



An Bille um Inscne a Aithint, 2014
Gender Recognition Bill 2014

Mar a leasíodh i gCoiste

As amended in Committee



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

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ACTS REFERRED TO

Adoption Act 2010 (No. 21)

Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24)

Civil Registration Act 2004 (No. 3)

Guardianship of Infants Act 1964 (No. 7)

Irish Nationality and Citizenship Act 1956 (No. 26)

Medical Practitioners Act 2007 (No. 25)

Passports Act 2008 (No. 4)

Sex Offenders Act 2001 (No. 18)

Social Welfare Consolidation Act 2005 (No. 26)



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

Bill

entitled

An Act to recognise change of gender; to provide for gender recognition certificates; to amend the Irish Nationality and Citizenship Act 1956, the Civil Registration Act 2004, the Passports Act 2008 and the Adoption Act 2010; and to provide for matters connected therewith. 5

Be it enacted by the Oireachtas as follows:

PART 1 10

PRELIMINARY AND GENERAL

Short title and commencement

1. (1) This Act may be cited as the Gender Recognition Act 2015.
- (2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions. 15

Interpretation

2. In this Act—
 - “Act of 2004” means the Civil Registration Act 2004;
 - “Act of 2007” means the Medical Practitioners Act 2007; 20
 - “Act of 2010” means the Adoption Act 2010;
 - “civil partner” means a person in a civil partnership or legal relationship to which section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 applies;
 - “court” means the Circuit Family Court; 25
 - “endocrinologist” means a medical practitioner who is registered in the Specialist Division of the register of medical practitioners under the medical specialty of “Endocrinology and Diabetes Mellitus”;

“gender recognition certificate” means a gender recognition certificate issued by the Minister;	
“medical practitioner” means a medical practitioner who is for the time being registered in the register of medical practitioners;	
“medical specialty” means a medical specialty recognised by the Medical Council under section 89 of the Act of 2007;	5
“Minister” means the Minister for Social Protection;	
“ordinarily resident” in <i>sections 8 and 9</i> means ordinarily resident in the State throughout the period of one year ending on the date that a person applies for a gender recognition certificate;	10
“preferred gender” means the gender a person applies to have specified or which is specified in a gender recognition certificate;	
“prescribed” means prescribed by regulations made by the Minister;	
“primary treating medical practitioner” means a person’s primary treating endocrinologist or psychiatrist in relation to the matter the subject of an application for a gender recognition certificate;	15
“psychiatrist” means 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 and Adolescent Psychiatry”;	
“register of medical practitioners” means the register of medical practitioners established under section 43 of the Act of 2007.	20

Regulations

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| 3. (1) The Minister may by regulations provide for any matter referred to in this Act as prescribed or to be prescribed. | |
| (2) Where a provision of this Act requires or authorises the Minister to make regulations such regulations may— | 25 |
| (a) make provision for different circumstances or cases, classes or types, and | |
| (b) contain such incidental, supplementary and consequential provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations. | |
| (3) Every regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the order or regulation is laid before it, the order or regulation shall be annulled accordingly but without prejudice to the validity of anything previously done thereunder. | 30 |
| | 35 |

Expenses of Minister

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| 4. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas. | |
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Service of documents

5. A notice or other document that is required to be served on or given to a person under this Act shall be addressed to the person concerned by name, and may be so served on or given to the person in one of the following ways:
- (a) by delivering it to the person; 5
 - (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
 - (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address. 10

Records and annual report

6. (1) The Minister shall keep a record, in the form that he or she considers appropriate, of a decision made by him or her under *section 7, 10, 13, 14 or 15*.
- (2) The Minister shall, not later than 30 June in each year prepare a report on the performance of his or her functions under this Act in the immediately preceding year, or in the case of the period from the date this Act comes into operation to the next following 30 June, that period, and as soon as may be after the report has been prepared, shall cause copies of the report to be laid before each House of the Oireachtas. 15

PART 2 20

APPLICATIONS AND APPEALS RELATING TO GENDER RECOGNITION

Application for a gender recognition certificate

7. (1) A person referred to in *section 8* may apply to the Minister for a gender recognition certificate.
- (2) An application under this section shall be in writing in the form, including electronic form, as may be prescribed, and no fee shall be charged by the Minister for considering the application. 25
- (3) The Minister shall consider an application under this section and shall decide to either—
- (a) issue a gender recognition certificate, or 30
 - (b) refuse to issue a gender recognition certificate.
- (4) In considering an application under this section the Minister shall consider the information furnished by the applicant and may—
- (a) request further information from the applicant regarding any information or evidence furnished by him or her or on his or her behalf, or 35
 - (b) at the expense of the Minister, obtain other or further information of a medical, legal or otherwise specialist nature relevant to the application.

- (5) The Minister shall give notice in writing to the applicant of a decision under *subsection (3)*, as soon as practicable after it is made, which shall, in relation to a decision under *subsection (3)(b)*—
- (a) include reasons for the decision,
 - (b) inform the applicant that he or she may, under *section 16*, appeal the decision within 90 days of the date of the notice, and
 - (c) inform the applicant that the decision shall be suspended until—
 - (i) the decision becomes final under *subsection (6)*, or
 - (ii) the disposal of an appeal under *section 16(2)*.
- (6) If, on the expiration of the period of 90 days beginning on the date of the notice under *subsection (5)*, no appeal under *section 16* is made, the Minister’s decision under *subsection (3)(b)* is final.
- (7) If, following an appeal under *section 16* the court, under *section 16(2)(b)* orders the Minister to reconsider his or her decision, the Minister’s decision under *subsection (3)(b)* is suspended until the Minister reconsiders his or her decision.

Persons who may apply for a gender recognition certificate

8. (1) This section applies to a person who satisfies the conditions specified in *subsection (2)*—
- (a) who may or may not be ordinarily resident in the State and—
 - (i) whose birth is registered in the register of births maintained under section 13 of the Act of 2004, proof of which is a document issued under section 61 of that Act in respect of an entry in that register,
 - (ii) whose adoption is registered in 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) whose birth is recorded in 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, or
 - (iv) whose adoption is registered in the register of intercountry adoptions maintained under section 91 of the Adoption Act 2010, proof of which is a document purporting to be a copy of an entry in that register issued under subsection (1)(b) of that section,
- or
- (b) who is ordinarily resident in the State, whose birth did not take place in the State and whose birth—
 - (i) 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, or

- (ii) 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. 5

(2) A person to whom this section applies shall satisfy the following conditions:

- (a) subject to *section 11*, have attained the age of 18 years on the date he or she makes an application for a gender recognition certificate;
- (b) not be married or a civil partner; 10
- (c) comply, as the case may be, with *section 9* or *10*.

Requirements on application for a gender recognition certificate

9. (1) A person who applies for a gender recognition certificate under *section 7* shall furnish the following to the Minister:

- (a) his or her name, address, PPS number and contact details; 15
- (b) the forename and surname by which he or she wishes to be known;
- (c) proof of his or her identity;
- (d) in relation to his or her birth—
 - (i) where he or she is a person referred to in *paragraph (a)* of *section 8(1)*, applicable proof of birth referred to in that paragraph, or 20
 - (ii) where he or she is a person referred to in *paragraph (b)* of *section 8(1)*, applicable proof of birth referred to in that paragraph;
- (e) where he or she is a person referred to in *paragraph (b)* of *section 8(1)*, information and evidence to satisfy the Minister that the applicant is ordinarily resident in the State; 25
- (f) a statutory declaration declaring that he or she—
 - (i) is not married or a civil partner,
 - (ii) has a settled and solemn intention of living in the preferred gender for the rest of his or her life,
 - (iii) understands the consequences of the application, and 30
 - (iv) makes the application of his or her free will;
- (g) a certificate in writing of a medical practitioner certifying—
 - (i) that he or she is the applicant's primary treating medical practitioner,
 - (ii) that in the professional medical opinion of the medical practitioner based on a medical evaluation of the applicant— 35
 - (I) the applicant has transitioned or is transitioning to his or her preferred gender, and

(II) the medical practitioner is satisfied that the applicant fully understands the consequences of his or her decision to live permanently in his or her preferred gender.

(2) In this section “PPS number” means a personal public service number within the meaning of section 262 of the Social Welfare Consolidation Act 2005. 5

Requirements on application where recognition in another jurisdiction

10. (1) A person who has changed gender under the law of a country or territory, other than the State, may apply to the Minister for a gender recognition certificate.

(2) A person who applies for a gender recognition certificate under this section shall—

(a) furnish the following to the Minister: 10

(i) each item referred to in *paragraphs (a) to (e) of section 9(1)*;

(ii) a statutory declaration that he or she is not married or a civil partner;

(iii) the decision, order or certificate of gender recognition issued in the country or territory concerned,

and 15

(b) show to the satisfaction of the Minister—

(i) that requirements to be fulfilled, under the law of the country or territory concerned so that a decision, order or certificate of gender recognition is issued, are at least equivalent to the requirements to be fulfilled under *subparagraphs (ii) to (iv) of section 9(1)(f) and section 9(1)(g)*, for the issue of a gender recognition certificate in the State, and 20

(ii) the authenticity of the document referred to in *paragraph (a)(iii)* which may include by means of certification by the person or body who issued the document and a translation thereof.

(3) *Subsections (2) to (6) of section 7* shall apply, with any necessary modifications, to an application to the Minister under this section as they apply to an application under *section 7* and references to a decision under *section 7* or any part thereof shall be taken to include references to a decision in respect of an application under this section. 25

Application to court for exemption 30

11. (1) The Minister may only consider an application for a gender recognition certificate under *section 7* or *10* or for revocation of a gender recognition certificate under *section 14*, made on behalf of a child who has attained the age of 16 but not 18 years, if furnished with an order of the court under this section.

(2) The court, on application to it in that behalf by the next friend of a child who has attained the age of 16 but not 18 years, may by order exempt the child from the requirement to comply with *section 8(2)(a)* or *14(8)(b)*. 35

(3) An application under this section—

- (a) may be made informally,
 - (b) may be heard and determined otherwise than in public, and
 - (c) shall not have a court fee charged in respect of it.
- (4) The court shall only grant an application under this section if—
- (a) subject to *subsection (5)*, the court is satisfied, that, as appropriate, the child’s parents, surviving parent or guardian consent or consents to the making of the application under this section, 5
 - (b) in relation to an application for a gender recognition certificate under *section 7 or 10*—
 - (i) a certificate in writing of a medical practitioner is furnished to the court certifying— 10
 - (I) that he or she is the child’s primary treating medical practitioner,
 - (II) that in the professional medical opinion of the medical practitioner based on a medical evaluation of the child—
 - (A) the child has attained a sufficient degree of maturity to make the decision to apply for gender recognition, 15
 - (B) the child is aware of, has considered and fully understands the consequences of that decision, and
 - (C) the child’s decision is freely and independently made without duress or undue influence from another person, 20
 - and
 - (ii) an endocrinologist or psychiatrist, who has no connection to the child, furnishes to the court a certificate in writing certifying that his or her medical opinion concurs with the medical opinion referred to in *subparagraph (i)*, 25
 - and
 - (c) in relation to an application to revoke a gender recognition certificate under *section 14*—
 - (i) a certificate in writing of a medical practitioner is furnished to the court certifying—
 - (I) that he or she is the child’s primary treating medical practitioner, 30
 - (II) that in the professional medical opinion of the medical practitioner based on a medical evaluation of the child—
 - (A) the child has attained a sufficient degree of maturity to make the decision to apply for gender recognition,
 - (B) the child is aware of, has considered and fully understands the consequences of that decision, and 35
 - (C) the child’s decision is freely and independently made without duress or undue influence from another person,

and

- (ii) an endocrinologist or psychiatrist, who has no connection to the child, furnishes to the court a certificate in writing certifying that his or her medical opinion concurs with the medical opinion referred to in *subparagraph (i)*.

- (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 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. 5 10
- (6) The court shall not make an order under this section unless satisfied that it is in the best interest of the child.
- (7) In this section “guardian” means a person who—
 - (a) is a guardian of a child pursuant to the Guardianship of Infants Act 1964, or 15
 - (b) is appointed to be the guardian of a child by—
 - (i) deed or will, or
 - (ii) order of a court in the State,and has not been removed from office.

Gender recognition certificate 20

- 12.** (1) A gender recognition certificate shall specify the date on which it issues and the following in relation to the person to whom it issues:
- (a) the person’s forename and surname referred to in *section 9(1)(b)*;
 - (b) the person’s date of birth;
 - (c) the person’s gender. 25
- (2) The Minister shall furnish a copy of the information and documents referred to in *subsection (3)* as soon as may be after the making of a decision under *section 7(3)(a)* or an order of the court under *section 16(2)(a)*—
- (a) where the decision or order relates to a person referred to in *subparagraph (i)* or *(ii)* of *section 8(1)(a)*, to an tArd-Chláraitheoir, or 30
 - (b) where the decision or order relates to a person referred to in *subparagraph (iv)* of *section 8(1)(a)*, to the Adoption Authority of Ireland.
- (3) The following shall be furnished by the Minister under *subsection (2)*:
- (a) the name, address and contact details furnished under *section 9(1)(a)*;
 - (b) proof of birth referred to in *section 8(1)(a)*; 35
 - (c) the gender recognition certificate.

Revocation by Minister

13. (1) The Minister may revoke a gender recognition certificate if he or she is satisfied that he or she would not have issued the certificate under *section 7(3)(a)* 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. 5
- (2) The Minister shall give notice in writing to the person whose gender recognition certificate is proposed to be revoked which shall inform him or her that he or she may make representations in writing in relation to the proposal to the Minister within 30 days of the date of the notice.
- (3) In considering any representations made under this section the Minister may request further information from the person concerned as may be necessary for the purposes of making a decision under *subsection (4)*. 10
- (4) The Minister shall consider any representations made or further information furnished pursuant to a request under *subsection (3)* and shall decide to—
- (a) revoke the gender recognition certificate, or 15
- (b) not revoke the gender recognition certificate.
- (5) The Minister shall give notice in writing to the person concerned of a decision under *subsection (4)* as soon as practicable after it is made, which shall, in relation to a decision under *subsection (4)(a)*—
- (a) include reasons for the decision, 20
- (b) require the person to surrender his or her gender recognition certificate as soon as practicable,
- (c) inform the applicant that he or she may, under *section 16* appeal the decision within 90 days of the date of the notice, and
- (d) inform the applicant that the decision and requirement to surrender the gender recognition certificate shall be suspended until— 25
- (i) the decision becomes final under *subsection (6)*, or
- (ii) the disposal of an appeal under *section 16(4)*.
- (6) If, on the expiration of the period of 90 days beginning on the date of the notice under *subsection (5)*, no appeal under *section 16* is made, the Minister's decision under *subsection (4)(a)* and the requirement to surrender the gender recognition certificate are final. 30
- (7) If, following an appeal under *section 16* the court, under *section 16(4)(b)* orders the Minister to reconsider his or her decision, the Minister's decision under *subsection (4)(a)* and the requirement to surrender the gender recognition certificate are suspended until the Minister reconsiders his or her decision. 35
- (8) (a) A gender recognition certificate revoked under this section shall be deemed to always have been void and of no effect.
- (b) *Paragraph (a)* shall not operate to prevent a person from recovering damages in respect of any loss incurred by acting in reliance on a gender recognition certificate revoked under this section. 40

- (9) The Minister shall give notice in writing of a decision under *subsection (4)(a)*, or an order of the court under *section 16(4)(c)* to—
- (a) where the decision or order relates to a person referred to in *subparagraph (i)* or *(ii)* of *section 8(1)(a)*, an tArd-Chlárathoir,
 - (b) where the decision or order relates to a person referred to in *subparagraph (iii)* of *section 8(1)(a)*, the Department of Foreign Affairs and Trade who shall as soon as practicable following receipt of the notice, amend the register of gender recognition of foreign births referred to in *section 27(3A)* of the Irish Nationality and Citizenship Act 1956 in accordance with the decision or order, or
 - (c) where the decision or order relates to a person referred to in *subparagraph (iv)* of *section 8(1)(a)*, the Adoption Authority of Ireland.

Application to Minister to revoke a gender recognition certificate

- 14.** (1) A person referred to in *subsection (8)* may apply to the Minister to revoke a gender recognition certificate.
- (2) An application under this section shall be accompanied by the gender recognition certificate and the application shall be in writing in the form, including electronic form, as may be prescribed, and no fee shall be charged by the Minister for considering the application.
- (3) The Minister shall consider an application under this section and shall decide to either—
- (a) revoke the gender recognition certificate, or
 - (b) refuse to revoke the gender recognition certificate.
- (4) In considering an application under this section the Minister shall consider the information furnished by the applicant and may—
- (a) request further information from the applicant regarding any information or evidence furnished by him or her or on his or her behalf, or
 - (b) at the expense of the Minister, obtain other or further information of a medical, legal or otherwise specialist nature relevant to the application.
- (5) The Minister shall give notice in writing to the applicant of a decision under *subsection (3)* as soon as practicable after it is made, which shall, in relation to a decision under *subsection (3)(b)*—
- (a) include reasons for the decision,
 - (b) inform the applicant that he or she may, under *section 16*, appeal the decision within 90 days of the date of the notice, and
 - (c) inform the applicant that the decision shall be suspended until—
 - (i) the decision becomes final under *subsection (6)*, or
 - (ii) the disposal of an appeal under *section 16(6)*.
- (6) If, on the expiration of the period of 90 days beginning on the date of the notice under *subsection (5)*, no appeal under *section 16* is made, the Minister's decision under

- subsection (3)(b)* is final and the Minister shall return the gender recognition certificate to the applicant.
- (7) If, following an appeal under *section 16* the court, under *section 16(6)(b)* orders the Minister to reconsider his or her decision, the Minister’s decision under *subsection (3)(b)* is suspended until the Minister reconsiders his or her decision. 5
- (8) This section applies to a person—
- (a) to whom the Minister has issued a gender recognition certificate under *section 7(3)(a)*,
 - (b) who, subject to *section 11*, has attained the age of 18 years on the date that he or she applies to revoke the gender recognition certificate, 10
 - (c) who is not married or a civil partner, and
 - (d) who furnishes the following to the Minister:
 - (i) the gender recognition certificate concerned;
 - (ii) a statutory declaration declaring that he or she—
 - (I) is not married or a civil partner, 15
 - (II) has a settled and solemn intention of living in his or her original gender for the rest of his or her life,
 - (III) understands the consequences of the application, and
 - (IV) makes the application of his or her free will;
 - (iii) a certificate in writing of a medical practitioner certifying— 20
 - (I) that he or she is the applicant’s primary treating endocrinologist or psychiatrist in relation to the subject matter of the application,
 - (II) in the professional medical opinion of the medical practitioner based on a medical evaluation of the applicant that the applicant has reversed the transition or ceased transitioning into the preferred gender, and 25
 - (III) based on that evaluation, that the medical practitioner is satisfied that the applicant fully understands the consequences of his or her decision to live permanently in his or her original gender.
- (9) The revocation of a person’s gender recognition certificate under this section shall not affect the rights or liabilities of the person or consequences of an action by the person in their preferred gender prior to the date of that revocation. 30
- (10) The date of revocation of a gender recognition certificate shall be—
- (a) the date on which the Minister decides to revoke the certificate under *subsection (3)(a)*, or
 - (b) the date of an order of the court under *section 16(6)(a)*. 35
- (11) The Minister shall, in relation to a decision under *subsection (3)(a)* or an order of the court under *section 16(6)(a)*, as soon as practicable and as applicable notify—

- (a) where the decision or order relates to a person referred to in *subparagraph (i)* or *(ii)* of *section 8(1)(a)*, an tArd-Chláraitheoir,
- (b) where the decision or order relates to a person referred to in *subparagraph (iii)* of *section 8(1)(a)*, the applicant concerned advising them that they may apply to the Department of Foreign Affairs and Trade to amend the register of gender recognition of foreign births referred to in *section 27(3A)* of the Irish Nationality and Citizenship Act 1956 in accordance with the final decision or order, or
- (c) where the decision or order relates to a person referred to in *subparagraph (iv)* of *section 8(1)(a)*, the Adoption Authority of Ireland.

Error in a gender recognition certificate

- 15. (1) A person, to whom a gender recognition certificate is issued, on behalf of a person to whom a gender recognition certificate is issued who has not attained the age of 18 years, or who satisfies the Minister of his or her having an interest in the matter, may apply in writing to the Minister for a decision to—
 - (a) correct a clerical error in a gender recognition certificate, or
 - (b) on being satisfied on foot of evidence or information furnished in a statutory declaration of the applicant, correct an error of fact in a gender recognition certificate.
- (2) An application under this section shall be accompanied by the gender recognition certificate and be in writing in the form, including electronic form, as may be prescribed, and no fee shall be charged by the Minister for considering the application.
- (3) The Minister shall consider the application under *subsection (1)* and shall decide to either—
 - (a) correct the clerical error or error of fact and return the corrected gender recognition certificate to the applicant, or
 - (b) refuse to correct the clerical error or error of fact and return the gender recognition certificate to the applicant.
- (4) In considering an application under this section the Minister shall consider the information furnished by the applicant and may—
 - (a) request further information from the applicant regarding any information or evidence furnished by him or her or on his or her behalf, or
 - (b) at the expense of the Minister, obtain other or further information of a specialist nature relevant to the application.
- (5) The Minister shall give notice in writing to the applicant of a decision under *subsection (3)* as soon as practicable after it is made which shall, in relation to a decision under *subsection (3)(b)*—
 - (a) include reasons for the decision,
 - (b) inform the applicant that he or she may, under *section 16*, appeal the decision within 90 days of the date of the notice, and

- (c) inform the applicant that the decision shall be suspended until—
 - (i) the decision becomes final under *subsection (6)*, or
 - (ii) the disposal of an appeal under *section 16(8)*.
- (6) If, on the expiration of the period of 90 days beginning on the date of the notice under *subsection (5)*, no appeal under *section 16* is made, the Minister’s decision under *subsection (3)(b)* is final. 5
- (7) If, following an appeal under *section 16* the court, under *section 16(8)(b)* orders the Minister to reconsider his or her decision, the Minister’s decision under *subsection (3)(b)* is suspended until the Minister reconsiders his or her decision.
- (8) The Minister shall, in relation to a decision under *subsection (3)(a)* or an order of the court under *section 16(8)(a)*, as soon as practicable and as applicable notify— 10
 - (a) where the decision or order relates to a person referred to in *subparagraph (i)* or *(ii)* of *section 8(1)(a)*, an tArd-Chláraitheoir,
 - (b) where the decision or order relates to a person referred to in *subparagraph (iii)* of *section 8(1)(a)*, the applicant concerned advising them that they may apply to the Department of Foreign Affairs and Trade to amend the register of gender recognition of foreign births referred to in *section 27(3A)* of the Irish Nationality and Citizenship Act 1956 in accordance with the final decision or order, or 15
 - (c) where the decision or order relates to a person referred to in *subparagraph (iv)* of *section 8(1)(a)*, the Adoption Authority of Ireland. 20

Appeal

- 16. (1) A person may appeal a decision of the Minister under *section 7(3)(b)* to the court not later than 90 days, or such longer period as a judge of the court may for good and sufficient reason determine, after the date of the notice given under *section 7(5)*.
- (2) Upon an appeal under *subsection (1)*, a judge of the court may make an order— 25
 - (a) requiring the Minister to issue the gender recognition certificate under *section 7(3)(a)*,
 - (b) requiring the Minister to reconsider the application for a gender recognition certificate, or
 - (c) affirming the decision of the Minister to refuse to issue the gender recognition certificate. 30
- (3) A person may appeal a decision of the Minister under *section 13(4)(a)* to the court not later than 90 days, or such longer period as a judge of the court may for good and sufficient reason determine, after the date of the notice given under *section 13(5)*.
- (4) Upon an appeal under *subsection (3)*, a judge of the court may make an order— 35
 - (a) requiring the Minister not to revoke the gender recognition certificate,
 - (b) requiring the Minister to reconsider the decision to revoke the gender recognition certificate, or
 - (c) affirming the decision of the Minister to revoke the gender recognition certificate.

- (5) A person may appeal a decision of the Minister under *section 14(3)(b)* to the court not later than 90 days, or such longer period as a judge of the court may for good and sufficient reason determine, after the date of the notice given under *section 14(5)*.
- (6) Upon an appeal under *subsection (5)*, a judge of the court may make an order—
- (a) requiring the Minister to revoke the gender recognition certificate, 5
 - (b) requiring the Minister to reconsider the application to revoke the gender recognition certificate, or
 - (c) affirming the decision of the Minister to refuse to revoke the gender recognition certificate.
- (7) A person may appeal a decision of the Minister under *section 15(3)(b)* to the court not later than 90 days, or such longer period as a judge of the court may for good and sufficient reason determine, after notice is given under *section 15(5)*. 10
- (8) Upon an appeal under *subsection (7)*, a judge of the court may make an order—
- (a) requiring the Minister to correct the clerical error or error of fact in the gender recognition certificate, 15
 - (b) requiring the Minister to reconsider the application to correct the clerical error or error of fact in the gender recognition certificate, or
 - (c) affirming the decision of the Minister to refuse to correct the clerical error or error of fact in the gender recognition certificate.
- (9) The person appealing under *subsection (1), (3), (5) or (7)* shall give notice in writing to the Minister of the appeal. 20
- (10) The court may make such ancillary orders as it considers necessary in order to give effect to any order it makes under *subsection (2), (4), (6) or (8)*.

PART 3

GENDER RECOGNITION CERTIFICATE 25

Effect of gender recognition certificate generally

17. (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 so that if the preferred gender is the male gender the person's sex becomes that of a man, and if it is the female gender the person's sex becomes that of a woman. 30
- (2) The date of issue of a gender recognition certificate shall be—
- (a) the date on which the Minister decides to issue the certificate under *section 7(3)(a)*, or
 - (b) the date of an order of the court under *section 16(2)(a)*.
- (3) A person issued with a gender recognition certificate may only— 35

- (a) marry a person of the opposite gender to the preferred gender and reference in section 2(2)(e) of the Act of 2004 to “same sex” includes a reference to the same sex as the preferred gender,
- (b) be a party to a civil partnership registration with a person of the same gender as the preferred gender and reference in section 2(2A)(e) of the Act of 2004, to “not of the same sex” includes a reference to not of the same sex as the preferred gender. 5
- (4) The person to whom the gender recognition certificate is issued shall not be required to produce it as proof of gender or identity for any purpose save as required by law.
- (5) The person to whom the gender recognition certificate is issued may produce it to provide proof of gender or identity, if he or she so chooses. 10
- (6) The issue of a gender recognition certificate shall not affect the rights or liabilities of a person or consequences of an action by the person in their original gender prior to the date of issue of the certificate.
- (7) This section shall operate subject to the provisions of this Act. 15
- (8) In this section “civil partnership registration” has the same meaning as in section 2 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

Parenthood

- 18. The fact that a gender recognition certificate is issued to a person shall not affect the status of the person as the father or mother of a child born prior to the date of the issue of the certificate. 20

Disposal or devolution of property

- 19. (1) The fact that a gender recognition certificate is issued to a person shall not affect the disposal or devolution of property under a will (including a codicil) or other instrument executed before the date this Act comes into operation. 25
- (2) Notwithstanding any rule of law, a disposition made by will or codicil executed before the date this Act comes into operation, shall not for the purposes of this section or *section 21* be treated as made after that date by reason only that the will or codicil is confirmed by a codicil executed after that date.

Personal representatives and trustees

- 20. (1) In the performance in accordance with the law of administration of estates or trustees of functions as a personal representative or trustee, a personal representative or trustee shall not be required to enquire, before conveying or distributing any property, whether a gender recognition certificate has been issued to any person or revoked, if that issue or revocation could affect entitlement to the property. 30 35
- (2) A personal representative or trustee shall not be liable to any person by reason of a conveyance or distribution of property, made without regard to whether a gender recognition certificate has been issued to any person or revoked, if the personal representative or trustee has not received notice of the issue or revocation before the conveyance or distribution. 40

- (3) Nothing in this section shall affect the right of a person to make a claim in respect of any property, other than where the property is sold to a purchaser for value in good faith and without notice.

Orders where expectations defeated

21. (1) This section applies where the disposition or devolution of property under a will (including a codicil) or other instrument made on or after the date this Act comes into operation is different, by virtue of the operation of *section 17(1)*, from what it would be but for the fact that a gender recognition certificate is issued to a person. 5
- (2) A person may apply to the High Court for an order on the ground of being adversely affected by the different disposition or devolution of the property. 10
- (3) The High Court, if it is satisfied that it is just to do so, may make in relation to any person benefiting from the different disposition or devolution of the property such order as it considers appropriate.

Gender specific offences

22. (1) Where (apart from this subsection) a relevant gender-specific sexual offence could be committed or attempted only if the gender of the person to whom a gender recognition certificate is issued were not the preferred gender, the fact that the person's gender has become the preferred gender does not prevent the sexual offence being committed or attempted. 15
- (2) An offence is a relevant gender-specific sexual offence if a condition specified in *subsection (3)* is satisfied. 20
- (3) The following conditions are referred to in *subsection (2)*:
- (a) that the offence may only be committed by a person of a particular gender;
- (b) that the offence may only be committed against, or in relation to, a person of a particular gender. 25
- (4) A part of the body surgically constructed (in particular through gender assignment surgery) is the same, for the purposes of a sexual offence, as a part of the body not so surgically constructed.
- (5) In this section "sexual offence" means an offence specified in the Schedule to the Sex Offenders Act 2001. 30

PART 4

CIVIL REGISTRATION

Amendment of section 2 of Act of 2004

23. Section 2(1) of the Act of 2004 is amended by the insertion of the following definitions:

“ ‘*Act of 2015*’ means the *Gender Recognition Act 2015*; 35

‘gender recognition certificate’ has the meaning assigned to it by the *Act of 2015*;

Amendment of section 8 of Act of 2004

24. Section 8 of the Act of 2004 is amended by the insertion of the following paragraph after paragraph (eee) of subsection (1): 5

“(eeee) to establish and maintain a register and index for the purpose of the registration of gender recognition,”.

Amendment of section 13 of Act of 2004

25. Section 13 of the Act of 2004 is amended—

(a) in subsection (1)— 10

(i) in paragraph (i) by the substitution of “dissolution),” for “dissolution), and”,

(ii) in paragraph (j) by the substitution of “partnerships), and” for “partnerships).”, and

(iii) by the insertion of the following paragraph after paragraph (j):

“(k) a register of gender recognition (which shall be known, and is referred to in this Act, as the register of gender recognition).” 15

and

(b) in subsection (4) by the insertion of “, other than the register of gender recognition,” after “in a register”.

Part 3A of the Civil Registration Act 2004 20

26. The Act of 2004 is amended by the insertion of the following Part after Part 3:

“Part 3A

REGISTER OF GENDER RECOGNITION

Definitions (Part 3A)

30A. In this Part— 25

‘Adopted Children Register’ means the Adopted Children Register maintained under section 84 of the Adoption Act 2010;

‘register’ means the register of gender recognition.

Entry in Register

30B. (1) A person referred to in *subparagraph (i) or (ii) of section 8(1)(a) of the Act of 2015* to whom a gender recognition certificate is issued by the Minister may contact an tArd-Chláraitheoir and request that the required particulars relating to the recognition of the gender of the person are entered in the register. 30

- (2) Where an tArd-Chláraitheoir is satisfied to make an entry in the register it shall contain—
- (a) if the requesting person is a person to whom *subparagraph (i)* of *section 8(1)(a)* of the *Act of 2015* applies, such of the required particulars specified in Part 2A of the First Schedule as correspond to the required particulars that are entered in the register of births relating to that person, or 5
 - (b) if the requesting person is a person to whom *subparagraph (ii)* of *section 8(1)(a)* of the *Act of 2015* applies, such of the required particulars specified in Part 2B of the First Schedule as correspond to the particulars that are entered in the Adopted Children Register relating to that person. 10
- (3) Evidence of an entry in the register and of the facts stated therein may be given by the production of a document purporting to be a legible copy of the entry and to be certified to be a true copy by an tArd-Chláraitheoir or a person authorised in that behalf by an tArd-Chláraitheoir. 15

Index to register and privacy

- 30C.** (1) An tArd-Chláraitheoir shall maintain an index to the register.
- (2) Subject to subsection (4), an tArd-Chláraitheoir shall, on application by a person referred to in subsection (3) to him or her in that behalf in writing and on payment to him or her of the prescribed fee— 20
- (a) search the register and the index to that register, or
 - (b) give the person—
 - (i) a copy certified by him or her to be a true copy, 25
 - (ii) a copy, or
 - (iii) a certified extract,
 of an entry in the register specified by the person.
- (3) The following persons may make an application to an tArd-Chláraitheoir under subsection (2): 30
- (a) the person to whom the entry on the register relates;
 - (b) a person who is, in relation to the person referred to in paragraph (a)—
 - (i) the surviving spouse or civil partner,
 - (ii) if no surviving spouse or civil partner, the child, 35
 - (iii) if no surviving spouse or civil partner or child, a parent, or
 - (iv) if no surviving spouse or civil partner, child or parent, a surviving brother or sister.

- (4) A copy of an entry or an extract thereof referred to in subsection (2)(b) shall omit any reference to or particulars of a personal public service number and ‘true copy’ in those provisions shall be construed accordingly.
- (5) The Minister, by regulations under this Act, may specify the particulars to be included in a certified extract referred to in subsection (2)(b)(iii).

Separate index of connections between register of gender recognition and register of births

- 30D.** (1) An tArd-Chláraitheoir shall maintain an index to make traceable the connection between each entry in the register and the corresponding entry in the register of births or the Adopted Children Register. 10
- (2) The index maintained under subsection (1) shall not be open to public inspection, and no information from that index shall be given to any person except by order of a court. 15
- (3) A certified copy of an entry in the register, if purporting to be issued under the seal of Oifig an Ard-Chláraitheora shall be received, without further proof, as evidence of the facts stated therein and any requirement of law for the production of a certificate of birth shall be satisfied by the production of the certified copy. 20
- (4) A court shall not make an order referred to in subsection (2), where the person to whom the information relates is a child of less than 18 years of age, unless satisfied that it is in the best interest of the child.

Cancellation or amendment of entry in register

- 30E.** (1) An tArd-Chláraitheoir, as soon as practicable following receipt of a notice under *section 13(9)(a)* or *14(11)(a)* of the *Act of 2015*, shall cancel the appropriate entry in the register, the index referred to in section 30C(1) and the index referred to in section 30D. 25
- (2) An tArd-Chláraitheoir, as soon as practicable following receipt of a notice under *section 15(8)(a)* of the *Act of 2015*, shall correct the appropriate entry in the register and the original entry shall be retained in the register. 30
- (3) An tArd-Chláraitheoir—
- (a) following a re-registration or correction under section 23, 23A, 24, 25, 25A, 63, 64 or 65 of an entry in the register of births, or 35
 - (b) an amendment under subsection (5), (7) or (9) of section 84 of the Act of 2010 of an entry in the Adopted Children Register, which corresponds to an entry in the register, shall amend the appropriate entry in the register accordingly.”.

Amendment of section 61 of Act of 2004

- 27.** Section 61 of the Act of 2004 is amended in subsection (3) by the substitution of

“stillbirths or gender recognition or an index to either of those registers” for “stillbirths or an index to that register”.

Amendment of section 63 of Act of 2004

28. Section 63 of the Act of 2004 is amended in subsection (1) by the substitution of “(b), (d) or (k)” for “(b) or (d)”.

5

Amendment of First Schedule to Act of 2004

29. The First Schedule to the Act of 2004 is amended by the insertion of the following Parts after Part 2:

“Part 2A

Section 30B 10

PARTICULARS TO BE ENTERED IN REGISTER OF GENDER RECOGNITION

Date and place of birth.	
Time of birth.	
Sex of child.	
Forename(s) of child.	15
Surname of child.	
Personal public service number of child.	
Forename(s), surname, birth surname, address and occupation of mother.	
Former surname(s) (if any) of mother.	
Date of birth of mother.	20
Civil status of mother.	
Personal public service number of mother.	
Birth surname of mother’s mother.	
Forename(s), surname, birth surname, address and occupation of father.	
Former surname(s) (if any) of father.	25
Date of birth of father.	
Civil status of father.	
Personal public service number of father.	
Birth surname of father’s mother.	
Forename(s), surname, qualification, address and signature of informant.	30
Registration District and Area.	
Date of registration.	
Signature of an tArd-Chláráitheoir.	

PARTICULARS TO BE ENTERED IN REGISTER OF GENDER RECOGNITION

Personal public service number of child.	
Date and country of birth of child.	5
Sex of child.	
Forename(s) and surname of child.	
Forename(s), surname(s), birth surname(s), address and occupation(s) of adopters.	
Former surname(s) of adopters.	
Date(s) of birth of adopters.	10
Marital status of adopter or adopters.	
Personal public service number(s) of adopter or adopters.	
Date of adoption order.	
Date of registration.	
Signature of an tArd-Chláraitheoir.”.	15

Amendment of section 27 of Irish Nationality and Citizenship Act 1956**30.** Section 27 of the Irish Nationality and Citizenship Act 1956, is amended—

(a) by the insertion of the following subsection after subsection (3):

“(3A) A register for the purpose of the registration of gender recognition of foreign births shall be kept in the Department of Foreign Affairs and Trade, and on receipt of an application in that behalf by a person referred to in *subparagraph (iii) of section 8(1)(a) of the Gender Recognition Act 2015* to whom a gender recognition certificate is issued, particulars of the person’s gender recognition shall be entered in that register.”,

(b) in subsection (4) by the insertion of “or, where applicable, an entry in the register referred to in subsection (3A)” after “foreign births register”,

(c) by the insertion of the following subsection after subsection (5):

“(5A) Regulations may also be made under subsection (5) for the purposes of the register referred to in subsection (3A) respecting the form and manner of keeping of the register, the registration of gender recognition therein, the persons to whom extracts therefrom may be furnished, the amendment or deletion of incorrect entries therein, the amendment or deletion of an entry in the register to correspond with an amendment or deletion of an incorrect entry in the foreign births register, the amendment or deletion of an entry where the Minister for Foreign Affairs and Trade is notified under the *Gender Recognition Act 2015* that a gender recognition certificate is amended or revoked, making a traceable connection between the foreign births register and the register referred to in subsection (3A), confidentiality attaching to

such traceable connection and to the register referred to in subsection (3A) and (with the consent of the Minister for Public Expenditure and Reform) the fees (if any) to be charged for registration of gender recognition in the register and for furnishing extracts thereof.”,

and 5

(d) by the insertion of the following subsection after subsection (6):

“(7) In this section ‘gender recognition certificate’ has the same meaning as it has in the *Gender Recognition Act 2015*.”.

Amendment of section 3 of Act of 2010

31. Section 3 of the Act of 2010 is amended by the insertion of the following definitions: 10

“ ‘Act of 2015’ means the *Gender Recognition Act 2015*;

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

‘register of gender recognition of intercountry adoptions’ means the register established under section 91A;”.

15

Amendment of Chapter 2 of Part 10 of Act of 2010

32. Chapter 2 of Part 10 of the Act of 2010 is amended by the insertion of the following sections after section 91:

“Register of gender recognition of intercountry adoptions

91A. (1) The Authority shall establish and maintain, in the Authority, a register to be called the register of gender recognition of intercountry adoptions, for the purpose of the registration of gender recognition of intercountry adoptions. 20

(2) An entry in the register of gender recognition of intercountry adoptions shall be in such form and contain such particulars as may be prescribed by regulations made under section 152A. 25

(3) The Authority shall keep an index to make traceable the connection between each entry in the intercountry adoptions register and the corresponding entry in the register of gender recognition of intercountry adoptions. 30

(4) The index kept under subsection (3) shall not be open to public inspection, and no information from that index shall be given to any person except by order of a court.

(5) A court shall not make an order referred to in subsection (4), where the person to whom the information relates is a child of less than 18 years of age, unless satisfied that it is in the best interest of the child. 35

Certified copy of entry in register of gender recognition of intercountry adoptions as evidence of facts stated

- 91B.** (1) Subject to subsection (3), the Authority shall, on application by a person referred to in subsection (2), in that behalf in writing and on payment to the Authority of the prescribed fee— 5
- (a) search the register of gender recognition of intercountry adoptions and the index to that register, or
 - (b) give the person—
 - (i) a copy certified by him or her to be a true copy,
 - (ii) a copy, or 10
 - (iii) a certified extract,
of an entry in the register of gender recognition of intercountry adoptions specified by the person.
- (2) The following persons may make an application to the Authority under subsection (1): 15
- (a) the person to whom the entry on the register of gender recognition of intercountry adoptions relates;
 - (b) a person who is, in relation to the person referred to in paragraph (a)—
 - (i) the surviving spouse or civil partner, 20
 - (ii) if no surviving spouse or civil partner, the child,
 - (iii) if no surviving spouse or civil partner or child, a parent, or
 - (iv) if no surviving spouse or civil partner, child or parent, a surviving brother or sister.
- (3) A certified copy of a document referred to in subsection (1) shall not disclose the fact that the entry is contained in the register of gender recognition of intercountry adoptions. 25
- (4) Any requirement of law for the production of a certificate of birth is satisfied by the production of a certified copy of the document described in subsection (1). 30
- (5) In subsection (2) ‘civil partner’ has the same meaning as in the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.

Entry in register of gender recognition of intercountry adoptions

- 91C.** A person referred to in *subparagraph (iv) of section 8(1)(a) of the Act of 2015* to whom a gender recognition certificate is issued by the Minister may contact the Authority and request that the particulars relating to the recognition of the gender of the person are entered in the register of gender recognition of intercountry adoptions. 35

Cancellation or amendment of entry in register of gender recognition of intercountry adoptions

- 91D.** (1) The Authority, as soon as practicable following receipt of a notice under *section 13(9)(c)* or *14(11)(c)* of the *Act of 2015*, shall cancel the appropriate entry in the register of gender recognition of intercountry adoptions and the index referred to in *section 91A(3)*. 5
- (2) The Authority, as soon as practicable following receipt of a notice under *section 15(8)(c)* of the *Act of 2015*, shall correct the appropriate entry in the register of gender recognition of intercountry adoptions and the original entry shall be retained in the register. 10
- (3) The Authority, following a correction of an error of an entry in the register of intercountry adoptions under *section 90(11)* which corresponds to an entry in the register of gender recognition of intercountry adoptions, shall amend the appropriate entry in the second referred to register accordingly.”. 15

Regulations relating to register of gender recognition of intercountry adoptions

33. The Act of 2010 is amended by the insertion of the following section after *section 152*:

“**152A.** Without prejudice to the generality of *section 150*, the Minister may make regulations, prescribing the form of entries in the register of gender recognition of intercountry adoptions and the particulars to be contained in those entries and shall have regard to the need to have information contained in those entries that shall render them traceable to an entry in the register of intercountry adoptions.”. 20

Amendment of section 96 of Act of 2010

34. *Section 96(1)* of the Act of 2010 is amended— 25

- (a) in paragraph (f) by the deletion of “and”,
- (b) in paragraph (g) by the substitution of “adoptions;” for “adoptions.”, and
- (c) by the insertion of the following paragraph after paragraph (g):

“(h) maintaining the register of gender recognition of intercountry adoptions and the index referred to in *section 91A(3)*.”. 30

PART 5

MISCELLANEOUS PROVISIONS

Offences and penalties

35. (1) A person shall be guilty of an offence who—

- (a) on an application under *Part 2*, knowingly or recklessly provides information to the Minister that is false or misleading in a material respect, or 35

- (b) fails or neglects to surrender a gender recognition certificate to the Minister under *section 13(5)* without reasonable excuse.
- (2) A person guilty of an offence under *subsection (1)* shall be liable on summary conviction to a Class C fine or imprisonment for a term not exceeding 6 months or both.

5

Circuit Family Court

- 36.** The jurisdiction conferred on the court by *section 11* may be exercised by a judge of the circuit in which the child on whose behalf an application is made ordinarily resides and by *section 16* may be exercised by a judge of the circuit in which the applicant for a gender recognition certificate ordinarily resides.

10

Amendment of Passports Act 2008

- 37.** Section 11 of the Passports Act 2008 is amended—

- (a) by the insertion of the following subsections after subsection (2):

“(2A) An applicant for a passport to whom a gender recognition certificate has issued may apply to the Minister to have the passport issued to the applicant in the name and gender specified in the gender recognition certificate and the Minister may, subject to this Act, issue a passport to the applicant in the name and gender specified in the gender recognition certificate.

15

(2B) Subsection (2) shall not apply in relation to an application for a passport under subsection (2A).”

20

and

- (b) in subsection (4) by the substitution of the following for “In this section ‘registered medical practitioner’ means—”:

“In this section—

25

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

‘registered medical practitioner’ means—”.

An Bille um Inscne a Aithint, 2014

BILLE

(mar a leasíodh i gCoiste)

dá ngairtear

Acht chun aitheantas a thabhairt d'athrú inscne; do dhéanamh socrú maidir le deimhnithe aitheantais inscne; do leasú Acht Náisiúntachta agus Saoránachta Éireann, 1956, an Achta um Chlárú Sibhialta, 2004, Acht na bPasanna, 2008, agus an Achta Uchtála, 2010; agus do dhéanamh socrú i dtaobh nithe a bhaineann leis an méid sin.

Ordaíodh ag Seanad Éireann a chlóbhualadh,
10 Feabhra, 2015

Gender Recognition Bill 2014

BILL

(as amended in Committee)

entitled

An Act to recognise change of gender; to provide for gender recognition certificates; to amend the Irish Nationality and Citizenship Act 1956, the Civil Registration Act 2004, the Passports Act 2008 and the Adoption Act 2010; and to provide for matters connected therewith.

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