STATUTORY INSTRUMENTS

2021 No. 1020

GENDER RECOGNITION, ENGLAND AND WALES

The Gender Recognition (Disclosure of Information) (England and Wales) Order 2021

Made - - - -	*8th September 2021*
Laid before Parliament	*9th September 2021*
Coming into force - -	*1st October 2021*

The Secretary of State makes the following Order in exercise of the powers conferred by section 22(5) and (7)(b) of the Gender Recognition Act 2004(**a**).

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Gender Recognition (Disclosure of Information) (England and Wales) Order 2021 and comes into force on 1st October 2021.

(2) This Order extends to England and Wales.

(3) In this Order "the 2007 Act" means the Offender Management Act 2007(**b**).

Disclosure for offender management purposes

2.—(1) It is not an offence under section 22 of the Gender Recognition Act 2004 to disclose protected information if the disclosure is necessary for a purpose set out in paragraph (2).

(2) The purposes are—

(a) the probation purposes,

(b) the performance of functions relating to prisons or prisoners of—

(i) the Secretary of State, or

(ii) a relevant contractor, and

(c) any other purposes connected with the management of offenders (including the development or assessment of policies relating to matters connected with the management of offenders).

(3) In this article—

(a) "the probation purposes" has the meaning set out in section 1 of the 2007 Act,

(b) "relevant contractor" has the meaning set out in section 14(9) of the 2007 Act, and

(c) the reference to prisons or prisoners includes a reference to—

(**a**) 2004 c. 7.
(**b**) 2007 c. 21.

(i) young offender institutions or persons detained in such institutions, and

(ii) secure training centres or persons detained in such centres.

Alex Chalk
Parliamentary Under Secretary of State
Ministry of Justice

8th September 2021

EXPLANATORY NOTE

(This note is not part of the Order)

Section 22 of the Gender Recognition Act 2004 ("the Act") provides that it is an offence for a person who has acquired protected information in an official capacity to disclose the information to any other person. "Protected information" is defined in section 22(2) as information relating to a person who has applied for a gender recognition certificate under the Act, and which concerns that application (or a subsequent application by them), or their gender prior to being granted a full gender recognition certificate. Section 22(3) defines where a person acquires protected information in an official capacity.

Section 22(4) sets out certain circumstances where disclosure of protected information does not constitute an offence (for example, where the person to whom it relates is not identifiable or has agreed to the disclosure). This Order prescribes an additional circumstance in which the disclosure of protected information does not constitute an offence. This concerns disclosure of protected information for the purposes of offender management.

This Order extends to England and Wales.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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