



# **DÁIL ÉIREANN**

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

### **LEASUITHE TUARASCÁLA REPORT AMENDMENTS**

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# DÁIL ÉIREANN

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## AN BILLE UM INSCNE A AITHINT, 2014 —AN TUARASCÁIL

### GENDER RECOGNITION BILL 2014 —REPORT

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#### *Leasuithe Amendments*

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1. In page 5, to delete line 20.

—Willie O'Dea.

2. In page 5, to delete lines 26 to 28.

—Willie O'Dea.

3. In page 6, to delete lines 3 to 6.

—Willie O'Dea.

4. In page 6, line 10, after “certificate” to insert the following:

“or a person has the intention of being ordinarily resident in the State for a year or more after the date of their arrival in the State”.

—Joe Higgins, Ruth Coppinger, Paul Murphy.

5. In page 6, to delete lines 14 to 21.

—Willie O'Dea.

6. In page 7, to delete lines 20 to 26 and substitute the following:

#### **“Review of operation of Act**

7. The Minister shall not later than 1 year after this section comes into operation, commence a review of the operation of this Act, and commence a subsequent review not later than 5 years after that date, 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 drawn from the findings not later than 12 months after completion of both reviews.”.

—Aengus Ó Snodaigh.

7. In page 7, to delete lines 32 to 34 and substitute the following:

“(2) An application under this section shall be in writing in the form, including electronic

form, available in both English and Irish, as may be prescribed, and no fee shall be charged by the Minister for considering the application.”.

—Aengus Ó Snodaigh.

8. In page 8, line 38, to delete “section 91” and substitute “section 90”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

9. In page 8, line 40, to delete “subsection (1)(b) of that section” and substitute “section 91(1)(b) of that Act”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

10. In page 9, line 14, to delete “18 years” and substitute “16 years”.

—Joe Higgins, Ruth Coppinger, Paul Murphy, Aengus Ó Snodaigh.

11. In page 9, to delete line 16.

—Joe Higgins, Ruth Coppinger, Paul Murphy, Aengus Ó Snodaigh.

12. In page 9, to delete lines 32 to 37.

—Willie O'Dea.

13. In page 9, to delete line 33.

—Joe Higgins, Ruth Coppinger, Paul Murphy, Aengus Ó Snodaigh.

14. In page 9, after line 37, to insert the following:

“(2) Notwithstanding the provisions of this Act, a person who makes an application under *sections 8, 10, 11 or 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 this Act or as a precondition to obtaining a gender recognition certificate.”.

—Aengus Ó Snodaigh.

15. In page 10, to delete line 9.

—Joe Higgins, Ruth Coppinger, Paul Murphy, Aengus Ó Snodaigh.

16. In page 10, lines 28 to 34, to delete all words from and including “(1) The” in line 28 down to and including line 34 and substitute the following:

“(1) The Minister may only consider an application for a gender recognition certificate under *section 8 or 11* or for revocation of a gender recognition certificate under *section 15*, made on behalf of a child under the age of 16 if furnished with an order under this section.

(2) The court, on application to it in that behalf by the next friend of a child who is under the age of 16, may by order exempt the child from the requirement to comply with *section 9(2)(a) or 15(8)(b)*.”.

—Aengus Ó Snodaigh.

17. In page 10, line 30, to delete “attained the age of 16 but not 18” and substitute “not attained the age of 16”.

—Joe Higgins, Ruth Coppinger, Paul Murphy.

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

—Joe Higgins, Ruth Coppinger, Paul Murphy.

19. In page 11, to delete lines 5 to 38, and in page 12, to delete lines 1 to 4.

—Joe Higgins, Ruth Coppinger, Paul Murphy.

20. In page 11, to delete lines 20 to 22.

—Aengus Ó Snodaigh.

21. In page 12, line 8, after “consent” to insert “or refuses to give their consent to the request”.

—Aengus Ó Snodaigh.

22. In page 12, to delete lines 12 and 13 and substitute the following:

“(6) In any application before a court under this Act for the purposes of granting an exemption from the requirement to comply with *sections 8(2)(a) or 14(8)(b)*, the court, having regard to the rights and duties of parents, whether under the Constitution or otherwise, shall—

(a) regard the best interests of the child as the first and paramount consideration, and

(b) in so far as practicable, give due consideration, having regard to the child’s maturity and capacity, to the wishes of the child.”.

—Aengus Ó Snodaigh.

23. 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).”.

—Joe Higgins, Ruth Coppinger, Paul Murphy, Aengus Ó Snodaigh.

24. In page 14, line 6, to delete “Department of” and substitute “Minister for”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

25. In page 14, line 7, after “notice,” to insert “if applicable,”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

26. In page 15, line 7, to delete “18 years” and substitute “16 years”.

—Joe Higgins, Ruth Coppinger, Paul Murphy.

27. In page 15, line 8, after “certificate,” to insert “and”.

—Joe Higgins, Ruth Coppinger, Paul Murphy.

28. In page 15, to delete line 9.

—Willie O’Dea, Joe Higgins, Ruth Coppinger, Paul Murphy, Aengus Ó Snodaigh.

29. In page 15, to delete line 13.

—Willie O’Dea, Joe Higgins, Ruth Coppinger, Paul Murphy, Aengus Ó Snodaigh.

30. In page 15, line 31, to delete “Department of” and substitute “Minister for”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

31. In page 17, line 5, to delete “Department of” and substitute “Minister for”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

32. In page 18, between lines 14 and 15, to insert the following:

**“Non-requirement of medical, psychiatric or psychological criteria**

18. There shall be no requirement to provide evidence of surgical procedure for total or partial genital reassignment, hormonal therapies or any other psychiatric, psychological or medical treatment for a person to avail of the provisions of this Act.”.

—Joe Higgins, Ruth Coppinger, Paul Murphy.

33. In page 18, lines 18 to 21, to delete all words from and including “(1) Where” in line 18 down to and including line 21 and substitute the following:

“(1) Where a gender recognition certificate is issued to a person the person’s gender shall from the date of that issue become for all purposes the preferred gender whether that be male, female or having non-binary gender status.”.

—Aengus Ó Snodaigh.

34. In page 18, to delete lines 26 to 33.

—Joe Higgins, Ruth Coppinger, Paul Murphy, Aengus Ó Snodaigh.

35. In page 19, line 9, to delete “father or mother” and substitute “parent”.

—Aengus Ó Snodaigh.

36. In page 28, between lines 15 and 16, to insert the following:

**“Recognition of Intersex, unspecified or indeterminate gender**

36. The categories of intersex, unspecified or indeterminate gender may be used in the Register of Gender Recognition, Gender Recognition Certificates, passports, the Adopted Children Register, the Foreign Births Register, the Register of Gender Recognition of Intercountry Adoptions, birth certificates and all documents issued by the State and on all registers maintained by the State.”.

—Joe Higgins, Ruth Coppinger, Paul Murphy.

37. In page 28, between lines 26 and 27, to insert the following:

**“Offence of disclosing information contained in a Gender Recognition Certificate**

37. (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.”.

—Aengus Ó Snodaigh.

38. In page 28, to delete lines 32 to 34, and in page 29, to delete lines 1 to 15 and substitute the following:

**“Amendment of Passports Act 2008**

38. (1) Section 11 of the Passports Act 2008 is amended—

- (a) by the deletion of subsection (1),
- (b) by the deletion of subsection (2),
- (c) by the insertion of the following subsections before subsection (3):

“(2A) (a) The Minister shall not consider an application for a passport by an applicant who wishes to have a passport issued to him or her in—

- (i) the new gender, and
- (ii) if applicable, the new name,

unless that applicant produces his or her gender recognition certificate to the Minister.

(b) Where an applicant for a passport to whom paragraph (a) applies produces his or her gender recognition certificate to the Minister the Minister may, subject to this Act, issue a passport to the applicant in the gender specified in the gender recognition certificate and, if applicable, the new name.

(2B) (a) An applicant for a passport, who has attained the age of 18 years and to whom *section 9* of the *Gender Recognition Act 2015* does not apply, may apply to the Minister to have the passport issued to the applicant in the new gender and if the applicant is using a new name, to have the new name of the applicant entered in the passport.

(b) An applicant under paragraph (a) shall produce to the Minister—

- (i) a statutory declaration declaring that the applicant has a settled and solemn intention of living in the new gender for the rest of his or her life and understands the consequences of the application, and

- (ii) if appropriate, evidence to the satisfaction of the Minister of the use by the applicant of the new name,

and the Minister may, subject to this Act, issue a passport to the applicant in the new gender and, if applicable, new name specified in the application.

(2C) (a) An applicant for a passport who has attained the age of 16 years but not attained the age of 18 years and to whom *section 9* of the *Gender Recognition Act 2015* does not apply, may apply to the Minister to have the passport issued to the applicant in the new



gender and if the applicant is using a new name, to have the new name of the applicant entered in the passport.

- (b) An applicant under paragraph (a) shall produce to the Minister—
- (i) a statutory declaration declaring that the applicant has a settled and solemn intention of living in the new gender for the rest of his or her life, and understands the consequences of the application,
  - (ii) each of the medical certificates referred to in paragraph (c), and
  - (iii) if appropriate, evidence to the satisfaction of the Minister of the use by the applicant of the new name,

and the Minister may, subject to this Act, issue a passport to the applicant in the new gender and, if applicable, new name specified in the application.

- (c) For the purposes of paragraph (b) the following medical certificates are required:
- (i) a certificate of the child's primary treating medical practitioner certifying his or her professional medical opinion that—
    - (I) the child has attained a sufficient degree of maturity to make the decision to apply for a passport in the new gender,
    - (II) the child is aware of, has considered and fully understands the consequences of that decision, and
    - (III) the child's decision is freely and independently made without duress or undue influence from another person,and
  - (ii) a certificate of an endocrinologist or psychiatrist, who has no connection to the child, certifying that his or her medical opinion concurs with the medical opinion referred to in subparagraph (i).”

and

- (d) by the substitution of the following subsection for subsection (4):

“(4) In this section—

‘endocrinologist’ means—

- (a) a medical practitioner who is registered in the Specialist Division of the register of medical practitioners under the medical specialty of ‘Endocrinology & Diabetes Mellitus’, or
- (b) in the case of a person outside the State, a person who is entitled under the law of the place where the person is to practise medicine in the field of endocrinology in that place;

‘gender recognition certificate’ has the same meaning as it has in the *Gender Recognition Act 2015*;

‘medical practitioner’ means—

- (a) a medical practitioner who is for the time being registered in the register of medical practitioners, or
- (b) in the case of a person outside the State, a person who is entitled under the law of the place where the person is to practise medicine in that place;

‘medical specialty’ means a medical specialty recognised by the Medical Council under section 89 of the Medical Practitioners Act 2007;

‘new gender’—

- (a) in so far as it relates to an applicant referred to in subsection (2A), means the opposite gender to the gender originally specified in—
  - (i) the register of births maintained under section 13 of the Civil Registration Act 2004, proof of which is a document issued under section 61 of that Act in respect of an entry in that register,
  - (ii) the Adopted Children Register maintained under section 84 of the Adoption Act 2010, proof of which is a certified copy of an entry issued under subsection (10) of that section of that Act,
  - (iii) a foreign births entry book or in the foreign births register, both of which are kept under section 27 of the Irish Nationality and Citizenship Act 1956, proof of which is a document purporting to be a copy of an entry in that entry book or register and which is duly authenticated as such,
  - (iv) the register of intercountry adoptions maintained under section 90 of the Adoption Act 2010, proof of which is a document purporting to be a copy of an entry in that register issued under section 91(1)(b) of that Act,
  - (v) where the birth concerned is registered in accordance with a civil system of registration of births in the place where his or her birth occurred, proof of which is a document issued in accordance with that system of registration, or a statutory declaration declaring why it is not feasible to produce the proof and exhibiting other evidence of birth, that document or statutory declaration, or
  - (vi) where the birth concerned is not registered because there is no system of civil registration of births in the place where his or her birth occurred, proof of which is a statutory declaration declaring that there is no such system and exhibiting other

evidence of birth, that statutory declaration,

- (b) in so far as it relates to an applicant referred to in subsection (2B) or (2C) means the opposite gender to the gender originally specified in—
  - (i) where the birth concerned is registered in accordance with a civil system of registration of births in the place where his or her birth occurred, proof of which is a document issued in accordance with that system of registration, or a statutory declaration declaring why it is not feasible to produce the proof and exhibiting other evidence of birth, that document or statutory declaration, or
  - (ii) where the birth concerned is not registered because there is no system of civil registration of births in the place where his or her birth occurred, proof of which is a statutory declaration declaring that there is no such system and exhibiting other evidence of birth, that statutory declaration;

‘new name’—

- (a) in so far as it relates to an applicant referred to in subsection (2A) means, if a name other than the one referred to in subsection (1) or (2) of section 10 is specified in the gender recognition certificate, that name,
- (b) in so far as it relates to an applicant referred to in subsection (2B) or (2C) means a name other than the one referred to in subsection (1) or (2) of section 10;

‘primary treating medical practitioner’ means a person’s primary treating endocrinologist or psychiatrist in relation to the matter the subject of an application under subsection (2C);

‘psychiatrist’ means—

- (a) a medical practitioner who is registered in the Specialist Division of the register of medical practitioners under the medical specialty of ‘Psychiatry’ or under the medical specialty of ‘Child & Adolescent Psychiatry’, or
- (b) in the case of a person outside the State, a person who is entitled under the law of the place where the person is to practise medicine in the field of psychiatry or child and adolescent psychiatry in that place;

‘register of medical practitioners’ means the register of medical practitioners established under section 43 of the Medical Practitioners Act 2007.”.

- (2) Where, before the repeal of subsections (1) and (2) of section 11 of the Passports Act 2008 by *subsection (1)*, an application for a passport has been made to the Minister

under the said subsection (1) of section 11 and has not been determined by the Minister or withdrawn, the application shall be dealt with and determined as if the said subsections (1) and (2) of section 11 had not been repealed.”.

—An Tánaiste agus Aire Coimirce Sóisialaí.

39. In page 29, after line 15, to insert the following:

**“Validity of existing marriages and civil partnerships**

39. A person in a marriage or a civil partnership shall continue to be in a valid marriage or civil partnership following being issued with a gender recognition certificate.”.

—Joe Higgins, Ruth Coppinger, Paul Murphy.

40. In page 29, after line 15, to insert the following:

**“Education System**

39. (1) In this section “a person to whom this section applies” means a person whose preferred gender is different from the gender assigned to the person at birth, whether or not the person is a person to whom a gender recognition certificate has been issued.

(2) Without prejudice to *sections 22 and 23* and the provisions of the Equal Status Acts 2000 to 2011, the Principal and staff of a recognised school shall ensure, in so far as it is practicable to do so, that a person to whom this section applies who is attending a recognised school—

(a) shall be addressed in and entitled to use his or her preferred name and their preferred gender,

(b) shall be permitted on the premises of the school to wear the uniform or clothing appropriate to their preferred gender, and

(c) shall be entitled to use the facilities appropriate to his or her preferred gender.

(3) Without prejudice to *sections 22 and 23* and the provisions of the Equal Status Acts 2000 to 2011, the Principal and staff of a recognised school shall take such steps as are reasonable to ensure that the safety and welfare of a person to whom this section applies is not compromised or diminished by the conduct of the school, its employees or by any person who is likely to use the facilities of the school or be in attendance on the school premises.

(4) The Minister for Education and Skills shall issue a Directive within 6 months of the coming into force of this Act directing all primary and post-primary schools to—

(a) implement a policy to facilitate the full participation in schools for transgender, intersex, unspecified or indeterminate gender pupils,

(b) take part in educational programmes for teachers, staff, parents representative bodies and boards of management on issues facing transgender, intersex, unspecified or indeterminate gender pupils.

(5) School patrons shall participate in educational programmes on issues facing

transgender, intersex, unspecified or indeterminate gender pupils.

- (6) The Minister for Education and Skills shall make a Directive within 6 months of the coming into force of this Act implementing a change in the curriculum for primary and post-primary schools to recognise and facilitate transgender, intersex, unspecified or indeterminate gender pupils.”.

—Joe Higgins, Ruth Coppinger, Paul Murphy.