



SEANAD ÉIREANN

**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**

**LEASUITHE COISTE
COMMITTEE AMENDMENTS**

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AN BILLE UM THAIFID AN CHOIMISIÚIN IMSCRÚDÚCHÁIN (ÁRAIS MÁITHREACHA AGUS NAÍONÁN AGUS NITHE ÁIRITHE GAOLMHARA), AGUS UM NÍ EILE, 2020 —AN COISTE

COMMISSION OF INVESTIGATION (MOTHER AND BABY HOMES AND CERTAIN RELATED MATTERS) RECORDS, AND ANOTHER MATTER, BILL 2020 —COMMITTEE STAGE

Leasuithe Amendments

**Government amendments are denoted by an asterisk*

SECTION 1

1. In page 3, between lines 20 and 21, to insert the following:

“ “Authority” means the Adoption Authority of Ireland;”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

2. In page 3, between lines 21 and 22, to insert the following:

“ “Confidential Committee” means the committee established at paragraph (3) of the terms of reference as recited in the Order of 2015;”.

—*Senators Michael McDowell, Victor Boyhan.*

SECTION 2

3. In page 4, line 5, to delete “Agency” and substitute “Authority”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

4. In page 4, line 5, to delete “Agency” and substitute “Minister”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

5. In page 4, line 5, after “Agency” to insert “and/or the Authority”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

6. In page 4, line 8, to delete “Agency” and substitute “Minister”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

[SECTION 2]

7. In page 4, between lines 9 and 10, to insert the following:

“(3) This section does not apply to any record or documents created for or by the Commission for the purposes of the Confidential Committee unless the person supplying the document or record of the information embodied in the record or document has consented to its being deposited in an unredacted form with the Agency.”.

—*Senators Michael McDowell, Victor Boyhan.*

8. In page 4, between lines 9 and 10, to insert the following:

“(3) At the same time of deposition with the Agency, a copy of the database and related records shall be deposited with the Minister.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

9. In page 4, between lines 9 and 10, to insert the following:

“(3) At the same time of deposition with the Agency, a copy of all related records shall be deposited with the Minister.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

Section opposed.

—*Senators Ivana Bacik, Annie Hoey, Rebecca Moynihan, Marie Sherlock, Mark Wall, Lynn Boylan, Paul Gavan, Elisha McCallion, Niall Ó Donnghaile, Fintan Warfield, Lynn Ruane.*

SECTION 3

10. In page 4, line 22, after “2018” to insert “and regulations made under those Acts”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

11. In page 4, line 22, to delete “enactment” and substitute “legislation”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

12. In page 4, between lines 26 and 27, to insert the following:

“(3) Neither this Act nor the Act of 2004 shall operate to prevent the Agency from processing, or authorising the processing, of information—

- (a) for archiving, scientific or historical research purposes or statistical purposes, in accordance with section 42 of the Data Protection Act 2018, or
- (b) by providing information about a deceased person to a brother, sister, son, daughter, nephew, niece, grandson, granddaughter, grandnephew or grandniece of the deceased person.”.

—*Senators Ivana Bacik, Annie Hoey, Rebecca Moynihan, Marie Sherlock, Mark Wall.*

[SECTION 3]

Section opposed.

—*Senators Lynn Boylan, Paul Gavan, Elisha McCallion, Niall Ó Donnghaile, Fintan Warfield, Lynn Ruane.*

SECTION 4

13. In page 4, after line 36, to insert the following:

“4. Notwithstanding the provisions made in this Act, the Minister may make regulations providing for the creation of a data processing agreement between the Agency and the Authority, the National Archive or another public body where it is in the public interest and subject to suitable regulation.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

14. In page 4, after line 36, to insert the following:

“4. The Minister may make regulations outlining the mechanisms whereby the documents deposited with him or her under this Act may be processed for the purposes of the Data Protection Regulation.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

15. In page 4, after line 36, to insert the following:

“4. Notwithstanding anything in section 41 of the Act of 2004, the Minister may make regulations outlining the mechanisms whereby the documents deposited with him or her under this Act may be processed for the purposes of the Data Protection Regulation.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

16. In page 4, after line 36, to insert the following:

“Interpretation of section 39 of Act of 2004

4. Section 39 of the Act of 2004 shall not be interpreted as preventing a person from accessing documents and records of interviews in which they are the subject or statements they themselves provided to a Commission of Investigation.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

17. In page 5, line 4, to delete “Agency” and substitute “Authority”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

18. In page 5, line 4, after “Agency” to insert “and the Authority”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

19. In page 5, between lines 4 and 5, to insert the following:

“(2) The provisions set out in this section shall apply as if the specified Minister were a reference to the Minister and the Agency and the Authority.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

[SECTION 4]

20. In page 5, between lines 4 and 5, to insert the following:

“(2) Section 45 of the Act of 2004 shall have dual application to both the Minister and the Agency.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

Section opposed.

—*Senators Lynn Boylan, Paul Gavan, Elisha McCallion, Niall Ó Donnghaile, Fintan Warfield, Alice-Mary Higgins, Lynn Ruane.*

SECTION 5

21. In page 5, between lines 4 and 5, to insert the following:

“Deposit of evidence and documents in accordance with section 43 of Act of 2004

5. (1) The obligation under subsection (2) of section 43 of the Act of 2004 to deposit with the specified Minister the evidence received by, and documents created by or for the Commission (other than the database and related records) does not apply to any evidence or document created for the purposes specified in paragraph 4 of the terms of reference of the Commission as recited in the Order of 2015.

(2) Where a document has been created solely for the purposes mentioned in *subsection (1)* which in the opinion of the Commission was created on the express representation to any individual as set out in subparagraph (b) of paragraph 4, the obligation under subsection (2), section 43 of the Act of 2004 shall be subject to any direction made by the Commission to redact the document so as to give full effect to the said representation.”.

—*Senators Michael McDowell, Victor Boyhan.*

[Acceptance of this amendment involves the deletion of section 5 of the Bill.]

22. In page 5, line 8, to delete “(other than the database and related records)”.

—*Senators Ivana Bacik, Annie Hoey, Rebecca Moynihan, Marie Sherlock, Mark Wall, Lynn Boylan, Paul Gavan, Elisha McCallion, Niall Ó Donnghaile, Fintan Warfield, Lynn Ruane.*

SECTION 6

23. In page 5, between lines 9 and 10, to insert the following:

“6. Notwithstanding the terms of reference of the Commission, the final report of the Commission shall not be delivered prior to 30 November 2020, and the Commission shall not dissolve until that date.”.

—*Senators Michael McDowell, Victor Boyhan.*

[SECTION 6]

24. In page 5, between lines 9 and 10, to insert the following:

“Application of the Data Protection Regulation

6. (1) Article 15 of the Data Protection Regulation applies without restriction to the evidence and documents deposited by the Commission with the Minister under subsection (2) of section 43 of the Act of 2004.

(2) In this section, “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016.”.

—*Senators Ivana Bacik, Annie Hoey, Rebecca Moynihan, Marie Sherlock, Mark Wall, Lynn Boylan, Paul Gavan, Elisha McCallion, Niall Ó Donnghaile, Fintan Warfield.*

25. In page 5, between lines 9 and 10, to insert the following:

“Minister to publish an Index to the Commission’s archive

6. (1) Within four weeks of the Commission’s deposit of evidence and records with the Minister under subsection (2) of section 43 of the Act of 2004, the Minister shall lay before both Houses of the Oireachtas an Index to all of the evidence and records so deposited.

(2) The Index to which this section relates shall be anonymised to the extent necessary and proportionate to protect individuals in their private capacity.”.

—*Senators Ivana Bacik, Annie Hoey, Rebecca Moynihan, Marie Sherlock, Mark Wall, Lynn Boylan, Paul Gavan, Elisha McCallion, Niall Ó Donnghaile, Fintan Warfield.*

26. In page 5, between lines 9 and 10, to insert the following:

“Application of the Data Protection Regulation

6. (1) For the avoidance of doubt, Article 15 of the Data Protection Regulation applies without restriction to the evidence and documents deposited by the Commission with the Minister under subsection (2) of section 43 of the Act of 2004.

(2) In this section, “Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016.”.

—*Senator Lynn Ruane.*

[SECTION 6]

27. In page 5, between lines 9 and 10, to insert the following:

“Minister to publish an Index to the Commission’s archive

6. (1) Within 30 days of the Commission’s deposit of evidence and records with the Minister under subsection (2) of section 43 of the Act of 2004, the Minister shall lay before each House of the Oireachtas an Index to all of the evidence and records so deposited.
- (2) The Index to which this section relates shall be anonymised to the extent necessary and proportionate to protect individuals in their private capacity. ”.

—*Senator Lynn Ruane.*

SECTION 7

28. In page 5, between lines 31 and 32, to insert the following:

“Legislative Review

7. (1) The Minister shall conduct a review of the Commission of Investigation (Mother and Baby Homes and certain related Matters) Order 2015 (S.I. No. 57 of 2015).
- (2) In conducting the review under *subsection (1)*, the Minister shall consider the degree to which the Act of 2004 and orders made thereunder are the appropriate legislative instrument by which to investigate matters such as those listed in the Schedule to the Order of 2015.
- (3) The Minister shall make a report to each House of the Oireachtas of the findings made of the review under *subsection (1)* and of the conclusions drawn from the findings.
- (4) The report made under *subsection (3)* shall make recommendations on new legislative models for how future investigations of such nature should be conducted, drawing on international best practice and in consultation with those directly affected.”.

—*Senator Lynn Ruane.*

SECTION 8

29. In page 5, between lines 35 and 36, to insert the following:

- “8. The Minister, within 6 months of the passing of this Act, shall lay a report before both Houses of the Oireachtas outlining the steps which shall be taken to support the right to information and strengthen access to birth and early life information.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

30. In page 5, between lines 35 and 36, to insert the following:

- “8. The Minister, within 8 months of the passing of this Act, shall publish legislation on the right to information in respect of Mother and Baby Homes, including measures to support access to information on birth, early life, health or family death.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

[SECTION 8]

31. In page 5, between lines 35 and 36, to insert the following:

“8. The Minister, within 8 months of the passing of this Act, shall lay a report before both Houses of the Oireachtas relating to the prospective development of a national archive of institutional abuse at the former Seán McDermott Street Laundry, and the possibility of such a national archive serving as a deposit for the database and other related records.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

32. In page 5, between lines 35 and 36, to insert the following:

“8. The Minister, within 6 months of the passing of this Act, shall lay a report before both Houses of the Oireachtas relating to the prospective development of a national archive of institutional abuse at the former Seán McDermott Street Laundry, such a report shall—

- (a) be developed in consultation with all stakeholders, with particular regard to those directly affected by institutional abuse in Ireland, and
- (b) shall explore the possibility of such an archive serving as a deposit for the database and other related records.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

33. In page 5, between lines 35 and 36, to insert the following:

“8. Within 6 months of the passing of this Act, the Minister shall lay a report before both Houses of the Oireachtas outlining progress on the development of policy and legislative proposals to support access to information and tracing.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

34. In page 5, between lines 35 and 36, to insert the following:

“8. Within 12 months of the passing of this Act, the Minister shall lay a report before both Houses of the Oireachtas outlining progress on the development of policy and legislative proposals to support access to information and tracing.”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

TITLE

35. In page 3, line 8, after “Agency” to insert “and/or the Adoption Authority of Ireland”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

36. In page 3, line 13, to delete “other” where it secondly occurs.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

[TITLE]

37. In page 3, line 14, after “investigation;” to insert the following:

“to provide for appropriate processing of evidence received and documents created by or for said Commission, or copies of the same by bodies designated by the Minister under powers conferred by this Act;”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*

38. In page 3, line 14, to delete “other”.

—*Senators Alice-Mary Higgins, Lynn Ruane.*