

Health (Assisted Human Reproduction) Amendment Bill

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Abstract

This Briefing Paper examines the policy and legislative background to the proposed Health (Assisted Human Reproduction) Amendment Bill. The purpose of the proposed legislation is to address issues related to parentage and citizenship arising from the use of donor-assisted human reproduction procedures outside the State by Irish residents and Irish citizens living abroad. The proposed legislation also seeks to make amendments to the largely uncommenced Health (Assisted Human Reproduction) Act 2024. The legislative proposals touch upon complex areas of international, EU and domestic law, as well as evolving areas of EU and domestic policy.



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Executive Summary

The General Scheme of the Health (Assisted Human Reproduction) (Amendment) Bill (the Bill) was approved by Government in October 2024 but has not been published. A **summary policy document** (the ‘Summary’) provided by the Department of Health summarising the General Scheme and outlining the policy underpinning the provisions of the Bill was published by the Oireachtas Committee on Health (the ‘Committee’) together with the Committee’s Pre-Legislative Scrutiny (PLS) Report on 06 October 2025.

The **Summary** outlines the purpose of the proposed legislation and sets out the provisions of the proposed Bill, dividing them up into four groups. The provisions of the first two groupings seek to provide clarity for Irish residents using donor-assisted human reproduction (DAHR) procedures abroad.

- Firstly, to provide for those seeking to obtain a declaration of parentage in respect of a child born as a result of DAHR procedures used abroad.
- Secondly, to provide a pathway for Irish citizens domiciled abroad who have undergone surrogacy or another DAHR procedure in another jurisdiction, to have their parentage recognised in Ireland, where this is not already the case.

It is expected that these two groupings will comprise the majority of the provisions in the proposed legislation.

- The third grouping of provisions seeks to apply amendments to the **Health (Assisted Human Reproduction) Act 2024** (the ‘2024 Act’) to ensure consistency between related provisions across different Parts of the 2024 Act, and also between relevant provisions in the **Children and Family Relationships Act 2015** (the ‘2015 Act’).
- The fourth and final grouping of provisions concerns proposed amendments to other pieces of existing legislation, including the **Irish Nationality and Citizenship Act 1956**.

The Committee published their **Report on the Pre-Legislative Scrutiny of the Health (Assisted Human Reproduction) Bill** on 06 October 2025 which contains 18 recommendations based on the **Summary**.

The Bill is broad in scope and seeks to introduce additional provisions and address gaps identified in the 2024 Act. Current legislation predominantly applies to situations where either the assisted reproduction procedures, and/or the birth of any such child, occur within Ireland. The increased demand for DAHR in Ireland, coupled with the increase in Irish citizens or domiciled residents undergoing DAHR procedures, including surrogacy, abroad has led to issues around the legal recognition of parentage. Further to the non-recognition of parentage in certain circumstances, issues of citizenship have also arisen, as well as questions of equality of recognition to families of same-sex parents.

The proposed legislation seeks to address these gaps, providing a pathway to legal parentage for all persons undertaking international DAHR, including surrogacy, in an approved setting. The proposed legislation will introduce further and amending provisions to the 2024 Act.

This is a complex area, particularly where opposing international legal or policy issues have arisen, seeing parentage recognised in one jurisdiction but not another. While the Bill, and the 2024 Act when commenced, will provide for domestic and international DAHR and surrogacy, subject to specific regulation and criteria, cross-border issues are still relevant. Other jurisdictions accessed by Irish citizens or people domiciled in Ireland, particularly outside the EU, may still have legislation which contradicts Irish legislation.

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Glossary and abbreviations

Table 1 Glossary and abbreviations

Term	Meaning
2024 Act	Health (Assisted Human Reproduction) Act 2024
2015 Act	Children and Family Relationships Act 2015
2004 Act	Civil Registration Act 2004
1956 Act	Irish Nationality and Citizenship Act 1956
AHR	Assisted Human Reproduction - all types of procedures that involve the handling of gametes and embryos for the purposes of establishing, or preserving the possibility of establishing, a pregnancy.
AHRRA	Assisted Human Reproduction Regulatory Authority
DAHR	Donor-Assisted Human Reproduction - an assisted human reproduction procedure that aims to and results in the implantation of an embryo in the womb of a woman, where the embryo or one or both of the gametes forming the embryo has been provided by a third-party donor.
Embryo	A human embryo formed by the fertilisation of a human egg by a human sperm.
FET	Frozen Embryo Transfer - The transfer of frozen thawed embryos from a previous IVF cycle. Frozen embryos are thawed and transferred into the womb after suitable preparation of the lining of the womb.

Term	Meaning
Gamete	<p>A reproductive cell. Gametes in the case of assisted human reproduction are:</p> <ul style="list-style-type: none"><li data-bbox="699 443 1410 517">(a) Sperm (spermatozoa), the male reproductive cell which is formed in the body of and provided by a male, or<li data-bbox="699 546 1378 620">(b) An ovum (egg), the female reproductive cell, which is formed in the body of and provided by a female.
Intending Parent	<p>In relation to DAHR treatment this refers to a person who intends to become the parent of any child born as a result of the treatment.</p>
International DAHR	<p>Donor-Assisted Human Reproduction procedures used by Irish residents, or Irish citizens domiciled abroad, outside the State.</p>
PAHR	<p>Posthumous Assisted Human Reproduction - AHR treatment involving the use of the gametes of a person, or of an embryo, created by the use of such gametes, subsequent to the death of such person.</p>

Term	Meaning
Surrogacy	<p data-bbox="647 338 1385 539">A form of DAHR in which a woman (the surrogate) carries and gives birth to a baby for intending parent(s). Under uncommenced provisions of the Health (Assisted Human Reproduction) Act 2024 at least one intending parent must provide a gamete for the embryo.</p> <p data-bbox="647 568 1054 602">Surrogacy may be categorised as:</p> <ul style="list-style-type: none"> <li data-bbox="647 631 1425 833">a) Traditional Surrogacy – an arrangement where the surrogate conceives and carries a pregnancy to term using her own egg. Embryos are created using sperm from the intending father or a donor in a process called intrauterine insemination. <li data-bbox="647 862 1425 1099">b) Gestational Surrogacy – this is an arrangement where the surrogate carries a pregnancy to term for the intending parent(s). Both the egg and the sperm are provided through DAHR, via the intending parent(s) or via third-party donor. In gestational surrogacy the surrogate mother has no genetic link to the baby. <p data-bbox="647 1128 1358 1207">The term surrogacy as used throughout this paper refers to gestational surrogacy unless explicitly specified otherwise.</p> <p data-bbox="647 1236 1414 1314">Both types of surrogacy may be further categorised as altruistic or commercial.</p> <ul style="list-style-type: none"> <li data-bbox="647 1344 1406 1581">c) Altruistic surrogacy involves an agreement where the surrogate is not compensated beyond cover for reasonable medical and pregnancy related expenses. The surrogate does not receive any direct fee for carrying the pregnancy, make a financial profit, or receive any monetary compensation. <li data-bbox="647 1610 1382 1767">d) Commercial surrogacy involves an agreement where the surrogate carries the baby in exchange for consideration, usually an agreed fee or reward, beyond medical and pregnancy related expenses.

Introduction

The **Government Legislation Programme Spring 2026** lists the Health (Assisted Human Reproduction) (Amendment) Bill ('the Bill') as priority for publication, for the purpose of addressing:

“...issues related to parentage and citizenship arising from the use of fertility clinics abroad by Irish residents and Irish citizens living abroad, in addition to seeking to bring forward other required amendments to the *Health (Assisted Human Reproduction) Act 2024*.”

A General Scheme of the Bill has not been published, although the Department of Health notes that a General Scheme for the Bill was approved by Government in October 2024.¹ On 19 June 2025, the Minister for Health wrote to the Joint Oireachtas Committee on Health (the 'Committee') stating that the new Bill was well advanced, and undertaking PLS of an 'out-of-date' General Scheme would not serve the best interests of the Committee. The Committee decided to conduct Pre-Legislative Scrutiny of the Bill in July 2025, based primarily on a **summary policy document** (the 'Summary') provided by the Department of Health summarising the General Scheme, and a technical briefing from the Department of Health. After considering these resources, and submissions from additional key stakeholders,² the Committee published its **Report on the Pre-Legislative Scrutiny of the Health (Assisted Human Reproduction) Bill** ('PLS Report') on 6 October 2025, containing 18 recommendations.

Purpose of proposed legislation

The stated purpose of the proposed legislation is to address issues identified as needing further consideration or additional provisions arising from the *Health (Assisted Human Reproduction) Act 2024* (the '2024 Act'). The matter(s) covered in the 2024 Act, and this forthcoming Bill, have been widely discussed and examined over the course of many years, including by the Joint Committee on International Surrogacy in 2022, which published a **Report** in July 2022. The Summary document and the PLS report have laid out the intended content of the Bill into four groupings, to address the issues identified in the areas of international DAHR, international surrogacy, necessary technical amendments to the 2024 Act, and necessary amendments to existing pieces of related legislation. According to the **Summary**, the majority of the provisions are expected to sit in the first two groupings of provisions. The four groups as indicated by the Department of Health are outlined in Box 1 below.

¹ Policy Document – Health (Assisted Human Reproduction) October 2025 see pp1 for statement

² LGBTQ+ Parenting Alliance (LGBT Ireland, Equality for Children and Irish Gay Dads) and; Irish Families Through Surrogacy

Box 1. Intended Parts of the Bill

1. It is expected that the first Part will provide clarity for Irish residents undertaking donor-assisted human reproduction (DAHR) procedures abroad by allowing them to obtain a declaration of parentage in respect of a child born as a result of such a procedure.
2. The second Part seeks to provide a pathway for Irish citizens domiciled abroad who have undergone surrogacy or DAHR in another jurisdiction to have their parentage recognised in Ireland, where this is not already the case.
3. According to the **Summary**, the third grouping of provisions seeks to apply amendments to the 2024 Act. For the most part, it is expected that these will relate to ‘technical’ issues, aimed at ensuring consistency between related provisions across the 2024 Act, and also between such provisions and relevant provisions of the *Children and Family Relationships Act 2015* (the ‘2015 Act’). Further provisions may also be included to change or refine the practical application of the 2024 Act, particularly in relation to surrogacy.³
4. According to the **Summary**, the fourth and final grouping of provisions would concern proposed amendments to other pieces of existing legislation, including:
 - the 2015 Act – in relation to a donor conceived child born abroad.
 - the *Irish Nationality and Citizenship Act 1956* (the ‘1956 Act’) – in relation to the citizenship of a parent.
 - the *Civil Registration Act 2004* (the ‘2004 Act’) - in relation to the registration of a child born in Ireland as a result of Posthumous Assisted Human Reproduction (PAHR).

³ The **Summary** (pp4-6) specifies these provisions as including; Discretion for Court to Dispense with Consent of Surrogate Mother for granting of ‘Retrospective’ Parental Order; Discretion for Court to Dispense with Consent of Intending Parent for granting of ‘Retrospective’ Parental Order; Discretion for Court to Waive Surrogate Mother’s Residency Requirement for granting of ‘Retrospective’ Parental Order (International Surrogacy); Provide for Parental Order Application to be made in respect of Child or Intending Parent who is already Deceased; Death of Donor; Child Fertility Preservation; Consent to Storage; ‘Transitional’ Provisions; PAHR (posthumous assisted human reproduction).

Policy context

Background to the policy area

Assisted Human Reproduction (AHR) is an umbrella term referring to medical techniques used to assist in conception and achieving pregnancy, including in vitro fertilisation (IVF), intra-uterine insemination (IUI), and intra cytoplasmic sperm injection (ICSI), and all procedures involved in such treatments (such as fertility injections and gamete freezing). Donor Assisted Human Reproduction (DAHR) is any AHR procedure where the aim of the procedure is for an embryo to be conceived, or implanted into the womb of a woman, where one or both gametes (the sperm or the egg) has been provided by a third-party donor.

For clarity, the following scenarios are all iterations of DAHR.

- Scenario 1: A single woman may conceive a DAHR pregnancy via donor sperm (using IUI, ICSI, or IVF) and her own egg.
- Scenario 2: A heterosexual couple may conceive a DAHR pregnancy via donor sperm (through IUI or ICSI), via donor egg (through IVF), or using donor sperm and egg (via IVF). In all three cases the female partner carries the pregnancy and gives birth.
- Scenario 3: A female-female same-sex couple may conceive a DAHR pregnancy using donor sperm and the egg of either woman.

Gestational Surrogacy

Gestational surrogacy (surrogacy) is a particular AHR practice in which an embryo is implanted into the womb of a woman (the surrogate mother) who is a third-party and does not have any genetic connection (via gamete) to the embryo, or child born from such, and is not one of the intending parents. Under uncommenced provisions of the *Health (Assisted Human Reproduction) Act 2024* (the '2024 Act'), at least one intending parent must provide the gamete for the pregnancy, meaning at least one intending parent has a genetic link to any child born from such procedure.⁴ However the second gamete may be a donor gamete, making the surrogacy a DAHR procedure, or a gamete from the second intending parent, making the surrogacy an AHR procedure. Additionally, unless the surrogacy agreement predates the commencement of Section 55(2)(b)⁵ of the 2024 Act, the surrogate cannot provide her own egg and as such, cannot have a genetic link to any child born of such procedure.⁶

For clarity, the following scenarios are all iterations of surrogacy.

⁴ *Health (Assisted Human Reproduction) Act 2024 ss 56(3)(a), 92(3)(a)* (uncommenced).

⁵ *Health (Assisted Human Reproduction) Act 2024 ss 55(2)(a)* (uncommenced)

⁶ See interpretation of 'surrogacy' 'surrogacy agreement' and 'surrogate mother' in *Health (Assisted Human Reproduction) Act 2024 ss 2(1)(b)*

- Scenario 1: A single person of any gender provides their own sperm or egg, an embryo is conceived via IVF using third-party donor sperm or egg, and the embryo is implanted into the womb of a surrogate mother.
- Scenario 2: A heterosexual couple provide their own sperm **or** egg to conceive an embryo via IVF using third-party donor sperm or egg, which is then implanted into the womb of a surrogate mother.
- Scenario 3: A heterosexual couple provide their own sperm **and** egg to conceive an embryo via IVF, which is then implanted into the womb of a surrogate mother.
- Scenario 4: A same sex male couple provide the sperm (either partner) to conceive an embryo using a third-party donor egg via IVF, which is implanted into a surrogate mother's womb.
- Scenario 5: A same sex female couple provide the egg (**either** partner) to conceive an embryo using third-party donor sperm via IVF which is implanted in a surrogate mother's womb.⁷

Even if the relevant provisions of the 2024 Act are brought into force, in all five scenarios the surrogate mother (the birth mother) is considered the legal mother at birth under Irish Law.⁸ In scenarios where the intending parent provides the sperm, they can be recognised as the legal father.⁹ Partners/spouses, who are intending parents, without a genetic link to the child(ren) born via surrogacy will also be able to apply for a parental order under certain circumstances to be recognised as a legal parent.¹⁰ The relevant provisions of the 2024 Act are not currently in force and do not represent the current law in Ireland.

There are particular issues, discussed in the following section, which arise through the use of surrogacy (domestic and international) regarding recognition of legal parentage which do not arise in other DAHR practices, specifically with regard to intending mothers. According to the Summary, the proposed legislation will seek to address these gaps, providing a pathway to

⁷ Reciprocal IVF (sometimes called co-motherhood or shared motherhood) is an AHR practice where one partner from a same-sex female couple provides the egg, it is fertilised with donor sperm, and the other partner conceives (via IVF) and carries the pregnancy. This is distinct from surrogacy as the birth mother is one of the intending parents and is legally recognised as the mother, but does not have a genetic connection to the child. Unless explicitly stated, the term surrogacy where used in this paper refers to scenarios in which neither of the intending parents carry the pregnancy and give birth.

⁸ *Children and Family Relationships Act 2015 s 5*; *A v Minister for Foreign Affairs and Trade* [2023] IESC 10. See also *Health (Assisted Human Reproduction) Act 2024 s. 15(2)* (uncommenced).

⁹ Via a declaration under the *Status of Children Act 1987 s. 35*.

¹⁰ *Heath (Assisted Human Reproduction) Act 2024 ss 204, 216* (uncommenced). Where a parental order is issued, the child becomes and is considered to be the child of the intending parent(s), the child is no longer the child of any other person unless that person is declared a parent under *Section 35 of the Status of Children Act 1987*, and the surrogate loses all parental rights and is freed from all parental duties in respect of the child: *Heath (Assisted Human Reproduction) Act 2024 ss 206, 218* (uncommenced).

legal parentage for all persons undertaking surrogacy in an approved setting, while also protecting the rights of the surrogate.

The current landscape of DAHR (including surrogacy) in Ireland

The main piece of legislation covering DAHR that is in force in Ireland is the *Children and Family Relationships Act 2015* (the '2015 Act'). However, the 2015 Act only applies to situations in which the donor-conceived child is born in Ireland, and it also has limited application to DAHR procedures occurring outside the state. Therefore, issues have arisen regarding the recognition of parentage. According to the [Summary](#) provided by the Department of Health, the proposed legislation seeks to address these gaps, providing a pathway to legal parentage for all persons undertaking international DAHR, including surrogacy, in an approved setting.

Demand for DAHR in Ireland

Since 5 May 2020¹¹, births resulting from DAHR¹² are registered on the National Donor Conceived Persons Register (NDCPR), which is currently managed by the Department of Health.¹³ Precise figures of the number of children born via DAHR in Ireland are unavailable, as information from the NDCPR is only processed in line with the purposes set out in the 2015 Act¹⁴ and is not processed for the purpose of compiling statistics, and data from the Central Statistics Office (CSO) on births is not disaggregated based on type of conception (unassisted, AHR, DAHR). An L&RS briefing note on AHR data¹⁵ noted the number of IVF cycles carried out in Ireland using donor gametes rose from 158 to 485 between 2009 and 2020, an increase of more than 200%. Based on the latest Health Products Regulatory Authority (HPRA) data available, this upward growth has continued. Figures to end 2024, the most recent figures available, record a significant increase in imported donor eggs, as well as a significant increase in IVF and FET (frozen embryo treatments)¹⁶ procedures carried out in Irish fertility clinics, while recording a drop in IUI treatments. Based on the table below, between 2020 and 2024, there was a decrease of 32% in IUI procedures using donor sperm, but an increase of 58% in

¹¹ Parts 2 and 3 of the Children and Family Relationships Act 2015 commenced on May 4, 2020, with regulations effective from May 5, 2020. This prohibited anonymous gamete donation, the use of anonymously donated gametes, and established a National Donor-Conceived Person Register.

¹² This is applicable in cases where the intended mother/parent is the person who gives birth, meaning this legislation is not applicable in cases of surrogacy.

¹³ Administration and maintenance of this register will transfer to the AHRRA upon commencement of the AHRRA's full operations. A separate national surrogacy register will also be established and maintained by the AHRRA.

¹⁴ See [Children and Family Relationships Act 2015, Section 33-38](#)

¹⁵ [Timoney, A \(2022\) L&RS Note 'Data: Assisted Human Reproduction'](#)

¹⁶ The HPRA record FETs where the embryos were created using donor gametes and then cryopreserved.

FET and an increase of 113% in IVF cycles using donor gametes. The number of imported donor sperm units remained steady, standing at 1,020 in 2020 and 1,024 in 2024, while the number of imported donor eggs increased by 360%, from 287 donor eggs imported in 2020 to 1,321 imported in 2024.

Table 2 Donor Gamete and DAHR Data

Year	Type of DAHR						Imported donor sperm straws	Imported donor oocytes
	Treatment with donor sperm			Treatment with donor oocytes				
	IUIs	IVF/ICSI	FET	IVF/ICSI	FET			
2020	516	397	521	27	177	1,020	287	
2021	746	639	459	104	328	1,293	37	
2022	512	690	533	33	378	1,030	534	
2023	411	736	537	110	184	996	1244	
2024	351	762	757	142	345	1,024	1,321	

Source: Oireachtas Library & Research Service using data supplied by the Health Products Regulatory Authority.

DAHR options in Ireland

Since 25 September 2023, the [HSE funds fertility treatment¹⁷](#), including AHR, via approved private clinics. However, this is only available to heterosexual couples who can use their own gametes, meaning any intending parent(s), including single people or same sex couples, who need donor eggs or sperm must undergo DAHR privately. IUI, IVF (including reciprocal IVF), and ICSI using donor gametes are all available through fertility clinics, to single, heterosexual or female same sex intending parents.

¹⁷ [HSE Fertility treatment](#)

Ireland currently has no domestic gamete donation facilities, meaning all clinics import donated sperm¹⁸ or eggs¹⁹ for use in domestic DAHR procedures, from international facilities. These facilities are compliant with all identifiable donors criteria as provided for in [Part 3\(24\)\(1-3\) of the Children and Family Relationships Act 2015](#).²⁰ Some private clinics also offer domestic surrogacy support²¹ for intending parents, although no private clinics currently offer the procedure domestically.²²

Parentage of children born through DAHR in Ireland

Although donor identifiability and traceability are a requirement for all DAHR procedures carried out in Ireland, donors have no legal rights or responsibilities to any child conceived through their genetic material, nor do they have any right to contact any such child.²³ Upon commencement of parts 2 and 3 of the 2015 Act, from 04 May 2020, the birth mother and the second intending parent (the mother's spouse, civil partner or cohabitant) of a donor-conceived child can register with the [Registrar for Births, Deaths and Marriages](#) as parents.

The regulations provide for two different scenarios depending on the date of conception (the date the DAHR procedure is performed) of the child²⁴. If the DAHR conception occurred after commencement of the 2015 Act, the procedure must have been undertaken in a DAHR facility in Ireland using a traceable donor. The clinic will also need to provide a certificate confirming the details of the procedure. If the conception occurred before 04 May 2020, the procedure may have been undertaken in a DAHR facility in Ireland or abroad, using an anonymous or traceable donor. In these cases, only the person who gave birth will be registered as the parent. For the second intending parent to be recognised, a declaration of parentage is required from the district court, and the birth can be re-registered as a DAHR birth, with both intending parents registered.

¹⁸ [Sperm Donor Programme Ireland - Waterstone Clinic](#); [SIMS Clinic Using Donor Sperm FAQs | Essential Information](#); [Merrion Fertility Clinic - Donor Sperm Services](#)

¹⁹ [Egg Donor Programmes Ireland - Waterstone Clinic](#); [SIMS Clinic Donor Eggs Ireland](#)

²⁰ Use of domestic donor gametes may be facilitated at some clinics in cases where the donor may be known to the intending parent(s) privately.

²¹ For example see [Surrogacy Support Ireland | Sims IVF](#)

²² Except in cases where the surrogate is a close family member or friend known to the intending parents. In these altruistic cases some private fertility clinics offer strictly regulated surrogacy procedures. For example, see the [Merrion Fertility Clinic - Surrogacy](#)

²³ As provided for in [Parts 2 and 3 of the Children and Family Relationships Act 2015](#). Private arrangements involving donors known to the intending parents such as close family members or friends may be excluded from some or all of these provisions.

²⁴ See [Courts.ie - Paternity and parentage](#) section on 'Donor assisted human reproduction (DAHR) – declaration of parentage'

Surrogacy

In cases of surrogacy recognition of parentage is less straightforward. As above, in surrogacy cases where a donor gamete is used, the donor has no parental rights or responsibilities. A surrogate is not categorised as a donor, as she cannot use her own egg for the procedure and will have no genetic connection to the child. However, as the person who gave birth, she will be legally recognised as the mother of the child, regardless of who provided the egg. If the intending father²⁵ is the genetic father of a child born through surrogacy, he may apply for a declaration of parentage in respect of the child. The intending mother of a child born through surrogacy is not entitled to apply for a declaration of parentage, even if she is the genetic mother of the child. In practice this means that intending mothers (and intending fathers who are not the genetic parent) are currently not legally recognised as the parents of children born through surrogacy arrangements.²⁶ The 2024 Act, when commenced, provides for recognition of parentage via parental orders in approved surrogacy arrangements.²⁷

²⁵ Or one of the intending fathers in cases of same sex male couples.

²⁶ Many LGBT parents still 'legal strangers' to their children, ten years on from marriage equality vote, *The Journal*, 17 May 2025; Legal rights call for children born through surrogacy, RTE, 10 June 2021

Legislative context

Large parts of the *Heath (Assisted Human Reproduction) Act 2024* (the ‘2024 Act’) are yet to be commenced. As such, in Ireland, the legislative regime governing donor-assisted human reproduction (‘DAHR’), including surrogacy, is limited. The 2024 Act is discussed further below.

Currently, the main piece of legislation governing DAHR in Ireland is the *Children and Family Relationships Act 2015* (the ‘2015 Act’).

Section 4 of the 2015 Act defines a DAHR procedure as a consensual procedure **performed in Ireland** that aims to and results in the implantation of an embryo in the womb of a woman, where the embryo or one or both gametes forming the embryo has been provided by a donor.

Parentage in law

Under **section 5 of the 2015 Act**, the parents of a donor-conceived child who is born as a result of a DAHR procedure are the birth mother (the woman who physically gives birth to the child), and, where the relevant declarations are made, the spouse, civil partner or cohabitant of the birth mother.

When determining parentage, there are two Roman law principles that are commonly referred to in case law. The first is *mater semper certa est* (the mother is always certain, in other words, the woman who physically gives birth to a child, the birth mother, is that child's mother). The second is *pater est quem nuptiae demonstrant* (fatherhood is demonstrated by marriage).

The Irish Supreme Court has found that neither of these principles actually form part of the Common Law of Ireland. This means that these principles are not necessarily determinative of legal parentage in Ireland. The Court held that these principles only represent presumptions, and these presumptions may be disproved.²⁸ However, it held that the manner by which these presumptions may be disproved is not a matter for the courts to decide, it is a matter of public policy and legislation. In other words, it would be necessary for the Oireachtas to legislate on the methods by which these presumptions may be disproved.²⁹

The Oireachtas has legislated to expressly allow these presumptions to be challenged. **Section 35 of the Status of Children Act 1987** provides for the High Court to make a declaration of parentage where, on the balance of probabilities, it finds that one or more of the legal parents of a child are not a parent of the child. Where genetic evidence (such as DNA evidence) has been provided to the Court, it has been accepted that this provision may be used to rebut the presumption that fatherhood is demonstrated by marriage (*pater est quem nuptiae demonstrant*). However, a different standard applies to motherhood as, currently, a person

²⁸ *MR and DR v An tArd Chláraitheoir* [2014] IESC 60 at [69] – [88] per Denham CJ.

²⁹ *MR and DR v An tArd Chláraitheoir* [2014] IESC 60 at [116] per Denham, at [2.5] per Clarke J.

who wishes to challenge the presumption of motherhood would need to prove that the person claiming to be the birth mother did not actually give birth to the child. The Supreme Court has found that in the absence of specific legislation to the contrary, in Irish law ‘mother’ still refers to the birth mother and, therefore, genetic evidence on its own cannot be used to rebut the presumption that the birth mother is the legal mother of a child.³⁰

Recognition of Parentage Orders from other jurisdictions

In some jurisdictions it is possible for people to apply to a court to have the court issue a parentage order, transferring the legal parentage of a child in that jurisdiction from those named on the birth certificate to the person(s) named in the order.³¹ Parentage orders are often used when the intending parents have relied on a surrogate to give birth to the child, but may also be needed for other DAHR procedures, depending on the specific laws of the country in which the child is born.

The Supreme Court has held that, even though there is no Irish legislation in force that allows an Irish Court to make a domestic parental order,³² unless there are public policy grounds to refuse recognition of foreign parentage orders, Irish courts:

“... will recognise orders creating or sundering parental rights where made in a State in which the affected parties are domiciled, even if such an order is not known to the law here.”³³

However, although the recognition of a foreign parental order associated with a DAHR procedure may recognise a person named in the order as the parent of a child, it does not automatically confer all parental rights in Ireland on the individual. Statutory parental rights are conferred by the relevant Irish legislation, not by a person’s status as a ‘parent’.³⁴ Therefore, it is necessary to consider the construction of the specific legislation to establish whether a recognition of a foreign parental order would have any effect on the application of the legislation to that person.³⁵ For example, **section 7(1) of the Irish Nationality and Citizenship Act 1956** provides: “A person is an Irish citizen from birth if at the time of his or her birth either parent was an Irish citizen ...”. In the case of *A v Minister for Foreign Affairs and Trade*,³⁶ the Supreme Court held that a child born via a surrogacy procedure would only have a right to citizenship by descent if at the time of their birth either of their legal parents was an

³⁰ *MR and DR v An tArd Chláraitheoir* [2014] IESC 60 at [56] per Murray J, at [40] per McKechnie J.

³¹ For example, the UK and many jurisdictions in the USA allow for courts to issue parental orders.

³² This would change if the 2024 Act is commenced in full, as enacted.

³³ *A v Minister for Foreign Affairs and Trade* [2023] IESC 10 at [71] per Murray J.

³⁴ See *A v Minister for Foreign Affairs and Trade* [2023] IESC 10 at [72] per Murray J. See also *X v Minister for Foreign Affairs and Trade* [2025] IEHC 214.

³⁵ *A v Minister for Foreign Affairs and Trade* [2023] IESC 10 at [72] per Murray J.

³⁶ [2023] IESC 10.

Irish citizen (or if predeceasing the birth of the child, if the legal parent was an Irish citizen at the time of their death). Therefore, this excludes any individual whose status as a parent was dependent on a formal recognition process, meaning that their parental rights were only confirmed after the birth of the child.³⁷

In the case of *X v Minister for Foreign Affairs and Trade*³⁸ heard in the High Court, Justice Phelan distinguished the facts from those in *A v Minister for Foreign Affairs and Trade*, noting that the case did not involve a surrogacy agreement. It was a reciprocal IVF procedure³⁹ and, as such, could be classified as a DAHR, but not a surrogacy, procedure.⁴⁰ Justice Phelan held that the court could recognise a parental order made by the Spanish Courts listing the genetic mother and the gestational mother as the parents of the child. Further, the judge held that as the genetic mother was the ‘parent’ of the child at the time of the child’s birth, the child has a right to citizenship by descent.⁴¹ Justice Phelan reasoned that the legislative gap in failing to provide a procedure for children born to same-sex couples via DAHR results in their unequal treatment compared to children born in a like manner in the State or to parents of mixed-sex couples abroad, in contravention of Article 40.1 of the Constitution. The Supreme Court has heard an appeal against the High Court decision, but as at the time of writing the Court’s judgment had not been published.⁴²

In October 2025, the European Court of Human Rights (ECtHR) determined the question of whether removing a woman’s name from the birth certificate of a child born in Italy to same-sex parents via a DAHR procedure conducted abroad violated Article 8 of the European Convention on Human Rights, the right to respect for private and family life.⁴³ In Italy, national legislation restricts access to DAHR procedures to heterosexual couples affected by infertility; the law excludes the use of DAHR procedures by same-sex couples. The ECtHR found that the removal of the woman’s name from the birth certificate affected the child’s right to respect for

³⁷ *A v Minister for Foreign Affairs and Trade* [2023] IESC 10 at [94] per Murray J. See also *X v Minister for Foreign Affairs and Trade* [2025] IEHC 214 at [129] per Phelan J.

³⁸ [2025] IEHC 214.

³⁹ For a detailed explanation of reciprocal IVF procedures and the legal issues associated with them see A/Prof B Tobin ‘Assisted Reproductive Techniques and Irish Law’, *Irish Jurist*, 2020, New Series, Vol. 64 (2020), pp. 138-152.

⁴⁰ *X v Minister for Foreign Affairs and Trade* [2025] IEHC 214 at [142] – [143] per Phelan J.

⁴¹ *X v Minister for Foreign Affairs and Trade* [2025] IEHC 214 at [159] – [161] per Phelan J. Justice Phelan stated that if the DAHR procedure had been conducted in Ireland, and the child was born in Ireland, the genetic mother would have been accepted as the parent of the child from birth. Therefore, there is no public policy reason for not accepting the same result where the DAHR procedure took place in Spain and the child was born in Spain.

⁴² ‘Supreme Court to rule on citizenship of children born to same-sex couples abroad’, *Irish Legal News*, 22 December 2025; Z Richardson and D Keane, ‘Supreme Court to hear State’s appeal against citizenship ruling for children of same-sex couples’, *Fieldfisher Insight*, 9 September 2025.

⁴³ *X v Italy* App no 42247/23 (ECtHR, 9 October 2025).

private and family life. However, as Italian law included provisions allowing adoption in ‘special cases’, it provided a satisfactory alternative to allow a legal bond to be recognised between the woman and the child. The ECtHR found that the failure to establish a legal link between the child and the woman was due to a choice made by the same-sex couple.⁴⁴

Adoption as an option

The process of adoption in Ireland is regulated by the *Adoption Act 2010* (the 2010 Act). The 2010 Act covers the issuance of adoption orders for domestic adoption (where the child to be adopted is resident in Ireland) and for recognition of an adoption order effected outside Ireland.⁴⁵ An application for an adoption order may be made by a married couple living together, a couple living together in a civil partnership, a couple cohabiting together for at least three years, or the mother, father or relative of the child. Sole applicants that do not fall into one of those categories may also apply, but their application will only progress if the Adoption Authority of Ireland is satisfied with the particular circumstances of the case.⁴⁶

An adoption order may only be issued after the applicants have been assessed and if they meet the relevant eligibility and suitability criteria.⁴⁷ **Section 145 of the 2015 Act** has the effect of excluding an adoption where an unapproved payment or other reward is made or agreed to in connection with the adoption, with the exception of the payment of reasonable costs and expenses incurred by an accredited body.

An adoption order (or recognition of an intercountry adoption) imparts legal parentage of the child(ren) on those individuals named in the order. It also frees all other individuals from parental responsibilities over the child and removes any parental rights.⁴⁸ Moreover, under the *Irish Nationality and Citizenship Act 1956*, an adopted child is an Irish citizen if an adopter is an Irish citizen, or where the adoption is by a married couple, either spouse is an Irish citizen.⁴⁹

In 2023, the Supreme Court heard a case in which a same sex married couple from England and Northern Ireland entered into a commercial surrogacy arrangement in Colorado, where they lived at the time, resulting in the birth of twins. After the surrogate had waived any legal rights in respect of the children (which was accepted under the law of Colorado), a Colorado court issued an order naming the Englishman (the genetic father) as the father of the children.

⁴⁴ *X v Italy* App no 42247/23 (ECtHR, 9 October 2025); ‘ECtHR: No breach of Article 8 where Italy annulled birth certificate naming same-sex parents’, *Irish Legal News*, 10 October 2025.

⁴⁵ *Adoption Act 2010* s 20.

⁴⁶ *Adoption Act 2010* s 33.

⁴⁷ *Adoption Act 2010* s 20. When recognising an intercountry adoption effected outside the State, the Adoption Authority may consider an assessment report and a declaration of eligibility and suitability prepared by the relevant authority of the jurisdiction: see *Adoption Act 2010* s 20(5).

⁴⁸ *Adoption Act 2010* s 58.

⁴⁹ *Irish Nationality and Citizenship Act 1956* s 11.

After the birth of the twins, the Northern Irishman obtained a decree of stepparent adoption from a court in Colorado. When deciding whether the stepparent adoption decree should be recognised in Ireland, Justice Hogan reasoned that in the absence of compelling and overriding public policy considerations, Irish courts should recognise the Colorado adoption order.⁵⁰

The Supreme Court accepted that it was conceivable that recognition of a commercial surrogacy arrangement might be prohibited in Ireland, on public policy grounds. However, the Court held that as there was no law in Ireland at the time specifically prohibiting commercial surrogacy and there was a duty on the Court to treat the best interests of the child(ren) as paramount, the nature by which the twins were conceived should not affect the decision on whether the intercountry adoption decree should be recognised.⁵¹ In his judgment, Justice O'Donnell alluded to the prohibition on commercial adoption, but concluded that as no party to the proceedings equated the commercial surrogacy arrangements with the adoption proceedings, the question did not need to be addressed.⁵²

How would the commencement of the Health (Assisted Human Reproduction) Act 2024 affect the law

Many of the provisions of the 2024 Act have not yet been brought into force. That said, the preliminary provisions and Part 9 were commenced on 13 October 2025, with the exception of the provision requiring the establishment and maintenance of a voluntary register of relevant donors and donor-conceived persons.⁵³ On the same day, the Minister for Health, Jennifer Carroll MacNeill TD, established the Assisted Human Reproduction Regulatory Authority (AHRRA), appointing the AHRRA's chairperson and members.⁵⁴

Should the 2024 Act be commenced in its current form it will regulate:

- Gamete and embryo donation for assisted human reproduction and embryo donation for use in stem-cell research;⁵⁵
- storage of gametes, embryos and tissues;⁵⁶

⁵⁰ *Re A and B* [2023] IESC 6 at [107] per Hogan J.

⁵¹ *Re A and B* [2023] IESC 6 at [106], [115] per Hogan J. See also [Adoption Act 2010 s 19](#).

⁵² *Re A and B* [2023] IESC 6 at [94] per O'Donnell J.

⁵³ 'Health (Assisted Human Reproduction) Act 2024: Commencement Information', *Irish Statute Book*.

⁵⁴ Department of Health, 'Minister for Health establishes Assisted Human Reproduction Regulatory Authority', *Irish Statute Book*, 13 October 2025.

⁵⁵ [Health \(Assisted Human Reproduction\) Act 2024 Part 3](#) (uncommenced).

⁵⁶ [Health \(Assisted Human Reproduction\) Act 2024 Part 4](#) (uncommenced).

- posthumous assisted human reproduction;⁵⁷
- pre-implantation genetic testing of embryos;⁵⁸ and
- domestic altruistic surrogacy.⁵⁹

When commenced, the 2024 Act will empower the AHRRA to regulate on and inform about the use of international surrogacy by Irish residents. Among other things, the AHRRA will be able to approve international surrogacy jurisdictions, regulate the use of surrogacy practices abroad and approve international surrogacy agreements.⁶⁰

The 2024 Act will also prohibit unapproved payments or other rewards made or agreed to in connection with the donation, with the exception of the payment of reasonable expenses.⁶¹ Both domestic and international commercial surrogacy agreements are also expressly prohibited by the 2024 Act when the relevant provisions are brought into force.⁶²

When the relevant provisions of the 2024 Act are commenced, they will allow an application to be made to the Court for a parental order in respect of a child born because of assisted human reproduction treatment provided pursuant to a domestic or international surrogacy agreement.⁶³

A final important provision of the 2024 Act, if brought into effect, is a consequential amendment to [the Irish Nationality and Citizenship Act 1956](#). This would mean that where an Irish citizen is granted a parental order under the 2024 Act, in respect of their child, the child, if not already an Irish citizen, is an Irish citizen from the date on which the parental order is granted.⁶⁴

⁵⁷ [Heath \(Assisted Human Reproduction\) Act 2024 s. 43](#) (uncommenced).

⁵⁸ [Heath \(Assisted Human Reproduction\) Act 2024 Part 6](#) (uncommenced).

⁵⁹ [Heath \(Assisted Human Reproduction\) Act 2024 Part 7](#) (uncommenced).

⁶⁰ [Heath \(Assisted Human Reproduction\) Act 2024 Part 8](#) (uncommenced).

⁶¹ [Heath \(Assisted Human Reproduction\) Act 2024 s. 36](#) (uncommenced).

⁶² [Heath \(Assisted Human Reproduction\) Act 2024 ss 57, 93](#) (uncommenced). A donor and a surrogate will be able to claim for certain documented expenses related to the surrogacy, including travel, medical, legal, counselling, and loss of income: [Heath \(Assisted Human Reproduction\) Act 2024 s. 36\(3\), 58, 94](#) (uncommenced).

⁶³ [Heath \(Assisted Human Reproduction\) Act 2024 ss 204, 216](#) (uncommenced). Where a parental order is issued, the child becomes and is considered to be the child of the intending parent(s), the child is no longer the child of any other person unless that person is declared a parent under [Section 35 of the Status of Children Act 1987](#), and the surrogate loses all parental rights and is freed from all parental duties in respect of the child: [Heath \(Assisted Human Reproduction\) Act 2024 ss 206, 218](#) (uncommenced).

⁶⁴ [Heath \(Assisted Human Reproduction\) Act 2024 s. 226](#) (uncommenced).

Overview of the legislative gap

As noted, the main legal issues affecting DAHR procedures have been in relation to where the intending parents have used DAHR procedures outside the State and where the donor-conceived child is born outside the State. Where the child is born in Ireland prior to 4 May 2020, [sections 20 to 23 of the Children and Family Relationships Act 2015](#) provide for prospective recognition of intended parentage in prescribed circumstances, even if the DAHR procedure was conducted abroad. However, in all other scenarios, the person who gave birth to the child is considered the legal mother of the child and the legal father of the child is presumed to be the spouse, civil partner or co-habitant of the legal mother (if there is one), or the genetic father if a declaration is made under [section 35 of the Status of Children Act 1987](#).

As the relevant provisions of the [Heath \(Assisted Human Reproduction\) Act 2024](#) (the ‘2024 Act’) have not yet been commenced, in Ireland, there is no legislative regulation of either domestic or international surrogacy. To varying degrees, Irish courts have recognised international parental orders related to surrogacy procedures but have consistently held that the use of the terms ‘mother’ and ‘father’ in domestic legislation must be read in line with the intention of the Oireachtas when the relevant legislation or amending legislation was made. It follows that when establishing rights under Irish legislation, the surrogate mother (birth mother) is currently legally recognised as the child’s mother, and unless a declaration is made under [section 35 of the Status of Children Act 1987](#) based on a genetic link, the legal father is presumed to be the spouse, civil partner or co-habitant of the birth mother (if there is one).

The Legislative Proposal

The **Summary** states that the proposed legislation will be divided into four groups of provisions.

According to the **Summary**, the proposed first grouping of provisions will provide clarity for Irish residents undertaking donor-assisted human reproduction (DAHR) procedures abroad by allowing them to obtain a declaration of parentage in respect of a child born as a result of such a procedure. While the second grouping of provisions seeks to provide a pathway for Irish citizens permanently living (domiciled) abroad who have undergone surrogacy or DAHR in another jurisdiction to have their parentage recognised in Ireland, where this is not already the case.

According to the **Summary**, the proposed Bill will provide for the regulation of international DAHR and for the recognition of parentage arising from such procedures, based on a pre-conception approval model. Therefore, an application will need to be made to the Assisted Human Reproduction Regulatory Authority (AHRRA)⁶⁵ by intending parents, prior to the proposed international DAHR procedure commencing. While surrogacy falls under the definition of international DAHR, the Department of Health (the ‘Department’) states that requirements to be met for approval of another international DAHR procedure⁶⁶ will differ somewhat from those applying to international surrogacy “reflecting the different levels of complexity between the two”.⁶⁷

In the **Summary**, the Department states that the Amending Act will provide that:

1. It will be necessary that the DAHR procedure takes place in a jurisdiction with at least the same safety standards as those followed in Ireland, and as set out in the EU Tissue and Cells Directive.⁶⁸
2. The person performing the procedure will have to be licensed under the law of that jurisdiction to perform the procedure.
3. The DAHR facility will be required to provide an undertaking that it will, among other matters, ensure all proper consents are in place prior to the procedure and that all information as regards the procedure and any live birth will be provided to the AHRRA for inclusion on the National Donor Conceived Person Register.
4. It will be necessary that intending parents undergo counselling prior to the procedure and that a safety of the child assessment is conducted by the AHRRA.

⁶⁵ The AHRRA has been established and a Board has been appointed, as of 13 October 2025 but the AHRRA itself is not yet functional as it is awaiting the appointment of three more board members, a mandate, funding, and staff (as of 9 January 2026).

⁶⁶ Such as IVF or IUI using donor gametes.

⁶⁷ **Policy Summary document** provided by the Department of Health to the Committee on Health, p. 3.

⁶⁸ **Directive 2004/23/EC** (the ‘EU Tissue Directive’).

5. There will be a residency requirement for intending parents undergoing International DAHR and seeking Parental Orders from the Irish Courts.⁶⁹

Subject to all requirements being met, intending parents will be able to seek a declaration of parentage from the Courts. The provisions of the proposed Amending Act will also provide for circumstances where a child conceived through DAHR is born abroad, following a procedure completed in a DAHR facility in Ireland, or following a procedure regulated under Irish law.⁷⁰

The Department also notes that the proposed legislation will seek to provide for a process whereby Irish citizens domiciled abroad can apply to the Irish Courts for a declaration of parentage to be granted which would recognise parentage established in another jurisdiction in respect of a child who was born outside the State, providing that certain criteria have been met.⁷¹

According to the [Summary](#), the rationale for not providing for international DAHR procedures in the *Children and Family Relationships Act 2015* (the '2015 Act') stemmed from a perceived:

“... absence of an appropriate level of oversight of DAHR procedures undertaken abroad, in particular as regards the provision and inclusion of donor information on the National Donor Conceived Person Register, which could undermine the strong protection of donor-conceived children’s right to identity set out in the [2015] Act”.⁷²

The Department notes that this position will change upon the commencement of the relevant provisions of the *Heath (Assisted Human Reproduction) Act 2024* (the '2024 Act'), which will regulate international DAHR in the context of international surrogacy. If commenced in its current form, the 2024 Act will allow intending parents to apply for an Irish parental order

⁶⁹ [Policy Summary document](#) provided by the Department of Health to the Committee on Health.

⁷⁰ While it is ordinarily the case that parentage is established in the jurisdiction where intending parents are living at the time and also where the child is born, it is anticipated that the proposed legislation will seek to provide for the granting of parental rights in cases where a child is born abroad to Irish resident parents as a result of a DAHR procedure either completed in a DAHR facility in Ireland, in accordance with Parts 2 and 3 of the Family and Relationships Act of 2015, or completed in a foreign clinic in accordance with the proposed provisions.

⁷¹ [Policy Summary document](#) provided by the Department of Health to the Committee on Health.

⁷² Currently, all DAHR facilities in Ireland are regulated under the 2015 Act. They must ensure that certain safety standards are followed in respect of each procedure, that proper consents are in place and signed by both the intending parent(s) and the donor, and that information as regards the donor is sent to the Minister for Health for inclusion on the National Donor Conceived Person Register. This information can then be accessed by the donor conceived child, should they so wish, upon turning 18 (this will be lowered to 16 by the Act of 2024 on commencement of the relevant provisions): see Parts 2 and 3 of the 2015 Act.

where donor gametes have been used as part of an international altruistic surrogacy agreement, providing certain conditions have been met.⁷³

According to the **Summary**, the proposed legislation will also include consequential amendments to other legislation. The Department states that one proposed amendment would affect the ***Irish Nationality and Citizenship Act 1956***, to ensure that where an Irish citizen parent is declared to be a parent of a child under the provisions of the proposed legislation that child will become an Irish citizen from the date of the court order.

⁷³ ***Heath (Assisted Human Reproduction) Act 2024 ss 204, 216***(uncommenced). Where a parental order is issued, the child becomes and is considered to be the child of the intending parent(s), the child is no longer the child of any other person unless that person is declared a parent under ***Section 35 of the Status of Children Act 1987***, and the surrogate loses all parental rights and is freed from all parental duties in respect of the child: ***Heath (Assisted Human Reproduction) Act 2024 ss 206, 218*** (uncommenced).

Approaches in other jurisdictions

Both the 2024 Act and the Amending Act contain substantive provisions regulating international DAHR procedures, including surrogacy, alongside provisions for recognizing past international arrangements. The following sections outline the approaches in a selection of other jurisdictions where provisions regulating the use or restriction of such procedures are also under development, or where they already exist.

United Kingdom

DAHR

DAHR procedures, excluding surrogacy, are provided for by the [Human Fertilisation and Embryology Act 2008 \(HFEA\)](#). [Part 2 of HFEA](#) regulates how legal parentage is assigned when using donated gametes in licensed clinics and clinical settings.

The gamete donor (sperm or egg) must be traceable but has no legal rights or relationship to any child conceived, and no parental responsibilities.⁷⁴ Both intending parents are legally recognised and can be registered on the birth certificate. The woman who gives birth is recognised as the legal mother, regardless of whether she used her own egg or a donor egg. If the mother is married or in a civil partnership at the time of treatment, her spouse will be treated as the second legal parent, provided they consented to the treatment. If the second intending parent is not the spouse (a cohabitant), parentage will still be recognised at birth provided consent has been given.

Surrogacy

In the UK, altruistic surrogacy has been allowed since 1985, while commercial surrogacy is banned. The legal framework is regulated by two primary Acts. The [\(UK\) Surrogacy Arrangements Act 1985](#) prohibits commercial surrogacy⁷⁵ and provides for all surrogacy agreements, including signed contracts, as being legally unenforceable.⁷⁶ The [\(UK\) Human Fertilisation and Embryology Act 2008](#) covers parentage, recognising the woman who is

⁷⁴ This legislation applies only in scenarios where the DAHR procedure is carried out at a licensed clinical setting, such as a hospital or fertility clinic. Any private DAHR procedures such as home insemination are not covered by the HFEA. In these cases, the sperm donor is considered the legal father and holds parental responsibilities. The second intending parent will not be a legal parent at birth, even if they are named on the birth certificate, and they must apply for a [Parental Responsibility Agreement](#), a court order, or adoption to establish legal parentage.

⁷⁵ [Surrogacy Arrangements Act 1985 ss 2.1](#)

⁷⁶ [Surrogacy Arrangements Act 1985 ss 1A](#) as inserted by the [Human Fertilisation and Embryology Act 1990 \(c. 37, SIF 83:1\)](#), s. 36(1)

carrying or has carried the child as the legal mother with no exceptions, including if the pregnancy was conceived outside of the UK.⁷⁷ In cases where DAHR has been used entirely for the surrogacy and neither intending parent has a genetic link to the child, a parental order cannot be granted, and the intending parent(s) must adopt the child to establish a legal bond.

The provisions of the *(UK) Human Fertilisation and Embryology Act 2008* also cover other relevant DAHR procedures with regard to legal parentage. For example, in cases of reciprocal IVF between a same-sex female-female couple where one partner provides the egg and the other partner carries the pregnancy and gives birth, the birth mother is legally recognised as the mother.⁷⁸ The partner who provided the egg is recognised as the second legal parent from the moment of conception, providing she consented to the procedure.⁷⁹ Parental recognition under the UK legislation is extended to cases in which the implantation or birth of the child takes place abroad if the parents are spouses or civil partners. Where the intended second parent is not the spouse or civil partner of the birth mother, the provisions of the UK legislation only apply to procedures carried out through licensed clinics in the UK and recognition of the second parent is not automatic.⁸⁰

European Union

Currently, there are no EU-wide laws that regulate DAHR, although there are EU instruments and motions which, if and when brought into effect, will affect its practice across EU jurisdictions, and its use by EU citizens and residents, particularly in relation to surrogacy.

DAHR

DAHR practices are available across all EU countries but are subject to widely variable regulations. Table 3 below lists examples of EU jurisdictions (and includes the UK for further comparison).

⁷⁷ *(UK) Human Fertilisation and Embryology Act 2008 s. 33.*

⁷⁸ *(UK) Human Fertilisation and Embryology Act 2008 s.42.*

⁷⁹ *(UK) Human Fertilisation and Embryology Act 2008 ss 43, 44.*

⁸⁰ *(UK) Human Fertilisation and Embryology Act 2008 ss 43, 44.*

Table 3 DAHR (Europe)

COUNTRY	DOMESTIC DAHR - LEGAL STATUS	AVAILABILITY TO FOREIGN INTENDING PARENT(S) ⁸¹	PARENTAGE (at birth)	CITIZENSHIP OF CHILDREN BORN VIA DAHR
Belgium	Legal – currently transitioning to non-anonymous donation	Yes	Birth mother (and consenting partner if applicable).	By descent from the parent(s) after parentage is legally recognized
Denmark	Legal – anonymity optional	Yes	Both parents recognised at birth (including same-sex female couples)	By descent from the parent(s) after parentage is legally recognized
France	Legal – non-anonymous	Yes	Birth mother (and consenting partner if applicable) based on consent prior to treatment	By descent from the parent(s) after parentage is legally recognized
Germany	Legal (sperm only) – non-anonymous	Yes – sperm donation only	Birth mother and husband (if applicable) – unmarried partners must declare paternity	By descent (usually from the biological father) after paternity is established.
Greece	Legal – anonymity optional	Yes	Birth mother (and consenting partner if applicable).	By descent from the parent(s) after parentage is legally recognized
Italy	Legal –anonymous	Yes, but generally restricted to heterosexual couples	Both parents recognised at birth (restricted to heterosexual couples)	By descent through the biological father if recognised. No parental orders or birth certificates issued abroad are recognised if the child was born via a surrogacy agreement

COUNTRY	DOMESTIC DAHR - LEGAL STATUS	AVAILABILITY TO FOREIGN INTENDING PARENT(S)⁸¹	PARENTAGE (at birth)	CITIZENSHIP OF CHILDREN BORN VIA DAHR
Portugal	Legal – non-anonymous	Yes	Both parents recognised at birth (including same-sex female couples)	By descent from the parent(s) after parentage is legally recognized
Spain	Legal –anonymous	Yes	Both parents recognised at birth (including same-sex female couples recognised via marriage)	By descent from the parent(s) after parentage is legally recognized
UK	Legal – non-anonymous	Yes	Birth mother and partner (spouse or civil partner)	By descent from the parent(s) after parentage is legally recognized

Relevant Instruments

EU Cross Border Parental Recognition (P9_TA(2023)0481)

A proposed regulation on the cross-border recognition of parenthood aims to address the problem of non-recognition of parenthood between EU Member States.⁸² The proposed regulation seeks to address situations such as where a donor-conceived child born via DAHR may have both parents legally recognised from birth in one country, but not in another – this primarily occurs with same sex couples, where only the birth mother or the genetic parent is legally recognised. The regulation proposes universal recognition between Member States, via a voluntary ‘European Certificate of Parenthood’.

On 14 December 2023 the European Parliament voted to formally adopt the legislative resolution for this proposal, P9_TA(2023)0481, 2023.

Prior to the December vote, on 07 March 2023⁸³, citing [Protocol 21](#) of the TFEU, which allows Ireland to opt in or out of EU measures regarding freedom, security, and justice, Ireland opted out of the adoption and application of the proposed regulation. Ireland retains the right to participate in negotiations as an observer, and to opt in at a later stage if desired.

Surrogacy

Member States allowing Surrogacy

Surrogacy is explicitly allowed under current legislation in Denmark, Greece, and Cyprus. Portugal and the Netherlands both allow surrogacy although legislation has not yet been enacted. In Portugal draft regulations on the proposed legislation is ongoing,⁸⁴ while the Netherlands introduced a Bill in 2023 to allow for surrogacy⁸⁵ which is still in preparation.

While legislation allowing surrogacy differs between Member States, all States with laws in force which allow for surrogacy have some common principles. They all prohibit commercial surrogacy, require the establishment of a special body to oversee surrogacy agreements, whose consent must be acquired before entering into a surrogacy arrangement; and they all restrict advertisement for surrogacy services (usually being permitted only through the special body established).

⁸² [Cross-Border Legal Recognition of Parenthood in the EU \(2022\)](#)

⁸³ [Parliamentary Questions \(European Union\) – Houses of the Oireachtas, 28 Mar 2023](#)

⁸⁴ [Draft regulations for proposed surrogacy legislation](#)

⁸⁵ [The Child, Surrogacy and Parentage Act \(Wet kind, draagmoederschap en afstamming\)](#) currently in preparation and with the Standing Committee on Justice and Security (Justitie en Veiligheid)

Member States not allowing Surrogacy

The majority of EU Member States currently do not allow surrogacy. Many have explicit laws prohibiting it under their existing AHR legislation, while some have an implicit ban on the practice.

Table 4, below, illustrates the status of domestic surrogacy, and the subsequent recognition of legal parentage, and the path to citizenship for children born from such arrangements in selected European States, including the UK.

Table 4 Surrogacy (Europe)

COUNTRY	DOMESTIC SURROGACY STATUS	LEGAL PARENTAGE AT BIRTH IN CASES OF SURROGACY	RECOGNITION OF IP's PARENTAGE IN SURROGACY AGREEMENTS	CITIZENSHIP PATH FOR CHILDREN BORN VIA SURROGACY
Belgium	Implicit permission	<i>Mater Semper Certa Est</i> (Motherhood by birth)	Case-by-Case Judicial Review leading to Domestic Stepchild Adoption for legal certainty, established by a Belgian court.	By descent from the parent(s) after parentage is legally established by a Belgian court.
Denmark	Altruistic	<i>Mater Semper Certa Est</i> (Motherhood by birth)	Direct recognition of foreign parentage via Family Law Centre if strict conditions are met.	By descent from the parent(s) after parentage is legally recognized.
France	Strictly Prohibited Child's right to identity (ECHR).	<i>Mater Semper Certa Est</i> (Motherhood by birth)	New Route: Increasing use of Exequatur (recognition) of the foreign court's parentage order.	By descent from the parent(s) after parentage is legally established.
Germany	Strictly Prohibited	<i>Mater Semper Certa Est</i> (Motherhood by birth) (§ 1591 BGB).	Mandatory Domestic Stepchild Adoption.	By descent from the German biological father after paternity is established.
Greece	Altruistic and Commercial (Regulated) allowed	Pre-conception court order (intending parents are legal parents from conception)	Automatic – intending parents named on birth cert. based on court order	By descent from parent(s) via court-approved birth registration

COUNTRY	DOMESTIC SURROGACY STATUS	LEGAL PARENTAGE AT BIRTH IN CASES OF SURROGACY	RECOGNITION OF IP's PARENTAGE IN SURROGACY AGREEMENTS	CITIZENSHIP PATH FOR CHILDREN BORN VIA SURROGACY
Italy	Strictly Prohibited	<i>Mater Semper Certa Est</i> (Motherhood by birth)	No recognition. Civil registries will refuse to register a birth certificate issued abroad if surrogacy is suspected. If a biological link is proven the genetic father is recognised.	By descent through the biological father if recognised. No parental orders or birth certificates issued abroad are recognised if the child was born via a surrogacy agreement
Portugal	Altruistic Allowed, but Legislation Unstable	<i>Mater Semper Certa Est</i> (Motherhood by birth)	Highly Complex/Variable. Relies heavily on proof of biological link and potentially court intervention/adoption.	By descent from the parent(s), usually requires confirmed biological paternity.
Spain	Strictly Prohibited (Contracts Null & Void)	<i>Mater Semper Certa Est</i> (Motherhood by birth)	Mandatory Domestic Adoption. Direct registration of foreign orders is now banned.	By descent from the parent(s) after parentage is legally established
UK	Altruistic only – contracts are unenforceable under UK Law	<i>Mater Semper Certa Est</i> (Motherhood by birth)	Mandatory Domestic Parental Order (Post-birth court process)	Requires registration as a British citizen (Form MN1) after the Parental Order is granted

Relevant Instruments

EU Directive (EU) 2024/1712

EU Directive 2024/1712⁸⁶ considerably modifies the provisions of the EU's 2011 anti-human trafficking directive. The changes broaden the scope of anti-human trafficking across the EU bloc. The Directive entered into force on 14 July 2024 and Member States are required to transpose the new rules by 15 July 2026.

One of the key changes required by the Directive concerns surrogacy. The Directive explicitly mentions surrogacy as a form of exploitation falling under the umbrella term "trafficking." While the provisions of the forthcoming Bill intend to enact regulations to protect surrogate mothers, any exploitation of women in surrogacy arrangements whereby they are found to have been forced to act, or been misled into acting as, surrogates, would be subject to penalties under EU law⁸⁷ as well as national legislation. Further to this, Member States must regard the fact that the offence was committed by public officials in the performance of their duties as an aggravating factor. Legal entities, as defined in Article 5 of the [EU Directive 2011/36](#)⁸⁸ such as companies, held accountable for trafficking offences, would be subject to more stringent penalties, including exclusion from public tenders, grants, concessions and licences, and the withdrawal of permits and authorisations to pursue activities which have resulted in committing the offence. In relation to surrogacy as a form of human trafficking, legal entities as defined will include surrogacy agencies or AHR clinics.

It is worth noting that the Directive does not criminalise the act of surrogacy itself but obliges all EU Member States to criminalise trafficking for exploitation of surrogacy. In cases of trafficking for exploitation of surrogacy, the victim is the surrogate, not the child. Further to this, according to a comprehensive cross-European report published by LaStrada International, a European NGO Platform against human trafficking⁸⁹ in November 2025⁹⁰, while trafficking for the exploitation of surrogacy is a grave crime, extensive research identified only eleven trafficking cases involving surrogacy across 38 European countries over the past

⁸⁶ [Directive \(EU\) 2024/1712 of the European Parliament and of the Council of 13 June 2024 amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#)

⁸⁷ It is ensured that the newly defined types of exploitation falling under the umbrella of trafficking (including surrogacy) will fall under the penalty thresholds defined in Directive 2011/36, those being a maximum of at least five years of imprisonment (or a maximum of at least ten years of imprisonment for aggravated cases).

⁸⁸ [Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims](#)

⁸⁹ [About us La Strada International](#)

⁹⁰ [3628-LSI_Comparative Analysis of the Legal and Policy Landscape on \(Trafficking for the Exploitation of\) Surrogacy Across Europe.pdf](#)

decade. The report concluded that surrogacy is not inherently exploitative and that trafficking situations remain rare within the European frameworks.

International Jurisdictions

There is no universal international binding agreement applying to any form of DAHR, including surrogacy, nor are there any specific inter-country arrangements.

DAHR

DAHR, not including surrogacy, varies widely between jurisdictions. DAHR using donor sperm or eggs is available in many states, covered by domestic laws. As previously noted, except in cases of a privately known donor (such as a friend or family member), Ireland currently imports all donor gametes, used in DAHR, which must be traceable, predominantly from within the EU⁹¹ although some clinics also import donor sperm from the USA.

Irish intending parent(s) using DAHR procedures other than surrogacy in international jurisdictions

The situation in cases where Irish intending parent(s) have availed of DAHR procedures abroad varies depending on where the procedure took place. If the procedure took place in a jurisdiction using anonymous donor gametes, then if the DAHR is disclosed, issues regarding legal recognition of the second parent may arise, and the procedures as outlined in the Parentage in law section will apply. From a practical perspective, using DAHR is less problematic than using surrogacy as the woman who gave birth will be recognised as the mother, and for single women or heterosexual couples, parentage will be presumed unless otherwise disclosed.

Table 5 below outlines four international jurisdictions where Irish citizens may avail of DAHR procedures. These states were chosen as they are identified as having growth in their DAHR sectors, including surrogacy.⁹²

⁹¹ See Figure 6 pp.9 in L&RS Note (2022) [Data: Assisted Human Reproduction](#)

⁹² [The Best Countries for IVF Treatment – IFG; Global Fertility Trends & Market Demand 2025: Insights for Clinics & Agencies](#)

Table 5: International DAHR Jurisdictions

COUNTRY	DOMESTIC DAHR - LEGAL STATUS	AVAILABILITY TO FOREIGN INTENDING PARENT(S)	PARENTAGE (at birth)	CITIZENSHIP OF CHILDREN BORN VIA DAHR
Albania	DAHR is legal. Donor anonymity is the default and any donor-conceived child born from DAHR has no right to the identity of the genetic donor.	Available to single women and heterosexual and same-sex couple. There is no residency requirement.	Intending parent(s) recognised from conception.	Via the recognised parents – the donor has no parental rights or recognition.
Colombia	Legal Donor anonymity is the default and any donor-conceived child born from DAHR has no right to the identity of the genetic donor.	Available to single women and heterosexual and same-sex couples. There is no residency requirement.	Intending parent(s) recognised from conception.	Via the recognised parents – the donor has no parental rights or recognition. Colombian citizenship may be granted via <i>jus solis</i> if the child is born in Colombia.
Georgia	Legal but strictly regulated. Donation is strictly anonymous any donor-conceived child born from DAHR has no right to the identity of the genetic donor.	Heavily restricted to heterosexual couples.	Intending parent(s) recognised from conception.	Via the recognised parents – the donor has no parental rights or recognition.
Ukraine	Legal but strictly regulated. Legal but strictly regulated. Donation is strictly anonymous any donor-conceived child born from DAHR has no right to the identity of the genetic donor.	Restricted to married heterosexual couples with a medical necessity for DAHR.	Both intending parents recognised from conception.	Via the recognised parents – the donor has no parental rights or recognition.

Surrogacy

While many states enforce outright bans on surrogacy, the patchwork of laws in different jurisdictions sees some allowing commercial surrogacy for foreign intended parents, some allowing altruistic surrogacy for foreign intended parents, and others enforcing complete bans on foreign intended parents while providing for domestic surrogacy arrangements.

However as various international jurisdictions do currently allow foreign intending parents to engage in surrogacy, there is a need for clarity regarding parental recognition and citizenship of children, as outlined above and noted as a primary part of the intended Amending Act in the policy document.

Table 6 below compares the same destinations as in Table 5, where Irish-resident intending parents can currently pursue surrogacy.

Table 6 International Surrogacy Jurisdictions

COUNTRY	DOMESTIC SURROGACY - LEGAL STATUS	AVAILABILITY TO FOREIGN INTENDING PARENT(S)	PARENTAGE (at birth in surrogacy arrangements)	RECOGNITION OF INTENDING PARENT(S)	CITIZENSHIP OF CHILDREN BORN VIA SURROGACY
Albania	Altruistic and Commercial implicitly allowed ⁹³	Yes – unrestricted.	The surrogate is listed as the mother at birth. If one of the intending parents is the genetic father, they can be listed as the father at birth.	The surrogate must relinquish parental rights. A second intending parent can be recognised through an adoption process.	Via intending parents. Albanian citizenship not automatically granted
Colombia	Yes – Altruistic ⁹⁴ (de facto – new regulations)	Yes – unrestricted.	The surrogate is listed as the mother at birth. If one of the intending parents is the genetic father, they can be listed as the father at birth.	Under a court issued parental order the birth cert can be amended and reissued with the second intending parent replacing the surrogate as mother (or second father in the case of same-sex male couples)	Intending parents. Colombian citizenship available through <i>jus solis</i> .

⁹³ Albania has drafted legislation to formalise surrogacy, but it has not yet been enacted. See Himçi, Blendi & Saraçi, Aida. (2025). Surrogacy as a legal institution in Albania: An analysis of the draft law “On sexual and reproductive health.” *Multidisciplinary Science Journal*. 8.

⁹⁴ Although not regulated specifically, de facto surrogacy is supported through the legal interpretations of [Sentence T-968 ruling of the Constitutional Court of Colombia](#), and [Article 42 of the Constitution](#).

COUNTRY	DOMESTIC SURROGACY - LEGAL STATUS	AVAILABILITY TO FOREIGN INTENDING PARENT(S)	PARENTAGE (at birth in surrogacy arrangements)	RECOGNITION OF INTENDING PARENT(S)	CITIZENSHIP OF CHILDREN BORN VIA SURROGACY
Georgia	Yes – Altruistic and Commercial	Yes – married heterosexual couples. ⁹⁵	As with Ukraine, the <i>mater semper certa est</i> principle has been abolished in surrogacy agreements. intending parents are recognised as legal parents from conception. ⁹⁶	Both intending parents recognised from conception.	Via intending parents – Georgian citizenship not automatically granted to child.
Ukraine	Yes – Altruistic and Commercial	Yes – restricted to married heterosexual couples.	Ukraine legally abolished the <i>mater semper certa est</i> principle in cases of gestational surrogacy. The surrogate has no parental recognition at any point. intending parents are recognised from conception and the surrogate is not mentioned on the birth certificate. ⁹⁷	Both intending parents recognised from conception.	Via intending parents – Ukrainian citizenship not automatically granted to child.

⁹⁵ Georgia has drafted a law to restrict surrogacy to Georgian citizens only and ban foreigners from entering into agreements. However as of January 2026 the law has not yet been enacted.

⁹⁶ See Article 143 of the Law of Georgia on Healthcare

⁹⁷ See Article 123 of the Family Code of Ukraine

The AHRRA, once fully functioning, will only pre-approve surrogacy international agreements undertaken by Irish Residents in ‘green-listed’ jurisdictions (including other countries, or certain states or provinces within other countries).⁹⁸ These jurisdictions will need to meet certain criteria that align with the Irish legislation on protection of the surrogate mother, the resultant child and the intending parent(s). Certain jurisdictions may be prohibited if they allow commercial surrogacy for a direct fee rather than altruistic surrogacy – although compensation for reasonable expenses is allowed, the AHRRA will set a cap on what is considered ‘reasonable expenses’. For example, California and Ukraine are currently two destinations where Irish residents/citizens undergo surrogacy agreements but under the 2024 Act (uncommenced) and the AHRRA regulations they may not be approved jurisdictions. This is due to the commercial aspect of surrogacy in California,⁹⁹ where surrogates are legally allowed to charge a base compensation fee. Ukraine also operates a commercial surrogacy practice and furthermore under current circumstances the civil or military activities considered under [Section 81 \(2\)\(d\) of the 2024 Act](#) (uncommenced) would be considered high-risk.

While no international or inter-State agreements currently exist, several international bodies have considered the practices and issues arising from international DAHR, and surrogacy and stated their positions, or produced recommendations regarding the practice.

Relevant Instruments

Hague Conference on Private International Law (HCCH)

The HCCH is an intergovernmental organisation established by statute¹⁰⁰ in 1955, which aims to provide internationally agreed solutions (HCCH Conventions) to which States may become Contracting Parties, and to provide guidance to States in developing their own legislation regarding cross-border and transnational relations in the areas of International Family and Child Protection Law among others.¹⁰¹ Ireland has been a member of the HCCH since 1955 and is a contracting party to 11 instruments.¹⁰²

⁹⁸ See Sections 81, 89, 90, 93 and 94 of the 2024 Act (uncommenced).

⁹⁹ During a [Select Committee on Health debate on 06 March 2024](#) then Minister for Health Stephen Donnelly stated, in response to a question from Deputy David Cullinane, that commercial surrogacy would not get approval from the AHRRA, using the USA as an example “...if commercial surrogacy is allowable, let us say in the US, you are not in violation of the law in the US by engaging in commercial surrogacy. That would not get pre-approval because commercial surrogacy, on our side, would not make it through. The AHRRA would not grant approval. If you went ahead, you would not get approval from the courts on that basis because it would be a clear violation of one of the central tenets of the scheme.”

¹⁰⁰ [HCCH Statute](#)

¹⁰¹ See [HCCH | About HCCH](#) for further detail on the HCCH’s foundation, operations, and mandate.

¹⁰² See [HCCH | Ireland](#) for details of membership and activity.

The [HCCH | Parentage / Surrogacy Project](#), is a long-running international project aiming to create an international framework to recognise legal parentage. The project commenced in 2015, seeking to address the legal gap that sees children born via surrogacy recognised as the legal child of the intending parents in some jurisdictions, but recognised as the legal child of the surrogate in others, leading to the issues around citizenship, parentage, and inheritance.

Following the final meeting of the Working Group, the provisional [Final Report on the Feasibility of a possible Convention on the Recognition of Judgments on Legal Parentage](#) (the 'Proposed Convention') was published in November 2025, and will be presented for decision at the upcoming Council on General Affairs and Policy (CGAP) meeting scheduled for March 2026. At this meeting the CGAP will decide whether to advance the Proposed Convention to a Special Commission, which would advance the project to formal negotiation stage.

The Final Report submitted for decision at the March 2026 CGAP meeting includes the full draft text of the Proposed Convention. The Proposed Convention provides for ensuring legal parentage is recognised across borders, and includes a protocol on surrogacy, ensuring parentage in surrogacy cases is also recognised across borders. If approved, recognition of parentage between member states to the Convention would be automatic, and any state signing up to the Convention would also be 'green-listed' automatically, meaning, for example, that the AHRRA, or any similar regulatory authority, would not need to create its own green-list of approved international surrogacy jurisdictions.

Ireland has been a supporter of an international convention since the commencement of the HCCH's surrogacy project.¹⁰³ The 2024 Act, and all Parts of the forthcoming Amendment are in line with the HCCH Draft Convention. For example, the 2024 Act and proposed amending legislation include establishment of a central authority (the AHRRA), provide for a child's right to identity (via establishing a National Register), provide for a strictly regulated altruistic surrogacy model, and seek to eliminate the legal loopholes regarding parentage and citizenship of children born through surrogacy.

¹⁰³ See Ireland's response to the projects [Questionnaire on the private international law issues surrounding the status of children, including issues arising from international surrogacy arrangements in 2013](#)

Conclusion

Following approval of the General Scheme in October 2024, and publication of the PLS Report on 06 October 2025, the Health (Assisted Human Reproduction) (Amendment) Bill remains as priority for publication in the [Spring 2026 Government Legislation Programme](#). The Bill seeks to address issues related to parentage and citizenship arising from the use of fertility clinics abroad by Irish residents and Irish citizens living abroad, in addition to seeking to bring forward other required amendments to the uncommenced parts of the Health (Assisted Human Reproduction) Act 2024.

Given the sensitive nature of the subject, the Bill has received both strong support and criticism during debate in the Oireachtas. The Bill, along with the 2024 Act represents a significant overhaul of family and bioethical legislation. Previously DAHR and surrogacy operated in somewhat of a legal vacuum, resulting in many families living without recognition of their legal status. The proposed Bill (and 2024 Act) provides clear legal pathways for parental recognition for both DAHR conceived children as well as surrogacy, both domestically and internationally. Critically, this parental recognition also allows existing families to have their legal status recognised.