

Statutory Document No. 2010/0140



Gender Recognition Act 2009

GENDER RECOGNITION (DISCLOSURE OF INFORMATION) ORDER 2010¹

Laid before Tynwald: 16 March 2010
Coming into operation in accordance with article 2

The Council of Ministers makes this Order under section 12(5) of the Gender Recognition Act 2009¹.

1 Title

This is the Gender Recognition (Disclosure of Information) Order 2010.

2 Commencement

- (1) Articles 1 to 8 of this Order come into operation on 6 April 2010.
- (2) Article 9 of this Order comes into operation on the same day as section 3 of (and Schedule 1 to) the Act comes into operation.

3 Interpretation

In this Order —

“**Act**” means the Gender Recognition Act 2009; and

“**subject**”, in relation to any protected information, means the person to whom the information relates.

4 Disclosure for purpose of obtaining legal advice

It is not an offence under section 12 of the Act to disclose protected information for the purpose of obtaining legal advice.

5 Disclosure for religious purposes

- (1) It is not an offence under section 12 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

¹ 2009 c.11

capacity if the conditions set out in paragraphs (2) and (where applicable) (3) are met.

- (2) The first condition is that the disclosure is made for the purpose of enabling any person to make a decision —
 - (a) whether to officiate at or permit the marriage of the subject;
 - (b) whether the marriage of the subject is valid or should be annulled or dissolved;
 - (c) whether to admit, appoint or ordain 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) whether any admission, appointment or ordination mentioned in sub-paragraph (c) is valid or should be suspended, terminated or revoked; or
 - (e) whether the subject is eligible 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 second condition is that, if the disclosure is made for the purpose of enabling any person to make a decision of the kind mentioned in paragraph (2)(c), (d) or (e), the person making the disclosure reasonably considers that that person may need the information in order to make a decision which complies with the teachings of the religion in question or avoids conflicting with the strongly held religious convictions of a significant number of the religion's followers.
- (4) It is not an offence under section 12 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 person responsible for supervising him or her in relation to a decision of the kind mentioned in paragraph (2).

6 Disclosure for medical purposes

- (1) It is not an offence under section 12 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) “Medical purposes” includes the purposes of preventative medicine medical diagnosis and the provision of care and treatment.
- (3) “Health professional” means any of the following —
 - (a) a fully registered person within the meaning of section 9 of the Medical Act 1985²;
 - (b) a registered dentist within the meaning of section 11(1) of the Dental Act 1985³;
 - (c) a registered pharmacist within the meaning of article 3(1) of the Pharmacists and Pharmacy Technicians Order 2007⁴
 - (d) a nurse registered in the register maintained under article 5 of the Nursing and Midwifery Order 2001⁵ by virtue of qualifications in nursing;
 - (e) a person who is registered with the Health Professions Council under the Health Professions Order 2001⁶ as a paramedic or operating department practitioner;
 - (f) a person working lawfully in a trainee capacity in any of the professions specified in this paragraph.

7 Credit reference agencies

- (1) It is not an offence under section 12 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 12 of the Act, when making a disclosure under paragraph (1), also to disclose protected information obtained from an electoral register.
- (3) “Credit reference agency” means a person carrying on a business comprising the furnishing of persons with information relevant to the

² 1985 c.14

³ 1985 c.29

⁴ SI 2007/289

⁵ SI 2002/253

⁶ SI 2002/254

financial standing of individuals and collected by that person for that purpose.

8 Bankruptcy, etc

- (1) It is not an offence under section 12 of the Act to disclose protected information if —
- (a) the disclosure is made by or to a relevant officeholder;
 - (b) the disclosure is necessary for the relevant officeholder to perform functions under the Bankruptcy Acts 1892 to 1988⁷, or the Company Officers (Disqualification) Act 2009⁸; and
 - (c) the person making the disclosure knows or believes that a full gender recognition certificate has been issued to the subject, the disclosure also contains that information.
- (2) “Relevant officeholder” means a person acting as —
- (a) a liquidator, provisional liquidator or receiver (including an official receiver) of a company;
 - (b) a trustee in bankruptcy or interim receiver of a person’s property;
 - (c) a trustee under a deed of arrangement made for the benefit of a person’s creditors;
 - (d) an administrator of an insolvent estate of a deceased person.

9 Entries in the Gender Recognition Register, etc

- (1) It is not an offence under section 12 of the Act for the Chief Registrar to disclose protected information contained —
- (a) in an entry in the GRR; or
 - (b) in any document establishing the traceable connection between the entry in the GRR and the Manx birth register entry,
- provided that the disclosure takes place not less than 100 years after the date on which the entry was made in the GRR.
- (2) Paragraph (1) does not allow the GRR itself, or any document establishing the traceable connection between the entry in the GRR and the related Manx birth register entry, to be open to public inspection or search.
- (3) “GRR” means the Gender Recognition Register.

MADE

26 FEBRUARY 2010

⁷ 1988 c.10

⁸ 2009 c.4

ENDNOTES

Table of Endnote References

¹ The format of this legislation has been changed as provided for under section 75 of, and paragraph 2 of Schedule 1 to, the Legislation Act 2015. The changes have been approved by the Attorney General after consultation with the Clerk of Tynwald as required by section 76 of the Legislation Act 2015.