



Regulatory Impact Analysis

Civil Registration Bill 2019

Policy Context

Background

The Children and Family Relationships Act 2015 (CFRA 2015), as amended, is a child-centred Act which addresses the rights of children to legal security, to the care of their parents and important adults in their lives, and to equality before the law. The proposed legislation seeks to make some amendments to this Act and includes some important provisions related to the difficulties being experienced by parents of children born by way of donor assisted human reproduction (DAHR).

It was originally intended to progress these provisions via the Social Welfare and Civil Registration Bill 2017. However, passage of this has been delayed. These are matters that are very sensitive and of great concern to families impacted by current deficiencies in our Civil Registration legislation. Many members of the Oireachtas have called for the early and urgent introduction of the relevant provisions to address the deficiencies identified.

1. Explanation and impact of provisions

A number of provisions were previously published as part of the Social Welfare Pensions and Civil Registration Bill 2017. These provide for:

- a role for a “qualified informant”, usually the next of kin or relative in the registration of a death where a coroner is involved.
- sharing of GRO data and records with a body such as the National Library or National Archives. The civil records of births, deaths and marriages are the official State records in Ireland. The registers and related indexes are held by the General Register Office in Roscommon. The index books provide a key to the relevant register entries where the full records can be viewed. Previous amendments provided for the holding and keeping by the Minister for Culture, Heritage and the Gaeltacht of copies of indexes to births, deaths and marriage. The Department of Culture, Heritage and the Gaeltacht has advised that they are reviewing how these civil registration records are housed and that a legislative amendment is required in the event that a decision is taken to house the records in any of the bodies under the aegis of that Minister such as , for example, the National Library.

- collection of additional details in respect of deceased persons in order that the CSO can comply with obligations under EU Regulations. This requires that the country of birth and the country of citizenship of a deceased person are to be added to the particulars of a death to be entered in the Register of Deaths. This provision, as well as providing a richer source of data in the records of deaths held by the General Register Office, also responds to the State's obligations under European (Commission Implementing Regulation (EU) No 205/2014 of 4 March 2014 laying down uniformed conditions for the implementation of Regulation (EU) No 1260/2013 of the European Parliament and the Council on European demographic statistics, as regards breakdowns of data, deadlines and data revisions¹. The Central Statistics Office has advised that, under this Regulation Ireland is obliged to provide Eurostat with these details.
- The other amendments are technical in nature and update sequencing of paragraphs.

In addition to the above a number of additional provisions are also being included in this Bill and deal with:

- registration, and re-registration, of DAHR births;
- facilitating deceased DAHR children being recorded in the proposed Record of Deaths Abroad;
- technical changes to ensure correct references to other Acts;
- registration of births where parents are not married (aligning civil registration legislation with current presumption of paternity provisions set out in section 46 of the Status of Children Act 1987, which came into operation on commencement of section 88 of the CFRA 2015 in January 2016)
- a technical change to facilitate some retrospective registration, particularly in cases where a Court Order determining parentage is sought in cases where the parents are not married to each other.

2. Objectives of additional provisions

The proposed legislation provides that it will be possible to commence Part 9 of the CFRA 2015:

- to register the birth of new born Donor Assisted Human Reproduction (DAHR) children
- to re-register a DAHR birth which was registered prior to commencement and which through Parts 2 and 3 of the CFRA 2015 a court has deemed the birth a DAHR birth and named person(s) as parent(s) of the child. As birth certificates currently issued in DAHR cases only allow for the recording of the mother's details, these changes will facilitate the re-registration of DAHR births of children of same sex female couples.

¹ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A32014R0205>

This will affirm their parental rights, including access to passports, enrolment in schools etc.

- To re-register a birth as a DAHR birth, where it has been erroneously registered as a non-DAHR birth.
- To register all other births using the field heading “Parent” once certain criteria have been established as to the gender of both parents. These criteria will be established by GRO based on the legislation and will facilitate the choice for those who wish to use “Parent” on the birth certificate.

3. Identification of Options

No Change Option

If no changes are made the current provisions of the CFRA 2015, as amended, provisions there will continue to be delays for parents in same sex female couples who wish to have the particulars of both parents on the birth certificates of their children already born via DAHR. As a result there would be consequential impacts on issues such as obtaining passports and school registration, for example. As such parents are currently being impacted upon by delays. That is why ‘no change’ is NOT the preferred option.

Preferred Option

The preferred option is to proceed with the legislation.

4.1 Costs

There are some system development costs within the GRO associated with implementation of the proposals in the legislation. However, these can be met within existing budgetary allocation.

4.2 Benefits

The proposals to allow particulars of both parents in DAHR cases to be recorded will mean a regularisation of parental rights in the case of same sex female couples. In addition to facilitating same sex female couples re-registering existing birth certificates it provides for such particulars to be recorded on the birth certificates of children born in the future via DAHR. This will also apply, where desired, to heterosexual parents of children born via DAHR.

The additional provisions also allow the CSO meet EU requirements, that the next of kin can provide details to a Coroner in the registration of a death, that a mother can more easily rebut presumption of paternity of her estranged husband in registering a birth, and that allow the GRO to share historical records with the National Library or National Archives.

4.3 Impacts

Gender Equality: The proposed legislation provides for the registration and re-registration of the birth of a donor-conceived child and, in particular, make possible the registration of details of “Parent”, as well as “Mother” and “Father”, where required. This will facilitate, in the case of same sex couples, both parents being recorded on the birth certificate of a child.

Rights of Citizens: The proposed legislation also has a positive impact on human rights as Article 16 of the Universal Declaration of Human Rights states that men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family and that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State.²

5. Consultation

There has been ongoing discussion at official level, particularly with the Department of Health and the Department of Justice and Equality in relation to commencement of sections in Part 9 of the Children and Family Relationships Act 2015 that will facilitate registration of births of donor conceived children.

Discussions are also taking place with the Data Protection Commissioner in relation to the sharing of historical records with the National Library or National Archives

6. Publication

This Regulatory Impact Assessment is being published on www.welfare.ie.

² <http://www.un.org/en/universal-declaration-human-rights/>