

SCHEDULE 1

Article 3

CONSEQUENTIAL MODIFICATIONS TO PRIMARY LEGISLATION

Gender Recognition Act 2004

1.—(1) The Gender Recognition Act 2004⁽¹⁾ is amended as follows.

(2) In section 3F (evidence for granting applications on alternative grounds: Scotland (English and Welsh and Northern Ireland residents))⁽²⁾—

(a) for subsection (7) substitute—

“(7) If the applicant is—

(a) married, the application must include a statutory declaration as to whether the marriage is a protected Scottish marriage;

(b) a party to a civil partnership, the application must include a statutory declaration as to whether the civil partnership is a protected Scottish civil partnership.”,

(b) after subsection (8) insert—

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

(a) a statutory declaration by the applicant’s civil partner that the civil partner consents to the civil partnership continuing after the issue of a full gender recognition certificate (“a statutory declaration of consent”) (if the civil partner has made such a declaration); or

(b) a statutory declaration by the applicant that no such declaration by the applicant’s civil partner is included.”,

(c) in subsection (9)—

(i) after “applicant’s spouse” insert “or (as the case may be) civil partner”,

(ii) after “the spouse” insert “or civil partner”.

(3) In section 11B (change in gender of civil partner)⁽³⁾, for subsection (3) substitute—

“(3) If the protected civil partnership is a protected overseas relationship—

(a) the continuity of the civil partnership continues by virtue of subsection (2) notwithstanding any impediment under the relevant law;

(b) the relevant law is not affected by the continuation of the civil partnership by virtue of subsection (2).”.

(4) In section 11D (continuity of civil partnership: Scotland)⁽⁴⁾, for the words from “full” to the end substitute “a full gender recognition certificate to either (or both) of the civil partners.”.

(5) In section 25 (interpretation)⁽⁵⁾ before the definition of “registered psychologist” insert—

““protected Scottish civil partnership” means a civil partnership registered in Scotland,

“protected Scottish marriage” means a marriage solemnised in Scotland.”.

(1) 2004 c. 7.

(2) Section 3F was added by paragraph 15(4) of Schedule 5 to [S.I. 2014/3229](#), and amended and extended to Northern Ireland by regulation 43 of [S.I. 2019/1514](#).

(3) Section 11B was added by paragraph 11 of Schedule 5 to the Marriage (Same Sex Couples) Act 2013 (c. 30) and substituted in so far as extending to Scotland by paragraph 5(14) of Schedule 2 to the Civil Partnership (Scotland) Act 2020 (asp 15).

(4) Section 11D, in so far as extending to England and Wales, was added by paragraph 15(6) of Schedule 5 to [S.I. 2014/3229](#), and was extended to Northern Ireland by regulation 45(2) of [S.I. 2019/1514](#).

(5) Section 25 was relevantly amended, in so far as extending to England and Wales, by regulation 33 of [S.I. 2019/1458](#) and, in so far as extending to Northern Ireland, by paragraph 8(b) of Schedule 5 to [S.I. 2009/1182](#).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Human Fertilisation and Embryology Act 2008

2.—(1) The Human Fertilisation and Embryology Act 2008⁽⁶⁾ is amended as follows.

(2) In section 38(3) (further provision applicable where a person is to be treated as the father of the child by virtue of sections 35 and 36), at the end insert “or civil partnership”.

(3) In section 45(3) (further provision applicable where a woman is treated as a parent of the child by virtue of sections 42 and 43), at the end insert “or civil partnership”.

Equality Act 2010

3.—(1) The Equality Act 2010⁽⁷⁾ is amended as follows.

(2) In section 110 (liability of employees and agents)—

(a) after subsection (5C)⁽⁸⁾, insert—

“(5CA) A does not contravene this section by refusing to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the opposite sex who are in a civil partnership with each other.”,

(b) in subsection (5D), for “the civil partnership is between two persons of the same sex” substitute “A does not wish to register civil partnerships generally, or those between two persons of the same sex, or those between two persons of the opposite sex”,

(c) in subsection (5E), after “(5C)” insert “, (5CA)”.

(3) In Schedule 3 the heading of Part 6B (Marriage of same sex couples and civil partnership: Scotland)⁽⁹⁾ becomes “CIVIL PARTNERSHIP, MARRIAGE OF SAME SEX COUPLES AND MARRIAGE OF CIVIL PARTNERS: SCOTLAND”.

(4) In paragraph 25B of Schedule 3 (marriage of same sex couples and civil partnership: Scotland)⁽¹⁰⁾—

(a) after sub-paragraph (1), insert—

“(1A) An approved celebrant does not contravene section 29 only by refusing to solemnise a relevant Scottish marriage for the reason that the marriage is the marriage of two persons of the opposite sex who are in a civil partnership with each other.”,

(b) in sub-paragraph (2), for “the civil partnership is between two persons of the same sex” substitute “the approved celebrant does not wish to register civil partnerships generally, or those between two persons of the same sex, or those between two persons of the opposite sex”,

(c) after sub-paragraph (3), insert—

“(3A) A person does not contravene section 29 only by refusing to participate in a religious or belief ceremony forming part of, or connected with, the solemnising of a relevant Scottish marriage for the reason that the marriage is a marriage of two persons of the opposite sex who are in a civil partnership with each other.”,

(d) in sub-paragraph (4), for “the civil partnership is between two persons of the same sex” substitute “the person does not wish to participate in such ceremonies in relation to civil partnerships generally, or those between two persons of the same sex, or those between two persons of the opposite sex”,

⁽⁶⁾ 2008 c. 22.

⁽⁷⁾ 2010 c. 15.

⁽⁸⁾ Subsections (5C) to (5H) were inserted by paragraph 19(4) of Schedule 5 to [S.I. 2014/3229](#).

⁽⁹⁾ Part 6B was inserted by paragraph 19(5)(c) of Schedule 5 to [S.I. 2014/3229](#).

⁽¹⁰⁾ Paragraphs 25B and 25C were added by paragraph 19(5)(c) of Schedule 5 to [S.I. 2014/3229](#).

- (e) in sub-paragraph (6) in the definition of “relevant Scottish marriage” omit “of two persons of the same sex”,
 - (f) the heading of the paragraph becomes “*Marriage and civil partnership: Scotland*”.
- (5) In paragraph 2 of Schedule 23 (organisations relating to religion or belief)—
- (a) in sub-paragraph (9A)(11)—
 - (i) after paragraph (a) insert—

“(aa) to solemnise a relevant Scottish marriage for the reason that the marriage is a marriage of two persons of the opposite sex who are in a civil partnership with each other;”,
 - (ii) in paragraph (b), after “same sex” insert “or that it is between two persons of the opposite sex”,
 - (b) in sub-paragraph (9B)—
 - (i) after paragraph (a), insert—

“(aa) to solemnise a relevant Scottish marriage for the reason that the marriage is a marriage of two persons of the opposite sex who are in a civil partnership with each other;”,
 - (ii) in paragraph (b), after “same sex” insert “or that it is between two persons of the opposite sex”,
 - (c) in sub-paragraph (9C), after “(1)” insert “, (1A)”.

Marriage (Same Sex Couples) Act 2013

4.—(1) Schedule 6 (marriage overseas) to the Marriage (Same Sex Couples) Act 2013(12) is amended as follows.

- (2) In paragraph 1 (provision for consular marriage), after sub-paragraph (2), insert—

“(3) For the purposes of sub-paragraph (2)(b), two people who are in a qualifying civil partnership with each other are to be treated as not having been eligible to marry each other in Scotland.

(4) In sub-paragraph (3) “qualifying civil partnership” has the meaning given by section 5(6) of the Marriage (Scotland) Act 1977(13).”.
- (3) In paragraph 8 (provision for marriage of armed forces personnel), after sub-paragraph (3), insert—

“(4) For the purposes of sub-paragraph (2)(b), two people who are in a qualifying civil partnership with each other are to be treated as not having been eligible to marry each other in Scotland.

(5) In sub-paragraph (4) “qualifying civil partnership” has the meaning given by section 5(6) of the Marriage (Scotland) Act 1977.”.

(11) Sub-paragraphs (9A) to (9D) were inserted by paragraph 19(6) of Schedule 5 to [S.I. 2014/3229](#).

(12) [2013 c. 30](#).

(13) Subsection (6) was inserted by the Marriage and Civil Partnership (Scotland) Act 2014, section 8(3)(b) and substituted by article 3(2) of [S.S.I. 2015/371](#).