



First Annual Report under section 6 of the Gender Recognition Act 2015

Department of Social Protection

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1. Introduction

The Gender Recognition Act 2015 was enacted on 22nd July 2015 and commenced on 4th September 2015. This Annual Report is drafted in accordance with section 6 of the Act. In particular it reports on applications made for a gender recognition certificate, applications where an applicant already has recognition in another jurisdiction, revocations of gender recognition certificates by the Minister, applications to revoke a gender recognition certificate by the holder and correction to a gender recognition certificate.

As this is the first Annual Report of the Gender Recognition Act 2015 it covers the period from the commencement of the Act to the 30th June 2016. The next Annual Report, which will be prepared no later than 30th June 2017, will cover the calendar year 2016.

2. Background

The need to introduce legislation in this area stemmed from a High Court Order in March 2008. The Order declared that certain sections of the Civil Registration Act 2004 were incompatible with the obligations of the State under the European Convention on Human Rights by not providing for a gender recognition process. The Act addresses this by providing that a person's preferred gender is fully recognised by the State for all purposes. This is achieved through the issuing of a gender recognition certificate by the Department of Social Protection. More specifically section 18 of the Act states:

'Where a gender recognition certificate is issued to a person the person's gender shall from the date of that issue become for all purposes the preferred gender so that if the preferred gender is the male gender the person's sex becomes that of a man, and if it is the female gender the person's sex becomes that of a woman.'

Other key effects of the legislation for those wishing to have their gender recognised include:

- The person whose preferred gender is recognised can obtain a new birth certificate from the General Register Office which shows the preferred gender and new names (if names are also changed) where their birth is registered in Ireland.
- All rights, responsibilities and consequences of actions by the person in their original gender prior to the date of recognition are unaffected.

Since the publication of the General Scheme of the Gender Recognition Bill in July 2013, a number of key changes were made to the Bill. These changes are as a result of the initial pre-legislative scrutiny process and the subsequent debates in both Houses of the Oireachtas.

These included the:

- Introduction of a self-declaration model for transgender people aged 18 or over;
- Use of the term ‘preferred gender’ within the context of the Bill;
- Provision of a route to recognition for 16 to 18 year olds;
- Provision that a formal review of the operation of the Act to be started no later than two years after its commencement; and
- Alignment of legislation in relation to the issuing of passports to transgender people.

The drafting of gender recognition legislation raised complex and challenging constitutional issues on marriage, specifically the constitutional prohibition on same-sex marriage. These were the subject of lengthy deliberations by the Attorney General and were carefully considered by Government. As a result, at the time it was considered best to legislate for the majority of the people affected, who are single, and to revisit the issue for those who were married, following the outcome of the Marriage Equality Referendum in May 2015. Therefore, the Gender Recognition Bill 2014 provided that an applicant for a gender recognition certificate must be single.

The Marriage Equality Referendum removed the ban on same-sex marriage in May 2015. A number of legal challenges were made to the outcome of the Referendum meaning the result could not be certified immediately. These legal challenges were under consideration by the Court of Appeal in July 2015 when the Gender Recognition Bill was ready to be signed into law. Legal advice was sought on how to proceed with the enactment with regard to the provisions that a person wishing to change their gender had to be single as we awaited the outcome of those appeals. On the basis of that legal advice the Act including the provisions to be single was enacted on the 22nd July 2015. Following the dismissal of the legal challenges, an amendment was brought forward in the Marriage Act 2015 in September 2015 which removed the requirement to be single.

3. Client Identity Services

Applications for gender recognition certificates are processed by the Client Identity Services division in the Department of Social Protection. The division has responsibility for establishing and authenticating customer identity as well as supporting the development of an identity policy framework for the governance and delivery of identity management services.

One of the key functional areas of Client Identity Services is the Data Quality Management area. Since July 2015, a small team of three people from that area have had responsibility for the operation of the Act, which includes processing of applications for a gender recognition certificates. The system that applications are processed through can only be accessed by the gender recognition certificate team in the Data Quality Management area. Confidentiality is a vital component of the gender recognition certificate application process. Once the application is processed the records are updated to reflect the new gender. Generally, a

gender recognition certificate is issued to the client in 2-3 working days of the decision to grant being made.

4. General Register Office

The General Register Office is the central civil repository for records relating to births, stillbirths, deaths, marriages, civil partnerships and adoptions in Ireland. It operates under the aegis of the Department of Social Protection and has responsibility for the administration of the Civil Registration Service in Ireland.

The Registrar General is responsible for managing and controlling the system of registration in Ireland while the Health Service Executive is responsible for the day to day delivery of the Civil Registration Service through a network of local civil registration service offices across the State.

The Gender Recognition Act 2015 amended the Civil Registration Act 2004 by requiring the Registrar General to establish and operate a register of gender recognition. When a person has received a gender recognition certificate they may apply to be included in this register. This will allow a birth certificate showing the new gender of the person to be issued from the register. As privacy is a crucial element of the gender recognition process, the register of gender recognition and the link to the original birth registration are confidential. To further ensure confidentiality the birth certificates showing the new gender can only be obtained from the General Register Office, by the person the birth certificate relates to or, if they are deceased, the surviving family.

5. Statistics – Gender Recognition Act 2015

The total number of gender recognition certificates issued by this Department, from the commencement of the Act on 4th September 2015 to 30th June 2016, was 149. **Table 1** details the total number of gender recognition certificates issued by age:

Table 1 - Gender Recognition Certificates issued by age

	4 September – 31 December 2015		1 January – 30 June 2016	
	Aged 16/17	Aged 18 & over	Aged 16/17	Aged 18 & over
Applications Received	2	87	2	58
Applications Granted	2	87	2	58

Table 2 outlines the total number of registrations by age. For the period 4th September 2015 to 30th June 2016, 100 registrations were made on the Register of Gender Recognition:

Table 2 - Registrations on the Register of Gender Recognition by age

	4 September – 31 December 2015		1 January – 30 June 2016	
	Aged 16/17	Aged 18 & over	Aged 16/17	Aged 18 & over
Registrations	2	54	2	42

Non-Irish born residents

Under section 9(1)(b) of the Act a non-Irish born resident of the State may apply for a gender recognition certificate. Of the 149 gender recognition certificates issued 21 were to non-Irish born residents of the State – 13 during the period from 4th September to 31st December 2015 and 8 during the period 1st January to 30th June 2016. All of the applicants were aged 18 years or over.

Recognition in another jurisdiction

Section 11 of the Act allows a person who has changed gender in another jurisdiction to apply for a gender recognition certificate. For the period 4th September to 31st December 2015, 4 people who had their gender recognised in another jurisdiction received a gender recognition certificate. All were aged 18 years or over. No applications were received for the period 1st January to 30th June 2016.

Revocations

Under section 14 of the Act the Minister can revoke a gender recognition certificate where information is received that would have led to the refusal of the certificate, had it been received prior to its issue. No gender recognition certificates have been revoked by the Minister.

Where the holder of a gender recognition certificate wants to revert to their original gender, section 15 of the Act allows them to apply to the Minister to revoke the certificate. No applications to revoke a gender recognition certificate under this section have been received.

Amendments to gender recognition certificates

Under section 16 of the Act a gender recognition certificate holder can apply to the Minister to have the certificate amended if there is a clerical error or an error of fact in the content of the certificate. An error of fact has been amended on one gender recognition certificate.

6. Other Statistics

Passport Act 2008

Section 38 of the Gender Recognition Act 2015 amends the Passports Act 2008 so that a holder of a gender recognition certificate may apply to the Minister for Foreign Affairs and

Trade and request a passport to be issued in the name and gender specified on the gender recognition certificate.

The Department of Foreign Affairs and Trade has issued 12 passports to gender recognition certificate holders for the period 4th September to 31st December 2015, 3 of these were aged less than 18 years.

For the period 1st January to 30th June 2016, 6 passports were issued to gender recognition certificate holders – all aged 18 years or over.

Irish Nationality and Citizenship Act 1956

In order to allow a person on the foreign birth register to have their preferred gender recognised, section 31 of the Gender Recognition Act 2015 amended the Irish Nationality and Citizenship Act 1956 to provide for the establishment and maintenance of a register of gender recognition of foreign births by the Department of Foreign Affairs and Trade. No applications to register on the register of gender recognition of foreign births were received up to 30th June 2016.

Adoption Act 2010

Section 33 of the Gender Recognition Act 2015 amends the Adoption Act 2010 to allow the Adoption Authority of Ireland to establish a register of gender recognition of intercountry adoptions. During the period from 4th September to 31st December 2015, 2 people were registered on the register of gender recognition of intercountry adoptions, both were over 18 years of age. No registrations were made during the period 1st January to 30th June 2016.