



Number 20 of 2020

Commission of Investigation (Mother and Baby Homes and certain related Matters) Records, and another Matter, Act 2020



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**COMMISSION OF INVESTIGATION (MOTHER AND BABY HOMES AND CERTAIN
RELATED MATTERS) RECORDS, AND ANOTHER MATTER, ACT 2020**

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[No. 20.]

*Commission of Investigation (Mother and Baby Homes and
certain related Matters) Records, and another Matter, Act 2020.*

[2020.]

ACTS REFERRED TO

Commissions of Investigation Act 2004 (No. 23)

Data Protection Acts 1988 to 2018

Judicial Council Act 2019 (No. 33)



Number 20 of 2020

COMMISSION OF INVESTIGATION (MOTHER AND BABY HOMES AND CERTAIN RELATED MATTERS) RECORDS, AND ANOTHER MATTER, ACT 2020

An Act to provide for the deposit with the Child and Family Agency of certain evidence received by, and certain documents created by or for, the commission of investigation established by the Commission of Investigation (Mother and Baby Homes and certain related Matters) Order 2015 (S.I. No. 57 of 2015); to provide for the making of copies of that evidence and those documents by the Commission and the deposit of those copies with the Minister for Children, Equality, Disability, Integration and Youth; to clarify certain matters with regard to the application of section 43 of the Commissions of Investigation Act 2004 in relation to other evidence received by, and other documents created by or for, the said commission of investigation; to require the said commission of investigation to submit its final report to the Government not later than 30 October 2020; to provide for the dissolution of the Commission on 28 February 2021; for other unrelated purposes, to amend the Judicial Council Act 2019; and to provide for matters connected therewith. [25th October, 2020]

Be it enacted by the Oireachtas as follows:

Definitions

1. In this Act—

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

“Agency” means the Child and Family Agency;

“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;

“Data Protection Regulation” means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016¹;

“document” has the meaning assigned to it by the Act of 2004;

“evidence” has the meaning assigned to it by the Act of 2004;

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

¹ OJ No. L 119 of 4 May 2019, p.1

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

“personal data” shall be construed in accordance with the Data Protection Regulation;

“related record” means—

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

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

Deposit of certain records of Commission with Child and Family Agency

2. (1) Notwithstanding subsection (2) of section 43 of the Act of 2004, the Commission shall, as soon as may be after the passing of this Act, deposit with the Agency the database and all related records.
- (2) For the avoidance of doubt, the obligation under *subsection (1)* to deposit the database and all related records with the Agency is an obligation to so deposit the database and all related records without redaction therefrom.

Restriction on processing of certain records

3. (1) It shall not be lawful for the Agency to process—
 - (a) such part or parts of the database as contain information compiled from a related record referred to in *paragraph (b)*,
 - (b) any related record deposited with the Agency in accordance with *section 2* that was given to the Commission by a person other than the Agency, or
 - (c) any information contained in any such part of the database or any such related record,unless the processing of any such part, any such related record or any such information is—
 - (i) subject to *subsection (2)*, for a legitimate purpose, or
 - (ii) authorised or required by or under the Data Protection Regulation, the Data Protection Acts 1988 to 2018 or any other enactment (other than this Act).
- (2) Where the Agency processes a part of the database, a related record or information, to which *paragraph (a), (b) or (c) of subsection (1)* applies, for a legitimate purpose, it shall not effect access, or cause or require any person to effect access, to personal data (within the meaning of the Data Protection Regulation) contained therein.

(3) For the avoidance of doubt, neither this Act nor the Act of 2004 shall operate to prevent the Agency from processing information contained in the database that was compiled from a related record given to the Commission by the Agency.

(4) In this section—

“legitimate purpose” means the purpose of maintaining any part of the database, any related record or any information to which *paragraph (a), (b) or (c) of subsection (1)* applies;

“process” shall be construed in accordance with the Data Protection Regulation.

Deposit of copies of certain records with Minister

4. (1) The Commission shall make a copy of the database and a copy of all related records and shall deposit those copies with the Minister.
- (2) For the avoidance of doubt, the obligation under *subsection (1)* to deposit with the Minister the copies made in accordance with that subsection is an obligation to so deposit such copies without redaction therefrom.
- (3) The copies deposited with the Minister in accordance with *subsection (1)* shall be deemed to have been deposited with the specified Minister in accordance with subsection (2) of section 43 of the Act of 2004, and accordingly, that Act shall apply to such copies as if they were evidence received by and documents created by or for the Commission.

Deposit of evidence and documents in accordance with section 43 of Act of 2004

5. For the avoidance of doubt, the obligation under subsection (2) of section 43 of the Act of 2004 to deposit with the specified Minister evidence received by, and documents created by or for, the Commission (other than the database and related records) is, subject to *section 6*, an obligation to so deposit such evidence and documents without redaction therefrom.

Redaction of certain records

6. (1) A person who gave evidence or any document to the confidential committee of the Commission (in this section referred to as the ‘confidential committee’), may, not later than 6 weeks from the date on which he or she receives a notification under *subsection (2)*, make a request in writing of the Commission to redact from that evidence or document all personal data relating to that person before that evidence or document is deposited with the specified Minister in accordance with subsection (2) of section 43 of the Act of 2004.
- (2) The Commission shall make all reasonable efforts to notify every person, who gave evidence or any document to the confidential committee, of that person’s entitlement to make a request referred to in *subsection (1)*.

- (3) The Commission shall, upon receipt of a request referred to in *subsection (1)*, redact all personal data to which that request relates from the evidence or document concerned before depositing that evidence or document with the specified Minister in accordance with subsection (2) of section 43 of the Act of 2004.
- (4) This section shall not apply to the database or a related record.

Dissolution of Commission and final report

7. (1) Notwithstanding the Act of 2004, the Commission shall stand dissolved on 28 February 2021.
- (2) The Commission shall submit its final report to the Government no later than 30 October 2020.

Amendment of Judicial Council Act 2019

8. The Judicial Council Act 2019 is amended—

- (a) in subsection (2) of section 7, by the substitution of the following paragraph for paragraph (g):

“(g) adopt—

- (i) draft personal injuries guidelines prepared and submitted to the Board under section 18(2)(a) with the modifications (if any) made by the Board under section 11(1)(d), as soon as practicable after such submission but not later than 31 July 2021, or
- (ii) any draft amendments to personal injuries guidelines prepared and submitted to the Board under section 18(2)(b) with the modifications (if any) made by the Board under section 11(1)(d), as soon as practicable but not later than 12 months after such submission,

and publish the personal injuries guidelines and amendments in such manner as it considers appropriate as soon as practicable following such adoption,”

and

- (b) in subsection (4) of section 18, by the substitution of “not later than 9 December 2020” for “not later than 6 months after the date on which the Committee stands established”.

Expenses

9. The expenses incurred by the Minister in the administration of this Act (other than *section 8*) shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of moneys provided by the Oireachtas.

[2020.]

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[No. 20.]

Short title

- 10.** This Act may be cited as the Commission of Investigation (Mother and Baby Homes and certain related Matters) Records, and another Matter, Act 2020.