



SEANAD ÉIREANN

**AN BILLE UM INSCNE A AITHINT, 2014
GENDER RECOGNITION BILL 2014**

**LEASUITHE TUARASCÁLA
REPORT AMENDMENTS**

SEANAD ÉIREANN

AN BILLE UM INSCNE A AITHINT, 2014 —AN TUARASCÁIL

GENDER RECOGNITION BILL 2014 —REPORT

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

1. In page 5, between lines 16 and 17, to insert the following:

“(3) The Minister shall, not later than 2 years after the date on which the Act is enacted, and again not later than 5 years after that date, carry out a review of the operation of this Act assessing, in particular, its consistency with international best practice in the field of gender recognition and its compliance with national, regional and international equality and human rights standards, and shall make a report to each House of the Oireachtas of his or her findings and conclusions resulting from the review.”.

*—Senators Katherine Zappone, Jillian van Turnhout, Mary Ann O'Brien,
Fiach Mac Conghail, Averil Power, Denis O'Donovan, Paschal Mooney.*

2. In page 5, between lines 21 and 22, to insert the following:

“ “child” means a person under the age of 18 years in respect of whom a gender recognition certificate has not been issued;”.

*—Senators Jillian van Turnhout, Fiach Mac Conghail, Katherine Zappone,
Mary Ann O'Brien.*

3. In page 5, between lines 25 and 26, to insert the following:

“ “educational institution” means a school, college or other educational institution, including an institution providing pre-school services as defined by Part VI of the Child Care Act 1991;”.

*—Senators Jillian van Turnhout, Fiach Mac Conghail, Katherine Zappone,
Mary Ann O'Brien.*

4. In page 6, between lines 2 and 3, to insert the following:

“ “general medical practitioner” means a medical practitioner who is registered in the Specialist Division of the register of medical practitioners under the medical speciality of “General Practice” or in the General Division of the register of medical practitioners;”.

*—Senators Katherine Zappone, Jillian van Turnhout, Mary Ann O'Brien,
Fiach Mac Conghail, Averil Power, Denis O'Donovan, Paschal Mooney.*

5. In page 6, between lines 2 and 3, to insert the following:

“ ‘identified gender’ means the gender in which the child to whom this section applies identifies;”.

—*Senators Jillian van Turnhout, Fiach Mac Conghail, Katherine Zappone, Mary Ann O'Brien.*

6. In page 6, line 14, after “treating” where it secondly occurs to insert “general medical practitioner or”.

—*Senators Katherine Zappone, Jillian van Turnhout, Mary Ann O'Brien, Fiach Mac Conghail, Averil Power, Denis O'Donovan, Paschal Mooney.*

*7. In page 7, between lines 19 and 20, to insert the following:

“Review of operation of Act

7. The Minister shall—

- (a) not later than 2 years after this section comes into operation, commence a review of the operation of this Act, and
- (b) not later than 12 months after its commencement, make a report to each House of the Oireachtas of the findings made on the review and of the conclusions drawn from the findings.”.

8. In page 8, between lines 15 and 16, to insert the following:

“(8) Notwithstanding the provisions of this Act, and in particular notwithstanding *section 9(1)(g), section 11(4)(b), section 11(4)(c)* and *section 14(8)(d)(iii)*, a person who makes an application under *section 8, section 10, section 11* or *section 14* shall not be required to provide any evidence or proof of a surgical procedure for total or partial genital reassignment, hormonal therapies or any other psychiatric, psychological or medical treatment as a precondition to obtaining the certificate referred to in *section 9(1)(g), section 11(4)(b), section 11(4)(c)* or *section 14(8)(d)(iii)*, or as a precondition to obtaining a gender recognition certificate.”.

—*Senators Averil Power, Denis O'Donovan, Paschal Mooney.*

9. In page 9, line 8, to delete “18 years” and substitute “16 years”.

—*Senators Averil Power, Denis O'Donovan, Paschal Mooney.*

10. In page 9, to delete line 10.

—*Senators Averil Power, Denis O'Donovan, Paschal Mooney, David Cullinane, Trevor Ó Clochartaigh, Kathryn Reilly.*

11. In page 9, to delete line 27.

—*Senators Averil Power, Denis O'Donovan, Paschal Mooney, David Cullinane, Trevor Ó Clochartaigh, Kathryn Reilly.*

12. In page 9, to delete lines 32 to 37, and in page 10, to delete lines 1 to 3.

—*Senators Averil Power, Denis O'Donovan, Paschal Mooney, David Cullinane,*

Trevor Ó Clochartaigh, Kathryn Reilly.

*13. In page 9, lines 34 and 35, to delete “based on a medical evaluation of the applicant”.

14. In page 10, to delete line 12.

*—Senators Averil Power, Denis O'Donovan, Paschal Mooney, David Cullinane,
Trevor Ó Clochartaigh, Kathryn Reilly.*

15. In page 10, line 33, to delete “who has attained the age of 16 but not 18 years”.

—Senators Averil Power, Denis O'Donovan, Paschal Mooney.

16. In page 10, line 33, to delete “has attained the age of 16 but not 18 years” and substitute “is under 18 years”.

—Senators David Cullinane, Trevor Ó Clochartaigh, Kathryn Reilly.

17. In page 10, lines 35 and 36, to delete “who has attained the age of 16 but not 18 years”.

—Senators Averil Power, Denis O'Donovan, Paschal Mooney.

18. In page 10, lines 35 and 36, to delete “has attained the age of 16 but not 18 years” and substitute “is under 18 years”.

—Senators David Cullinane, Trevor Ó Clochartaigh, Kathryn Reilly.

19. In page 11, to delete lines 8 to 38, and in page 12, to delete lines 1 to 4 and substitute the following:

“(b) in relation to an application for a gender recognition certificate under *section 7* or *section 10* where the Court is satisfied that—

(i) the child has attained a sufficient degree of maturity to make the decision to apply for gender recognition,

(ii) the child is aware of, has considered and fully understands the consequences of the decision, and

(iii) the child’s decision is freely and independently made without duress or influence from another person.”.

—Senators David Cullinane, Trevor Ó Clochartaigh, Kathryn Reilly.

*20. In page 11, line 14, to delete “based on a medical evaluation of the child”.

21. In page 11, to delete lines 21 to 24.

*—Senators Katherine Zappone, Jillian van Turnhout, Mary Ann O'Brien,
Fiach Mac Conghail, Averil Power, Denis O'Donovan, Paschal Mooney.*

*22. In page 11, line 32, to delete “based on a medical evaluation of the child”.

23. In page 11, line 38, to delete “person,” and in page 12, to delete lines 1 to 4 and substitute “person.”.

—Senators Averil Power, Denis O'Donovan, Paschal Mooney.

24. In page 12, to delete lines 5 to 11 and substitute the following:

“(5) The court may make an order dispensing with the requirement of the consent of a person referred to in *subsection (4)(a)* to the making of an order under this section where satisfied that the consent cannot be obtained because the person cannot be identified or found or is failing or neglecting to respond to a request for consent or refuses to give their consent to the request or should not be obtained because the nature of the relationship between the child concerned and the person shows that it would not be in the interest of the safety or welfare of the child to contact the person.”.

—*Senators David Cullinane, Trevor Ó Clochartaigh, Kathryn Reilly.*

25. In page 12, between lines 13 and 14, to insert the following:

“(7) Notwithstanding *subsection 4(b)*, *subsection 4(c)* and *section 14(8)(d)(iii)* a court may, on application to it in respect of a person under the age of 16, by order exempt the person from the application of *section 8(2)(a)* and *section 14(8)(b)* as to age, provided that the Court is satisfied, given the particular and exceptional circumstances of the person in respect of whom the application is made, that the granting of an exemption is manifestly in the best interests of the person.

(8) Where a court grants an exemption under *subsection 7*, a guardian of a child to whom the exemption applies may make an application under *section 7* on behalf of the child.”.

—*Senators Averil Power, Denis O'Donovan, Paschal Mooney.*

26. In page 12, between lines 19 and 20, to insert the following:

“Interim Gender Recognition Certificate

12. (1) The parent or guardian of a child to whom this section applies may, on behalf of that child, apply to the Minister for an interim gender recognition certificate.
- (2) The Minister shall grant an interim gender recognition certificate if satisfied that the child to whom this section applies identifies as a child of a gender different from that listed in the relevant entry in the register of births made in respect of that child.
- (3) In determining whether a child should be granted an interim gender recognition certificate, the Minister shall have regard, in so far as is practicable, to the wishes of that child.
- (4) Where the Minister has granted an interim gender recognition certificate in respect of a child to whom this section applies, and where the child is a pupil at an educational institution, the educational institution shall permit (but not require) the child to—
- (a) be admitted to and attend an educational institution reserved to pupils of one gender only where that gender is the child’s identified gender,
 - (b) use the name and gender designation listed on the interim gender recognition certificate,
 - (c) wear such uniform or other clothing as is appropriate to the child’s identified

gender,

- (d) use the bathroom and changing facilities at that school, college or educational institution appropriate to his or her identified gender, provided always that such facilities are as safe as can reasonably be expected for use for that child, and
 - (e) participate in sporting activities appropriate to a child of the identified gender.
- (5) For the avoidance of any doubt, this section does not prevent or exempt any person from taking steps in respect of a child to whom this section applies where the child in respect of whom this section applies has not been issued with an interim gender recognition certificate.
- (6) The issue of an interim gender recognition certificate to a child in accordance with this section does not—
- (a) confer any right or entitlement on the child that is not connected with the purposes of this section, or
 - (b) affect any right, entitlement, duty or obligation arising under statute or otherwise.
- (7) An interim gender recognition certificate issued under this section shall continue to be legally effective notwithstanding the fact that the child to whom this section applies has reached the age of 18.
- (8) A child in respect of whom the Minister has issued an interim gender recognition certificate may, if otherwise eligible to do so, apply for a gender recognition certificate notwithstanding the fact that he or she holds an interim gender recognition certificate, provided that the interim gender recognition certificate shall cease to have legal effect on the granting to that child of a gender recognition certificate.
- (9) The Minister, by regulations under this Act, shall specify the particulars to be included in an interim gender recognition certificate.”.

—*Senators Jillian van Turnhout, Fiach Mac Conghail, Katherine Zappone, Mary Ann O'Brien.*

27. In page 12, between lines 19 and 20, to insert the following:

“Register of Interim Gender Recognition Certificates

13. (1) The Minister shall maintain a Register of Interim Gender Recognition Certificates (known in this section as the ‘register’).
- (2) In the register, the Minister shall record such particulars as shall be designated by regulations made by the Minister for the purpose of this section.
- (3) For the purpose of *subsection (2)*, such particulars shall include—
- (a) the full name, date of birth and sex of the child as recorded in the Register of Births,
 - (b) where the child has changed his or her name by deed poll, that name,
 - (c) the name by which the child is normally known if different from both *paragraphs*

- (a) and (b),
 - (d) the preferred name of the child if different from *paragraphs (a), (b) or (c)*,
 - (e) the identified gender of the child, and
 - (f) the home address of the child.
- (4) The Register shall not be open to public inspection and no information from that register shall be given to any person (other than the child to whom *section 12** applies or a parent or guardian of that child, where the information relates specifically to that child) except by order of a court.”.

—*Senators Jillian van Turnhout, Fiach Mac Conghail, Katherine Zappone,
Mary Ann O'Brien.*

[*This is a reference to the section proposed to be inserted by amendment No. 26.]

28. In page 12, between lines 19 and 20, to insert the following:

“Revocation of an Interim Gender Recognition Certificate

14. (1) The Minister may revoke an interim gender recognition certificate issued under *section 12** but only—
- (a) on receipt of a request from the parent or guardian of a child in respect of whom an interim gender recognition certificate has been issued,
 - (b) on receipt of a request from the child in respect of whom an interim gender recognition certificate has been issued, where the Minister is satisfied that the child is of sufficient age and understanding,
 - (c) where the Minister has determined that the child to whom this section applies should be granted a gender recognition certificate under this legislation,
 - (d) where the Minister is satisfied that he or she would not have issued the certificate under *section 12** had he or she been aware of information or facts before deciding to issue the certificate which since that issue have been brought to his or her notice.
- (2) Where the Minister proposes to revoke an interim gender recognition certificate under *section 1(d)*, the provisions of *section 13* and *section 16* shall apply to the proposed revocation and for this purpose any reference in *section 13* or *section 16* to a gender recognition certificate shall be taken as referring to an interim gender recognition certificate.
- (3) In determining whether to revoke an interim gender recognition certificate, the Minister shall have regard, in so far as is practicable, to the wishes of the child in respect of whom the certificate was issued.
- (4) An interim gender recognition certificate revoked under *subsection (1)(a) or (b)* shall be deemed to be valid up until the date of revocation but invalid and of no legal effect from that date forward.
- (5) An interim gender recognition certificate revoked under *subsection (1)(c)* shall be

deemed always to have been void and of no effect.”.

—*Senators Jillian van Turnhout, Fiach Mac Conghail, Katherine Zappone,
Mary Ann O'Brien.*

*[*This is a reference to the section proposed to be inserted by amendment No. 26.]*

29. In page 12, to delete line 25 and substitute the following:

“(c) an indication of the person’s gender using the abbreviations M (male), F (female) or X (indeterminate/unspecified/intersex).”.

—*Senators David Cullinane, Trevor Ó Clochartaigh, Kathryn Reilly.*

*30. In page 15, lines 23 and 24, to delete “based on a medical evaluation of the applicant”.

*31. In page 15, line 26, to delete “based on that evaluation.”.

32. In page 18, to delete line 35, and in page 19, to delete lines 1 to 7.

—*Senators David Cullinane, Trevor Ó Clochartaigh, Kathryn Reilly.*

33. In page 19, line 20, to delete “the father or mother” and substitute “parent”.

—*Senators David Cullinane, Trevor Ó Clochartaigh, Kathryn Reilly.*

*34. In page 19, line 25, to delete “Act” and substitute “section”.

*35. In page 19, line 27, to delete “Act” and substitute “section”.

*36. In page 20, line 6, to delete “Act” and substitute “section”.

37. In page 29, between lines 5 and 6, to insert the following:

“Offence of disclosing information contained in a Gender Recognition Certificate

36. (1) It shall be an offence for a person who has acquired protected information concerning a person’s gender in an official capacity to disclose the information to any other person.

(2) “Protected information” means information which relates to a person who has had their recorded sex changed, or made an application to have it changed and concerns either that application or the information changed or concerns the person’s previous recorded sex.

(3) A person acquires protected information in an official capacity if the person acquires it—

(a) in connection with the person’s functions as a member of the civil service, a member of An Garda Síochána or the holder of any other public office or in connection with the functions of a local authority, or statutory body, or of a voluntary organisation,

(b) as an employer, or prospective employer, of the person to whom the information relates or as a person employed by such an employer or prospective employer, or

(c) in the course of, or otherwise in connection with, the conduct of business or the supply of professional services.

- (4) It shall not be an offence under this section to disclose protected information relating to a person if—
- (a) the information does not enable that person to be identified,
 - (b) that person has agreed to the disclosure of the information,
 - (c) the information is protected information by virtue of *subsection (2)* and the person by whom the disclosure is made does not know or believe that a full gender recognition certificate has been issued,
 - (d) the disclosure is in accordance with an order of a court,
 - (e) the disclosure is for the purpose of instituting, or otherwise for the purposes of, proceedings before a court,
 - (f) the disclosure is for the purpose of preventing or investigating crime, or to the National Vetting Bureau,
 - (g) the disclosure is made to the Registrar General,
 - (h) the disclosure is made for the purposes of the operation of payments administered by the Department of Social Protection,
 - (i) the disclosure is required by law.”.

—*Senators David Cullinane, Trevor Ó Clochartaigh, Kathryn Reilly.*