SCOTTISH STATUTORY INSTRUMENTS

2005 No. 125

GENDER RECOGNITION

The Gender Recognition (Disclosure of Information) (Scotland) Order 2005

Made - - - -	*3rd March 2005*
Laid before the Scottish Parliament - - - -	*3rd March 2005*
Coming into force - -	*4th April 2005*

The Scottish Ministers, in exercise of the powers conferred by section 22(5), (6) and (7) of the Gender Recognition Act 2004(**1**), hereby make the following Order:

PROSPECTIVE

Citation, commencement and extent

1.—(1) This Order may be cited as the Gender Recognition (Disclosure of Information) (Scotland) Order 2005 and shall come into force on 4th April 2005.

(2) This Order extends to Scotland only.

Commencement Information

I1 Art. 1 in force at 4.4.2005, see **art. 1(1)**

Interpretation

2. In this Order–

"the Act" means the Gender Recognition Act 2004;

"the 1986 Act" means the Insolvency Act 1986(**2**);

"the 1989 Order" means the Insolvency (Northern Ireland) Order 1989(**3**); and

"the subject", in relation to any protected information, means a person to whom any protected information relates.

(**1**) 2004 c. 7.
(**2**) 1986 c. 45.
(**3**) S.I.1989/2405 (N.I. 19).

Commencement Information
I2 Art. 2 in force at 4.4.2005, see **art. 1(1)**

Disclosure for purpose of obtaining legal advice

3. It is not an offence under section 22 of the Act to disclose protected information for the purpose of obtaining legal advice.

Commencement Information
I3 Art. 3 in force at 4.4.2005, see **art. 1(1)**

Disclosure for religious purposes

4.—(1) It is not an offence under section 22 of the Act for a person who acquired protected information in an official capacity in relation to an organised religion to disclose that information to any other person acting in such a capacity if the conditions set out in paragraphs (2) and (3) are met.

(2) The disclosure is made for the purpose of enabling any person to make a decision in relation to–

(a) whether to solemnise or permit the marriage of the subject;

(b) the validity or dissolution of a marriage of the subject;

(c) the admission or appointment of the subject–

(i) as a minister of religion;

(ii) to any employment, office or post for the purposes of an organised religion;

(iii) to any religious order or community associated with an organised religion; or

(iv) to membership, or any category of membership, of an organised religion;

(d) the validity, suspension, termination or revocation of any admission or appointment mentioned in sub-paragraph (c); or

(e) the eligibility of the subject to receive or take part in any religious sacrament, ordinance or rite, or take part in any act of worship or prayer, according to the practices of an organised religion.

(3) The disclosure is made for the purpose of enabling any person to make a decision in relation to the matters specified in paragraph (2)(c), (d) or (e) and the person who makes the disclosure reasonably believes that the person to whom the disclosure is made may require the information in order to make a decision in a way which complies with the doctrines of the religion or avoids conflicting with the strongly held convictions of a significant number of the followers of the religion.

(4) It is not an offence under section 22 of the Act for a person who acquired protected information in an official capacity in relation to an organised religion, and who requires to make a decision in relation to the any of the matters specified in paragraph (2), to disclose that information to any person responsible for the supervision of the person making the disclosure.

Commencement Information
I4 Art. 4 in force at 4.4.2005, see **art. 1(1)**

Disclosure for medical purposes

5.—(1) It is not an offence under section 22 of the Act to disclose protected information if–

(a) the disclosure is made to a health professional;

(b) the disclosure is made for medical purposes; and

(c) the person making the disclosure reasonably believes that the subject has given consent to the disclosure or cannot give such consent.

(2) For the purposes of this article–

(a) "medical purposes" includes the purposes of preventative medicine, medical diagnosis and the provision of care and treatment; and

(b) "health professional" means–

(i) a registered medical practitioner;

(ii) a registered dentist within the meaning of section 53(1) of the Dentists Act 1984(**4**);

(iii) a registered pharmaceutical chemist within the meaning of section 24(1) of the Pharmacy Act 1954(**5**) or a registered person within the meaning of article 2(2) of the Pharmacy (Northern Ireland) Order 1976(**6**);

(iv) a registered nurse;

(v) any person who is registered under the Health Professions Order 2001(**7**) as a paramedic or operating department practitioner; and

(vi) a person employed in a trainee capacity in any of the professions specified in this sub-paragraph.

Commencement Information

I5 Art. 5 in force at 4.4.2005, see **art. 1(1)**

Credit reference agencies

6.—(1) It is not an offence under sections 22 of the Act to disclose protected information if–

(a) the disclosure is made by or on behalf of a credit reference agency;

(b) the information consists of information contained in an order of a court or tribunal; and

(c) if the credit reference agency has been informed that a full gender recognition certificate has been issued to the subject, the disclosure also contains that information.

(2) It is not an offence under section 22 of the Act for a person, when making a disclosure under paragraph (1), also to disclose information taken from an electoral register.

(3) For the purposes of this article "credit reference agency" has the meaning given in section 145(8) of the Consumer Credit Act 1974(**8**).

Commencement Information

I6 Art. 6 in force at 4.4.2005, see **art. 1(1)**

(**4**) 1984 c. 24.
(**5**) 1954 c. 61.
(**6**) S.I. 1976/1213 (N.I. 22).
(**7**) S.I. 2002/254.
(**8**) 1974 c. 39.