



Gender Recognition Act 2015

Annual Report for 2018

**(Prepared in accordance with
section 6 of the Act)**

28.06.2019

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1. Introduction

The Gender Recognition Act 2015 (“the Act”) was enacted on 22 July 2015 and commenced on 4 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.

This is the fourth report to be published under the Act and covers the period 1 January 2018 to 31 December 2018. Annual reports from previous years are available at <http://www.welfare.ie/en/Pages/Gender-Recognition.aspx>

2. Background

The Gender Recognition Act 2015 provides for the issuing of a gender recognition certificate by the Minister for Employment Affairs and 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.

The principal features of the Act include provisions for:

- A self-declaration model for transgender people aged 18 or over;
- The use of the term 'preferred gender' in the wording of the Act;
- A route to recognition for 16 to 18 year olds;
- 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.

3. Amendments

The Act initially provided that an applicant for a gender recognition certificate must be unmarried (this was necessary pending the outcome of legal challenges to the Marriage Equality Referendum). Following the dismissal of the legal challenges, an amendment to the Act was made in the Marriage Act 2015 which removed the requirement for an applicant to be unmarried.

4. Client Identity Services

Applications for gender recognition certificates are processed by the Client Identity Services division in the Department of Employment Affairs and 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, that area has had responsibility for the operation of the Act, which includes processing of applications for a gender

recognition certificate. 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.

5. 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 Employment Affairs and 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.

6. Statistics – Gender Recognition

Applications for a Gender Recognition Certificate

The total number of applications for a gender recognition certificate received in 2018 was 133. **Table 1** details the total number of gender recognition certificate applications processed, by age:

Table 1 - Gender Recognition Certificates

Year	Applications Received			Applications Granted			Applications Refused		
	Age 16/17	Age 18+	Total	Age 16/17	Age 18+	Total ¹	Age 16/17	Age 18+	Total
2018	2	131	133	2	123	125	Nil	Nil	Nil
2017	3	96	99	2	97	99	Nil	1	1
2016	6	104	110	6	103	109	Nil	Nil	Nil
2015²	2	87	89	2	87	89	Nil	Nil	Nil
Totals	13	418	431	12	410	422	Nil	1	1

Under section 8(3) of the Act, the Minister can decide to issue a gender recognition certificate or refuse to issue a gender recognition certificate. Where a decision is made to refuse an application the Minister must, under section 8(5), inform the applicant of the reasons for the decision and inform the applicant of their right to appeal to the Circuit Family Court within 90 days of the date of notice. Possible reasons for refusal include the applicant not being a person who may apply for a gender recognition certificate (as provided for section 9 of the Act); the person's preferred gender being other than that of male or female which is not covered by the provisions of the Act; or the application being in respect of 16 or 17 year old but without the court exemption required under section 12.

¹ Applications received in one year may be granted in a subsequent year. There may be cases awaiting decision at the end of any given year.

² From Commencement of Act on 4 September 2015 to 31 December 2015

Registrations on the Register of Gender Recognition

Table 2 outlines the total number of registrations on the Register of Gender Registration by age. A total of 75 registrations were made on the Register of Gender Recognition during 2018.

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

Year	Age 16/17	Age 18+	Total
2018	2	73	75
2017	0	60	60
2016	6	71	77
2015³	2	54	56
Totals	10	258	268

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 125 gender recognition certificates issued in 2018, 17 were to non-Irish born residents of the State. All of the applicants were aged 18 years or over. A total of 72 gender recognition certificates have been issued under this section since the commencement of the Act.

Recognition in another jurisdiction

Section 11(2) of the Act allows a person who has changed gender in another jurisdiction to apply for a gender recognition certificate. No applications were received under this section during 2018. Since the commencement of the Act a total of four certificates have been issued under this provision.

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 were revoked by the Minister in 2018 under this section.

³ From Commencement of Act on 4 September 2015 to 31 December 2015

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 were received, or granted, in 2018. There have been two revocations made since commencement of the Act, both from applicants aged over 18 years.

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. No applications to amend a Gender Recognition Certificate were received or processed during 2018. Only two corrections have been made since commencement of the Act.

7. Other Statistics

Passport Act 2008

Section 38 of the Act 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 36 passports to gender recognition certificate holders during 2018 – none of these were issued to individuals aged less than 18 years. Since the commencement of the Act, 86 passports have been issued to gender recognition certificate holders, 5 of whom were aged less than 18 years.

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 Act 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. It was

not possible to apply under this provision prior to 1 December 2017 when regulations giving effect to this section came into operation⁴. There were no applications in December 2017 and a total of one application in 2018.

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”. Two registrations were entered on the register of gender recognition of intercountry adoptions during 2018. A total of six applications were received under this provision since commencement of the Act.

8. Review of the operation of the Act

Section 7 of the Act provides that the Minister shall commence a review of the Act within 2 years of it coming into operation.

In November 2017 Minister Doherty established a group to carry out a review of the operation of the Act. The Review Group was chaired by Moninne Griffith (Executive Director, BeLonG To) and included representation from the Transgender Equality Network of Ireland (TENI), other independent experts in the field, and Government Departments/bodies with an interest in this area (Employment Affairs & Social Protection, Children & Youth Affairs, Justice & Equality, Education & Science, Foreign Affairs & Trade, and the HSE).

Consultation

Central to the review was a consultation process that targeted the widest possible level of public consultation. The written consultation process was formally announced on 10 January 2018, with a closing date for receipt of submissions of 5 February 2018.

⁴ S.I. No. 539/2017 Gender Recognition of Foreign Births Regulations 2017 refers. It is available here: <http://www.irishstatutebook.ie/eli/2017/si/539/made/en/print>

Reflecting the terms of reference, contributors were invited to make submissions under the following headings:

- a. Arrangements for children aged 16 to 17 years;
- b. Arrangements for children aged under 16 years;
- c. Arrangements for persons who identify as neither male nor female (e.g. non-binary);
- d. Arrangements for intersex people;
- e. Any other relevant issues, including issues relating to the operation of the current legislative provisions.

The call for submissions was publicised on the gender recognition webpage of the Department of Employment Affairs and Social Protection, on social media via the Department's social media channels, and by advertising in the main national daily newspapers. Members of the group highlighted the call for submissions on the websites and social media accounts of their own organisations, to raise awareness, and to call for submissions from representative groups and individuals in their networks. The consultation process was also brought to the attention of Members of both Houses of the Oireachtas as well as a range of organisations that were invited to make submissions (e.g. medical and legal representative bodies, school patron bodies, teacher representative bodies, Comhairle na nÓg, the Ombudsman for Children, Tusla, FLAC, ICTU, sporting and other youth participation organisations).

In order to ensure that the consultation process was visible to young people, the Review Group contacted, amongst other young peoples' representative groups, the Irish Second Level Student's Union (ISSU) – the national umbrella body for second-level student councils. The ISSU assisted the group by contacting student councils via email and inviting submissions to the consultation process. They also included an advertisement for the consultation process in their regular bulletin and published an interview with the Chair on their Facebook page.

A total of 92 written submissions were received and are available on the gender recognition webpage at the following link:

<http://www.welfare.ie/en/Pages/Review-of-the-Gender-Recognition-Act-2015.aspx>

The Review Group also held follow-up consultation meetings with members of the transgender community, medical practitioners, and legal experts. They heard first hand experiences of transgender young people, parents of transgender young people, and also held discussions with a non-binary adult.

Report

The report of the Review Group was submitted on 15 June 2018 and was published on 18 July 2018.

A copy of the full set of recommendations is at Appendix 1.

June 2018

Appendix 1 – Review Group Recommendations

Recommendation 1:

A system of gender recognition should be introduced for children of any age, subject to the following key principles:

- Parental consent required (with an appropriate legal process to address cases where there is not consent from both parents or it is not possible or safe to obtain same),
- Process would be administrative,
- Straightforward revocation process,
- Third party support for the child and family involved.

Recommendation 2A:

Legal gender recognition should be made available to people who are non-binary.

Recommendation 2B:

As part of cross Government departmental review of proposed legislative amendments an impact assessment may be considered.

Recommendation 2C:

In the immediate term, Government Departments and other public bodies should take any positive steps they can take to improve the position of people who are non-binary.

Recommendation 3:

All measures taken to improve access to gender recognition, both with regard to age and gender identity (either binary or non-binary), should also provide access for intersex individuals.

Recommendation 4:

That the Department of Employment Affairs and Social Protection, with the General Register Office, introduce a numbering system which looks identical to that used for birth certificates where the information is taken from the birth registers.

This should apply to new certificates and the option of a replacement certificate should be made available to people who already have a certificate with no reference number (and the fee for issuing a replacement waived).

Recommendation 5:

Section 10 of the Act should be used (either as currently enacted or by way of legislative amendment) to enable a legal change of name as part of the gender recognition process.

Recommendation 6A:

That arrangements be put in place to allow Irish citizens born in Northern Ireland and living outside the State, to apply for a gender recognition certificate.

Recommendation 6B:

That the issue of revised birth certificates be raised at official level with UK authorities.

Recommendation 7:

That departments and agencies examine ways of streamlining application processes; improving interconnection between Departments; and reducing costs for replacement of official documents such as birth certificates and passport.

Recommendation 8:

That each relevant Department/Government body examine how administrative processes, once a Gender Recognition Certificate is obtained, can be streamlined while maintaining a person's privacy.

Recommendation 9:

That a review of the Act and any impact assessment in relation to the introduction of legislation to provide legal gender recognition for non-binary people should be completed within five years of commencement of the provisions of any enacted amending legislation arising from this review. That review would cover any new provisions contained in any amending legislation.

Recommendation 10A:

That the Department of Employment Affairs and Social Protection publish an easy to read booklet setting out the steps involved in obtaining a Gender Recognition Certificate and an entry in the register of gender recognition. This should also include advice regarding next steps to be taken, listing other Government departments and State bodies that may need to be contacted to update personal records.

Recommendation 10B:

The group also recommends that a booklet be prepared for Government Departments, other State bodies, and private sector organisations, setting out how the Act applies to them