Additional Provisions relating to persons the subject of illegal birth registration

Throughout the legislative process, people affected by illegal birth registrations raised concerns regarding how their current identities impact on matters such as their marriages and children's identities, issues of succession, and contractual obligations they may have entered into over their lifetime, such as mortgage and financial obligations, life assurance and general commercial or social activity. The Birth Information and Tracing Act 2022 makes a number of provisions specifically relating to these challenges in order to alleviate the concerns of persons who were the subject of an illegal or incorrect birth registration.

Succession

Part 8 of the legislation amends the Succession Act 1965 to make provisions for persons affected by an illegal birth registration. People with an illegal birth registration grew up thinking that the people who raised them were their birth or adoptive parents and, therefore, that their inheritance arrangements were clear. However, where an incorrect birth registration has occurred there are succession implications for not only the relevant individual but also the families of both the birth parents and the social parents.

Amendments made to the Succession Act through the Birth Information and Tracing Act 2022 ensure that the relationship between an affected person and his or her **social** father and mother shall be the same as the relationship between the affected person and his or her **birth** father and mother for the purposes of succession. In addition, it provides that all other relationships within their birth and social families shall be deemed accordingly.

The effect of this is that affected persons will have the same rights of inheritance, vis-à-vis their social family as they have vis-à-vis their birth family.

In addition, this amendment provides assurance in relation to inheritance already received by illegally registered persons.

In the event an illegally registered person dies intestate without spouse, civil partner or issue, it provides clarity about the entitlements of their Birth and Social parents and other social and birth relatives.

Correcting the Register of Birth, and Register of Social Identity

Part 9 of the Act allows the General Registrar to collect or request information concerning people with an illegal birth registration and to correct an affected persons' birth registration.

The General Registrar will notify affected people before any correction, cancellation or registration is made to their birth registration.

If the affected person wishes, they can live under their corrected birth identity going forward.

If an affected person wishes to continue to live under the name they have used for most of their lives – their *social identity,* this part of the Act creates a new register where that identity will be recorded. A certificate obtained from the new register will contain details of the person's social identity and will be capable of being relied upon in all circumstances where a birth certificate might be required.

Assurances on contracts and other statements

The legislation also makes additional changes to provide certainty that contractual obligations, such as mortgage and financial obligations, marriage, life assurance and general commercial or social activity are not negatively impacted because of an illegal birth registration.

Access to services and other official documentation, such as a driving license or passport, generally requires a declaration along the lines of the following:

"By signing the declaration, you are stating that you understand the form and that the facts provided in the form are true and correct to the best of your knowledge".

Part 10, Section 59 of the Birth Information and Tracing Act provides assurance to affected persons that acts undertaken, rights or liabilities acquired or contracts entered into in good faith will not be undermined by reason of a person being the subject of an illegal birth registration.