) In this section, “self-exclusion” means an individual choosing not to participate in an activity or access a service due to concerns over the participation or potential participation of individuals who belong to the opposite biological sex.>

**Pam Gosal**

**123** After section 14B, insert—

*<Impact of this Act on funding*

### **Impact of this Act on funding of single sex-services**

- (1) The Scottish Ministers must, no later than one year after section 2 comes into force, prepare and publish a report on the impact of this Act on funding of single-sex services.
- (2) A report under subsection (1) must set out what steps, if any, the Scottish Ministers consider necessary to ensure appropriate funding is available to single-sex services.>

**Sue Webber**

**72** After section 15A, insert—

## THIS IS NOT THE MARSHALLED LIST

### **<Scottish Ministers' duty to provide guidance**

- (1) At the point at which the Scottish Ministers make regulations commencing section 2, they must publish guidance which sets out whether it is lawful under this Act—
  - (a) for a service provider to provide services exclusively to persons who were female at birth (irrespective of whether the person has obtained a gender recognition certificate under the Gender Recognition Act 2004),
  - (b) for a service user to request that a service be provided exclusively by a person who was a female at birth (irrespective of whether a potential service provider possesses a gender recognition certificate under the 2004 Act).
- (2) For the purposes of this section, “service provider” means—
  - (a) a charitable body that provides services for women only,
  - (b) a health board,
  - (c) educational establishments,
  - (d) a local authority,
  - (e) any business that has toilets or changing rooms on its premises.>

**Sue Webber**

**73** After section 15A, insert—

### **<Impact of Act on Equality Act 2010: guidance**

The Scottish Ministers must issue guidance on the interaction of this Act with the Equality Act 2010, in particular the exceptions in Schedule 3 of that Act relating to single-sex services and spaces.>

**Sue Webber**

**74** After section 15A, insert—

### **<Impact of Act on Equality Act 2010: single-sex services**

The Scottish Ministers must publish guidance on the impact of this Act on—

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

**Jackie Baillie**

**127** After section 15A, insert—

### **<Impact of Act on Equality Act 2010: further provision**

Paragraph 28 of Schedule 3 of the Equality Act 2010 continues to apply to activity or conduct carried out in Scotland, even in circumstances where an individuals holds—

- (a) a gender recognition certificate obtained under section 8A(1), 8F(1), 8J(1) or 8K(1) of the Gender Recognition Act 2004,

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- (b) a confirmatory gender recognition certificate obtained under section 8O(1) of that Act.>

**Pauline McNeill**

**128** After section 15A, insert—

**<Reporting on sex**

- (1) For the avoidance of doubt, nothing in 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.>

**Pauline McNeill**

**129** After section 15A, insert—

**<Impact of Act on Equality Act 2010: consultation**

The Scottish Ministers must consult each Scottish public authority about the implications of this Act for the development or modification of the authority’s policy on the operation of the exceptions in paragraphs 26 to 28 of Schedule 3 of the Equality Act 2010. >

**Jackie Baillie**

**130** After section 15A, insert—

**<Impact of Act on Equality Act 2010: single-sex services**

- (1) Nothing in this Act prevents the provision of a service only to persons of one sex where it is in accordance with Schedule 3 of the Equality Act 2010 (“2010 Act”).
- (2) In particular, nothing in this Act modifies the protected characteristic of gender reassignment, as defined by section 7 of the 2010 Act or the exception to the general prohibition of gender reassignment discrimination to allow the provision of separate services for persons of each sex in accordance with paragraph 28 of Schedule 3 of that Act.
- (3) In particular, nothing in this Act modifies—
  - (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.>

**Jamie Greene**

**133** After section 15A, insert—

*<Report on impact of Act on other legislation*

**Report on impact of Act on other legislation**

The Scottish Ministers must, no later than 3 years after this Act has come into force, prepare and publish a report on a review of the impact of this Act on—

- (a) the Equality Act 2010,
- (b) any other legislation that the Scottish Ministers consider to be relevant.>

**Sue Webber**

**92** In section 18, page 23, line 20, at end insert—

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- <( ) Regulations commencing section 2 must set out whether it is lawful under this Act—
- (a) for a service provider to provide services exclusively to persons who were female at birth (irrespective of whether the person has obtained a gender recognition certificate under the Gender Recognition Act 2004),
  - (b) for a service user to request that a service be provided exclusively by a person who was a female at birth (irrespective of whether a potential service provider possesses a gender recognition certificate under the 2004 Act).
- ( ) For the purposes of this section, “service provider” means—
- (a) a charitable body that provides services for women only,
  - (b) a health board,
  - (c) a local authority,
  - (d) any business that has toilets or changing rooms on its premises.>

### **Group 14: Copying of certificates to other Registrars General**

**Shona Robison**

- 55 Leave out section 12

### **Group 15: Review of Act**

**Jackie Baillie**

- 56 Leave out section 14A

**Jackie Baillie**

- 60 Leave out section 14B

**Jackie Baillie**

- 75 In section 15B, page 22, line 6, at beginning insert <The>

**Jackie Baillie**

- 76 In section 15B, page 22, line 6, leave out <no later than 3 years after section 2 of this Act has come into force> and insert <as soon as reasonably practicable after the end of the period of 3 years beginning with the date on which section 2 comes into force (“the review period”)>

**Pam Duncan-Glancy**

- 76A As an amendment to amendment 76, line 2, leave out <the period of 3 years beginning with the date on which section 2 comes into force (“the review period”)> and insert <a review period>

**Jackie Baillie**

- 77 In section 15B, page 22, line 7, after <the> insert <2004 Act as amended by this>

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### Jackie Baillie

78 In section 15B, page 22, line 7, at end insert—

<( ) In carrying out that review, the Scottish Ministers must have regard to any data provided to them about the effect of a person obtaining a gender recognition certificate under the 2004 Act as so amended.>

### Jackie Baillie

79 In section 15B, page 22, line 9, after second <the> insert <Registrar General's>

### Jackie Baillie

80 In section 15B, page 22, line 10, leave out <specified in the> and insert <under the 2004>

### Jackie Baillie

81 In section 15B, page 22, line 11, after <certificates> insert <during the review period>

### Jackie Baillie

82 In section 15B, page 22, line 11, at end insert—

<(ba) the impact on transgender people of—

(i) the reflection period,

(ii) the periods mentioned in section 8C(1)(a)(iii) of that Act (inserted by section 4),

(bb) the impact on transgender people who are aged 16 or 17 of the requirements of section 8BA of that Act (inserted by section 3A),

(bc) the impact on transgender people of section 8EB of that Act (inserted by section *(Notification by chief constable in connection with applications by certain offenders)*),

(bd) the operation of section 8S of that Act (inserted by section 9),>

### Jackie Baillie

83 In section 15B, page 22, line 13, leave out from <further> to end of line 14 and insert—

<( ) the offences under that section remain appropriate,

( ) any further exceptions to those offences are appropriate (in addition to those under subsection (4) of that section),>

### Russell Findlay

83A As an amendment to amendment 83, line 4, at end insert <particularly in relation to disclosure for offender management purposes,>

### Jackie Baillie

84 In section 15B, page 22, line 14, at end insert—

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<( ) any impact the amendments made to the 2004 Act by this Act have had on the placement of transgender people within prisons, including in particular on the number of—

- 5
- (i) trans women residing in women's prisons,
  - (ii) trans women residing in men's prisons,
  - (iii) trans men residing in women's prisons,
  - (iv) trans men residing in men's prisons,

10 ( ) any impact the amendments made to the 2004 Act by this Act have had on the provision of gender identity healthcare by health boards and special health boards,>

**Pauline McNeill**

**84A** As an amendment to amendment 84, line 3, after <people> insert <(both with and without gender recognition certificates)>

**Jackie Baillie**

**85** In section 15B, page 22, line 14, at end insert—

<( ) any impact the amendments made to the 2004 Act by this Act have had on the provision of services by Scottish public authorities,>

**Jackie Baillie**

**86** In section 15B, page 22, line 15, leave out from beginning to <Ministers> in line 16 and insert <whether any other amendments to the 2004 Act are appropriate>

**Jackie Baillie**

**87** In section 15B, page 22, line 17, at end insert—

<( ) whether any changes to the guidance published under section 8W of the 2004 Act (inserted by section (*Guidance on operation of 2004 Act*)) are appropriate,>

**Ruth Maguire**

**88** In section 15B, page 22, line 17, at end insert—

<( ) the impact of the Act on Disclosure Scotland,>

**Jackie Baillie**

**89** In section 15B, page 22, line 19, leave out <a review is initiated under subsection (1)> and insert <the end of the review period>

**Jackie Baillie**

**90** In section 15B, page 22, line 23, at end insert—

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<( ) The report must, in particular, set out—

(a) any changes that the Scottish Ministers consider it would be appropriate to make, as a result of the review, to—

(i) the periods mentioned in subsection (2)(ba),

(ii) the age at which a person can apply for a gender recognition certificate,

(iii) the process for applications for a gender recognition certificate made by 16 and 17 year old applicants,

(b) whether the Scottish Ministers intend to make an order under subsection (5) of section 22 of the 2004 Act specifying further exceptions to the offences under that section, and, if they do not intend to make such an order, specify why not,

(c) any other steps that the Scottish Ministers intend to take as a result of the review.

( ) In this section—

“gender recognition certificate” has the meaning given by section 25(1) of the 2004 Act (as amended by paragraph 9 of the schedule),

“health board” means a board constituted under section 2(1)(a) of the National Health Service (Scotland) Act 1978,

“reflection period” has the meaning given by section 8B(5) of the 2004 Act (inserted by section 3),

“special health board” means a board constituted under section 2(1)(b) of the National Health Service (Scotland) Act 1978.>

### **Pam Duncan-Glancy**

**90A** As an amendment to amendment 90, line 19, at end insert—

<“review period” means—

(a) the period of 3 years beginning with the date on which section 2 comes into force,

(b) three subsequent periods of 5 years.>

### **Russell Findlay**

**134** In section 15B, page 22, line 23, at end insert—

<( ) If the Scottish Ministers do not intend to make provision by order under section 22 of the 2004 Act as a result of a review under subsection (1) following consideration of the matter in subsection (2)(c), the report under subsection (3) must specify why not.>

### **Jackie Baillie**

**91** Leave out section 16A

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### **Group 16: Operation and impact of the Act**

**John Mason**

**Supported by: Kenneth Gibson**

**122** After section 14A, insert—

#### **<Impact of Act on Scottish Ministers' functions in relation to prisons**

For the avoidance of doubt, nothing in this Act affects the exercise of the Scottish Ministers' functions in relation to prisons or prisoners.>

**Pam Gosal**

**57** After section 14A, insert—

#### *<Impact of this Act on religious groups*

##### **Impact of this 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**

**58** After section 14A, 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.>

**Brian Whittle**

**59** After section 14A, insert—

#### *<Guidance on sporting activities*

##### **Guidance on sporting activities**

- (1) The Scottish Ministers must prepare and produce guidance for—
  - (a) sports governing bodies,

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- (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.>

### Brian Whittle

67 After section 15, insert—

#### *<Reporting on safety in sport*

##### **Reporting on safety in sport**

- (1) The Scottish Ministers must produce and publish a report on the impact of this Act on the safety of competitors in sport.
- (2) In particular, a report under subsection (1) must set out any recommendations on the inclusion of trans women competing in female categories.>

### Brian Whittle

68 After section 15, insert—

#### *<Reporting on safety in healthcare*

##### **Reporting on safety in healthcare**

- (1) The Scottish Ministers must produce and publish a report on the impact of this Act on the safety of patients in healthcare.
- (2) In particular, a report under subsection (1) must consider—
  - (a) the importance of a patient’s biological sex being known prior to the commencement of any medical or clinical treatment, and any impact of the Act in respect of this,
  - (b) the inclusion of the words “women” and “female” in any NHS literature or care setting.>

### Jeremy Balfour

13 After section 15A—

#### *<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.>

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**Jeremy Balfour**

**14** After section 15A—

*<European Convention on Human Rights: Guidance*

### **European Convention on Human Rights: Guidance**

- (1) The Scottish Ministers must issue guidance on the interaction of this Act with Article 9 of the European Convention on Human Rights.
- (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).
- (4) 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.>

**Ash Regan**

**71** After section 15A, 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 10 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.>

**Tess White**

**131** After section 15A, insert—

*<Scottish Ministers’ duty to consult: women and girls*

### **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 which set out—
  - (a) the data that will be collected to measure the impact of the operation of the Act on women and girls, and

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- (b) the frequency that the Scottish Ministers will report that data to the Scottish Parliament.
- (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.>

### **Tess White**

**136** In section 18, page 23, line 20, at end insert—

- <( ) Regulations made under subsection (2) may not bring section 2 into force until regulations have been made under section (*Scottish Ministers duty to consult: women and girls*)(3).>

### **Group 17: Gender identity healthcare**

#### **Pam Gosal**

**62** After section 14B, insert—

*<Independent research*

#### **Research on healthcare outcomes**

- (1) The Scottish Ministers must, no later than one year after section 2 comes into force, commission independent research into the impact of this Act on gender identity healthcare outcomes.
- (2) In this section, “independent research” means research lead by a medical professional with no connection to the Scottish Government or to any organisation in receipt of funding from the Scottish Government.>

#### **Jamie Greene**

**132** After section 15A, insert—

*<Report on trans healthcare*

#### **Report on trans healthcare**

- (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 availability of healthcare for transgender people.
- (2) A report under subsection (1) must set out, in particular—
  - (a) availability and provision of mental healthcare support for trans people,
  - (b) waiting times for access to professional healthcare in relation to transitioning,
  - (c) whether a bespoke healthcare pathway needs to be created for those applying for a gender recognition certificate,
  - (d) any other appropriate information deemed relevant with regards to the provision of healthcare support for trans people. >

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**Sarah Boyack**

**135** After section 15B, insert—

**<Review of gender identity health care**

- (1) Within two years of Royal Assent, the Scottish Ministers must review the initial impact of this Act on the provision of gender identity healthcare.
- (2) A review under subsection (1) must take the form of a longitudinal study.
- (3) Before carrying out a review under subsection (1), the Scottish Ministers must consult as they consider appropriate on the remit of the review.
- (4) A review, and any subsequent reviews under subsection (1), must consider what further steps could be taken to improve access to and provision of gender identity healthcare.
- (5) The Scottish Ministers must prepare and publish a report on the review under subsection (1).
- (6) The Scottish Ministers must make arrangements for a further review at each successive five-year period thereafter.>

### **Group 18: Reporting**

**Rachael Hamilton**

**124** In section 15, page 21, line 14, after <(4)> insert <—

<( ) for “annually” substitute “every six months”,  
( )>

**Pam Duncan-Glancy**

**63** In section 15, page 21, line 21, after <2004> insert <(“the 2004 Act”)>

**Pam Duncan-Glancy**

**64** In section 15, page 21, line 23, at end insert—

- <( ) the number of applications under sections 8A(1), 8F(1), 8J(1), 8K(1) and 8O(1) of that Act—
- (i) granted in that year,
  - (ii) rejected in that year,
  - (iii) withdrawn in that year,>

**Pam Duncan-Glancy**

**65** In section 15, page 21, line 30, at end insert—

- <( ) of the full gender recognition certificates mentioned in paragraph (c)(i), the number—
- (i) issued following an application under section 8F(1), 8H(1), 8J(1) or 8K(1) of the 2004 Act, or by a court under section 8I(2) of that Act,
  - (ii) in accordance with which a person’s gender is male,

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- (iii) in accordance with which a person's gender is female,
- ( ) of the confirmatory gender recognition certificates mentioned in paragraph (c)(iii), the number confirming that a person has obtained overseas gender recognition of—
  - (i) the male gender,
  - (ii) the female gender,
- ( ) the number of requests made to the Registrar General under section 8Q(2) of the 2004 Act (review of Registrar General for Scotland's decision on application for certificate) in the year to which the report relates,
- ( ) the number of corrected certificates issued by the Registrar General under section 8T of that Act (correction of error in certificate issued by Registrar General for Scotland) in that year.>

### **Rachael Hamilton**

**125** In section 15, page 21, line 30, at end insert—

- <( ) the number of applications for gender recognition certificates and confirmatory gender recognition certificates that are rejected,
- ( ) the number of applicants under the age of 18,
- ( ) the number of gender recognition certificates granted to applicants under the age of 18,
- ( ) the number of applications for gender recognition certificates and confirmatory gender recognition certificates where the acquired gender is—
  - (i) male,
  - (ii) female.>

### **Pam Duncan-Glancy**

**66** In section 15, page 21, line 38, leave out <and “interim gender recognition certificate”> and insert <, “interim gender recognition certificate” and “overseas gender recognition”>

## **Group 19: Data collection**

### **Pam Gosal**

**69** After section 15, insert—

#### *<Reporting on detransition*

#### **Reporting on detransition**

- (1) The Scottish Ministers must collect and publish (in a form that ensures no individual applicant is identified or identifiable) information on detransition.
- (2) The information published must include—
  - (a) the number of people who detransitioned from male to female,
  - (b) the number of people who detransitioned from female to male,
  - (c) the average time elapsing from being granted a gender recognition certificate to detransitioning.

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- (3) Information collected under subsection (1) must be published at least once per year.>

### **Pam Gosal**

**70** 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 in specified circumstances the collection of data on an individual's acquired gender and gender at birth for the purposes of monitoring—
  - (a) access to and provision of healthcare,
  - (b) the operation and provision of criminal justice systems and services.
- (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.>

### **Stephanie Callaghan**

**126** After section 15, insert—

#### *<Duty to collect data*

##### **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 specify the data to be collected—
  - (a) in public sector settings, including—
    - (i) schools,
    - (ii) hospitals,
    - (iii) prisons.
  - (b) on—
    - (i) biological sex, and
    - (ii) gender.
- (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.>

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