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*Number 14 of 2022*

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**Birth Information and Tracing Act 2022**

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## **BIRTH INFORMATION AND TRACING ACT 2022**

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National Archives Act 1986 (No. 11)

Succession Act 1965 (No. 27)





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## **BIRTH INFORMATION AND TRACING ACT 2022**

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An Act to make further and better provision in respect of access by certain persons to information concerning their origins and, for that purpose, to provide for the access by adopted persons and persons who have been the subject of incorrect birth registrations or certain care arrangements to their birth certificates and other information and items relating to them; to provide, where such persons are deceased, for the access in certain circumstances by their children or other next of kin to such information or items; to provide for the making available, by the Adoption Authority of Ireland and the Child and Family Agency, of a service for the tracing of certain persons; to provide for the establishment and maintenance of a register to be known as the Contact Preference Register; to provide for the safeguarding and transfer to the Adoption Authority of Ireland of certain records relating to the birth, adoption and care of certain persons; to amend the Succession Act 1965 to make provision in respect of persons who have been the subject of incorrect birth registrations; to amend the Civil Registration Act 2004 to make additional provision in respect of persons who are the subject of incorrect birth registrations; to amend the National Archives Act 1986; to amend the Adoption Act 2010; and to provide for related matters. [30th June, 2022]

**Be it enacted by the Oireachtas as follows:**

### PART 1

#### PRELIMINARY AND GENERAL

##### **Short title and commencement**

1. (1) This Act may be cited as the Birth Information and Tracing Act 2022.
- (2) Subject to *subsection (3)*, this Act, other than *Parts 8 and 9*, shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be appointed for different purposes or different provisions.
- (3) *Part 2* shall come into operation on such day or days, not earlier than 3 months after the date on which *Part 6* comes into operation, as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be appointed for different purposes or different provisions.

- (4) *Part 9* shall come into operation on such day or days as the Minister for Social Protection may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be appointed for different purposes or different provisions.

## Interpretation

### 2. (1) In this Act—

“Act of 2004” means the Civil Registration Act 2004;

“Act of 2010” means the Adoption Act 2010;

“accredited body” has the meaning it has in section 3 of the Act of 2010;

“adopted child” means an adopted person who has not attained the age of 18 years;

“adopted person” means a person—

(a) adopted under an adoption order,

(b) born in the State and—

(i) placed for adoption outside the State by An Bord Uchtála, a person who was at the time a registered adoption society, the Authority or the Agency, or

(ii) removed from the State by any other person for the purpose of the effecting of his or her adoption outside the State,

and whose adoption was effected outside the State,

(c) adopted, in accordance with the law in force in the place at the time of the adoption, in a place outside the State, where the particulars of his or her adoption are entered in the register of intercountry adoptions, or

(d) otherwise adopted in accordance with the law in force in the State at the time of the adoption;

“adoption order” has the same meaning as it has in the Act of 2010;

“adoptive parent” means, in relation to an adopted person, a person who has adopted him or her, and “adoptive father” and “adoptive mother” shall be construed accordingly;

“Agency” means the Child and Family Agency;

“AIRR Archive” means the database of historical child care records compiled by the Department of Health under the Access to Institutional and Related Records Project;

“authorised officer” means an authorised officer appointed under *section 51*;

“Authority” means the Adoption Authority of Ireland;

“birth certificate” means a document issued under section 13(4) of the Civil Registration Act 2004;

“birth information” means, in relation to a person, the following information relating to the person at the time of his or her birth:

- (a) the date, place and time of his or her birth;
- (b) his or her sex;
- (c) his or her forename and surname;
- (d) the forename, surname, birth surname, address, occupation, date of birth, civil status and, where applicable, former surname of his or her mother;
- (e) the birth surname of his or her mother’s mother;
- (f) the forename, surname, birth surname, address, occupation, date of birth, civil status and, where applicable, former surname of his or her father;
- (g) the birth surname of his or her father’s mother;

“boarded out arrangement” means an arrangement under which a child was placed by a local authority or health board in a foster home at which care of the child was provided in exchange for a fee;

“care arrangement” means—

- (a) a nursed out arrangement,
- (b) a boarded out arrangement,
- (c) an arrangement under which a child was placed with a foster parent—
  - (i) subject to *subparagraph (ii)*, within the meaning of section 36(2) of the Child Care Act 1991, or
  - (ii) where the arrangement concerned was made before the coming into operation of the provision referred to in *subparagraph (i)*, in accordance with the law in force in the State at the time the arrangement was made, whether or not the foster parent became the adoptive parent of the child,
- (d) an arrangement made under section 36(1)(d) of the Child Care Act 1991, under which a child was placed with a relative,
- (e) an arrangement under which a child was cared for as a resident of an institution specified in the *Schedule*, or
- (f) an arrangement under which a child was placed with a prospective adoptive parent, whether or not the prospective adoptive parent became the adoptive parent of the child;

“care information” means, in relation to a person who, at any time in the period following his or her birth and ending on the date on which he or she attained the age of 18 years, was the subject of a care arrangement, information in relation to the care arrangement, and includes—

- (a) the name of any person who was a party to the care arrangement,

- (b) where the person was cared for as a resident of an institution specified in the *Schedule*—
  - (i) the name of the person in charge of the institution, and
  - (ii) where the person was cared for in a part of the institution, the name of the person in charge of that part,at the time the care was provided,
- (c) the place at which the care was provided,
- (d) the dates on which the care arrangement commenced and ceased, and
- (e) the name of the person who made the care arrangement;

“data controller” has the meaning it has in the General Data Protection Regulation;

“designated person” shall be construed in accordance with *section 19*;

“early life information” means, in relation to a person, information that relates to him or her at any time in the period following his or her birth and ending on the date on which he or she attained the age of 18 years and includes—

- (a) the place at which he or she resided and the dates during which he or she resided at that place,
- (b) where applicable, information relating to his or her baptism or any other ceremony of a religious or spiritual nature performed in the period in respect of him or her, which shall include, where available—
  - (i) information on the date and place of the baptism or ceremony,
  - (ii) in the case of his or her baptism—
    - (I) the certificate of baptism, and
    - (II) the entry in a register of baptisms,and
  - (iii) in the case of any other ceremony of a religious or spiritual nature performed on him or her, any equivalent document to a document specified in *subparagraph (ii)*,
- (c) his or her birth weight,
- (d) a photograph or other image of him or her,
- (e) information on his or her health, physical or emotional development,
- (f) information on any medical treatments, procedures or vaccinations administered to him or her,
- (g) the duration of the period during which his or her mother remained with him or her in the same place of residence, and the dates on which that period commenced and ended,

- (h) information on whether he or she left the place referred to in *paragraph (g)* with, or separately from, his or her mother,
- (i) information on whether any person visited or inquired in relation to him or her, which information includes the name of the other person and, where applicable, the degree of relationship of the other person to him or her,
- (j) information on whether any person made arrangements for the adoption of the person, whether or not an adoption was effected in respect of him or her, which information includes the name of the person who made the arrangements, and
- (k) where an adoption was effected in respect of him or her, the name of each adoptive parent;

“electronic communications technology” means technology that enables real time transmission and real time two-way audio-visual or audio communication;

“father” means, in relation to a person, the man who, at the time of the person’s birth, was his or her father;

“General Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>1</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation);

“genetic relative” means, in relation to a person—

- (a) his or her mother or father,
- (b) a child or parent of his or her mother or father,
- (c) a sibling, uncle, aunt or first-cousin of his or her mother or father, whether the relationship is of the whole blood or half blood, or
- (d) a person to whom, but for the adoption of any person, *paragraph (b)* or *(c)* would apply;

“genetic relative information” means, in relation to a person, the following information:

- (a) whether the person has a genetic relative, or had such a relative who is deceased;
- (b) where the person has a genetic sibling or had such a sibling who is deceased—
  - (i) the sex of the genetic sibling, and
  - (ii) whether the genetic sibling is or was older or younger than the person;

“genetic sibling” means, in relation to a person, a person who shares the same mother or father, or both, as him or her;

“incorrect birth registration information” means, in relation to a person who is the subject of an incorrect birth registration—

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<sup>1</sup> OJ No. L 119, 4.5.2016, p.1.

(a) the circumstances under which the person became the subject of an incorrect birth registration, and

(b) the name of the person who made arrangements for the incorrect birth registration;

“information source” means a primary information source or a secondary information source;

“local authority” means a local authority within the meaning of section 2 of the Local Government Act 2001;

“medical information” means, in relation to a person, information relating to his or her medical history;

“medical practitioner” means a medical practitioner who is for the time being registered in the register of medical practitioners established under section 43 of the Medical Practitioners Act 2007;

“Minister” means the Minister for Children, Equality, Disability, Integration and Youth;

“mother” means, in relation to a person, the woman who gave birth to him or her;

“National Adoption Contact Preference Register” means the register of contact preferences of that name established in 2005 and, immediately before the date on which *section 42* comes into operation, maintained by the Authority;

“nursed out arrangement” means an arrangement—

(a) under which a child was placed in a foster home at which care of the child was provided in exchange for a fee, and

(b) notice of which was required by or under the Children Act 1908 to be given to a local authority;

“parent” subject to *section 32(7)* and *38(16)*, means, in relation to a person, his or her mother or father;

“personal data” has the meaning it has in the General Data Protection Regulation;

“prescribe” means prescribe by regulation;

“primary information source” means the Authority or the Agency;

“processing” has the meaning it has in the General Data Protection Regulation;

“provided item” means an item, including a letter, photograph, memento or other document or object held by a relevant body that was provided, whether to the Agency, Authority or any other person, by or on behalf of a parent or genetic relative of a relevant person, or another person involved in the provision of care of the relevant person, for the purpose of its being made available to the relevant person in the event that it were to be sought by or on behalf of him or her, whether the items have been so provided before, on or after the date on which—

- (a) this section comes into operation, or
- (b) the relevant person became a relevant person,

and includes an item lodged in accordance with *section 39(1)*;

“register of births” means a register of births maintained by *An tArd-Chláraitheoir* under section 13(1)(a) of the Act of 2004, as amended, or under the repealed enactments (within the meaning of that Act);

“registered adoption society” means a registered adoption society within the meaning of section 3 of the Adoption Act 1952;

“relevant body” means one of the following:

- (a) the Agency;
- (b) the Authority;
- (c) a body that is designated under *section 61*;

“relevant guardian” means, in relation to an adopted person, the person who, at the time of the adoption of the adopted person, was his or her guardian and—

- (a) consented, in accordance with section 26 of the Act of 2010, to the making of an adoption order in respect of the adopted person, or
- (b) otherwise, and in accordance with the law in force in the State at the time of the adoption, consented to the adoption;

“relevant person” means a person who is one or more than one of the following—

- (a) an adopted person,
- (b) a person who is, or who has reasonable grounds for suspecting that he or she is, the subject of an incorrect birth registration, or
- (c) a person who has been, or who has reasonable grounds for suspecting that he or she has been, at any time in the period following his or her birth and ending on the date on which he or she attained the age of 18 years—
  - (i) resident in an institution specified in the *Schedule*, or
  - (ii) the subject of a nursed out arrangement or a boarded out arrangement;

“relevant record” means a record—

- (a) relating to a relevant person that contains birth information, early life information, care information or medical information relating to him or her, or a photograph or other image of his mother, father or other genetic relative,
- (b) containing or noting a communication from a parent or genetic relative relating to a relevant person, that is held by the Agency, the Authority or a secondary information source,

- (c) containing or noting a communication from a relevant person relating to a parent or genetic relative that is held by the Agency, the Authority or a secondary information source,
  - (d) held by the Department of Foreign Affairs relating to the departure from the State, in the period commencing on 1 January 1940 and ending on 31 December 1979, of a child—
    - (i) for the purpose of the effecting of his or her adoption outside the State, or
    - (ii) adopted under an adoption order by a person resident in a place outside the State, for the purpose of the child residing with the person,
- or

- (e) prescribed, or a record of a class prescribed, under *section 43(1)*;

“secondary information source” means one of the following:

- (a) the Minister for Children, Equality, Disability, Integration and Youth;
- (b) the Minister for Education;
- (c) the Minister for Foreign Affairs;
- (d) the Minister for Health;
- (e) the data controller of the AIRR archive;
- (f) the Health Service Executive;
- (g) a registered adoption society;
- (h) an accredited body;
- (i) a person prescribed under *section 43(2)*;

“special categories of personal data” has the meaning it has in the Data Protection Act 2018.

- (2) For the purposes of this Act, a person (“first mentioned person”) is the subject of an incorrect birth registration where—
  - (a) as a result of the giving of information that was false or misleading, the name of a person other than the mother of the first mentioned person was entered in the register of births as the mother of the first mentioned person, and
  - (b) the person named as mother and, if applicable, father in the entry assumed the role of a parent in relation to the first mentioned person and treated the first mentioned person as her or their lawful child,

whether or not the entry has been corrected or cancelled pursuant to Part 3B (inserted by *Part 9*) or section 63, 64 or 65 of the Act of 2004.

**Expenses**

3. The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.

**Orders**

4. Every order, other than an order under *subsection (2), (3) or (4) of section 1*, made under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the order is passed by either such House within the next 21 days on which that House sits after the order is laid before it, the order shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

**Additional institution**

5. (1) The Minister may, by order, provide for the insertion in the *Schedule* of any institution that was established or operated for the purpose of providing care to children in which children were placed and resident and in respect of which a public body has or had a regulatory or inspection function.
- (2) “public body” means—
- (a) a Minister of the Government,
  - (b) a local authority, or
  - (c) a body (other than a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act) established by or under any enactment.

**PART 2****ACCESS TO BIRTH CERTIFICATE, BIRTH AND OTHER INFORMATION AND PROVIDED ITEMS****Relevant person may apply for copy of birth certificate**

6. (1) Subject to this section and *sections 7 and 8*, an *tArd-Chláraitheoir* shall, on application by a relevant person who has attained the age of 16 years to him or her in that behalf in writing and on payment to him or her of such fee as may be prescribed by the Minister for Social Protection—
- (a) search the register of births and the index thereto, together with the Adopted Children Register and the index provided for under section 86(1) of the Act of 2010, and
  - (b) give the relevant person or, where *section 8* applies, the Authority—
    - (i) a copy, certified by him or her to be a true copy,

- (ii) a copy, or
  - (iii) a certified extract,
- of an entry in the register of births pertaining to the birth of the relevant person.
- (2) Subject to this section and *sections 7 and 8*, a relevant body that holds a birth certificate in respect of a relevant person who has attained the age of 16 years shall, on application to it in writing by the relevant person, provide the relevant person or, where *section 8* applies, the Authority with a copy of the birth certificate.
  - (3) An application under *subsection (1) or (2)* shall—
    - (a) be in such form as the recipient body concerned may specify, and
    - (b) include such contact details of the applicant as are required for the performance by the recipient body and the Authority of their functions under this Part.
  - (4) (a) *An tArd-Chláraitheoir*, where he or she conducts a search under *subsection (1)(a)* and finds no entry in the register of births pertaining to the birth of the applicant concerned shall, in writing and without delay, inform the applicant of that fact.
    - (b) A relevant body that receives an application under *subsection (2)*, where it does not hold the birth certificate to which the application relates, shall, in writing and without delay, inform the applicant of that fact.
  - (5) In this section and *sections 7 and 8*—
    - “applicant” means, in relation to an application under *subsection (1) or (2)*, the relevant person who makes the application;
    - “recipient body” means, as the case may be—
      - (a) *an tArd-Chláraitheoir*, or
      - (b) a relevant body that receives an application under *subsection (2)*.

#### **Provision of birth certificate to applicant under *section 6* aged 18 years or over**

- 7. (1) On receipt of an application referred to in *subsection (1) or (2)* of *section 6* made by an applicant who has attained the age of 18 years, the recipient body shall, unless *subsection (4)* of that section applies or it is satisfied that each relevant parent is deceased, inform the Authority of the application and ascertain from the Authority, in respect of each relevant parent, whether, on the basis of the information available to it, any of the following applies:
  - (a) he or she has not made a statement under *section 38(11)*;
  - (b) he or she has made a statement under *section 38(11)* that either of the following applies:
    - (i) he or she is seeking to have contact with the applicant;
    - (ii) he or she is willing to be contacted by the applicant;

- (c) he or she has made a statement under *section 38(11)* that he or she is not willing to be contacted by the applicant, and an information session has already taken place;
  - (d) he or she, to the knowledge of the Authority, is deceased;
  - (e) he or she is not willing to be contacted by the applicant and no information session has taken place.
- (2) The recipient body shall comply with *subsection (3)* where one of the following applies in respect of each relevant parent:
- (a) the recipient body has, under *subsection (1)*, ascertained from the Authority that *paragraph (a), (b), (c) or (d)* of that subsection applies in relation to the relevant parent;
  - (b) the recipient body is satisfied, whether on the basis of information obtained from the Authority under this section or other information, that the relevant parent is deceased.
- (3) Where *subsection (2)* applies, the recipient body shall—
- (a) comply with *subsection (1) or (2)*, as the case may be, of *section 6*, and
  - (b) in so complying, where *paragraph (a) or (b)* of *subsection (1)* applies in relation to a relevant parent, inform the applicant, in accordance with guidelines under *section 19(1)*, of that fact.
- (4) Where the recipient body, under *subsection (1)*, ascertains from the Authority that *paragraph (e)* of that subsection applies in relation to a relevant parent, it shall—
- (a) provide the Authority with the contact details of the applicant, and
  - (b) comply with *subsection (1) or (2)*, as the case may be, of *section 6* only where it has received a notification under *section 17(4)(a)* of the completion of an information session in respect of the relevant parent concerned with the applicant.
- (5) In this section and *section 8*, “relevant parent” means, in relation to the entry in the register of births pertaining to a relevant person or the birth certificate of a relevant person, the person, or each person, who is named in the entry or, as the case may be, on the birth certificate as a parent of the relevant person.

**Provision of birth certificate to applicant under *section 6* aged between 16 and 18 years**

8. (1) On receipt of an application referred to in *subsection (1) or (2)* of *section 6* made by an applicant who has not attained the age of 18 years, the recipient body, unless *subsection (4)* of that section applies, shall inform the Authority of the application and provide the Authority with—
- (a) as the case may be, a document specified in *paragraph (b)* of *subsection (1)*, or the document specified in *subsection (2)*, of that section, and

- (b) the contact details of the applicant.
- (2) On receipt of the document referred to in *subsection (1)*, the Authority shall on the basis of the information available to it establish, in relation to each relevant parent, as to whether any of the following apply:
  - (a) he or she has not made a statement under *section 38(11)*;
  - (b) he or she has made a statement under *section 38(11)* that either of the following applies:
    - (i) he or she is seeking to have contact with the applicant;
    - (ii) he or she is willing to be contacted by the applicant;
  - (c) he or she has made a statement under *section 38(11)* that he or she is not willing to be contacted by the applicant, and an information session has already taken place;
  - (d) he or she is deceased;
  - (e) he or she is not willing to be contacted by the applicant and no information session has taken place.
- (3) Where *paragraph (a), (b), (c) or (d) of subsection (2)* applies in respect of the relevant parent (or, as the case may be, each relevant parent), the Authority shall, in accordance with *section 18*, provide the applicant with the document provided to it under *subsection (1)(a)*.
- (4) Where *paragraph (e) of subsection (2)* applies in respect of a relevant parent, the Authority shall—
  - (a) hold an information session in respect of the relevant person concerned with the applicant, and
  - (b) whether at the same time as the information session referred to in *paragraph (a)*, or at a later time, provide the applicant, in accordance with *section 18*, with the document provided to it under *subsection (1)(a)*.

**Relevant body to provide birth information or image on application by relevant person aged 18 years or over**

9. (1) A relevant person who has attained the age of 18 years (in this section referred to as an “applicant”) may apply in writing to a relevant body for the provision by the relevant body to him or her of either or both of the following that is held by the relevant body:
- (a) the birth information that relates to him or her;
  - (b) a photograph or other image of his or her mother or father contained in a record specified in *subsection (8)*.
- (2) An application under *subsection (1)* shall—

- (a) be in such form as the relevant body concerned may specify, and
  - (b) include such contact details of the applicant as the relevant body concerned may specify, being such contact details as are required for the performance by the relevant body and the Authority of their functions under this Part.
- (3) Subject to this section, a relevant body, on application to it in accordance with this section—
- (a) shall, to the extent that it is practicable to do so, provide the applicant with a copy of the records specified in *subsection (8)* that it holds that contain the birth information to which the application relates,
  - (b) may provide the applicant with a statement setting out the birth information contained in the records that it holds, and
  - (c) in the case of an application for a photograph or other image referred to in *subsection (1)(b)*, shall, as it considers appropriate—
    - (i) provide the applicant with the photograph or other image, and retain a copy, or
    - (ii) retain the photograph or other image and provide the applicant with a copy.
- (4) On receipt of an application under *subsection (1)*, the relevant body, before complying with *subsection (3)*, shall, subject to *subsection (9)* and unless it is satisfied that each relevant parent is deceased, inform the Authority of the application and ascertain from the Authority, in respect of each relevant parent, as to whether, on the basis of the information available to it, any of the following applies:
- (a) he or she has not made a statement under *section 38(11)*;
  - (b) he or she has made a statement under *section 38(11)* that either of the following applies:
    - (i) he or she is seeking to have contact with the applicant;
    - (ii) he or she is willing to be contacted by the applicant;
  - (c) he or she has made a statement under *section 38(11)* that he or she is not willing to be contacted by the applicant, and an information session has already taken place;
  - (d) he or she, to the knowledge of the Authority, is deceased;
  - (e) he or she is not willing to be contacted by the applicant and no information session has taken place.
- (5) The relevant body shall comply with *subsection (6)* where one of the following applies in respect of each relevant parent:
- (a) it has, under *subsection (4)*, ascertained from the Authority that *paragraph (a), (b), (c) or (d)* of that subsection applies in relation to the relevant parent;

- (b) it is satisfied, whether on the basis of information obtained from the Authority under this section or other information, that the relevant parent is deceased.
- (6) Where *subsection (5)* applies, the relevant body shall—
  - (a) comply with *subsection (3)*, and
  - (b) in so complying, where *paragraph (a)* or *(b)* of *subsection (4)* applies in relation to a relevant parent, inform the applicant, in accordance with guidelines under *section 19(1)*, of that fact.
- (7) The relevant body, where it, under *subsection (4)*, ascertains that *paragraph (e)* of that subsection applies in relation to a parent, shall—
  - (a) provide the Authority with the contact details of the applicant, and
  - (b) comply with *subsection (3)* only where it has received a notification under *section 17(4)(a)* of the completion of an information session in respect of the relevant parent concerned with the applicant.
- (8) The records referred to in *subsection (3)(a)* and *section 10(3)* are the following:
  - (a) a record relating to a person’s birth, the registration of a person’s birth or a person’s adoption, including an adoption order made in respect of the person;
  - (b) a record created or held by a registered adoption society or an institution specified in the *Schedule*;
  - (c) a record of such class as the Minister may prescribe.
- (9) Where a relevant body that receives an application under *subsection (3)* does not hold the birth information to which the application relates, it shall, in writing and without delay, inform the applicant of that fact.
- (10) In this section and *section 10*, “relevant parent” means—
  - (a) in relation to birth information relating to an applicant, a person, or each person, who is named as a parent of the applicant in the records containing the birth information concerned, and
  - (b) in relation to a photograph or other image of a parent of an applicant, a parent of the applicant whose image is contained in the photograph or other image concerned.

**Authority to provide birth information or image on application by relevant person aged between 16 and 18 years**

- 10.** (1) A relevant person who has attained the age of 16 years but who has not attained the age of 18 years (in this section referred to as an “applicant”) may apply in writing to the Authority for the provision by the Authority to him or her of either or both of the following that is held by it or by the Agency:
- (a) the birth information that relates to him or her;

- (b) a photograph or other image of his or her mother or father contained in a record specified in *section 9(8)*.
- (2) An application under *subsection (1)* shall—
- (a) be in such form as the Authority may specify, and
  - (b) include such contact details of the applicant as the Authority may specify, being such contact details as are required for the performance by the Authority of its functions under this Part.
- (3) Subject to this section, the Authority, on application to it in accordance with this section—
- (a) shall, to the extent that it is practicable to do so, provide the applicant with a copy of the records specified in *section 9(8)* that it or the Agency holds that contain the birth information to which the application relates,
  - (b) may provide the applicant with a statement setting out the birth information contained in the records that it or the Agency holds, and
  - (c) in the case of an application for a photograph or other image referred to in *subsection (1)(b)*, shall, as it considers appropriate—
    - (i) provide the applicant with the photograph or other image, and retain a copy,  
or
    - (ii) retain the photograph or other image and provide the applicant with a copy.
- (4) On receipt of an application under *subsection (1)*, the Authority shall, subject to *subsection (7)* on the basis of the information available to it establish, in relation to each relevant parent, as to whether any of the following applies:
- (a) he or she has not made a statement under *section 38(11)*;
  - (b) he or she has made a statement under *section 38(11)* that either of the following applies:
    - (i) he or she is seeking to have contact with the applicant;
    - (ii) he or she is willing to be contacted by the applicant;
  - (c) he or she has made a statement under *section 38(11)* that he or she is not willing to be contacted by the applicant, and an information session has already taken place;
  - (d) he or she is deceased;
  - (e) he or she is not willing to be contacted by the applicant and no information session has taken place.
- (5) Where *paragraph (a), (b), (c) or (d) of subsection (4)* applies in respect of the relevant parent (or, as the case may be, each relevant parent) the Authority shall, in accordance with *section 18*, provide the applicant with the information, photograph or other image referred to in *subsection (3)*.

- (6) Where *paragraph (e)* of *subsection (4)* applies in respect of a relevant parent, the Authority shall—
- (a) hold an information session with the applicant, and
  - (b) whether at the same time as the information session referred to in *paragraph (a)*, or at a later time, provide the applicant, in accordance with *section 18*, with the information referred to in *subsection (3)*.
- (7) Where the Authority or Agency does not hold the birth information to which an application under *subsection (1)* relates, the Authority shall, in writing and without delay, inform the applicant of that fact.

**Relevant body to provide early life, care information or incorrect birth registration information on application by relevant person aged 18 years or over**

11. (1) A relevant person who has attained the age of 18 years may apply in writing to a relevant body for the provision by the relevant body to him or her of any or all of the following that is held by the relevant body and that relates to him or her:
- (a) early life information;
  - (b) care information;
  - (c) incorrect birth registration information.
- (2) Subject to *subsection (3)*, a relevant body on application to it made under this section—
- (a) shall, to the extent that it is practicable to do so, provide the relevant person with a copy of the records it holds that contain the early life information, care information or incorrect birth registration information to which the application relates,
  - (b) may provide the relevant person with a statement setting out the early life information, care information or incorrect birth registration information to which the application relates that is contained in the records that it holds, and
  - (c) where the early life information to which the application relates includes a photograph or other image of the applicant, shall, as it considers appropriate—
    - (i) provide the applicant with the photograph or other image, and retain a copy,  
or
    - (ii) retain the photograph or other image and provide the applicant with a copy.
- (3) Where a relevant body that receives an application made in accordance with *subsection (1)* does not hold the information to which the application relates, it shall, in writing and without delay, inform the relevant person concerned of that fact.

**Authority to provide early life or care information on application by relevant person aged between 16 and 18 years**

12. (1) A relevant person who has attained the age of 16 years but who has not attained the age of 18 years may apply in writing to the Authority for the provision by it to him or her of any or all of the following that is held by it or by the Agency and that relates to him or her:
- (a) early life information;
  - (b) care information.
- (2) Subject to this section, the Authority, on application made to it under this section, and in accordance with *section 18*—
- (a) shall, to the extent that it is practicable to do so, provide the relevant person with a copy of the records that it or the Agency holds that contain the early life information and care information to which the application relates,
  - (b) may provide the relevant person with a statement setting out the early life information and care information to which the application relates that is contained in the records that it or the Agency holds, and
  - (c) where the early life information to which the application relates includes a photograph or other image of the applicant, shall, as it considers appropriate—
    - (i) provide the applicant with the photograph or other image, and retain a copy, or
    - (ii) retain the photograph or other image and provide the applicant with a copy.
- (3) Where the Authority or the Agency does not hold the information to which an application under *subsection (1)* relates, the Authority shall, in writing and without delay, inform the relevant person concerned of that fact.

**Application for provided items**

13. (1) A person referred to in *paragraph (a) or (b) of subsection (2)* (in this section referred to as an “applicant”) may apply in writing to a relevant body for the provision by it to him or her of a specified provided item, or any provided item, that is held by it and that was provided for the purpose of its being made available to him or her or, in the case of an applicant referred to in *subsection (2)(b)*, the adopted child concerned.
- (2) An application under *subsection (1)* may be made by—
- (a) a relevant person who has attained the age of 18 years, or
  - (b) an adoptive parent, on behalf of his or her adopted child who has not attained the age of 16 years.
- (3) The relevant body concerned, on receipt of an application made under *subsection (1)*, shall—
- (a) provide the applicant with the provided item concerned, or

- (b) where it is not in possession of the item to which the application relates, inform the applicant, in writing and without delay, of that fact.

**Application for provided items by relevant person aged between 16 and 18 years**

- 14.** (1) A relevant person who has attained the age of 16 years but who has not attained the age of 18 years (in this section referred to as an “applicant”) may apply in writing to a relevant body for the provision by it to him or her of a specified provided item, or any provided item, that was provided for the purpose of its being made available to the relevant person and that is held by it.
- (2) The relevant body to which the application relates, on receipt of an application made in accordance with *subsection (1)*, shall in accordance with *section 18*—
- (a) provide the applicant with the provided item to which the application relates, or
  - (b) where it is not in possession of the item to which the application relates, inform the applicant of that fact.

**Relevant body or Authority to provide medical information relating to relevant person on application by relevant person**

- 15.** (1) A relevant person who has attained the age of 18 years may apply in writing to a relevant body for the provision by the relevant body to him or her of medical information that—
- (a) is contained in a record to which this section applies that is held by it, and
  - (b) relates to him or her.
- (2) Subject to this section, a relevant body, on application to it made in accordance with *subsection (1)*—
- (a) shall, to the extent that it is practicable to do so, provide the relevant person with a copy of the records specified in *subsection (6)* that it holds that contain the medical information to which the application relates, and
  - (b) may provide the relevant person with a statement setting out the medical information to which the application relates that is contained in the records referred to in *paragraph (a)*.
- (3) A relevant person who has attained the age of 16 years but who has not attained the age of 18 years may apply in writing to the Authority for the provision by it to him or her of medical information that—
- (a) is contained in a record to which this section applies that is held by the Authority or by the Agency, and
  - (b) relates to him or her.
- (4) Subject to this section, a relevant body, on application to it made in accordance with *subsection (3)*, and in accordance with *section 18*—

- (a) shall, to the extent that it is practicable to do so, provide the relevant person with a copy of the records specified in *subsection (6)* that it holds that contain the medical information to which the application relates, and
  - (b) may provide the relevant person with a statement setting out the medical information to which the application relates that is contained in the records referred to in *paragraph (a)*.
- (5) Where a relevant body that receives an application under *subsection (1)* or *(3)* does not hold the information to which the application relates, it shall, in writing and without delay, inform the relevant person concerned of that fact.
- (6) This section and *section 16* apply to a record—
- (a) relating to the adoption of a person,
  - (b) relating to a care arrangement, or
  - (c) created or held by a registered adoption society or an institution specified in the *Schedule*.

**Relevant body or Authority to provide medical information relating to genetic relative of relevant person on application by relevant person**

16. (1) A relevant person who has attained the age of 18 years may apply in writing to a relevant body for the provision by the relevant body to him or her of medical information that—
- (a) is contained in a record to which this section applies that is held by it,
  - (b) relates to his or her genetic relative, and
  - (c) is, in accordance with this section, relevant to the health of the relevant person.
- (2) A relevant body that holds a record to which this section applies, on application to it under *subsection (1)*, shall provide the relevant person concerned with the information to which the application relates only—
- (a) where it is satisfied, including having regard to guidelines issued under *subsection (6)*, that the information applied for is relevant to the health of the relevant person, and
  - (b) through the medical practitioner or, where the relevant person is in a place outside the State, a person holding an equivalent qualification in the place, nominated by the relevant person.
- (3) A relevant person who has attained the age of 16 years but who has not attained the age of 18 years may apply in writing to the Authority for the provision by it to him or her of medical information that—
- (a) is contained in a record to which this section applies that is held by the Authority or by the Agency,
  - (b) relates to his or her genetic relative, and

- (c) is, in accordance with this section, relevant to the health of the relevant person.
- (4) The Authority, on application to it under *subsection (3)*, shall provide the relevant person concerned with the information to which the application relates only—
- (a) where it is satisfied, including having regard to guidelines issued under *subsection (6)*, that the information applied for is relevant to the health of the relevant person, and
  - (b) through the medical practitioner or, where the relevant person is in a place outside the State, a person holding an equivalent qualification in the place, nominated by the relevant person.
- (5) In providing medical information in accordance with *subsection (2)* or *(4)*, the relevant body or Authority, as the case may be, shall comply with any regulations under *section 67* and guidelines under this section and *section 19(1)* and shall not disclose—
- (a) the name, or
  - (b) the genetic relationship with the relevant person,  
of the genetic relative to whom the information relates.
- (6) The Minister may issue guidelines in respect of the type of medical information relating to a genetic relative that is, or is likely to be, relevant to the health of a relevant person.
- (7) In preparing guidelines under *subsection (6)*, the Minister may consult with such persons, including persons with expertise in the area of hereditary medical conditions, as he or she considers appropriate.
- (8) Where a relevant body that receives an application under *subsection (1)* or *(3)* does not hold the information to which the application relates, it shall, in writing and without delay, inform the relevant person concerned of that fact.
- (9) For the purposes of this section, medical information the subject of an application under *subsection (1)* or *(3)* is relevant to the health of a relevant person where—
- (a) it relates to a medical condition of the genetic relative concerned, or the absence of such a condition, and
  - (b) by virtue of the genetic relationship between the relevant person and the genetic relative concerned, access by the relevant person to the information is likely to be of substantial benefit to the maintenance or management of the person's health or the health of another person related to the person.

**Information session**

17. (1) The Authority, where *section 8(4)* or *10(6)* applies, or on receipt by it of the contact details of a relevant person under *section 7(4)(a)* or *9(7)(a)*, shall arrange for—
- (a) the making of contact with the relevant person concerned, and

- (b) the holding with him or her of a session in accordance with *subsection (2)* (in this Act referred to as an “information session”).
- (2) For the purposes of this Act, an information session is a session held between the relevant person and a designated person, at which the designated person informs the relevant person of—
  - (a) the entitlement of the relevant person to obtain, in accordance with this Act, his or her birth certificate, or birth information relating to him or her, as the case may be, and
  - (b) the fact that—
    - (i) the parent concerned has exercised his or her entitlement under *section 38(11)* to state that he or she is not willing to be contacted by the relevant person, and
    - (ii) the making of that statement by the parent constitutes an exercise by him or her of his or her right to privacy.
- (3) For the purposes of *subsection (2)*, the participants in an information session need not be in the one place, provided that each participant is able, directly or by means of electronic communications technology, to speak to, and to be heard by, the other participants.
- (4) On completion of an information session, the designated person concerned shall confirm this fact in writing and provide a notification of the fact to—
  - (a) where applicable, the recipient body or relevant body concerned, for the purposes of *section 7(4)(b)* or *9(7)(b)*, as the case may be, and
  - (b) the Authority, for the purposes of—
    - (i) where applicable, *section 8(4)* or *10(6)*, as the case may be, and
    - (ii) compliance by the Authority with *subsection (5)*.
- (5) The Authority, on receipt of a notification under *subsection (4)(b)*, shall, for the purposes of *section 38(7)(i)*, record in the entry in the register in respect of the parent and relevant person concerned, the fact that the information session has taken place.

**Provision of information to relevant person who has not attained age of 18 years**

- 18.** (1) Where the Authority is required, under *section 8(3)* or *(4)(b)*, *10(5)* or *(6)(b)*, *12(2)*, *14(2)(a)* or *15* to provide information or a provided item to a relevant person who has attained the age of 16 years but who has not attained the age of 18 years, it shall—
- (a) hold a meeting in accordance with *subsection (2)*, and
  - (b) at the meeting, or as soon as practicable after the meeting, provide the relevant person with the information or item concerned.
- (2) A meeting referred to in *subsection (1)(a)* is a meeting—

- (a) held between the relevant person concerned and a designated person, and
- (b) at which—
  - (i) the relevant person may be accompanied by a person of his or her choosing, and
  - (ii) the participants need not be in the one place, provided that each participant is able, directly or by means of electronic communications technology, to speak to, and to be heard by, the other participants.
- (3) The Agency and the Authority shall each provide the other body with such information as is necessary for the performance by the other body of its functions under this section.

**Miscellaneous (Part 2)**

- 19.** (1) The Minister may issue guidelines for the purpose of providing practical guidance to the Agency, the Authority or a relevant body in respect of the performance by it of its functions under this Part.
- (2) Without prejudice to the generality of *subsection (1)*, guidelines under that subsection may specify—
- (a) the procedures to be followed by a relevant body in ascertaining the matters referred to in *section 7(1)* or *9(4)*, and
  - (b) the manner in which the information referred to in *section 7(3)(b)* or *9(2)(b)* is to be provided to a relevant person.
- (3) Subject to *subsection (4)*, the Authority may designate such—
- (a) a person, being an employee of the Authority or Agency or a person engaged by the Authority, or
  - (b) class of persons referred to in *paragraph (a)*,
- as it considers suitable to perform the functions of a designated person under this Part specified in the designation.
- (4) A reference in *section 17* or *section 18* to a designated person shall be construed as a reference to a person, or a person of a class, designated under *subsection (3)* in respect of the performance of the functions of a designated person under the section concerned.
- (5) A relevant body shall, no later than one month after the date on which it receives an application made in accordance with the section concerned—
- (a) comply, as applicable, with *section 9(3)*, *10(3)*, *11(2)*, *12(2)*, *13(3)*, *14(2)*, *15(2)* or *15(4)*,
  - (b) comply, as applicable, with *section 9(9)*, *10(7)*, *11(3)*, *12(3)* or *15(5)*, or

- (c) where *subsection (7)* applies, inform the applicant concerned of that fact and the reasons for it, and of the effect of the subsection.
- (6) A relevant body, when complying with *section 9(9), 10(7), 11(3), 12(3), 15(5) or 16(8)* shall, in addition, inform the applicant concerned, as relevant and appropriate, of his or her right or, in the case of an applicant who has not attained the age of 18 years, the right of a person to make an application under *Part 5* and under *section 38(3)*.
- (7) Where a relevant body is unable, due to the complexity of the application concerned or the nature of the information, document or item sought under the application, to comply with *paragraph (a) or (b) of subsection (5)*, it shall comply with either paragraph not later than three months after the date on which it receives an application.

## PART 3

ACCESS BY QUALIFYING PERSON TO BIRTH CERTIFICATE, BIRTH AND OTHER INFORMATION AND PROVIDED ITEMS  
RELATING TO RELEVANT PARENT**Definitions (Part 3)****20.** In this Part—

“relevant parent” means, in relation to a qualifying person, the deceased relevant person, referred to in *paragraph (b)* of the definition of “qualifying person”;

“qualifying person” means a person—

- (a) who has attained the age of 18 years, and
- (b) whose mother or father or, as the case may be, adoptive mother or adoptive father—
  - (i) was a relevant person, and
  - (ii) is deceased.

**Relevant body to provide birth information relating to relevant parent on application by qualifying person**

- 21.** (1) A qualifying person (in this section referred to as an “applicant”) may apply in writing to a relevant body for the provision by the relevant body to him or her of the birth information that is held by the relevant body and that relates to his or her relevant parent.
- (2) Subject to this section, a relevant body, on application to it in accordance with *subsection (1)*—
- (a) shall, to the extent that it is practicable to do so, provide the applicant with a copy of the records specified in *subsection (4)* that it holds that contain the birth information to which the application relates, and

- (b) may provide the applicant with a statement setting out the birth information contained in the records that it holds.
- (3) A relevant body shall comply with *subsection (2)* only where it is satisfied that—
  - (a) the applicant is a qualifying person, and
  - (b) each person named in the records containing the birth information concerned as a parent of the relevant parent concerned is deceased.
- (4) The records referred to in *subsection (2)(a)* are the following:
  - (a) a record relating to a person's birth, the registration of a person's birth or a person's adoption;
  - (b) a record created or held by a registered adoption society or an institution specified in the *Schedule*;
  - (c) a record of such class as the Minister may prescribe.
- (5) Where a relevant body that receives an application under *subsection (1)* does not hold the birth information to which the application relates, it shall, in writing and without delay, inform the applicant of that fact.

**Relevant body to provide early life, care information or incorrect birth registration information relating to relevant parent on application by qualifying person**

- 22.** (1) A qualifying person (in this section referred to as an “applicant”) may apply in writing to a relevant body for the provision by the relevant body to him or her of any or all of the following that is held by the relevant body and that relates to his or her relevant parent:
- (a) early life information;
  - (b) care information;
  - (c) incorrect birth registration information.
- (2) Subject to this section, a relevant body on application to it made in accordance with *subsection (1)*—
- (a) shall, to the extent that it is practicable to do so, provide the applicant with a copy of the records it holds that contain the early life information, care information or incorrect birth registration information to which the application relates, and
  - (b) may provide the applicant with a statement setting out the early life information, care information or incorrect birth registration information to which the application relates that is contained in the records that it holds.
- (3) A relevant body shall comply with *subsection (2)* only where it is satisfied that—
- (a) the applicant is a qualifying person, and
  - (b) each person named in the records containing the information concerned as a parent of the relevant parent concerned is deceased.

- (4) Where a relevant body that receives an application made in accordance with *subsection (1)* does not hold the information to which the application relates, it shall, in writing and without delay, inform the applicant of that fact.

#### **Application by qualifying person for certain provided items**

- 23.** (1) A qualifying person (in this section referred to as an “applicant”) may apply in writing to a relevant body for the provision by it to him or her of a specified provided item, or any provided item, that was provided for the purpose of its being made available to his or her relevant parent and that is held by it.
- (2) Subject to *subsection (3)*, the relevant body concerned, on receipt of an application made in accordance with *subsection (1)*, shall—
- (a) provide the applicant with the provided item to which the application relates, or
  - (b) where it is not in possession of the item concerned, inform the applicant, in writing and without delay, of that fact.
- (3) A relevant body shall comply with *subsection (2)* only where it is satisfied that—
- (a) the applicant is a qualifying person,
  - (b) the relevant parent concerned is deceased, and
  - (c) the item concerned was provided for the purpose of its being made available to the relevant parent of the qualifying person.

#### **Relevant body or Authority to provide medical information relating to genetic relative of relevant person on application by qualifying person**

- 24.** (1) A qualifying person may apply in writing to a relevant body for the provision by the relevant body to him or her of medical information that—
- (a) is contained in a record to which this section applies that is held by it,
  - (b) relates to his or her relevant parent or a genetic relative of his or her relevant parent, and
  - (c) is, in accordance with this section, relevant to the health of the qualifying person.
- (2) A relevant body that holds a record to which this section applies, on application to it under *subsection (1)*, shall provide the qualifying person concerned with the information to which the application relates only—
- (a) where it is satisfied, including having regard to guidelines issued under *subsection (4)*, that the medical information applied for is relevant to the health of the qualifying person, and
  - (b) through the medical practitioner or, where the qualifying person is in a place outside the State, a person holding an equivalent qualification in the place, nominated by the qualifying person.

- (3) In providing medical information in accordance with *subsection (2)*, the relevant body shall comply with any regulations under *section 67* and guidelines under this section and *section 25(1)* and, where the information relates to a person other than the relevant parent concerned, shall not disclose—
- (a) the name, or
  - (b) the genetic relationship with the relevant parent,  
of the person to whom the information relates.
- (4) The Minister may issue guidelines in respect of the type of medical information relating to his or her relevant parent, or a genetic relative of his or her relevant parent, that is, or is likely to be, relevant to the health of a qualifying person.
- (5) In preparing guidelines under *subsection (4)*, the Minister may consult with such persons, including persons with expertise in the area of hereditary medical conditions, as he or she considers appropriate.
- (6) Where a relevant body that receives an application under *subsection (1)* does not hold the information to which the application relates, it shall, in writing and without delay, inform the qualifying person concerned of that fact.
- (7) For the purposes of this section, medical information the subject of an application under *subsection (1)* is relevant to the health of a qualifying person where—
- (a) it relates to a medical condition of the relevant parent or genetic relative concerned, or the absence of such a condition, and
  - (b) by virtue of the genetic relationship between the qualifying person and the relevant parent or genetic relative concerned, access by the qualifying person to the information is likely to be of substantial benefit to the maintenance or management of the person's health or the health of another person related to the qualifying person.
- (8) This section applies to a record—
- (a) relating to the adoption of a person,
  - (b) relating to a care arrangement, or
  - (c) created or held by a registered adoption society or an institution specified in the *Schedule*.

**Miscellaneous (Part 3)**

- 25.** (1) The Minister may issue guidelines for the purpose of providing practical guidance to a relevant body in respect of the performance by it of its functions under this Part.
- (2) Without prejudice to the generality of *subsection (1)*, guidelines under that subsection may specify the matters that a relevant body shall have regard to in order to satisfy itself, for the purpose of *section 21(3)*, *22(3)* or *23(3)*, that a person is deceased.

- (3) A relevant body shall, no later than one month after the date on which it receives an application made in accordance with the section concerned—
- (a) comply, as applicable, with *section 21(2), 22(2) or 23(3)*,
  - (b) comply, as applicable, with *section 21(5) or 22(4)*, or
  - (c) where *subsection (4)* applies, inform the applicant concerned of that fact and the reasons for it, and of the effect of the subsection.
- (4) Where a relevant body is unable, due to the complexity of the application concerned or the nature of the information, document or item sought under the application, to comply with *paragraph (a) or (b) of subsection (3)*, it shall comply with either paragraph not later than three months after the date on which it receives an application.

## PART 4

ACCESS BY QUALIFYING RELATIVE TO BIRTH AND OTHER INFORMATION AND PROVIDED ITEMS RELATING TO RELEVANT  
RELATIVE**Definitions (Part 4)****26.** (1) In this Part—

“qualifying relative”, subject to *subsection (2)*, means a person—

- (a) who has attained the age of 18 years, and
- (b) who is the next of kin of a person who—
  - (i) was a relevant person, and
  - (ii) died while he or she was resident in an institution specified in the *Schedule*;

“relevant relative” means, in relation to a qualifying relative, the deceased relevant person, referred to in *paragraph (b)* of the definition of “qualifying relative”, in relation to whom he or she is next of kin.

- (2) For the purposes of this Part, the following shall be considered to be the next of kin of a deceased relevant person:
- (a) his or her mother or father;
  - (b) where the persons specified in *paragraph (a)* are deceased, his or her brother or sister;
  - (c) where the persons specified in *paragraph (a) and (b)* are deceased or do not exist, his or her uncle or aunt;
  - (d) where the persons specified in *paragraphs (a), (b) and (c)* are deceased or do not exist, his or her nephew or niece.

**Relevant body to provide birth information relating to relevant relative on application by qualifying relative**

27. (1) A qualifying relative (in this section referred to as an “applicant”) may apply in writing to a relevant body for the provision by the relevant body to him or her of the birth information that is held by the relevant body and that relates to his or her relevant relative.
- (2) Subject to this section, a relevant body that holds birth information in respect of the relevant relative concerned—
- (a) shall, to the extent that it is practicable to do so, provide the applicant with a copy of the records specified in *subsection (4)* that it holds that contain the birth information requested, and
  - (b) may provide the applicant with a statement setting out the birth information contained in the records that it holds.
- (3) A relevant body shall comply with *subsection (2)* only where it is satisfied that—
- (a) the applicant is a qualifying relative, and
  - (b) other than where the applicant is a parent of the relevant relative, each person named as a parent of the relevant relative concerned in the records containing the information concerned is deceased.
- (4) The records referred to in *subsection (2)(a)* are the following:
- (a) a record relating to a person’s birth, the registration of a person’s birth or a person’s adoption;
  - (b) a record created or held by a registered adoption society or an institution specified in the *Schedule*;
  - (c) a record of such class as the Minister may prescribe.
- (5) Where a relevant body that receives an application under *subsection (1)* does not hold the birth information to which the application relates, it shall, in writing and without delay, inform the applicant of that fact.

**Relevant body to provide early life, care information or incorrect birth registration information relating to relevant relative on application by qualifying relative**

28. (1) A qualifying person (in this section referred to as an “applicant”) may apply in writing to a relevant body for the provision by the relevant body to him or her of any or all of the following that is held by the relevant body and that relates to his or her relevant relative:
- (a) early life information;
  - (b) care information;
  - (c) incorrect birth registration information.

- (2) Subject to this section, a relevant body on application to it made in accordance with *subsection (1)*—
  - (a) shall, to the extent that it is practicable to do so, provide the applicant with a copy of the records it holds that contain the early life information, care information or incorrect birth registration information to which the application relates, and
  - (b) may provide the applicant with a statement setting out the early life information, care information or incorrect birth registration information to which the application relates that is contained in the records that it holds.
- (3) A relevant body shall comply with *subsection (2)* only where it is satisfied that—
  - (a) the applicant is a qualifying person, and
  - (b) other than where the applicant is a parent of the relevant relative, each person named as a parent of the relevant relative concerned in the records containing the information concerned is deceased.
- (4) Where a relevant body that receives an application made in accordance with *subsection (1)* does not hold the information to which the application relates, it shall, in writing and without delay, inform the applicant of that fact.

#### **Application by qualifying relative for certain provided items (*Part 4*)**

- 29.** (1) A qualifying relative (in this section referred to as an “applicant”) may apply in writing to a relevant body for the provision by it to him or her of a specified provided item, or any provided item, that was provided for the purpose of its being made available to his or her relevant relative and that is held by it.
- (2) Subject to *subsection (3)*, the relevant body concerned, on receipt of an application made in accordance with *subsection (1)*, shall—
    - (a) provide the applicant with the provided item to which the application relates, or
    - (b) where it is not in possession of the item concerned, inform the applicant, in writing and without delay, of that fact.
  - (3) A relevant body shall comply with *subsection (2)* only where it is satisfied that—
    - (a) the applicant is a qualifying relative,
    - (b) the relevant relative concerned is deceased, and
    - (c) the item concerned was provided for the purpose of its being made available to the relevant relative.

#### **Relevant body to provide medical information relating to relevant relative on application by qualifying relative**

- 30.** (1) A qualifying relative (in this section referred to as an “applicant”) may apply in writing to a relevant body for the provision by the relevant body to him or her of medical information that—

- (a) is contained in a record to which this section applies that is held by it, and
  - (b) relates to his or her relevant relative.
- (2) Subject to this section, a relevant body, on application to it made in accordance with *subsection (1)*—
- (a) shall, to the extent that it is practicable to do so, provide the applicant concerned with a copy of the records specified in *subsection (4)* that it holds that contain the medical information to which the application relates, and
  - (b) may provide the applicant with a statement setting out the medical information to which the application relates that is contained in the records referred to in *paragraph (a)*.
- (3) Where a relevant body that receives an application under *subsection (1)* does not hold the information to which the application relates, it shall, in writing and without delay, inform the applicant of that fact.
- (4) This section applies to a record—
- (a) relating to the adoption of a person,
  - (b) relating to a care arrangement, or
  - (c) created or held by a registered adoption society or an institution specified in the *Schedule*.

#### Miscellaneous (*Part 4*)

31. (1) The Minister may issue guidelines for the purpose of providing practical guidance to a relevant body in respect of the performance by it of its functions under this Part.
- (2) Without prejudice to the generality of *subsection (1)*, guidelines under that subsection may specify the matters that a relevant body shall have regard to in order to satisfy itself, for the purpose of *section 28(3)* or *29(3)* that a person is deceased.
- (3) A relevant body shall, no later than one month after the date on which it receives an application made in accordance with the section concerned—
- (a) comply, as applicable, with *section 27(2)*, *28(2)*, *29(2)* or *30(2)*,
  - (b) comply, as applicable, with *section 27(5)*, *28(4)* or *30(3)*, or
  - (c) where *subsection (4)* applies, inform the applicant concerned of that fact and the reasons for it, and of the effect of the subsection.
- (4) Where a relevant body is unable, due to the complexity of the application concerned or the nature of the information, document or item sought under the application, to comply with *paragraph (a)* or *(b)* of *subsection (3)*, it shall comply with either paragraph not later than three months after the date on which it receives an application.

## PART 5

## TRACING SERVICE

**Agency and Authority may provide a tracing service on application**

32. (1) The Agency and the Authority shall, in accordance with this Act and on application to the Agency in accordance with *subsection (2)*, provide a tracing service.
- (2) An application for a tracing service shall be made to the Agency and may be made by—
- (a) a relevant person who is seeking to locate a person to whom *subsection (6)* applies for the purpose of—
    - (i) facilitating contact with the person, or
    - (ii) requesting further information from the person in relation to the relevant person's birth, early life, care or any other matter, or medical information relating to the relevant person or his or her genetic relative,
  - (b) a person to whom *subsection (6)* applies who is seeking to locate the relevant person concerned for the purpose of—
    - (i) facilitating contact with the relevant person, or
    - (ii) requesting further information in relation to the relevant person or providing information relevant to the relevant person,
  - (c) an adoptive parent of an adopted child, where the adoptive parent is seeking to locate a person for the purpose of requesting further information in relation to the person or providing information relevant to the person, or
  - (d) a person who has reasonable grounds for suspecting that he or she is the subject of an incorrect birth registration, for the purpose of the Agency or Authority conducting such enquires as it considers necessary for the purpose of ascertaining whether he or she is the subject of an incorrect birth registration.
- (3) An application under *subsection (2)*—
- (a) may be made only by a person who has attained the age of 18 years,
  - (b) may be made only for the purpose of locating a person who has attained the age of 18 years, and
  - (c) shall be made in such manner, and accompanied by such information, as the Agency may specify.
- (4) The Authority may, where necessary and proportionate for the provision of a tracing service under this section, or tracing a person or obtaining information pursuant to a direction under *section 33*, process personal data and special categories of personal data from the register, which processing may include disclosing such data to the Agency for the purpose of the Agency providing the service or conducting the trace.

- (5) A person who makes an application under this section or *section 36* shall be advised of the right to make an application to be entered in the register.
- (6) Subject to *subsection (7)*, this subsection applies to a person who is, in relation to a relevant person—
  - (a) his or her parent,
  - (b) a parent of his or her parent,
  - (c) a sibling of his or her parent,
  - (d) his or her sibling, or
  - (e) a child of a sibling of his or her parent.
- (7) For the purposes of *subsection (6)*—
  - (a) a reference to a parent of a person includes a reference to an adoptive parent of the person, and
  - (b) a person is the sibling or child of another person whether or not the relationship depends on the adoption of a person, or whether the relationship is of the whole blood or half blood or by marriage.

**Minister may authorise Agency and Authority to conduct review or trace**

- 33.** (1) The Minister, where he or she is satisfied that it is necessary and in the public interest to do so, may, by direction in writing, require the Agency or the Authority to do either or both of the following:
- (a) investigate whether there is evidence that a person has, or persons have, been the subject of an incorrect birth registration, including by—
    - (i) conducting a review of the records that it holds, or a sample or specified class of such records, and
    - (ii) obtaining other information relevant to such investigation;
  - (b) conduct a trace for the purpose of locating a person, or obtaining information, for the purpose of—
    - (i) obtaining evidence a person has, or persons have, been the subject of an incorrect birth registration,
    - (ii) confirming that a person has, or persons have, been the subject of an incorrect birth registration, or
    - (iii) informing a person that he or she has been the subject of an incorrect birth registration.

**Agency and Authority may request information**

34. (1) On receipt by it of an application under *section 32*, or a direction under *section 33*, the Agency or the Authority shall, without undue delay, take all reasonable steps in accordance with any guidelines issued under *section 37* to, as applicable—
- (a) trace and locate the person to whom the application or direction relates, or
  - (b) obtain such information as is required to comply with the direction.
- (2) Subject to *subsection (3)*, the Agency or the Authority may request a person to whom this section applies to provide it with, or with access to, information that is in the possession of, or under the control of, the person.
- (3) A request under *subsection (2)* may be made only where the Agency or the Authority reasonably requires the information concerned for the purposes of enabling it to perform its functions under this Part.
- (4) Notwithstanding any enactment or rule of law, a person who receives a request made under *subsection (2)* shall comply with the request.
- (5) The Agency or the Authority shall not, other than for the purpose of the performance of their functions under this Part, disclose information obtained by it pursuant to a request under *subsection (2)*.
- (6) This section applies to the following:
- (a) a Minister of the Government;
  - (b) an office or body in relation to which functions are vested in a Minister of the Government;
  - (c) the Health Service Executive;
  - (d) a voluntary maternity hospital providing services under section 38 of the Health Act 1970;
  - (e) the Garda National Immigration Bureau;
  - (f) An Post;
  - (g) a diocese or parish of the Roman Catholic Church;
  - (h) a diocese or parish of the Church of Ireland;
  - (i) a body designated by the Minister under *subsection (9)* as a body to which this section applies.
- (7) The Agency and the Authority shall each provide the other body with such information as is necessary for the performance by the other body of its functions under this section.
- (8) Where the Agency or Authority, having taken the steps referred to in *subsection (1)*—
- (a) in the case of an application under *section 32*, is unable to locate the person concerned or, in the case of an application under *subsection (2)(d)* of that section,

to ascertain whether a person was the subject of an incorrect birth registration, it shall, in writing and without delay, inform the person who made the application concerned of that fact, or

- (b) in the case of a direction under *section 33*, is unable to establish whether there is evidence that a person has, or persons have, been the subject of an incorrect birth registration, or to locate the person concerned, it shall, in writing and without delay, inform the Minister of that fact.
- (9) The Minister may by regulation designate a body for the purposes of *subsection (6)(i)*, where he or she is of the opinion that such designation is necessary for the purpose of the performance by the Authority or Agency of its functions under this Part.

### **Agency or the Authority to facilitate contact between parties or to share information between parties**

35. (1) Where a person (“requester”) has made an application in accordance with *section 32(2)* for the tracing of a person (“specified person”), and the Agency or the Authority locates the specified person, it shall take all reasonable steps to ascertain from the specified person, insofar as is practicable, and as relevant to the application, whether or not—
- (a) he or she is willing to have contact with the requester,
  - (b) he or she is willing to provide such information as is requested by the requester, or
  - (c) he or she is willing to accept such information as is provided by the requester.
- (2) Where the Agency or Authority ascertains under *subsection (1)* that a specified person is not willing to do any of the things referred to in *paragraph (a), (b) or (c)* of that subsection, the Agency or the Authority shall inform the requester of that fact.
- (3) Where a specified person, pursuant to *subsection (1)*, informs the Agency or the Authority that he or she is willing to have contact with the requester, the Agency or the Authority shall take such action as it considers appropriate to facilitate such contact.
- (4) Where a specified person, pursuant to *subsection (1)* informs the Agency or the Authority that he or she is willing to provide the requested information, or accept the information provided by the requester, the Agency or the Authority shall take such action as it considers appropriate to facilitate the transfer of information between the requester and the specified person.

### **Application by certain adopted person for tracing service in another jurisdiction**

36. (1) An adopted person who was born in a place outside the State and who has attained the age of 18 years may apply to the Authority for a tracing service referred to in *subsection (2)(b)* where he or she is seeking to locate a person in that place for the purpose of—

- (a) facilitating contact, or
  - (b) requesting further information in relation to his or her birth, early life, care or any other matter or medical information relating to the adopted person or his or her genetic relative.
- (2) The Authority, on receipt of an application under *subsection (1)*, shall transmit to the relevant authority of the place at which the adopted person was born—
- (a) the application, and
  - (b) a request by the Authority that the relevant authority conduct, in accordance with the law in force in the jurisdiction concerned, the trace to which, and locate the person to whom, the application relates.
- (3) This section is without prejudice to the right of an adopted person to whom *subsection (1)* applies to make an application under *section 32* for a tracing service.

### Guidelines (*Part 5*)

37. (1) The Minister may issue guidelines for the purpose of providing practical guidance to the Agency or the Authority in respect of the performance by either body of its functions under this Part.
- (2) Guidelines under this section may include the procedures to be followed for the purpose of locating a person under *section 32* or *33*.

## PART 6

### CONTACT PREFERENCE REGISTER

#### Contact Preference Register

38. (1) The Authority shall establish and maintain a register to be known as the Contact Preference Register, and referred to in this Act as the “register”.
- (2) The purpose of the register shall be to—
- (a) record the name and contact details of—
    - (i) each person who makes an application under *subsection (3)*, and
    - (ii) each person to whom *section 42(1)(a)* applies,
  - (b) record the statements made, or deemed to have been made, under *subsection (11)* by persons referred to in *paragraph (a)*,
  - (c) record such further information as the Minister may prescribe under *subsection (13)*,
  - (d) facilitate the sharing of information or items lodged by persons under *section 39* with the persons specified by them under that section, and

- (e) facilitate relevant bodies in the performance by them of their functions under this Act.
- (3) The following persons, where they have attained the age of 18 years, may apply, in accordance with this section, to have an entry made in the register in respect of him or her:
- (a) a person who is a relevant person;
  - (b) a person who is, or who believes himself or herself to be, a parent of a relevant person;
  - (c) a person who was a relevant guardian in relation to an adopted person;
  - (d) the adoptive parent of an adopted child, whether the child is living or deceased;
  - (e) the adoptive parent of an adopted person, where the adopted person is deceased;
  - (f) a person who is, or who believes himself or herself to be, a relative of a relevant person;
  - (g) where a parent of a relevant person is deceased, a person who, in the opinion of the Authority, had a sufficiently close connection with the parent that he or she is likely to be in possession of information that the relevant person would be willing to be provided with;
  - (h) a person who provided care to a relevant person as part of a care arrangement.
- (4) An application under *subsection (3)* shall be made in such manner, and accompanied by such information, as the Authority, having regard to the matters referred to in *subsection (2)*, may specify.
- (5) Other than where it makes an entry in the register under *section 42(1)(a)*, the Authority—
- (a) prior to making an entry in the register, shall inform the person in respect of whom the entry is to be made of the following:
    - (i) the purpose for which, and the legal basis on which, personal data, including special categories of personal data, contained in the entry may be processed;
    - (ii) the circumstances in which the information contained in the entry may be disclosed to a third party;
    - (iii) his or her right under *subsection (8)* to request—
      - (I) the amendment of the information contained in the entry, and
      - (II) the cancellation of the entry,
- and
- (b) shall make an entry in the register only where the person in respect of whom the entry is made has, in such manner as may be determined by the Authority, provided his or her consent to the making of the entry.

- (6) The Minister may, at any time, issue directions in writing to the Authority in relation to the making of entries in the register, and the Authority shall comply with such directions.
- (7) An entry in the register in respect of a person may include the following information:
- (a) his or her forename and surname (including any forename or surname previously used by him or her);
  - (b) his or her date of birth, if known to him or her;
  - (c) his or her address and such other contact details as the Authority may specify;
  - (d) the paragraph of *subsection (3)* that applies to him or her;
  - (e) in the case of a person to whom *subsection (3)(a)* applies, where applicable and known—
    - (i) the name of his or her parents, relatives and relevant guardian,
    - (ii) the place at which care was provided to him or her as part of a care arrangement, and
    - (iii) the registered adoption society or accredited body that made arrangements for his or her adoption;
  - (f) in the case of a person to whom *paragraph (b), (c), (d), (e), (f) or (h) of subsection (3)* applies, the information specified in *subparagraphs (i), (ii) and (iii) of paragraph (e)* that relates to the relevant person concerned, insofar as it is applicable and known;
  - (g) any statement made by him or her under *subsection (11)*;
  - (h) such details relating to a person specified by him or her in his or her statement under *subsection (11)* as he or she may provide;
    - (i) where the person is a parent who has made a statement referred to in *subsection (11)(c)*, or the person specified in such a statement, whether an information session has been completed with the person in respect of the parent;
    - (j) where the person has lodged information or an item under *section 39*, the reference number referred to in *section 39(5)(c)* in respect of the information or item.
- (8) A person in respect of whom there is an entry in the register may, in such manner as may be specified by the Authority, request the Authority to—
- (a) cancel the entry, or
  - (b) amend or delete any information, including a statement under *subsection (11)* contained in the entry, but not including the information referred to in *subsection (7)(i)*.
- (9) The Authority shall comply with a request made in accordance with *subsection (8)*.

- (10) The information contained in an entry in the register in respect of a person shall, for the purposes of this Act, be deemed to be accurate until such time as the Authority may receive a request in accordance with *subsection (8)* in relation to the information.
- (11) A person, in a statement under this subsection, may state, in relation to such person (“specified person”) as he or she may specify in the statement, whether one or more of the following applies:
- (a) he or she is seeking to have contact with the specified person;
  - (b) he or she is willing to be contacted by the specified person;
  - (c) he or she is not willing to be contacted by the specified person;
  - (d) he or she is seeking information in relation to the specified person and, if so, the nature of the information;
  - (e) he or she is not willing to have contact with the specified person but is willing to provide information if requested by a specified person.
- (12) A person may provide the Authority with a statement under *subsection (11)*—
- (a) when making an application under *subsection (3)*, or
  - (b) where there is an entry in the register in respect of him or her.
- (13) The Minister, following consultation with the Authority, may by regulation—
- (a) prescribe information for the purpose of *subsection (2)(c)*, and
  - (b) provide for such further matters as he or she considers necessary for the effective operation of the register.
- (14) In this section and *section 39*, “consent” shall be construed in accordance with the General Data Protection Regulation.
- (15) In this section, subject to *subsection (16)*, “relative” means, in relation to a relevant person, a person who is—
- (a) his or her parent,
  - (b) a parent of his or her parent,
  - (c) a sibling of his or her parent,
  - (d) his or her sibling, or
  - (e) a child of a sibling of his or her parent.
- (16) For the purposes of *subsection (15)*—
- (a) a reference to a parent of a person includes a reference to an adoptive parent of the person, and
  - (b) a person is the sibling or child of another person whether or not the relationship depends on the adoption of a person, or whether the relationship is of the whole blood or half blood or by marriage.

**Lodging of information and items**

- 39.** (1) Subject to this section, a person may—
- (a) when making an application under *section 38(3)*, or
  - (b) where there is an entry in the register in respect of him or her,
- lodge with the Authority information or an item which the person wishes to be shared with such person as he or she may specify.
- (2) Information or items lodged under *subsection (1)* may contain sealed information or communications from the person for the person specified under that subsection.
  - (3) The lodgement of information or an item under *subsection (1)* shall be done in such manner, and be accompanied by such information, as the Authority may specify.
  - (4) The Authority shall accept a lodgement of information under *subsection (1)* only where—
    - (a) it has informed the person making the lodgement of the following:
      - (i) the purpose for which, and the legal basis on which, personal data, including special categories of personal data, contained in the information may be processed;
      - (ii) the circumstances in which the information may be disclosed to a third party;
      - (iii) his or her right to make a request under *subsection (6)*,and
    - (b) the person making the lodgement has, in such manner as may be specified by the Authority, provided his or her consent to the Authority complying with *subsection (5)*.
  - (5) The Authority, where it accepts a lodgement under *subsection (1)*, shall—
    - (a) if no such entry in the register exists, make, in accordance with *section 38*, an entry in respect of the person who made the lodgement,
    - (b) record the lodgement in the entry in the register relating to the person,
    - (c) create a reference number that links the information or item lodged with the entry on the register in respect of the person, and
    - (d) safeguard the information or item lodged.
  - (6) A person who has made a lodgement under *subsection (1)* may, in such manner as may be specified by the Authority, request the Authority to return the information or item concerned and, where the information or item has not been provided to the persons concerned under *section 40*, the Authority shall comply with the request.

**Authority to communicate matches on register and share information and items**

40. (1) Where the Authority makes an entry in the register in respect of a person, it shall check the register for any existing entry in which the person concerned is recorded as a specified person and, where there is such an entry, shall comply with this section.
- (2) Where a person, in accordance with the section concerned—
- (a) makes a statement under *section 38(11)* in respect of a specified person, or
  - (b) lodges information or an item under *section 39* which he or she wishes to be shared with a specified person,
- the Authority shall check the register for any existing entry in respect of the specified person and, where there is such an entry, shall comply with this section.
- (3) Where a specified person is a specified person in respect of whom a statement referred to in *paragraph (a) or (b) of section 38(11)* has been made, the Authority shall—
- (a) inform the specified person of that fact,
  - (b) provide him or her with the contact details of the person who made the statement, and
  - (c) offer to facilitate contact between the two persons.
- (4) Where a specified person is a specified person in respect of whom a statement referred to in *paragraph (d) of section 38(11)* has been made, the Authority shall—
- (a) inform the specified person of that fact and of the information that has been requested of him or her, and
  - (b) offer to facilitate the provision by the specified person of the information requested.
- (5) Where a specified person is a specified person in respect of whom a statement referred to in *paragraph (e) of section 38(11)* has been made, the Authority shall—
- (a) inform the specified person of that fact, and
  - (b) offer to facilitate the request by the specified person for, and the provision to him or her of, the information concerned.
- (6) Where a specified person is a specified person in respect of whom a lodgement under *section 39* has been made, the Authority shall—
- (a) inform the person of that fact, and
  - (b) where the person has indicated to the Authority that he or she is willing to be provided with the information or item concerned, provide the person with the information or item.
- (7) Where the Authority complies with *subsection (3), (4), (5) or (6)* it shall, as soon as practicable after so complying, inform the person who made the statement concerned or, as the case may be, made the lodgement concerned.

- (8) In this section, “specified person” means a person who is—
- (a) a specified person under *section 38(11)*, or
  - (b) specified by a person making a lodgement under *section 39(1)* as the person with whom the person wishes the information or item being lodged to be shared.

#### **Applicants for entry on register to be informed of provisions of Part 5**

41. Where a person—

- (a) makes an application under *section 38(3)*, or
- (b) makes a lodgement under *section 39*, where there is no entry in the register in respect of him or her,

the Authority shall advise him or her, as relevant and appropriate, of his or her right to make an application under *Part 5*.

#### **Transfer of information and preferences from National Adoption Contact Preference Register**

42. (1) The Authority shall, not later than 3 months after the date on which this section comes into operation—

- (a) make an entry in the register in respect of each person in respect of whom an entry exists in the National Adoption Contact Preference Register, and
- (b) transfer into each entry made under *paragraph (a)* all the information in the entry in the National Adoption Contact Preference Register in respect of the person concerned.

(2) For the purposes of *subsection (1)*, a preference of a person in relation to contact with any other person, that is recorded in the National Adoption Contact Preference Register, shall be deemed to be, and shall be recorded in the entry in the register as, a statement made by him or her under the applicable paragraph of *section 38(11)*, in relation to the other person.

(3) The Authority shall, no later than 6 months after the date on which this section comes into operation, delete the National Adoption Contact Preference Register.

### PART 7

#### SAFEGUARDING RELEVANT RECORDS

#### **Minister may prescribe relevant record, secondary information source**

43. (1) The Minister may, for the purposes of *paragraph (e)* of the definition in *section 2* of “relevant record” prescribe a record, or a class of record, to be a relevant record, where the Minister is of the opinion that—

- (a) it relates to the care of a child or of children,
  - (b) were it not to be prescribed under this subsection, it or a part of it would be at risk of being destroyed or otherwise lost, and
  - (c) having regard to its historical or social value, it is in the public interest that it be prescribed under this subsection.
- (2) The Minister may, for the purposes of *paragraph (i)* of the definition in *section 2* of “secondary information source”, prescribe a person to be a secondary information source, where the Minister reasonably believes that the person has in his or her possession a relevant record.

#### **Information source to retain and maintain records**

- 44.** (1) A primary information source shall—
- (a) retain, and
  - (b) maintain,
- all relevant records held by it.
- (2) Without prejudice to the generality of *subsection (1)* the Authority shall maintain, in accordance with this section, all relevant records—
- (a) held by it on the date on which this section comes into operation,
  - (b) transferred to it under *section 47* or pursuant to a direction under *section 48*, or
  - (c) retained by it under *section 49*.
- (3) Nothing in this Part authorises the use or disclosure of any information transferred to the Authority or retained by a primary information source under this Part other than in the performance by them of their functions under *Parts 2, 3, 4, 5, 6* or *7*.

#### **Obligation of secondary information source in respect of relevant records**

- 45.** (1) A secondary information source shall, subject to *subsection (5)* and *sections 47* and *48*—
- (a) retain, and
  - (b) maintain,
- all relevant records held by it.
- (2) A secondary information source shall, if directed by the Authority, and not later than 3 months after such direction is made, furnish to the Authority a statement, in such form as may be specified by the Authority, of the relevant records in its possession on the date on which the statement is made.
- (3) Where a secondary information source that has furnished a statement in accordance with *subsection (2)*—

- (a) becomes aware that a relevant record was in its possession on the date on which the statement was made but was not specified in the statement, or
  - (b) comes into possession of a relevant record,
- it shall, as soon as practicable but in any event not later than 6 weeks after the date on which *paragraph (a) or (b)* applies, furnish to the Authority a statement, in such form as may be specified by the Authority, of the record.
- (4) A statement under *subsection (2) or (3)*—
    - (a) shall state, in relation to each relevant record specified in it, its nature, current location and condition, and
    - (b) may contain personal data only to the extent that is necessary and proportionate for the discharging by the secondary information source concerned of its functions under this Part.
  - (5) *Subsection (1)* shall not apply to relevant records transferred by a secondary information source—
    - (a) in compliance with its obligations under the National Archives Act 1986, or
    - (b) in accordance with Action 8 of the plan known as the “Action Plan for Survivors and Former Residents of Mother and Baby and County Home Institutions”.

#### **Obligation of other person in respect of relevant records**

- 46.** Where, on the date on which this section comes into operation, a person other than an information source is in possession of a relevant record, he or she shall—
- (a) as soon as practicable, inform the Authority of that fact, and
  - (b) subject to *sections 47 and 48*, maintain the relevant record.

#### **Secondary information source or other person may request transfer of relevant record**

- 47.** (1) A—
- (a) secondary information source, or
  - (b) person other than an information source who is in possession of a relevant record,
- may, in accordance with *subsection (2)*, request the Authority to make a direction under *section 48* or otherwise accept the transfer to it of a relevant record.
- (2) A request under *subsection (1)* shall—
- (a) be in writing,
  - (b) specify the record to which the request relates, and
  - (c) be accompanied by a statement of the reasons for the making of the request.

**Authority may direct transfer to it of relevant record**

48. (1) The Authority may issue a direction under this section to—
- (a) a secondary information source from whom it has received a statement under *subsection (2) or (3) of section 45* or a request under *section 47*, or
  - (b) a person, other than an information source, who is in possession of a relevant record (whether such person made a request under *section 47* or not).
- (2) The Authority shall issue a direction under this section only where it is of the opinion that the transfer, in accordance with the direction, of the record concerned, or a copy of the record, is in the public interest.
- (3) A direction under this section shall be in writing, and shall—
- (a) direct the person to whom it is issued to transfer to the Authority, on or before the date specified in the direction, the relevant record specified in the direction, or a copy of the record,
  - (b) where the direction relates to the transfer of a copy of a record, specify the format in which the copy is to be transferred, and
  - (c) inform the person—
    - (i) of the opinion of the Authority referred to in *subsection (2)*,
    - (ii) the intended use of the record or copy of the record, and
    - (iii) the safeguards in place in relation to the storage and maintenance of the record or copy of the record.
- (4) The date specified under *subsection (3)(a)* shall be—
- (a) not later than 6 months after the date of the direction, or
  - (b) where the Authority is not satisfied that it will be in a position to take the relevant record or copy of the record concerned into its charge by a date referred to in *paragraph (a)* such later date as is approved by the Minister.
- (5) A person to whom a direction under this section is issued shall comply with the direction.
- (6) In deciding whether to issue a direction under this section, the Authority shall have regard to—
- (a) any factor that indicates that a particular record may be at risk and should be transferred to the Authority at the earliest opportunity,
  - (b) any request made by the secondary information source or person referred to in *subsection (1)(b)*, as the case may be, under *section 47* in relation to the record concerned, and
  - (c) the public interest.

- (7) The Authority shall make all necessary arrangements in respect of the transfer to it of records or copies of records pursuant to a direction under this section, including all necessary arrangements to ensure safe receipt by it of such records and copies.

#### **Authority and Agency to retain relevant records in respect of future adoptions**

49. Where, on or after the date on which this section comes into operation, the Authority makes an adoption order—

- (a) the Authority, and
- (b) the Agency,

shall, insofar as such records are in its possession, retain relevant records in respect of the adopted child who is the subject of the order.

#### **Search powers**

50. (1) An authorised officer may, for a purpose referred to in *subsection (9)*, do any of the following:

- (a) subject to *subsections (3) and (5)*, enter and inspect any place, being a premises of a person referred to in *subsection (9)* at which the Authority has reasonable grounds to believe that a relevant record is being kept;
- (b) at such place inspect and take copies of any relevant records (including records stored in non-legible form), or extracts therefrom, that he or she finds in the course of his or her inspection;
- (c) require any person at any such place, including the owner or person in charge of the place, to produce to the authorised officer such records (and in the case of records stored in non-legible form, produce to him or her a legible reproduction thereof) that are in that person's possession or procurement, or under that person's control, as that authorised officer may reasonably require for the purposes of his or her functions under this section;
- (d) subject to an order being obtained for such purpose from the District Court under *subsection (7)*, seize from such place and retain any such records and take any other steps which appear to the authorised officer to be necessary for preserving or preventing interference with such records;
- (e) where there is data equipment at the place which the authorised officer reasonably believes is or has been used in connection with the production or storage of a relevant record, require any person—
  - (i) who uses the data equipment or on whose behalf the data equipment is used, or
  - (ii) having charge of, or who is otherwise concerned with the operation of, such equipment,

to afford the authorised officer all reasonable assistance in relation to the operation of such equipment and any associated apparatus or material;

- (f) require any person at the place concerned, including the owner or person in charge of that place, to give the authorised officer such information and assistance as the authorised officer may reasonably require for the purposes of his or her functions under this section.
- (2) Subject to *subsection (5)*, an authorised officer may use reasonable force, if necessary, to enter a place referred to in *subsection (1)(a)*, to exercise his or her powers under this section.
  - (3) An authorised officer may enter and inspect a place under *subsection (1)*—
    - (a) at any time during normal business hours with or without prior notice to the person in charge of the place, and
    - (b) at any other time on reasonable notice to the person in charge of the place.
  - (4) When performing a function under this section, an authorised officer may, subject to any warrant under *subsection (6)* or order under *subsection (7)*, be accompanied by such number of other authorised officers or members of the Garda Síochána as he or she considers appropriate.
  - (5) An authorised officer shall not enter a dwelling other than—
    - (a) with the consent of the occupier, or
    - (b) pursuant to a warrant under *subsection (6)*.
  - (6) Upon the sworn information of an authorised officer, a judge of the District Court may, for the purposes of enabling an authorised officer to carry out an inspection of a place at which the authorised officer has reasonable grounds for believing a relevant record is being kept, issue a warrant authorising a named authorised officer accompanied by such other authorised officers or members of the Garda Síochána as may be necessary, at any time or times, before the expiration of one month from the date of issue of the warrant, to enter the place (if necessary by using reasonable force) and exercise the powers of an authorised officer under *subsection (1)*.
  - (7) The District Court may, on application to it in that behalf by the authorised officer concerned, make an order authorising that officer, accompanied by such other authorised officers or members of the Garda Síochána as may be necessary, to exercise his or her powers under *subsection (1)(d)* where the Court is satisfied it is necessary for the purposes referred to in that subsection.
  - (8) The jurisdiction conferred on the District Court by this section shall be exercised by a judge of the District Court assigned to the District Court district in which the place referred to in *subsection (1)* is situated.
  - (9) The purposes referred to in *subsection (1)* are the purposes of ensuring compliance by—
    - (a) an information source with its obligations under this Act, or

- (b) a person to whom a direction under *section 45* or *48* is issued with the direction.
- (10) A reference in this section to a relevant record shall be construed, in the case of a person to whom *subsection (9)(b)* applies, as a reference to a relevant record specified in the direction referred to in that paragraph.
- (11) In this section, “place” includes—
  - (a) a dwelling or a part thereof,
  - (b) a building or a part thereof, and
  - (c) a vehicle, whether mechanically propelled or not.

### Authorised officers

- 51.** (1) The Authority may appoint in writing such persons or classes of person as he or she considers appropriate to be authorised officers for the exercise of all or any of the functions conferred on an authorised officer under this Part.
- (2) An authorised officer appointed under *subsection (1)* shall be furnished with a warrant of his or her appointment and, when exercising a function conferred on him or her as an authorised officer, shall, if requested by a person affected, produce the warrant, or a copy of it, to that person.
- (3) An appointment of a person under this section as an authorised officer shall cease—
  - (a) where the Authority revokes the appointment,
  - (b) where the appointment is for a fixed period, on the expiry of that period, or
  - (c) in the case of a person who, on the date of the appointment, was a member of staff of the Authority, where he or she ceases to be a member of staff of the Authority.

## PART 8

### AMENDMENT OF SUCCESSION ACT 1965

#### Definition (*Part 8*)

- 52.** In this Part, “Act of 1965” means the Succession Act 1965.

#### Amendment of section 4A of Act of 1965

- 53.** Section 4A of the Act of 1965 is amended—
  - (a) in subsection (1), by the substitution of “Subject to subsection (1A) and section 4B,” for “Subject to subsection (1A),”, and
  - (b) in subsection (6), by the insertion of “and section 4B,” after “In this section”.

**Special provisions in relation to affected persons**

54. The Act of 1965 is amended by the insertion of the following section after section 4A:

“4B. (1) Where, under this section, a relationship between an affected person and another person is to be deduced in accordance with this subsection, the relationship between the affected person and—

(a) his or her father and mother shall, subject to section 27A of this Act, be determined in accordance with section 3 of the Act of 1987, and

(b) his or her social father and social mother shall, subject to section 27A of this Act, be deemed, respectively, to be the same as the relationship between the affected person and his or her father and mother,

and all other relationships shall be determined accordingly.

(2) Without prejudice to the generality of subsection (1)—

(a) where the relationship between an affected person and another person is to be deduced in accordance with that subsection, this Act shall be construed as follows—

(i) a reference, other than in section 4A, to the father of an affected person shall be construed as including a reference to both the father and the social father of the affected person,

(ii) a reference, other than in section 4A, to the mother of an affected person shall be construed as including a reference to both the mother and the social mother of the affected person,

(iii) a reference to the parent of an affected person shall be construed as including a reference to both the parent and the social parent of the affected person,

(iv) a reference to the brother of an affected person shall be construed as including a reference to both the brother of the affected person and a person who is determined in accordance with subsection (1) to have the same relationship with the affected person as a brother of the affected person,

(v) a reference to the sister of an affected person shall be construed as including a reference to both the sister of the affected person and a person who is determined in accordance with subsection (1) to have the same relationship with the affected person as a sister of the affected person,

(vi) a reference to the child of a person shall be construed as including a reference to both the child of the person and an affected person in relation to whom the person is a social parent, and

(vii) a reference to the issue of a person shall be construed as including a reference to both the issue of the person and a person who is determined in accordance with subsection (1) to have the same relationship with the person as the issue of the person,

and

(b) for the purposes of section 71, an affected person shall be deemed to have the same blood relationship with his or her social parent as he or she would have were the social parent his or her parent.

(3) Where—

(a) an order under section 117 or 121, or

(b) a provision to a person out of the estate of a testator pursuant to an order under section 117 or 121 or in connection with proceedings or a claim under such section or sections,

was made before the date on which this subsection comes into operation—

(i) an affected person in whose interest the order, or to whom the provision, was made and in relation to whom the testator concerned was a social parent shall be treated as if the relationship between him or her and the testator was deduced in accordance with subsection (1), and

(ii) the order or provision shall not be rendered invalid by reason of the fact that the testator was the social parent, and not the parent, of any affected person.

(4) The taking, before the date on which this subsection comes into operation, by—

(a) the spouse of a testator of the share of the testator's estate referred to in section 111(2), or

(b) the civil partner of a testator of the share of the testator's estate referred to in section 111A(2),

shall not be rendered invalid by reason of the fact that the testator concerned was the social parent, and not the parent, of a person.

(5) Where, in the distribution of the estate of an intestate—

(a) a person, before the date on which this subsection comes into operation, took the estate or a share of the estate, and

(b) at the time of such taking—

(i) the person did not have the relationship with the intestate that would have entitled him or her under Part VI to the taking, but

- (ii) the person would have had such a relationship with the intestate had the relationship been deduced in accordance with subsection (1),

the taking of the estate or share of the estate, as the case may be, by the person shall not be rendered invalid by reason of the fact that the person did not have the relationship referred to in paragraph (b)(i).

- (6) This subsection applies where—

- (a) an intestate dies before the date on which subsection (7) comes into operation, and
- (b) administration of the estate of the intestate has been granted on or before the relevant date.

- (7) Where—

- (a) subsection (6) applies, and
- (b) by the date on which this subsection comes into operation, the affected person concerned has not taken the estate or a share of the estate of the intestate to which he or she would be entitled were his relationship with the intestate deduced in accordance with subsection (1),

for the purposes of the distribution under Part VI of the part of the estate which has not yet been taken by any person, the relationship between an affected person and the intestate, and all other relationships, shall be deduced in accordance with subsection (1).

- (8) Where—

- (a) an intestate dies before the date on which this subsection comes into operation, and
- (b) administration of the estate of the intestate is granted after the relevant date,

for the purposes of the distribution under Part VI of the estate of the intestate, the relationship between an affected person and the intestate concerned, and all other relationships, shall be deduced in accordance with subsection (1).

- (9) This subsection applies where—

- (a) a testator dies before the date on which this subsection comes into operation, and
- (b) representation of the testator's estate is taken out after the relevant date.

- (10) Where subsection (9) applies—

- (a) for the purposes of sections 111 and 111A, the relationship between the testator and an affected person, and all other shall be deduced in accordance with subsection (1),
  - (b) where the effect of paragraph (a) is that the share of the estate of the testator to which the spouse or civil partner, as the case may be, of the testator is entitled as a legal right is different to the share to which he or she would have been entitled had the paragraph not applied, section 115(4) shall apply as if the words ‘or one year from the date on which section 4B(10) comes into operation,’ were substituted for ‘or one year from the first taking out of representation of the deceased’s estate,’ and
  - (c) for the purposes of section 117—
    - (i) the relationship between an affected person and the testator, and all other relationships, shall be deduced in accordance with subsection (1), and
    - (ii) where an affected person, pursuant to subparagraph (i), makes an application under section 117(1), section 117(6) shall apply as if the words ‘from the date on which section 4B(10) comes into operation’ were substituted for ‘from the first taking out of representation of the deceased’s estate’.
- (11) For the purposes of this Act, a person is an affected person where—
- (a) as a result of the giving of information that was false or misleading, the name of a person other than his or her mother was entered in the register of births as his or her mother, and
  - (b) the person named as mother and, if applicable, father in the entry assumed the role of a parent in relation to him or her and treated him or her as her or their lawful child,
- whether or not the entry has been corrected or cancelled pursuant to Part 3B or section 63, 64 or 65 of the Act of 2004.
- (12) In this section—
- ‘register of births’ means a register of births maintained by *An tArd-Chláraitheoir* under section 13(1)(a) of the Civil Registration Act 2004, as amended, or under the repealed enactments (within the meaning of that Act);
- ‘relevant date’ means the 26th day of April 2022;
- ‘social father’ means, in relation to an affected person, the man named in the entry in the register of births referred to in subsection (11) as his or her father;

‘social mother’ means, in relation to an affected person, the woman named in the entry in the register of births referred to in subsection (11) as his or her mother;

‘social parent’ means, in relation to an affected person, his or her social father or social mother.”.

#### **Amendment of section 68 of Act of 1965**

**55.** Section 68 of the Act of 1965 is amended—

- (a) by the designation of the section as subsection (1),
- (b) in subsection (1), by the substitution of “Subject to this section, if an intestate dies” for “If an intestate dies”, and
- (c) by the insertion of the following subsections after subsection (1):
  - “(2) If an intestate who is an affected person dies leaving neither spouse nor civil partner nor issue, his or her estate shall be distributed between each person who is his or her surviving parent in equal shares, but, if only one parent survives, that parent shall take the whole estate.
  - (3) Where subsection (2) applies, and a surviving parent is both the father and the social father (within the meaning of section 4B) of the intestate concerned, the estate of the intestate shall be distributed between him and the other surviving parents in equal shares, but, if he is the only surviving parent, he shall take the whole estate.”.

#### **Share of relatives: special provision**

**56.** The Act of 1965 is amended by the insertion of the following section after section 69:

“**69A.** Where, in the application of section 4B to any provision of this Part, the same person would be entitled to take, in relation to the estate of an intestate—

- (a) a share by virtue of a relationship with the intestate deduced in accordance with a determination under paragraph (a) of section 4B(1), and
- (b) a share by virtue of a relationship with the intestate deduced in accordance with a determination under paragraph (b) of section 4B(1),

the person—

- (i) shall take only one of the shares in the estate referred to in paragraphs (a) and (b), and
- (ii) may elect to take either the share referred to in paragraph (a) or the share referred to in paragraph (b).”.

## PART 9

## AMENDMENT OF CIVIL REGISTRATION ACT 2004

**Register under Part 3B of Civil Registration Act 2004**

57. The Act of 2004 is amended by the insertion of the following Part after Part 3A:

## “PART 3B

## REGISTER UNDER PART 3B

**Definitions (Part 3B)**

**30F.** In this Part—

‘affected person’, subject to section 30G(4), means a person to whom the following applies:

- (a) an entry in the register of births relating to his or her birth was made on or before the 31st day of December 1980,
- (b) in the entry referred to in paragraph (a), the name of a person other than his or her mother was entered as his or her mother, and
- (c) the person named as mother and, if applicable, father, in the said entry assumed the role of a parent in relation to the person and treated that person as her or their lawful child,

and includes a person in respect of whom the entry in the register of births has been corrected or cancelled pursuant to section 63, 64 or 65;

‘register’ means the register established under Part 3B.

***An tArd-Chláraitheoir may receive and request certain information concerning affected persons***

**30G.** (1) Where the Child and Family Agency or such other person as may be prescribed by regulations under section 30L has within its possession or procurement information or documents concerning the birth, or the registration of the birth, of an affected person, the Agency or person, as the case may be, shall provide the information and documents to *an tArd-Chláraitheoir*.

- (2) Where *an tArd-Chláraitheoir* reasonably believes that a person has within his or her possession or procurement information or documents concerning the birth, or the registration of the birth, of an affected person, *an tArd-Chláraitheoir* may, by notice in writing served on the person, require the person concerned to provide the information or documents to *an tArd-Chláraitheoir* for the purposes of determining whether or not the register of births correctly records the particulars of birth of the affected person concerned.

- (3) A person shall comply with a notice under subsection (2) within such period (being a period of not less than 28 days) as is specified in the notice or such longer period as may be agreed by the person and an *tArd-Chláraitheoir*, and in such manner as may be specified in the notice.
- (4) In this section, ‘affected person’ includes a person whom an *tArd-Chláraitheoir*, the Child and Family Agency or a person or body prescribed by regulations under section 30L reasonably believes may be an affected person.

**Correction, cancellation or registration of entries in register of births**

**30H.** (1) Subject to subsections (2) and (3), where an *tArd-Chláraitheoir* is aware of an error of fact in an entry in the register of births in relation to the particulars of birth of an affected person (in this Part referred to as a ‘relevant entry’), and where, having considered any information or documents received in accordance with subsection (1) of section 30G or in accordance with a notice under subsection (2) of that section together with any submissions received in accordance with subsection (3), an *tArd-Chláraitheoir* is satisfied that the relevant entry is incorrect, he or she may—

- (a) correct, or cause to be corrected, the relevant entry,
  - (b) cancel the relevant entry, or
  - (c) cancel the relevant entry and register the particulars of the birth of the affected person concerned in the register of births.
- (2) Prior to making a correction, cancellation or registration under subsection (1), an *tArd-Chláraitheoir* shall make all reasonable efforts to notify in writing any person in relation to whom personal data is intended to be corrected, cancelled or registered of his or her intention to make the correction, cancellation or registration.
  - (3) A person notified in accordance with subsection (2) or, where the person is unable to do so because of age, illness or disability, a person acting on his or her behalf, may make a submission to an *tArd-Chláraitheoir* in relation to the proposed correction, cancellation or registration within such period (being a period of not less than 28 days) as may be specified in the notice or such longer period as may be agreed by the person and an *tArd-Chláraitheoir*.

(4) In this section—

‘General Data Protection Regulation’ means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016<sup>2</sup> on the protection of natural persons with regard to the processing of personal data and on the free movement of such data,

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<sup>2</sup> OJ No. L 119, 4.5.2016, p.1

and repealing Directive 95/46/EC (General Data Protection Regulation);

‘personal data’ has the meaning it has in the General Data Protection Regulation.

### **Register under Part 3B**

- 30I.** (1) *An tArd-Chláraitheoir* shall establish and maintain a register (in this Act referred to as the ‘register under Part 3B’).
- (2) Where *an tArd-Chláraitheoir* has made a correction, cancellation or registration in accordance with section 30H, he or she shall enter the particulars to which this section applies in the register.
- (3) Any requirement of law for the production of a certificate of birth shall be satisfied by the production of the certified copy of an entry in the register, if purporting to be issued under the seal of *Oifig an Ard-Chláraitheora*.
- (4) In this Act, a reference to the particulars to which this section applies is a reference to the particulars of birth of an affected person entered in a relevant entry.

### **Index to register and privacy (Part 3B)**

- 30J.** (1) *An tArd-Chláraitheoir* shall maintain an index to the register.
- (2) Subject to subsection (4), *an tArd-Chláraitheoir* shall, on application by a person referred to in subsection (3) to him or her in that behalf in writing and on payment to him or her of the prescribed fee—
- (a) search the register and the index to that register, or
- (b) give the person—
- (i) a copy certified by him or her to be a true copy,
- (ii) a copy, or
- (iii) a certified extract,
- of an entry in the register specified by the person.
- (3) The following persons may make an application to *an tArd-Chláraitheoir* under subsection (2):
- (a) the person to whom the entry on the register relates;
- (b) a person who is, in relation to the person referred to in paragraph (a)—
- (i) the surviving spouse or civil partner,
- (ii) if no surviving spouse or civil partner, a child,
- (iii) if no surviving spouse or civil partner or child, a parent, or

(iv) if no surviving spouse or civil partner, child or parent, a brother or sister,

or

(c) any other person who *an tArd-Chláraitheoir*, in his or her discretion, determines.

(4) A copy of an entry or an extract thereof referred to in subsection (2)(b) shall omit any reference to or particulars of a personal public service number and ‘true copy’ in that subsection shall be construed accordingly.

(5) The Minister, by regulations under section 30L, may specify the particulars to be included in a certified extract referred to in subsection (2)(b)(iii).

**Separate index of connections between register and register of births**

**30K.** (1) *An tArd-Chláraitheoir* shall maintain an index to make traceable the connection between each entry in the register and the corresponding entry in the register of births.

(2) The index maintained under subsection (1) shall not be open to public inspection, and no information from that index shall be given to any person except by order of a court.

**Regulations (Part 3B)**

**30L.** (1) The Minister, following consultation with the Minister for Children, Equality, Disability, Integration and Youth and *an tArd-Chláraitheoir*, may make regulations to ensure the effective operation of this Part including, but not limited to, regulations prescribing—

(a) a person for the purposes of section 30G(1), and

(b) the particulars of birth and parentage to be included in a certified copy, provided under this Part, of an entry in the register.

(2) A regulation under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.”.

**Consequential amendments to Act of 2004**

**58.** The Act of 2004 is amended—

(a) in section 8, by the insertion, in subsection (1), of the following paragraph after paragraph (eeee):

“(eeeeee) to establish and maintain a register and index for the purpose of the registration of the particulars to which section 30I applies,”

(b) in section 13(1)—

(i) by the substitution, in paragraph (j), of “decrees of nullity of civil partnerships),” for “decrees of nullity of civil partnerships), and”,

(ii) by the substitution, in paragraph (k), of “the register of gender recognition),” for “the register of gender recognition).”,

(iii) by the substitution, in paragraph (l), of “the register of presumed deaths), and” for “the register of presumed deaths),”, and

(iv) by the insertion of the following paragraph after paragraph (l):

“(m) a register of particulars to which section 30I applies (which shall be known as the register under Part 3B of the Civil Registration Act 2004, and is referred to in this Act as the register under Part 3B).”,

(c) in section 61, by the substitution, in subsection (3), of “stillbirths, gender recognition or to the register under Part 3B or an index to any of those registers” for “stillbirths or gender recognition or an index to either of those registers”, and

(d) in section 69, by the insertion, in subsection (8), of “30G(2),” after “24(5).”

## PART 10

### MISCELLANEOUS

#### **Provision relating to persons the subject of incorrect birth registration**

**59.** (1) For the avoidance of doubt, the fact that a person is the subject of an incorrect birth registration shall not affect—

(a) the rights or liabilities acquired, or

(b) the validity or consequences of an action done,

in good faith by him or her.

(2) Without prejudice to the generality of *subsection (1)*, the rights, liabilities, validity and consequences to which that subsection applies shall not be affected by the fact that they were acquired or the action concerned was done, as the case may be, by the person concerned—

(a) in a particular name,

(b) on the basis that he or she had attained a particular age, or

(c) on the basis that a particular person was his or her parent or other relative.

- (3) For the avoidance of doubt, any rule of law, custom or practice by which a person may use a particular name applies to a person who is the subject of an incorrect birth registration.

### **Public information campaign**

60. The Authority shall, in the period between the coming into operation of this section and the coming into operation of *Part 2* and may, at any time thereafter where it considers it appropriate to do so, take such measures, including the holding of a public information campaign, as it considers appropriate to promote awareness among the public and, in particular, parents and relevant persons (including parents and relevant persons residing outside the State), of the following:
- (a) the process to be followed by a person in order to—
    - (i) specify to the Authority his or her preference in relation to contact with another person,
    - (ii) have an entry made in the register in respect of him or her,
    - (iii) access his or her birth certificate under *Part 2*,
    - (iv) access birth information, other information or provided items under *Parts 2, 3 or 4*;
  - (b) the establishment of the register;
  - (c) the transfer in accordance with *section 42* of information contained in the National Adoption Contact Preference Register to the register;
  - (d) the rights of a person, in particular a mother or father, under the General Data Protection Regulation of access to personal data concerning him or her and of rectification of inaccurate personal data concerning him or her;
  - (e) the restriction, under *section 68*, of the rights and obligations provided for in the General Data Protection Regulation specified in that section.

### **Designation of relevant bodies**

61. (1) The Minister may by regulations designate a body as a relevant body for the purposes of this Act.
- (2) A body may be designated under *subsection (1)* where the Minister is of the opinion that such designation is necessary to ensure that relevant persons can access records held by the body.

### **Processing of information contained in database and records of Commission of Investigation into Mother and Baby Homes**

62. (1) The Agency may, where necessary and proportionate for the performance of its functions under this Act, process personal data, including special categories of personal data, contained in the database and related records.

- (2) The Agency may, where necessary and proportionate for the performance by the Authority of its functions under this Act, disclose to the Authority personal data, including special categories of personal data, contained in the database and related records.
- (3) The Minister for Children, Equality, Disability, Integration and Youth, where he or she is designated under *section 61* as a relevant body, may, where necessary and proportionate for the performance by him or her of his or her functions as a relevant body, process personal data, including special categories of personal data, contained in the copy of the database and copy of the related records of the Commission deposited with the Minister under section 4(1) of the Commission of Investigation (Mother and Baby Homes and Certain Related Matters) Records, and Another Matter, Act 2020.

- (4) In this section—

“Act of 2004” means the Commissions of Investigation Act 2004;

“Commission” means the commission of investigation established by the Order of 2015;

“database” means the databases of residents of the institutions (specified in the Appendix to the terms of reference of the Commission set out in the Schedule to the Order of 2015) created by the Commission;

“Order of 2015” means the Commission of Investigation (Mother and Baby Homes and certain related Matters) Order 2015 (S.I. No. 57 of 2015);

“related record” means—

- (a) any evidence within the meaning of the Commissions of Investigation Act 2004 received by the Commission,
- (b) any document created by or for the Commission within the meaning of section 43 of the Commissions of Investigation Act 2004, or
- (c) a copy of any such evidence or document,

from which information was obtained for the purpose of creating the database.

### **Agency and Authority to offer assistance and support**

- 63.** (1) The Agency and the Authority shall, insofar as practicable, provide assistance to a relevant person who wishes to:
- (a) make an application under *Part 2*;
  - (b) for the purpose of making such an application, identify a relevant body that may hold the categories of information relating to the relevant person sought by him or her;
  - (c) make an application under *Part 5*; or
  - (d) make an application under *section 38(3)*.

- (2) The Agency and the Authority may provide such support as it considers appropriate to a person who makes an application referred to in *subsection (1)*, which support may include—
- (a) support relating to the interpretation and understanding of information and records provided on foot of the application, and
  - (b) counselling and support of the applicant following receipt by him or her of the information or records referred to in *paragraph (a)*.

### Offences

- 64.** (1) A person who is an information source and who conceals, destroys, mutilates or falsifies a relevant record shall be guilty of an offence.
- (2) A person who is an information source and who fails to comply with a direction of the Authority under *Part 7* shall be guilty of an offence.
- (3) A person who fails to comply with a direction of the Authority under *Part 7* shall be guilty of an offence.
- (4) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a class A fine or imprisonment for a term not exceeding 6 months, or both, or
  - (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years, or both.
- (5) Where an offence under this section is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in any such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

### Immunity

- 65.** (1) Subject to Article 82 of the General Data Protection Regulation, a person to whom this subsection applies shall not be liable in damages in respect of any act done or omitted to be done by him or her in the performance, or purported performance, of his or her functions under this Act, unless the act or omission concerned was done in bad faith.
- (2) Subject to Article 82 of the General Data Protection Regulation, the State shall not be liable in damages in respect of any act done or omitted to be done by a person to whom *subsection (1)* applies, in the performance, or purported performance, by the person of its, his or her functions under this Act unless the act or omission concerned was done in bad faith.
- (3) *Subsection (1)* applies to—

- (a) the Authority,
- (b) the Agency,
- (c) a member or former member of the Board of the Authority,
- (d) a member or former member of the Board of the Agency,
- (e) an employee or former employee of the Authority,
- (f) an employee or former employee of the Agency, and
- (g) a relevant body designated under this Act.

### **Processing of personal data and special categories of personal data**

66. (1) A person to whom this section applies may, where necessary and proportionate for the performance of his, her or its functions under this Act, process personal data, including special categories of personal data, in accordance with the General Data Protection Regulation and the Data Protection Act 2018 and any regulations under *section 67*.
- (2) This section applies to the following persons:
- (a) the Authority;
  - (b) the Agency;
  - (c) *an tArd-Chláraitheoir*;
  - (d) a relevant body;
  - (e) a secondary information source.
- (3) For the purposes of this Act—
- (a) the Authority is designated as data controller in relation to personal data processed by it for the purposes of the performance of its functions under this Act, and
  - (b) the Agency is designated as data controller in relation to personal data processed by it for the purposes of the performance of its functions under this Act.

### **Regulations for purpose of data protection**

67. (1) The Minister may prescribe suitable and specific measures, including measures specified in section 36(1) of the Data Protection Act 2018, to be taken to safeguard the fundamental rights and freedoms of data subjects in the processing of personal data, including special categories of personal data under this Act.
- (2) Without prejudice to the generality of *subsection (1)*, regulations under this section may prescribe suitable and specific measures to be taken in the provision under *sections 16, 24 and 30* of medical information to a person.

**Restriction of rights and obligations under General Data Protection Regulation**

68. The rights and obligations provided for in the following Articles of the General Data Protection Regulation, in so far as those rights and obligations relate to the processing of personal data and special categories of personal data by a person under this Act, are restricted to the extent necessary and proportionate to enable the person to perform his or her functions under this Act:
- (a) Article 12, insofar as any of its provisions correspond to the rights and obligations provided for in the Articles specified in *paragraphs (b) to (d)*;
  - (b) Article 14;
  - (c) Article 18;
  - (d) Article 21.

**Counselling support for parents and relevant persons**

69. (1) The Authority shall inform a parent who makes a statement to which *section 38(11)(c)* applies of his or her right under *subsection (2)* to counselling support provided by or on behalf of the Agency.
- (2) The Agency, on the request of a person referred to in *subsection (1)*, shall arrange for the provision of counselling support to him or her.
- (3) The Agency, on the request of a relevant person or the parent of a relevant person (other than a person referred to in *subsection (1)*), may arrange for the provision of counselling support to him or her.
- (4) The Authority may share with the Agency such information, including the person's name and contact details, relating to the person referred to in *subsection (1)* or, where applicable, *subsection (3)* as it considers necessary for the purposes of facilitating the operation of this section.

**Review of operation of Act**

70. (1) The Minister shall, not later than 2 years after the coming into operation of this section, commence a review of the operation of this Act, other than *Parts 8 and 9*.
- (2) In conducting a review under *subsection (1)*, the Minister shall consult with such persons, including relevant persons, as he or she considers appropriate.
- (3) The Minister shall cause a report in writing of the findings of the review under *subsection (1)* to be prepared and, as soon as may be after it is prepared, shall cause copies of the report to be laid before each House of the Oireachtas.

PART 11

AMENDMENT OF ENACTMENTS

**Amendment to National Archives Act 1986**

71. The Schedule to the National Archives Act 1986 is amended by the addition of “Adoption Authority of Ireland”.

**Amendment of Adoption Act 2010**

72. Section 86(2) of the Act of 2010 is amended by the substitution of “Authority, or in accordance with *section 6* of the *Birth Information and Tracing Act 2022.*” for “Authority.”.

## SCHEDULE

- A. Mother and Baby Home Institutions
- St. Patrick's / Pelletstown, Navan Road, Dublin
  - The Tuam Children's Home, Tuam, Galway
  - Bessborough Mother and Baby Home, Cork
  - Manor House, Castlepollard, Westmeath
  - Sean Ross Abbey, Tipperary
  - Árd Mhuire, Dunboyne, Meath
  - Bethany Home, Dublin
  - Denny House, Dublin
  - Miss Carr's Flatlets, Dublin
  - The Regina Coeli Hostel, Dublin
  - The Castle, Newtowncunningham, Donegal
  - The County Clare Nursery, Kilrush, Clare
  - Belmont Flatlets, Dublin
  - St. Gerard's, Dublin
- B. County Home Institutions
- Sacred Heart Home and Hospital, Carlow
  - St. Felim's County Home and Hospital, Cavan
  - St. Joseph's Hospital, Ennis, Clare
  - Cork County Home and District / St Finbarr's Hospital
  - Our Lady of Lourdes Home, Middleton, Cork
  - Mount Carmel Home, Clonakilty, Cork
  - St. Patrick's Hospital, Fermoy, Cork
  - St. Joseph's Home, Stranorlar, Donegal
  - Dublin Union / St Kevin's Institution
  - St. Brendan's Home, Loughrea, Galway
  - St. Columbanus Home, Killarney, Kerry
  - St. Vincent's Hospital, Athy, Kildare
  - St. Columba's County Home, Thomastown, Kilkenny
  - St. Vincent's Hospital, Mountmellick, Laois

St. Patrick's Home, Carrick-on-Shannon, Leitrim

St. Ita's Home, Newcastlewest, Limerick

St. Camillus Hospital, Limerick

St. Joseph's Hospital, Longford

Sacred Heart Home, Castlebar, Mayo

St. Joseph's Home, Trim, Meath

St. Mary's Hospital, Castleblayney, Monaghan

St. Vincent's Hospital, Tullamore, Offaly

Sacred Heart Home, Roscommon

St. John's Hospital, Sligo

Hospital of the Assumption, Thurles, Tipperary

St. Patrick's Hospital, Cashel, Tipperary

St. John's Hospital, Dungarvan, Waterford

St. Mary's Hospital, Mullingar, Westmeath

St. John's Hospital, Enniscorthy, Wexford

St. Colman's, Rathdrum, Wicklow