



**AN BILLE GINEALAIS AGUS ARALTAIS 2006
GENEALOGY AND HERALDRY BILL 2006**

EXPLANATORY MEMORANDUM

Introduction

This Bill is intended to regularise the delivery of heraldic services by the State which up to the passing of the National Cultural Institutions Act, 1997 and more especially, since the implementation of Section 13 of the Act, were delivered by a non-statutory body transferred from British control on April 1st 1943 which became the *Genealogical Office* or the *Office of the Chief Herald of Ireland*.

Whilst, the National Cultural Institutions Act, 1997 endeavoured to regularise matters by declaring that the non-statutory *Genealogical Office* was a branch of the National Library it neither established such an office nor adequately provided for its functions. At the time of the Oireachtas debate on the 1997 legislation it was clear that the legislative compromise between “abolition” and “establishment” of the *Genealogical Office* was far from satisfactory and legally unsound in respect from whence the power to grant Arms was derived.

Some may view heraldry as somewhat alien to the modern world or possibly, inappropriate in a republic. However, heraldry is part of our heritage and indeed, it is much in use throughout our daily lives from the Arms of the State, county councils, sports clubs, colleges and many state agencies. Irish people have a great attachment to heraldic symbolism as seen through the use of family crests and county or provincial crests by the Gaelic Athletic Association and other sports organisations.

Heraldry is also in use in many republics, some of our new members of the European Union have such incorporated on their national flags whilst, outside Europe, it's used extensively in the United States of America and the Republic of South Africa. The latter having a Heraldry Act, a State Herald and a Bureau of Heraldry.

This Bill is intended to provide Ireland with a modern heraldic authority with a sound legislative basis for the delivery of heraldic and vexillological services to individuals, bodies corporate and institutions. The present situation is totally unsatisfactory as it places the continuance of the State's involvement in heraldic matters in considerable doubt.

The Bill also provides for the proper management and coordination of the delivery of genealogical services in the State and the formulation of policy, planning and the upholding of best practice, quality of service and customer care in the delivery of such services.

The legislative repeals and amendments are designed to facilitate the operation of an effective and modern Office of Arms and related services at the National Library of Ireland.

The main objectives of the Bill are to:

- regularize the procedures for granting of arms, registration of emblems and the provision of heraldic, vexillological and genealogical services.
- to establish an Office of Arms as the Irish heraldic authority as a branch of the National Library of Ireland.
- to create a statutory basis for the positions of Chief Herald of Ireland and the Deputy Chief Herald of Ireland.
- to assign responsibility for the management, control and administration of the Office of Arms within the National Library of Ireland.
- to provide for the granting of arms including emeritus grants of arms.
- to provide for copyright matters and to remove the existing anomalous situation with regard to copyright subsisting with the State in respect of grants of arms.
- to provide for a much less expensive method of granting arms by certificate rather than letters patent to increase the public accessibility to the service.
- to give *Príomh Aralt na hÉireann* responsibility for the overall policy for the delivery of such services, including maintaining standards of service etc.
- to provide retrospective confirmation of grants of arms issued since 1943.
- to establish new a register of emblems and to provide for such.
- to provide for the appointment by license of Heraldic and Vexillological Agents to promote a greater awareness of such matters and to increase accessibility to such services by the public at home and overseas.
- to provide for the position of Genealogical Officer and the coordination of the delivery of genealogical services by the State and by state agencies and others.
- to establish a national inventory of genealogical records and to protect such from exportation.
- to establish standards for the delivery of genealogical services and the recognition of qualified genealogical researchers.
- to provide for the establishment of Advisory Committees and for a structured on-going consultative process with all stakeholders.

- to provide for an appeals process in respect of the granting of arms and the registration of emblems.
- to provide a statutory basis for a fee structure and to provide penalties for certain breaches of the process.

The Bill contains 6 parts

Part 1 (Sections 1 to 6) contains the usual provisions for short title, definitions, commencement and such repeals or amendments of existing legislation, ministerial expenses etc.

Part 2 (Sections 7 to 13) outlines the organizational structure for the administration of the Office of Arms and the appointment of the Chief Herald of Ireland and the Deputy Chief Herald of Ireland, the provision of an annual report, the establishment of the Office of Arms and the records of the Office of Arms since 1552.

Part 3 (Sections 14 to 24) deals with the application, registration and granting of arms, including emeritus arms, retrospective confirmation of arms granted since 1943, cancellation of arms, Gaelic Chiefs, heraldic property and heraldic agents.

Part 4 (Sections 24 to 29) provides for the establishment of a National Vexillological Register, procedures for registration, designation of vexillological property and vexillological agents.

Part 5 (Sections 30 to 35) provides for the position of Genealogical Officer, designation of genealogical records, the establishment of a National Inventory of Genealogical Records, prohibition of export, the provision of standards in genealogical research and the delivery of such by the State, state agencies or others and the provision for the recognition of qualified genealogical researchers.

Part 6 (Sections 36 to 40) provides for a the establishment of advisory committees, an appeals mechanism in respect of arms and emblems, searches of records and registers, a statutory basis for a fee structure and various offences for knowingly providing false information in respect of the services provided for the Bill.

PART 1

Preliminary & General

(Sections 1 — 6)

This Part is concerned with the provisions for the short title, commencement of the Act, definitions, regulations, transitional provisions and expenses of the Ministers for Arts, Sport and Tourism and Finance.

Section 1 provides for the short title and commencement of the Bill. It is intended that the new provisions will be brought into effect on different dates to allow for preparations, staffing and training.

Section 2 contains the definition of key terms used in the Bill.

Section 3 contains standard provisions for the making of regulations by the Minister for Arts, Sport and Tourism.

Section 4 provides for the repeal or amendment of certain provisions of current law i.e. National Cultural Institutions Act, 1997, Mercantile Marine Act, 1955, Statistics Act, 1993 and Heritage Fund Act, 2001.

Section 5 contains a number of transitional provisions to facilitate the introduction of the new procedures.

Section 6 provides for the expenses of the Minister for Arts, Sport and Tourism and the Minister for Finance in the administration of the Bill.

PART 2

Administration

(Sections 7 — 13)

This Part is concerned with the provisions for establishment of the Office of Arms, the appointment of its officers and for the functions of such and to regularize both the status of the Office of Arms and its records in statute law.

Section 7 provides for the appointment of *Príomh Aralt na hÉireann* (Chief Herald of Ireland) and that he or she shall be a civil servant, the period of such appointment, terms and conditions of employment, removal from office for stated misbehaviour, and continuity of positions etc. The title of *Príomh Aralt na hÉireann* (Chief Herald of Ireland) is maintained in the Bill to provide for continuity and to avoid needless distinction between classes of grants which would arise should another title such as State Herald or Heraldic Officer be introduced at this stage.

Section 8 provides for the functions of *Príomh Aralt na hÉireann*, the curator of the State Heraldic Museum, the independence of the office and delegated functions.

Section 9 provides for the appointment of *Leas-Phríomh Aralt na hÉireann* (Deputy Chief Herald of Ireland) and that he or she shall be a civil servant, the period of such appointment, terms and conditions of employment, removal from office for stated misbehaviour, and continuity of positions etc.

Section 10 provides for the recruitment of staff by *Príomh Aralt na hÉireann* the period of such appointment, terms and conditions of employment, removal from office for stated misbehaviour, and the continuity of positions etc.

Section 11 provides for the production of an Annual Report and its submission to the Board of the National Library of Ireland and to the Minister for Arts, Sport and Tourism.

Section 12 provides for legislative recognition of the non-statutory Genealogical Office as established on April 1st 1943 and declared a branch of the National Library of Ireland by the National Cultural Institutions Act, 1997 and the abolition of the Genealogical Office by this Bill and the establishment of an Office of Arms by the Board of the National Library as a branch of the Library.

Section 13 provides a clear definition of the Records of the Office of Arms as being the records of the Ulster King of Arms from 1552 and the records of the Genealogical Office from 1943 to date.

PART 3

Registration & Granting of Arms

(Sections 14 — 24)

This Part is concerned with the provisions for the registration and granting of arms, the application process, the various persons, bodies corporate and institutions that may apply for a grant of arms and conditions applying thereto, the prohibition on uses of certain titles, insignia and emblems, the position regarding Gaelic Chiefship, the use of the Arms of the State, the granting of emeritus arms and the confirmation of registration, including retrospective confirmation of grants, cancellation of grants, definition of heraldic property and the appointment of heraldic agents.

Section 14 provides that a Register of Arms be maintained by *Príomh Aralt na hÉireann* and the definition of such a register to include all previous registers back to 1552 and from 1943 to date.

Section 15 provides for the establishment of an application process for a Grant of Arms and for the definition of the categories of applicants for such.

Section 16 provides for Grants of Arms to Individuals, the provision of information and documentation, the decision process and notification, prohibition on the use of certain inappropriate symbols and titles, clarification of personal designations permitted, regulations and verification process regarding Gaelic Chiefship and manner of designation, prohibition on the use of the Arms of Ireland, prevention of the use of offensive insignia or mottos.

Section 17 provides for Grants of Arms to Bodies Corporate and Institutions, the provision of information and documentation, the decision process and notification, prohibition on the use of certain inappropriate symbols and titles, clarification of personal designations permitted, provision for grants to clan or sept heritage organisations, prohibition on the use of the Arms of Ireland, prevention of the use of offensive insignia or mottos.

Section 18 provides for Grants of Arms to Departments of State, State Agencies & Local Authorities, the provision of information and documentation and notification.

Section 19 provides for Grants of Emeritus Arms by the State to meritorious individuals by letters patent, for such grants to foreign dignitaries or members of the diplomatic corps, for grants of arms to the President of Ireland, clarification on the use and verification of personal designations or titles, prohibition on the use of the Arms of Ireland, clarification that grants under this section shall not be made to members of the Oireachtas, grants of arms on retirement to *Príomh Aralt na hÉireann* or *Leas-Phríomh Aralt na hÉireann* etc.

Section 20 provides for the confirmation of the Registration of a Grant of Arms by letters patent or by a Certificate of a Grant of Arms, use of the Official Languages, use of a third language, use of Ulster Scots, optional recording of linear descent, prohibition on the registration or confirmation of foreign arms, use of the Seal of the Chief Herald of Ireland, provision for the introduction of an electronic system of confirmation and registration.

Section 21 provides for the retrospective Confirmation of Grants of Arms made by the Genealogical Office from April 1st 1943 up to

the present as such were granted without legislative authority, the publication of such in *Iris Oifigiúil* and the issuance of certificates of confirmation and notification.

Section 22 provides for the cancellation of Grants of Arms where the documentation or information supplied by the applicant lacks veracity, completeness or genealogical integrity and the process for notification etc.

Section 23 provides for a statement on the heraldic property and rights of use of a Grant of Arms and the transfer of any copyright subsisting in the Arms to the grantee, the suspension of grants on the dissolution or otherwise of bodies corporate and institutions, provisions for clan or sept heritage organisations.

Section 24 provides for the licensing of Heraldic Agents to advise applicants on the acquisition of a Grant of Arms and to process same with the Office of Arms on their behalf. Irish coats-of-arms are manufactured and sold throughout the world as “family” or “clan” arms, but these have no standing whatsoever and the purchaser has no actual entitlement to use such Arms. This new process will permit Heraldic Agents to advise their clients of the availability of a system to acquire their unique Arms which would be certified and granted by *Príomh Aralt na hÉireann*. Whether their clients opt for full letters patent or a certificate, the origins of both will be in Ireland authenticating the process and generating revenue for the Office of Arms. Clients opting for certificates may have their Arms painted or depicted by the Heraldic Agent or an artist of their choosing.

PART 4

National Vexillological Register

(Sections 25 — 29)

This Part is concerned with a related aspect of heraldry, vexillology and the establishment of a national register of flags and emblems, the registration of emblems used by the State or State Agencies, Irish vessels, yacht clubs, sports clubs, bodies corporate, institutions and individuals, the application and registration process, registration of the Presidential Standard and other emblems, provisions for clan or sept heritage organisations, prohibition on the registration of offensive insignia or mottos, prohibition on the registration of foreign or habitually or traditionally used emblems and the certification, cancellation or amending process, designation of copyright and the licensing of Vexillological Agents.

Section 25 provides for the creation and maintenance of a National Vexillological Register and the nature of such a register, provision for the registration of emblems by individuals, bodies corporate, institutions or Irish registered vessels etc.

Section 26 provides for provision of particulars and registration of an emblem by individuals, bodies corporate, institutions or Irish registered vessels and the documentation required and for the State to register certain emblems including the Presidential Standard, provisions for clan or sept heritage organisations, prohibition of offensive emblems or mottos, prohibition on the registration of foreign emblems, prevention of the registration of habitually or traditionally utilised emblems, certification of registrations etc.

Section 27 provides for the process of amending or cancellation of a registration.

Section 28 provides for the designation of vexillological property and rights of use, including any copyright subsisting therein and the indication of a registered emblem in the header thereof.

Section 29 provides for the licensing of Vexillological Agents to assist and advise clients wishing to register an emblem. This new process will permit Vexillological Agents, normally flag makers, to advise their clients of the availability of a system for the registration of emblems to be certified by *Príomh Aralt na hÉireann*. This will be of considerable use to educational institutions, yacht clubs, sports clubs etc where copyright to their emblems and the design will be registered.

PART 5

Genealogical Records and Services

(Sections 30 — 35)

This Part is concerned with the general provision of genealogical services in the State and the care and custody of designated genealogical records, the appointment of a Genealogical Officer at the Office of Arms and the functions of the position and terms and conditions there applying, the designation of records or classes of records to be designated genealogical records and the recording and protection thereof, the creation of a national inventory of designated genealogical records and the prohibition of exportation from the State, provision of information on the delivery of genealogical services to the Minister and the Heritage Council, the formulation of a structured consultative process and the provision for the recognition of qualified genealogical researchers.

Section 30 provides to the appointment or designation of a member of staff at the Office of Arms to the position of Genealogical Officer and provides for the functions and responsibilities of the position, terms and conditions of employment etc.

Section 31 provides for the designation of records or classes of records to be Designated Genealogical Records and recorded as such, provision for the examination of the custody of genealogical records or records of a genealogical potential, advice to the Minister regarding records requiring protection and a statement on the ownership of records designated. In this regard the special status and interest attaching to the 1926 census as the first census of the Irish Free State is recognised — see the Third Schedule.

Section 32 provides for the creation and maintenance of a National Inventory of Genealogical Records and the availability of such electronically.

Section 33 provides for the prohibition on the export of Designated Genealogical Records and for the provision of information to the Minister on such matters.

Section 34 provides for the creation and maintenance of a directory of genealogical services, advice to the Minister in respect of the State's delivery of such services, advice to the Heritage Council on the delivery of genealogical services generally, the formulation of a structured consultative process with the stakeholders and the provision of a statement on best practice, standards, quality of service etc in the provision of genealogical services.

Section 35 provides for the training of staff at the Office of Arms and others in genealogical research and the provision for the Certification of Qualified Genealogical Researchers in conjunction with a suitable third level institution and the recognition of existing certification.

PART 6

General

(Sections 36 — 40)

This Part is concerned with the establishment of advisory committees, their membership and functions, the provision of an appeals mechanism for applicants for a Grant of Arms or the registration of an emblem, for the searching of the records of the Office of Arms, for the creation of a statutory basis for any fee structure employed by the Office of Arms and for the designation of offences and penalties in respect of the submission of documents.

Section 36 provides for the establishment of two standing advisory committees to assist Príomh Aralt na hÉireann — “*the Heraldry Committee*” and “*the Genealogy Committee*” and to provide for their membership and functions.

Section 37 provides an appeals mechanism through “*the Heraldry Committee*” on matters concerning the granting of Arms and the registration of Emblems and the manner in which such appeals are to be lodged, heard and the notification of appellants etc.

Section 38 provides for the public to undertake searches in the registers of the Office of Arms.

Section 39 provides for the sanctioning of a fee structure and the publication of such and for the recovery of fees unpaid etc.

Section 40 provides for the designation of offences and penalties for the submission of false documentation or for the unauthorised alteration or deletion etc. of information in letters patent, certificates or registers.

FIRST SCHEDULE

Particulars to be entered on the Register of Arms

SECOND SCHEDULE

Particulars to be entered on the National Vexillological Register

THIRD SCHEDULE

Enactments Repealed and Amended

*An Seanadóir Breandán Ó Riain,
Bealtaine, 2006.*