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IRELAND

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An Roinn Leanaí, Comhionannais,
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Department of Children, Equality,
Disability, Integration and Youth

treoir

Female Same Sex Couples and Donor Assisted Human Reproduction



Tel: 01 670 0120

Changes To The Law

This booklet explains changes to the law in relation to female same-sex couples and child born through donor assisted human reproduction. Parts 2 & 3 of the Child and Family Relationships Act 2015 which came into force in May 2020 means certain same-sex female parents can now be legally recognised as co-parents of their children. The provisions set out in Parts 2 & 3 allows the birth mother and the intending parent (the mother's spouse, civil partner, or cohabitant) of a donor-conceived child who is born as a result of a Donor Assisted Human Reproduction (DAHR) procedure, to register with the Registrar for Births, Deaths and Marriages, as parents, and obtain a birth certificate which reflects this.

There are two different scenarios covered depending on the date of conception: For a child conceived after the 4th of May 2020 the DAHR procedure must have been undertaken in a DAHR facility in Ireland using a traceable sperm donor. Both parents can be registered in these cases through the Registrar as normal with the provision of a certificate from the clinic (see further information below).

For a child conceived prior to the 4th of May 2020 the DAHR procedure may have been undertaken in a DAHR facility in Ireland **or** abroad using an anonymous **or** traceable sperm donor. However, in these cases a Declaration of Parentage is required from Court, to enable both parents to be registered on the child's birth certificate at re-registration.

Applying for a Declaration of Parentage

To make an application to the Court under the Act?

The following documents are required:

- District Court Summons (as per the District Court Rules),
- Affidavit of the mother,
- Affidavit of the Intending Parent,
- If possible, documents from a DAHR facility showing details of the procedure.

Guardianship

GUARDIANSHIP IS ABOUT DECISION-MAKING.

A guardian has the right and responsibility to make all decisions affecting a child's upbringing. Guardians can make a will appointing a person or persons to act as a guardian for the child in the event of their death. Guardianship lasts until a child is 18.

WHO IS AUTOMATICALLY A GUARDIAN: If parents are married both are joint guardians of the child. If parents are not married, the mother is the sole legal guardian of the child.

Guardians:

- make decisions on medical matters
- decide what school a child goes to
- decide what religious affiliation, if any, a child will have
- sign passports
- give permission for a child to leave the country

WHO ELSE CAN APPLY FOR GUARDIANSHIP:

Since commencement of the relevant legislation contained in the Children and Family Relationships Act 2015, from the 18th of January 2016, it is possible for a person other than a parent to apply to court to be appointed as guardian of a child. An application can be made by:

- a person who is married to or is in a civil partnership with, or has been for over 3 years a cohabitant of, a parent of the child and has shared the responsibility of the day-to-day care of the child for at least 2 years
- a person who has provided for the day-to-day care of the child for a continuous period of 12 months or more and where there is no parent or guardian willing or able to exercise guardianship rights and responsibilities in respect of the child. TUSLA the Child and Family Agency will be notified of such an application

If I am a legal guardian does that mean I can become a parent?

No. If you are a guardian of a child that does not make you a parent. Only a Declaration of Parentage enables the intended parent to apply to be registered as a parent of the child along with the mother.

Do I need a solicitor to apply to the District Court for a Declaration of Parentage?

No, you do not need a solicitor. You can make the application yourself. All court forms are available on Courts.ie or at the public office in your local District Court. However, if you are unsure about the process, you can contact any of the organisations listed at the back of this leaflet

When is it necessary to apply to the Circuit Court for a Declaration of Parentage?

The application to the District Court is a joint application by the mother of the child and the intended parent of the child where there is no dispute between the parties. An application can be made to the Circuit Court by an individual

to get a Declaration of Parentage in circumstances where a joint application is not possible. This is likely to arise where parents are no longer in a relationship but may also happen in other situations.

An application to the Circuit Court can be made by: the child, or the mother of the child, or a relevant person (i.e.) the person who was the intended parent at the time the DAHR procedure was performed. This allows for an intending parent who is no longer in a relationship with the mother of the child, to apply to Court for a Declaration of Parentage and be named on the child's birth certificate where the Court Order is granted.

Is it necessary to have a solicitor involved in making an application to the Circuit Court for a Declaration of Parentage under the Act?

No, you can represent yourself in any court. That said it is strongly recommended that you seek legal advice when making an application to the Circuit Court.

What does it mean that the child must be joined as a party to the application and does this mean the child has to attend Court?

It means that the child must be named as a party to the proceedings. Any party, or the Court, can ask for a Section 32 report to ascertain the views and wishes of a child who has reached an age where they can be ascertained.

Re-registration of Births

What steps are involved in re-registering the birth of a child so that both parents are named on the birth certificate?

The steps outlined by the General Registration Office (GRO) are as follows:

- Obtain the court order (Declaration of Parentage) as outlined above.
- Download and complete the application form from www.gov.ie/gro.
- Email completed application and copy of court order to dahrbirths@gro. i.e., or post to
- DAHR Section, GRO, Government Building, Convent Road, Roscommon.
- GRO will assist parents to ensure claim is ready for re-registration
- Parents will be notified when preliminaries are complete.
- Birth will then be ready on the GRO system for parents to attend their local registration office to complete the re-registration and sign the register.

Who can apply to re-register the birth of a child under the CFRA?

- The mother of the child, or the person declared parent in the Court Order, or the child (once they are 18 years of age). It is recommended that both parents (where a child is under 18) make the application jointly as this the quickest process for re-registration.

What information is required on the application to re-register the birth?

- The surname for the child, and Parent label: The birth mother can pick either the label 'Mother' or 'Parent' and the second female parent the label 'Parent.'
- the form must be signed and dated by both parents where an application is made jointly, and a new surname is requested.

Can the surname of a child be changed in the re-registration process?

Yes, the surname of the child can be changed, for example from a single surname to a double barrel surname, provided the chosen surname is that of one or both parents and both parents have signed the re-registration application form. It is recommended that if the child's name is to be changed that that change would be reflected in the Court order.

Registration Of A Donor Conceived Child

What is the process of new registrations for donor-conceived children where the DAHR procedure was performed?

- The parents have to notify the DAHR facility in the event that a procedure has resulted in a viable pregnancy.
- The facility will then supply a certificate to the parent(s). A copy of the certificate to be furnished by the DAHR facility is outlined here.
- The parents will have to supply this certificate with their application to register the birth of the child.
- The application process will be similar to the re-registration process, in that there will be a centralised application process, and GRO will liaise with the parents to ensure that the birth is ready for registration in any local registration office.

Does this Registration process for donor-conceived children differ from the existing registration of births process?

After the birth of any child, a birth notification is set up on the registration computer system. When any birth is registered, the basis for the registration are the details recorded on this notification. The registrar will input the notification number or get it from searching the parent details, and then proceed to finish the process by registering the birth in the presence of one or both of the parents.

Where the DAHR birth registration differs, is that the parents have to sign a statutory declaration and provide a copy of the DAHR facility certificate before the registration can be completed. The statutory declaration will be provided to the parents from GRO, and it declares that the parent(s) consented to being the parent(s) of the child, and that no other person is the parent of the child.

The system for DAHR birth registration differs from the current birth registration system in two ways:

- Firstly, a note has to be made in the system (this is not visible on the birth certificate) to indicate the child is a DAHR child. Once the child is 18, and they request a copy of their birth certificate, they have to be informed by the registration service that there is information available to them in relation to the donor.
- Secondly, the system will allow the registration of a same sex female couple as the parents of the child.

I have a child already and want to use the same donor to try for another child, can I do this after the 4th of May 2020?

For a three-year period following the commencement of Parts 2&3 of the Act, donor sperm from existing donors can be used, provided: the sperm was acquired by the DAHR facility prior to the 4th May 2020, and the donor has consented to the sperm being used in a DAHR procedure, and the intended parent has a child already that was born as a result of a DAHR procedure performed before the 4th May 2020, using the same donor. This includes anonymous sperm donors which would not otherwise be permitted after 4th May 2020 and traceable sperm donors who have not signed a relevant consent form to comply fully with the CFRA requirements.

To qualify for the amnesty donor sperm must be stored in a DAHR facility in Ireland.

Alternatively, if your donor provides his consent to the use of the sperm and the consent is in the format of the prescribed consent under the CFRA, then you can use sperm not already in the country.

If I have a child who was donor-conceived, and I have embryos stored to try for another, is there a time limit on their use?

No, there is no time limit on the use of an embryo, provided: the embryo was formed prior to the 4th of May 2020, and the embryo was acquired by the DAHR facility before this date, and the donor or donors used to form the embryo have consented to the gametes being used in a DAHR procedure.

Useful Contacts:

National Organisations

LGBT National Helpline 1890 929 539
E: info@lgbt.ie

Gender identity family support line
T: 01 907 3707

Bi+ Ireland
E: biirelandnetwork@gmail.com

BeLonGTo.org
T: 01 670 622 **E:** info@belonto.org

Deaf LGBT
Greenbow Deaf LGBT Ireland
T: 01 874 9148
E: greenbowlgbt@yahoo.ie
W: facebook.com/GBWDeafLGBT
Greenbow is an organisation run for the benefit of all Deaf LGBT adults all over Ireland.

Disabled LGBT People
E: FullSpectrumIreland@gmail.com
W: www.facebook.com/
FullSpectrumIRL/

LGBT Traveller & Roma Community
LGBT Pavée
W: lgbtpavee.yolasite.com

TENI Transgender Equality Network Ireland
T: 01 873 3575 **E:** www.teni.ie

Regional Centres for LGBT+ Support

DUBLIN
Outhouse, LGBT Resource Centre, Dublin.
T: 01 873 4999

CORK
LINC
T: 021 - 480 8600 **E:** info@linc.ie
W: www.linc.ie

LINC is a resource centre in Cork city for Lesbian and bisexual women. It is open Monday to Wednesday 11am to 3pm and Thurs 11am to 8pm

Gay Project, Gay, Bi, Queer, Trans Men's Community Organisation, Cork 021 430 0430
E: info@gayproject.ie

GALWAY
Teach Solais LGBT+ Resource Centre
E: resourcecentre@amachlgbt.com
W: facebook.com/TeachSolaisLGBT/

LIMERICK
GOSHH - Gender Orientation Sexual Health HIV
Redwood Place, 18 Davis Street, Limerick
T: 061 314354 **E:** info@goshh.ie
W: www.goshh.ie

GOSHH provides a safe, confidential, welcoming environment for everyone they work with. Their office is based in Limerick City, and they work throughout the Counties of Limerick, Clare, and North Tipperary.

LOUTH
Dundalk Outcomers
8 Roden Place, Dundalk
T: 042 9329816
E: info@dundalkoutcomers.com
W: www.outcomers.org



The National Federation of Services for
Unmarried Parents and their Children

CONTACT US CONFIDENTIALLY AT

T: 01 670 0120 **E:** info@treoir.ie **W:** www.treoir.ie

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