



Congress Submission to Review of the Gender Recognition Act 2015

Congress welcomes this opportunity to submit views on the Review of the Gender Recognition Act 2015 at the invitation of Minister for Employment Affairs and Social Protection Regina Doherty TD.

Congress and Transgender Equality Network Ireland (TENI) have worked together for many years to promote equality and to help foster understanding of gender identity and transgender experiences. Everyone has the right to work with dignity, and we all benefit when there is respect and equal treatment — in trade unions, at the workplace and in society. Transgender workers currently face high levels of prejudice and discrimination. They are often invisible in the workplace and their rights may not be supported. The following are changes that could contribute towards this.

Arrangements for persons who identify as neither male nor female (e.g. non-binary);

A significant number of people will not identify in the binary male or female gender categories. Terms such as gender non-binary and gender non-conforming are frequently used as self-descriptors by people who do not identify in the binary model. Accommodating non-binary gender categories is reflected in the increasing use of third gender categories on

official documentation in jurisdictions and among international regulatory bodies throughout the world. For example, the International Aviation Authority will accept the gender marker 'X' on passport documentation to describe the passport holder's gender where they identify as neither female nor male.

At present, the Act would not appear to recognise a third gender category or third gender marker. The language of Section 18 (1) implies that a person must select either a female or male gender category. There appears to be little or no scope within the Act to be recognised as a third (e.g. non-binary) category. This has the effect of denying or misgendering persons whose gender does not conform to the gender binary and who wish to secure legal recognition of a change of gender. Permitting a third gender category would facilitate those who do not identify in the binary model including, where applicable, persons who are intersex, to self-identify as a third gender.

Although there have been no concrete steps made by the UK government toward legal recognition, the UK does use Mx (pronounced mix) as a standard honorific. In Mx, the 'x' stands for a wildcard character. It can be used in most government and official documentation in the UK and is often used by non-binary people. Although it does not indicate a legal change of gender, it has an important symbolic impact in allowing people to feel validated on official correspondence when Mr and Ms are not sufficient.

Based on the issues outlined above, we believe that amendment(s) of the Gender Recognition Act to explicitly allow for recognition of a third gender category such as non-binary persons would facilitate meaningful inclusion and provide legal recognition for gender non-binary, gender non-conforming and, where applicable, intersex people. This should be through the use of a new gender marker such as 'X' and a form of

recognition of a third-gender on birth certificates, such as allowing a place for individuals to specify their own gender identity or giving the options of 'Male', 'Female', 'Other/Undefined/Non-Binary'.

We also believe that the use of gender markers on government issued documents should be examined. Where gender is deemed to be an unnecessary identifier on such documents, consideration should be given to removing the identifier to allow for easier interactions for trans individuals.