



**An Bille um Thaifid an Choimisiúin Imscrúdúcháin (Árais Máithreacha agus Naíonán agus Nithe áirithe gaolmhara), agus um Ní eile, 2020**

**Commission of Investigation (Mother and Baby Homes and certain related Matters) Records, and another Matter, Bill 2020**

---

*Mar a tionscnaíodh*

*As initiated*

---





---

**AN BILLE UM THAIFID AN CHOIMISIÚIN IMSCRÚDÚCHÁIN (ÁRAIS  
MÁITHREACHA AGUS NAÍONÁN AGUS NITHE ÁIRITHE GAOLMHARA), AGUS  
UM NÍ EILE, 2020**  
**COMMISSION OF INVESTIGATION (MOTHER AND BABY HOMES AND CERTAIN  
RELATED MATTERS) RECORDS, AND ANOTHER MATTER, BILL 2020**

---

*Mar a tionscnaíodh*

*As initiated*

---

CONTENTS

Section

1. Definitions
2. Deposit of certain records of Commission with Child and Family Agency
3. Restriction on processing of certain records
4. Application of section 45 of Act of 2004
5. Deposit of evidence and documents in accordance with section 43 of Act of 2004
6. Amendment of Judicial Council Act 2019
7. Expenses
8. Short title

ACTS REFERRED TO

Commissions of Investigation Act 2004 (No. 23)

Data Protection Acts 1988 to 2018

Judicial Council Act 2019 (No. 33)



---

**AN BILLE UM THAIFID AN CHOIMISIÚIN IMSCRÚDÚCHÁIN (ÁRAIS  
MÁITHREACHA AGUS NAÍONÁN AGUS NITHE ÁIRITHE GAOLMHARA), AGUS  
UM NÍ EILE, 2020**  
**COMMISSION OF INVESTIGATION (MOTHER AND BABY HOMES AND CERTAIN  
RELATED MATTERS) RECORDS, AND ANOTHER MATTER, BILL 2020**

---

5

# Bill

*entitled*

An Act to provide for the deposit with the Child and Family Agency of certain evidence received by, and certain documents created by or for, the commission of investigation established by the Commission of Investigation (Mother and Baby Homes and certain related Matters) Order 2015 (S.I. No. 57 of 2015); to clarify certain matters with regard to the application of section 43 of the Commissions of Investigation Act 2004 in relation to other evidence received by, and other documents created by or for, the said commission of investigation; for other unrelated purposes, to amend the Judicial Council Act 2019; and to provide for matters connected therewith.

10

15

**Be it enacted by the Oireachtas as follows:**

## **Definitions**

**1.** In this Act—

“Act of 2004” means the Commissions of Investigation Act 2004;

“Agency” means the Child and Family Agency;

“Commission” means the commission of investigation established by the Order of 2015;

“database” means the databases of residents of the institutions (specified in the Appendix to the terms of reference of the Commission set out in the Schedule to the Order of 2015) created by the Commission;

“Order of 2015” means the Commission of Investigation (Mother and Baby Homes and certain related Matters) Order 2015 (S.I. No. 57 of 2015);

“Minister” means the Minister for Children and Youth Affairs;

“related record” means—

(a) any evidence within the meaning of the Act of 2004 received by the Commission,

(b) any document created by or for the Commission within the meaning of section 43 of that Act, or

30

(c) a copy of any such evidence or document,  
from which information was obtained for the purpose of creating the database.

**Deposit of certain records of Commission with Child and Family Agency**

2. (1) Notwithstanding subsection (2) of section 43 of the Act of 2004, the Commission shall, as soon as may be after the passing of this Act, deposit with the Agency the database and all related records. 5
- (2) For the avoidance of doubt, the obligation under *subsection (1)* to deposit the database and all related records with the Agency is an obligation to so deposit the database and all related records without redaction therefrom.

**Restriction on processing of certain records** 10

3. (1) It shall not be lawful for the Agency to process—
- (a) such part or parts of the database as contain information compiled from a related record referred to in *paragraph (b)*,
  - (b) any related record deposited with the Agency in accordance with *section 2* that was given to the Commission by a person other than the Agency, or 15
  - (c) any information contained in any such part of the database or any such related record,
- unless the processing of any such part, any such related record or any such information is—
- (i) subject to *subsection (2)*, for a legitimate purpose, or 20
  - (ii) authorised or required by or under the Data Protection Regulation, the Data Protection Acts 1988 to 2018 or any other enactment (other than this Act).
- (2) Where the Agency processes a part of the database, a related record or information, to which *paragraph (a), (b) or (c) of subsection (1)* applies, for a legitimate purpose, it shall not effect access, or cause or require any person to effect access, to personal data 25 (within the meaning of the Data Protection Regulation) contained therein.
- (3) For the avoidance of doubt, neither this Act nor the Act of 2004 shall operate to prevent the Agency from processing information contained in the database that was compiled from a related record given to the Commission by the Agency.
- (4) In this section— 30
- “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup>;
- “legitimate purpose” means the purpose of maintaining any part of the database, any related record or any information to which *paragraph (a), (b) or (c) of subsection (1)* applies; 35
- “process” shall be construed in accordance with the Data Protection Regulation.

1 OJ No. L 119 of 4 May 2016, p.1

#### **Application of section 45 of Act of 2004**

4. Section 45 of the Act of 2004 shall apply in relation to the database and related records as if the reference, in paragraph (a) of subsection (1), to specified Minister were a reference to the Agency.

#### **Deposit of evidence and documents in accordance with section 43 of Act of 2004** 5

5. For the avoidance of doubt, the obligation under subsection (2) of section 43 of the Act of 2004 to deposit with the specified Minister evidence received by, and documents created by or for, the Commission (other than the database and related records) is an obligation to so deposit such evidence and documents without redaction therefrom.

#### **Amendment of Judicial Council Act 2019** 10

6. The Judicial Council Act 2019 is amended—

- (a) in subsection (2) of section 7, by the substitution of the following paragraph for paragraph (g):

“(g) adopt—

- (i) draft personal injuries guidelines prepared and submitted to the Board under section 18(2)(a) with the modifications (if any) made by the Board under section 11(1)(d), as soon as practicable after such submission but not later than 31 July 2021, or 15

- (ii) any draft amendments to personal injuries guidelines prepared and submitted to the Board under section 18(2)(b) with the modifications (if any) made by the Board under section 11(1)(d), as soon as practicable but not later than 12 months after such submission, 20

and publish the personal injuries guidelines and amendments in such manner as it considers appropriate as soon as practicable following such adoption,” 25

and

- (b) in subsection (4) of section 18, by the substitution of “not later than 9 December 2020” for “not later than 6 months after the date on which the Committee stands established”. 30

#### **Expenses**

7. The expenses incurred by the Minister in the administration of this Act (other than *section 6*) 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. 35

#### **Short title**

8. This Act may be cited as the Commission of Investigation (Mother and Baby Homes and certain related Matters) Records, and another Matter, Act 2020.

An Bille um Thairfid an Choimisiúin  
Imscrúdúcháin (Árais Máithreacha agus  
Naíonán agus Nithe áirithe gaolmhara), agus  
um Ní eile, 2020

# BILLE

(*mar a tionscnaíodh*)

*dá ngairtear*

Acht do dhéanamh socrú maidir le fianaise áirithe arna fáil ag an gcoimisiún imscrúdúcháin, agus doiciméid áirithe arna gcruthú ag an gcoimisiún imscrúdúcháin nó le haghaidh an choimisiúin imscrúdúcháin, a bunaíodh leis an Ordú um Choimisiún Imscrúdúcháin (Árais Máithreacha agus Naíonán agus Nithe áirithe gaolmhara), 2015 (I.R. Uimh. 57 de 2015), a thaisceadh leis an nGníomhaireacht um Leanaí agus an Teaghlach; do shoiléiriú nithe áirithe maidir le feidhm alt 43 den Acht um Choimisiún Imscrúdúcháin, 2004 i ndáil le fianaise eile arna fáil ag an gcoimisiún imscrúdúcháin sin, agus doiciméid eile arna gcruthú ag an gcoimisiún imscrúdúcháin sin nó le haghaidh an choimisiúin imscrúdúcháin sin; chun críoch neamhghaolmhar eile, do leasú an Achta um Chomhairle na mBreithiúna, 2019; agus do dhéanamh socrú i dtaobh nithe a bhaineann leis an méid sin.

*An Seanadóir Regina Doherty a thíolaic thar ceann  
An Aire Leanaí agus Gnóthaí Óige agus An Aire Dlí  
agus Cirt agus Comhionannais.*

*6 Deireadh Fómhair, 2020*

Commission of Investigation (Mother and  
Baby Homes and certain related Matters)  
Records, and another Matter, Bill 2020

# BILL

(*as initiated*)

*entitled*

An Act to provide for the deposit with the Child and Family Agency of certain evidence received by, and certain documents created by or for, the commission of investigation established by the Commission of Investigation (Mother and Baby Homes and certain related Matters) Order 2015 (S.I. No. 57 of 2015); to clarify certain matters with regard to the application of section 43 of the Commissions of Investigation Act 2004 in relation to other evidence received by, and other documents created by or for, the said commission of investigation; for other unrelated purposes, to amend the Judicial Council Act 2019; and to provide for matters connected therewith.

*Presented by Senator Regina Doherty on behalf of  
the Minister for Children and Youth Affairs and the  
Minister for Justice and Equality*

*6th October, 2020*

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR

Le ceannach díreach ó

FOILSEACHÁIN RIALTAIS,

52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2.

(Teil: 01 - 6476834 nó 1890 213434; Fax: 01 - 6476843)

nó trí aon díoltóir leabhar.

DUBLIN

PUBLISHED BY THE STATIONERY OFFICE

To be purchased from

GOVERNMENT PUBLICATIONS,

52 ST. STEPHEN'S GREEN, DUBLIN 2.

(Tel: 01 - 6476834 or 1890 213434; Fax: 01 - 6476843)

or through any bookseller.

€1.27

ISBN 978-1-4468-6789-1



9 781446 867891