



Annual Report for 2016 under section 6 of the Gender Recognition Act 2015

Department of Social Protection

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Annual Report under section 6 of the Gender Recognition Act 2015

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 second report to be published under the Act and covers the period 1 January 2016 to 31 December 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.

The principal features of the Act includes provision for:

- The introduction of 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 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.

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 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 Act 2015

The total number of applications for a gender recognition certificate received by this Department in 2016 was 110. **Table 1** details the total number of gender recognition certificates issued 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 | Age 16/17 | Age 18+ | Total |
| 2016 | 6 | 104 | 110 | 6 | 103 ¹ | 109 | Nil | Nil | Nil |
| 2015 ² | 2 | 87 | 89 | 2 | 87 | 89 | Nil | Nil | Nil |

¹ One application on hands on 31 December 2016

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

Table 2 outlines the total number of registrations on the Gender Registration Register by age. A total of 77 registrations were made on the Register of Gender Recognition during 2016:

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

| Year | Age 16/17 | Age 18+ | Total |
|-------------------------|------------------|----------------|--------------|
| 2016 | 6 | 71 | 77 |
| 2015³ | 2 | 54 | 56 |

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 109 gender recognition certificates issued in 2016, 16 were to non-Irish born residents of the State. All of the applicants were aged 18 years or over.

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 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 were revoked by the Minister in 2016.

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 in 2016.

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

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 during 2016.

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 13 passports to gender recognition certificate holders during 2016 – two of these were issued to individuals aged under 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. No applications were made under this provision in 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”. No registrations were entered on the register of gender recognition of intercountry adoptions during 2016.

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. A report on the findings of the review, and the conclusions drawn from the findings, must be presented to each House of the Oireachtas not later than 12 months after the start of the review.

Review of operation of Act

7. The Minister shall—

(a) not later than 2 years after this section comes into operation, commence a review of the operation of this Act, and

(b) not later than 12 months after its commencement, make a report to each House of the Oireachtas of the findings made on the review and of the conclusions drawn from the findings.

It is expected that this review will commence in the third quarter of 2017.