

DÁIL ÉIREANN

AN ROGHCHOISTE UM GHNÓTHAÍ FOSTAÍOCHTA AGUS COIMIRCE SHÓISI- ALACH

SELECT COMMITTEE ON EMPLOYMENT AFFAIRS AND SOCIAL PROTECTION

Déardaoin, 28 Feabhra 2019

Thursday, 28 February 2019

The Select Committee met at 11.10 a.m.

MEMBERS PRESENT:

Deputy John Brady,	Deputy Joe Carey,
Deputy Peter Burke,*	Deputy Regina Doherty (Minister for Em- ployment Affairs and Social Protection).

* In the absence of Deputy Maria Bailey.

DEPUTY JOHN CURRAN IN THE CHAIR.

Business of Select Committee

Chairman: I welcome my colleagues. The imeachtaí of 4 December 2018 and 21 February 2019 have been circulated. Are they agreed? Agreed.

Civil Registration Bill 2019: Committee Stage

Chairman: I welcome the Minister for Employment Affairs and Social Protection, Deputy Regina Doherty, and her officials to the meeting for consideration of the Civil Registration Bill 2019. The Bill was referred to the select committee by Dáil Éireann on 19 February 2019. In order to provide for the smooth running of the meeting, any member acting in substitution for a member of the committee should formally notify the clerk now if he or she has not done so already. Divisions on the Bill will be taken as they arise. Members attending the meeting in accordance with Standing Order 95(3) should be aware that, pursuant to that Standing Order, they may move amendments but may not participate in voting on the amendment.

Sections 1 to 11, inclusive, agreed to.

NEW SECTION

Deputy John Brady: I move amendment No. 1:

In page 7, between lines 23 and 24, to insert the following:

“Amendment of section 1 of Act 2015

12. Section 1 of the Act of 2015 is amended by the substitution of the following subsection for subsection (7):

“(7) Part 9 shall come into operation 54 months from enactment or on such earlier day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision of that Part and different days may be so appointed for different purposes or different provisions.”.”

This is an important amendment to section 1 of the Children and Family Relationships Act 2015 to provide that “Part 9 shall come into operation 54 months from enactment or on such earlier day or days as the Minister may appoint by order”. The Act only allows for Part 9 to be commenced by order of the Minister. As it has been more than 46 months since the Children and Family Relationships Act 2015 was enacted and key Parts have not yet commenced, this amendment proposes to make October 2019 the latest date on which Part 9 can be commenced.

I am aware that Parts 2 and 3 are not included in this amendment and they must be commenced in tandem. However, their inclusion would not have been permissible under Standing Orders. Since the Children and Family Relationships Act 2015 was enacted in April 2015, we have had a referendum on civil marriage equality, the Marriage Act 2015, two amendment Bills aiming to fix typographical errors and six deadlines missed by the Department of Health. All

of that has happened in four years, during which time same-sex parents have conceived and raised children and their families have not been recognised. Some very important civil rights are absent from the family unit. I outlined all of that during the Second Stage debate and I am acutely aware that the Minister and committee members are aware of how serious this matter is and how vulnerable it makes families. The legislation that was proclaimed as embracing their family formation before the law has now turned into a headache and disappointment as deadlines have been missed time and time again and many delays have been announced.

Parts 2, 3 and 9, as I mentioned on Second Reading, were originally supposed to be commenced one year after the enactment in April 2016. The delays have occurred and we cannot fix them now, but we can ensure that Part 9, without which this Bill is useless, will be commenced in a reasonable timeframe.

During the Second Stage debate the Minister said “a small amount of administrative work needs to be done in the Department of Health and the HSE”. The amendment I have brought forward will ensure that this will be done in the next eight months. From what the Minister has told us, that is a reasonable timeframe. She will probably give us a deadline which her Department and the Department of Health are working towards. I have no reason to doubt that but, unfortunately, too many timeframes have passed and too many deadlines have been missed. This is an important amendment. We owe it to the families that have been left vulnerable and waiting and whose civil rights have been denied.

Chairman: We will not put words into the Minister’s mouth and will instead let her speak for herself.

Deputy Regina Doherty: I am well able to do so, as the Chair knows.

As Deputies are aware, this Bill is being fast-tracked with the co-operation of every Member of the Oireachtas because it is a priority not only for the Government, but for the women who have been awaiting its enactment for far too long. That it is the only non-Brexit Bill being dealt with in the House should show how important an impact we all believe it will have. I acknowledge Members’ support.

The amendment’s effect would be to bring Part 9 into operation by default on or before 6 October if commencement of the Act has not happened prior to that date. As I have stated on Second Stage, I have no intention of delaying this Bill. In fact, I will commence it immediately once it has been passed by the Oireachtas. I have no issue with the 6 October deadline - I do not know why the Deputy magically chose that date - because I will have surpassed it. However, I will oppose the amendment on the basis that, as drafted, it would make commencement of Part 9 the sole responsibility of the Minister for Justice and Equality, who is the relevant Minister under the 2015 Act that the Deputy referenced. The amendment removes the obligation on that Minister to consult with me as the line Minister with responsibility for the General Register Office, GRO, and our registrations unit regarding any change that is made or considered prior to the Bill’s enactment. The arrangement for consulting is provided for in section 17 of the Children and Family Relationships Act 2015, and for good reason, as that Act covers numerous Departments and ministerial responsibilities. Therefore, removing my responsibility over legislation would not make much sense. On that basis, I will oppose it.

I wish to make Deputies aware of the other piece of the picture. The commencement of Parts 2 and 3 of the 2015 Act is the responsibility of the Minister for Health. I wish to flag to the Chair that the Department of Health has indicated to me that a short technical amendment may

be needed on Report Stage. If so, I will move it. The Department is engaging with the Office of the Attorney General to seek specific legal advice on an issue regarding the interaction between certain transitional provisions under section 26 of the Act and whether a certificate issued by a donor-assisted human reproduction, DAHR, facility to the intending parents that enables them or her to register the birth of the child born following a DAHR procedure may be required. The advice may be that the existing provision is fine, in which case an amendment would not be necessary, but I just wanted to flag the issue.

Deputy John Brady: The Minister referred to the Bill being fast-tracked and to her hope of having it in place before the timeframe of 6 October that I have laid out in my amendment. Unfortunately, we cannot take that at face value. Assurances, guarantees, timeframes and deadlines have been given before and have all fallen by the wayside. It is important that a timeframe be built into the legislation. That is why we have tabled this amendment. Fifty-four months from the original date gives us another eight months. If small technical amendments need to be made on Report Stage, that is fine. I am not saying that the failure or fault for delays lies with the Minister or officials within her Department. I am acutely aware that a number of Departments are dealing with this matter. For example, the Department of Health has cited six deadlines and breached all of them, letting families down.

I will press this amendment. It is an important issue. We owe it to the vulnerable families that have been denied their civil rights. We need to ensure that they can rear their children with all of the rights to which those families are entitled. We have passed referendums, and this is the most important element that needs to be addressed. We owe it to the families watching on. Since debating the Bill on Second Stage, I have been contacted - I am sure other Deputies and Senators have as well - and told how important this matter is. Many people are watching on and will not appreciate us breaking any more timeframes.

I take the Minister at her word that this is being fast-tracked. I have no reason to doubt her, and it should be grounds enough to get this date built into the legislation.

Deputy Regina Doherty: The Deputy does not need to take my word that the Bill is being fast-tracked. We are here - it is being fast-tracked. Report Stage has been requested for next week, although I am unsure as to whether the Business Committee can facilitate that. It will facilitate my request at the earliest next date. The Dáil will then have finished this legislation and it will go to the Seanad.

Deputy John Brady: It must then be enacted.

Deputy Regina Doherty: I have no doubt that I will get the same co-operation in the Seanad as I got in the Dáil, and maybe even more. I am not holding back on commencing this legislation. As soon as it is passed by the Seanad, it will be commenced.

The Deputy's amendment would diminish my ministerial rights and responsibilities towards the vulnerable people whom he mentioned. I do not believe that any of them are vulnerable, though, and certainly not the ones I have met in recent months.

Deputy John Brady: They certainly feel vulnerable.

Deputy Regina Doherty: However, they are entitled to their rights. That is why we are all here. On that basis, I am not willing to give up my responsibilities and obligations and I will oppose the amendment.

28 FEBRUARY 2019

Chairman: Deputy Brady has a choice to press the amendment or not. In light of the Minister's specific concern that her responsibilities would be diminished by the amendment, does the Deputy want to consider withdrawing it and reintroducing a revised amendment on Report Stage? The choice is his.

Deputy John Brady: I take on board what the Minister has said. I will withdraw my amendment and resubmit it on Report Stage.

Chairman: To reflect the Minister's concerns.

Deputy John Brady: Yes.

Deputy Regina Doherty: I thank the Deputy.

Amendment, by leave, withdrawn.

Section 12 agreed to.

Title agreed to.

Bill reported without amendment.

Chairman: I thank the Minister and her officials for attending today.

Message to Dáil

Chairman: In accordance with Standing Order 90, the following message will be sent to the Dáil:

The Select Committee on Employment Affairs and Social Protection has completed its consideration of the Civil Registration Bill 2019 and has made no amendments thereto.

The select committee adjourned at 11.50 a.m. *sine die*.