



Number 37 of 2024

**Maternity Protection, Employment Equality and Preservation of Certain
Records Act 2024**



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**MATERNITY PROTECTION, EMPLOYMENT EQUALITY AND PRESERVATION OF
CERTAIN RECORDS ACT 2024**

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ACTS REFERRED TO

Birth Information and Tracing Act 2022 (No. 14)
Child Care Act 1991 (No. 17)
Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24)
Civil Registration Act 2004 (No. 3)
Commissions of Investigation Act 2004 (No. 23)
Companies Act 2014 (No. 38)
Employment Equality Act 1998 (No. 21)
Equal Status Act 2000 (No. 8)
Health and Social Care Professionals Act 2005 (No. 27)
Legal Services Regulation Act 2015 (No. 65)
Local Government Act 2001 (No. 37)
Maternity Protection Act 1994 (No. 34)
Medical Practitioners Act 2007 (No. 25)
Mother and Baby Institutions Payment Scheme Act 2023 (No. 20)
National Archives Act 1986 (No. 11)
Redress for Women Resident in Certain Institutions Act 2015 (No. 8)
Residential Institutions Redress Act 2002 (No. 13)
Social Welfare Consolidation Act 2005 (No. 26)
Workplace Relations Act 2015 (No. 16)



Number 37 of 2024

MATERNITY PROTECTION, EMPLOYMENT EQUALITY AND PRESERVATION OF CERTAIN RECORDS ACT 2024

An Act to amend the Maternity Protection Act 1994; to provide that absence by a member of one of the Houses of the Oireachtas from performing duties as such a member in certain circumstances shall be called maternity leave for a member of the Houses of the Oireachtas; to amend the Employment Equality Act 1998; to amend the Social Welfare Consolidation Act 2005; to provide for the preservation, in the public interest, of certain records relating to certain institutions and bodies; and to provide for related matters. [28th October, 2024]

Be it enacted by the Oireachtas as follows:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement 15

1. (1) This Act may be cited as the Maternity Protection, Employment Equality and Preservation of Certain Records Act 2024.
- (2) This Act, other than *section 6*, shall come into operation on such day or days as the Minister for Children, Equality, Disability, Integration and Youth may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions. 20
- (3) *Section 6* 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 so appointed for different purposes or different provisions. 25

Expenses

2. The expenses incurred by the Minister for Children, Disability, Equality, Integration and Youth in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure, National Development Plan Delivery and Reform, be paid out of monies provided by the Oireachtas. 30

PART 2

MATERNITY PROTECTION AND EMPLOYMENT EQUALITY

Amendment of Maternity Protection Act 1994

3. The Maternity Protection Act 1994 is amended—

- (a) in subsection (1)(b) of section 8, by the substitution of “section 14B or section 14C” for “section 14B”, 5
- (b) in subsection (2)(b) of section 13, by the substitution of “section 14B or section 14C” for “section 14B”,
- (c) in subsection (1)(a) of section 14A, by the substitution of “postponed under section 14B or section 14C” for “postponed under section 14B”, 10
- (d) in subsection (1) of section 14B, by the substitution of “Subject to subsection (2) and section 14C(10)” for “Subject to subsection (2)”, and
- (e) by the insertion of the following section after section 14B:

“Postponement of maternity leave in event of serious health condition of relevant employee” 15

14C. (1) A relevant employee may, in accordance with this section, notify her employer, or cause her employer to be notified, in writing (in this section referred to as a ‘relevant notification’) that she intends to postpone the commencement of all or part of her maternity leave to such date that is not later than 52 weeks from the date on which the postponement (in this section referred to as the ‘first postponement’) is to commence. 20

(2) A relevant notification shall—

- (a) subject to subsection (5), specify the date on which the proposed postponement is to— 25
 - (i) commence, and
 - (ii) end (referred to in this section as the ‘end date’), which date shall be at least 5 weeks from the date referred to in subparagraph (i),

and 30

(b) be accompanied by a medical certificate signed by a relevant medical practitioner and specifying the dates referred to in paragraph (a).

(3) A relevant employee shall make a relevant notification not later than 2 weeks before the date on which the proposed postponement is to commence. 35

- (4) Where a relevant notification has been made in accordance with subsections (1), (2) and (3)—
- (a) the maternity leave concerned shall be postponed with effect from the date specified in the relevant notification,
- (b) subject to subsection (5), the postponement shall end on the end date, and 5
- (c) the relevant employee shall be entitled to the maternity leave, or part thereof, as the case may be, (in this section referred to as ‘relevant resumed leave’) not taken by the relevant employee by reason of the postponement, to be taken in one continuous period commencing on the day immediately after the end date. 10
- (5) Entitlement to relevant resumed leave shall be subject to a relevant employee having notified her employer in writing (or caused her employer to be so notified) as soon as reasonably practicable but not later than the day on which the leave begins of her intention to commence such leave. 15
- (6) Subject to subsections (7), (8) and (9), a relevant employee who has postponed all or part of her maternity leave in accordance with subsection (4)(a) may, once only, notify her employer, or cause her employer to be notified, in writing (in this section referred to as a ‘second notification’) that she intends to further postpone (referred to in this section as the ‘second postponement’) the commencement of her maternity leave, or the part of the maternity leave that she has not yet taken, to a date that is not later than 52 weeks from the date on which the first postponement is to commence. 20
25
- (7) A second notification shall—
- (a) specify the date on which the second postponement is to—
- (i) commence (referred to in this section as the ‘second commencement date’) and which shall be no later than the end date, and 30
- (ii) end (referred to in this section as the ‘second end date’),
- and
- (b) be accompanied by a medical certificate signed by a relevant medical practitioner and specifying the dates referred to in paragraph (a). 35
- (8) A relevant employee shall make a second notification not later than 2 weeks before the second commencement date.
- (9) Where a second notification has been made in accordance with subsections (6), (7) and (8)—

- (a) the maternity leave concerned shall be postponed with effect from the second commencement date,
- (b) the second postponement shall end on the second end date, and
- (c) the relevant employee shall be entitled to the maternity leave, or part thereof, as the case may be, not taken by the relevant employee by reason of the first postponement and the second postponement, to be taken in one continuous period commencing on the day immediately after the second end date. 5
- (10) An employee to whom subsection (1) of section 14B and subsection (1) apply shall not be entitled to postpone maternity leave under section 14B and this section in respect of the same birth. 10
- (11) In this section—
- ‘Act of 2007’ means the Medical Practitioners Act 2007;
- ‘maternity leave’ includes, where applicable, a further period of maternity leave referred to in section 8, section 13(2), or section 13B; 15
- ‘medical practitioner’, ‘register’ and ‘Specialist Division’ have the same meanings as they have in the Act of 2007;
- ‘necessary medical intervention’, in relation to mental health, means inpatient hospital treatment;
- ‘relevant employee’ means an employee who— 20
- (a) is—
- (i) a pregnant employee, or
- (ii) on maternity leave,
- and
- (b) has a serious health condition; 25
- ‘relevant medical practitioner’ means a medical practitioner who—
- (a) is for the time being registered in the Specialist Division of the register of medical practitioners pursuant to section 47 of the Act of 2007 and is a specialist in a medical speciality recognised by the Medical Council under section 89 of that Act, and 30
- (b) is treating, or is responsible for the treatment of, the relevant employee concerned in relation to the serious health condition concerned;
- ‘serious health condition’ means a health condition that—
- (a) entails a serious risk to the life or health, including the mental health, of an employee, and 35

- (b) in order to address the risk, requires necessary medical intervention that is ongoing for a period of time to be carried out in respect of the employee.”.

Maternity leave for member of Houses of Oireachtas

4. (1) Any absence by a member from performing duties as such a member, duly notified to the Ceann Comhairle or to the Cathaoirleach of Seanad Éireann, as may be appropriate, during a period (whether or not deferred or paused in the event of the member having a serious health condition) of up to 26 weeks starting no earlier than 2 weeks before the end of the expected week of, and no later than the date of, the member’s giving birth to a child, shall be called maternity leave for a member of the Houses of the Oireachtas. 5 10
- (2) The reference to absence in *subsection (1)* shall be construed as a reference to any absence connected with the member’s pregnancy and giving birth to a child.
- (3) In this section—
- (a) “member” means— 15
- (i) a member for the time being of Dáil Éireann, or
- (ii) a member for the time being of Seanad Éireann,
- and
- (b) a reference to the date of the member’s giving birth to a child shall—
- (i) be construed as a reference to the date of the member’s giving birth to a living child, or to a stillborn child (within the meaning of the Civil Registration Act 2004), and 20
- (ii) subject to *subparagraph (i)*, include, where appropriate, the date of the member’s giving birth to a child occurring more than 2 weeks before the end of the member’s expected week of giving birth to the child. 25

Amendment of Employment Equality Act 1998

5. The Employment Equality Act 1998 is amended—

- (a) by the insertion of the following section after section 14A:

“Non-disclosure agreements

- 14B.** (1) Subject to this section— 30

- (a) an employer shall not enter into a non-disclosure agreement, and
- (b) where such an agreement is entered into, it shall be null and void.

- (2) Subsection (1) shall not apply to—

- (a) a non-disclosure agreement entered into under—

- (i) the terms of a settlement referred to in section 24(4) of the Equal Status Act 2000, or
- (ii) the terms of a resolution referred to in section 39(4) of the Workplace Relations Act 2015,
- or 5
- (b) an excepted non-disclosure agreement that is entered into in accordance with subsection (3).
- (3) An employer may enter into an excepted non-disclosure agreement with an employee only where—
 - (a) the employee requests the employer to do so, and 10
 - (b) prior to entering into the agreement, the employee has received independent legal advice in writing from a legal practitioner in relation to the legal implications of entering into the agreement.
- (4) The employer referred to in subsection (3) shall discharge the reasonable legal costs and expenses of the legal practitioner who provides the legal advice referred to in paragraph (b) of that subsection to the employee. 15
- (5) An excepted non-disclosure agreement shall—
 - (a) be in writing,
 - (b) be of unlimited duration, other than where the employee elects otherwise, 20
 - (c) in so far as possible be in—
 - (i) clear language that is easily understood, and
 - (ii) a format that is easily accessible,
 by the parties to the agreement, including by any party with a disability, 25
 - (d) provide that the employee has a right, where he or she so elects, to withdraw from the agreement without penalty no later than 14 days from the date on which the agreement is entered into, and
 - (e) include a provision stating that the agreement does not prohibit the making by the employee of a relevant disclosure in accordance with subsection (7). 30
- (6) Where an excepted non-disclosure agreement is entered into, the employer shall provide, or cause to be provided, to the employee a copy of the executed agreement. 35
- (7) An excepted non-disclosure agreement shall not prohibit the making by the employee concerned of a relevant disclosure to—

- (a) one or more of the following persons where, at the time of the making of the relevant disclosure, the person concerned is acting in the course of his or her office, employment, business, trade or profession:
- (i) a member of the Garda Síochána; 5
 - (ii) a legal practitioner;
 - (iii) a registered medical practitioner within the meaning of the Medical Practitioners Act 2007;
 - (iv) a mental health professional;
 - (v) an officer of the Revenue Commissioners; 10
 - (vi) an officer of the Ombudsman;
 - (vii) an official of a trade union,
- or
- (b) such individual, or a member of such class of individuals, as may be specified in the agreement as a person to whom a relevant disclosure may be made by the employee. 15
- (8) The Minister shall—
- (a) not later than 5 years after the date on which this section comes into operation, conduct a review of the operation and effectiveness of the section, 20
 - (b) not later than 6 months after the end of that period of 5 years, or on the completion of the review, whichever is the earlier, prepare a report, in writing, of the findings of the review and of the conclusions drawn from those findings, and
 - (c) cause copies of the report to be laid before each House of the Oireachtas. 25
- (9) In this section—
- ‘Act of 2005’ means the Health and Social Care Professionals Act 2005;
- ‘employee’, in relation to an employer, includes, where appropriate, a prospective or former employee; 30
- ‘excepted non-disclosure agreement’ means a non-disclosure agreement that is entered into in accordance with subsections (5), (6) and (7);
- ‘harassment’ and ‘sexual harassment’ shall be construed in accordance with section 14A(7); 35

‘legal practitioner’ has the same meaning as it has in the Legal Services Regulation Act 2015;

‘mental health professional’ means—

- (a) a psychologist who is a person—
 - (i) who practises as such, 5
 - (ii) who holds a qualification listed opposite the profession of psychologist in the third column of Schedule 3 to the Act of 2005 or a qualification that is a corresponding qualification, within the meaning of section 90 of that Act, to that qualification, and 10
 - (iii) following the establishment under section 36 of the Act of 2005 of the register of members of the profession of psychologist, whose name is for the time being entered in that register,

or

- (b) a counsellor who is a person who— 15
 - (i) practises as such, and
 - (ii) has the requisite skills and judgement to provide counselling to a person to resolve or better cope with personal and interpersonal problems or difficulties;

‘non-disclosure agreement’ means an agreement, or provision thereof, 20
whether or not in writing and howsoever described, between an employer and an employee that purports to preclude the making of a relevant disclosure by the employer or the employee, or both;

‘relevant disclosure’ means a disclosure of information relating to 25
either or both of the following:

- (a) the making by the employee of an allegation that he or she was discriminated against, or subjected to victimisation, harassment or sexual harassment, in relation to his employment (or prospective employment) by the employer;
- (b) any action taken by the employer or employee in response to the 30
making of the allegation referred to in paragraph (a), including any action taken in relation to any complaint made, or proceedings taken, by the employee in relation to the subject matter of the allegation;

‘victimisation’ shall be construed in accordance with section 74(2).” 35

and

- (b) in section 17, by the insertion of the following subsection after subsection (1):

“(1A) In relation to discrimination on the disability ground, nothing in this Act shall render unlawful any act done in compliance with any provision of section 14C of the Maternity Protection Act 1994.”.

Amendment of Social Welfare Consolidation Act 2005

6. Section 47 of the Social Welfare Consolidation Act 2005 is amended by the insertion of the following subsection after subsection (7): 5

“(7A) Regulations may provide for the postponement of the payment of maternity benefit in the event of the person who is entitled to that benefit having a serious health condition within the meaning of section 14C of the Maternity Protection Act 1994, subject to the conditions and in the circumstances that may be prescribed.”. 10

PART 3

PRESERVATION OF CERTAIN RECORDS

Definitions (*Part 3*)

7. (1) In this Part— 15

“Act of 1986” means the National Archives Act 1986;

“Act of 1991” means the Child Care Act 1991;

“Act of 2022” means the Birth Information and Tracing Act 2022;

“adopted person” has the same meaning as it has in section 2 of the Act of 2022;

“boarded out arrangement” has the same meaning as it has in section 2 of the Act of 2022; 20

“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— 25

(i) subject to *subparagraph (ii)*, within the meaning of section 36(2) of the Act of 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, 30

whether or not the foster parent became the adoptive parent of the child,

(d) an arrangement made under section 36(1)(d) of the Act of 1991, under which a child was placed with a relative,

- (e) an arrangement under which a child was placed as a resident of an institution, 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;
- “civil partner” shall be construed in accordance with section 3 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010; 5
- “cohabitant” shall be construed in accordance with section 172(1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;
- “County Home” means an institution specified in column 2 of Part 1 of Schedule 1 of the Mother and Baby Institutions Payment Scheme Act 2023; 10
- “Director” means the Director of the National Archives;
- “family member”, in relation to a person, means a spouse, civil partner, cohabitant, child, parent, sibling, half-sibling, grandparent, grandchild, aunt, uncle, niece or nephew (whether of the whole blood or the half-blood), grandniece or grandnephew of the person; 15
- “industrial school, reformatory or related institution” means an institution that is specified in the Schedule to the Residential Institutions Redress Act 2002;
- “information source” means a person in possession of a relevant record, but does not include—
- (a) a relevant person, in so far as he or she is in possession of a relevant record that relates solely to himself or herself, 20
- (b) a family member of a person referred to in *paragraph (a)* in so far as the family member is in possession of a relevant record that solely relates to the person concerned, or
- (c) a public body; 25
- “institution” means any of the following:
- (a) a Mother and Baby Home;
- (b) a County Home;
- (c) a Magdalen laundry;
- (d) an industrial school, reformatory or related institution; 30
- (e) an orphanage;
- (f) an institution designated by order of the Minister under *section 8(1)*;
- “local authority” has the same meaning as it has in the Local Government Act 2001;
- “Magdalen laundry” means an institution specified in the Schedule to the Redress for Women Resident in Certain Institutions Act 2015; 35

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

“Mother and Baby Home” means an institution specified in column 2 of Part 2 of Schedule 1 to the Mother and Baby Institutions Payment Scheme Act 2023;

“nursed out arrangement” has the same meaning as it has in the Act of 2022; 5

“orphanage” means a residential premises that accommodated children whose parent, parents, guardian or guardians were deceased, unable to care for them or perceived to be unable to care for them;

“person who was the subject of an incorrect birth registration” shall be construed in accordance with section 2(2) of the Act of 2022; 10

“possession”, in relation to a relevant record, includes control over the relevant record;

“public body” means—

(a) a Department of State,

(b) a local authority, 15

(c) a body (other than a company) established by or under an enactment, or

(d) a company established pursuant to a power conferred by or under an enactment, and financed wholly or partly by—

(i) moneys provided, or loans made or guaranteed, by a Minister of the Government, or 20

(ii) the issue of shares held by or on behalf of a Minister of the Government;

“record” includes:

(a) a book;

(b) a map;

(c) a plan; 25

(d) a drawing;

(e) papers;

(f) a file;

(g) a photograph;

(h) a film; 30

(i) a microfilm and other micrographic record;

(j) a sound recording;

(k) a pictorial record;

(l) a magnetic tape or disc;

- (m) an optical or video disc;
- (n) a machine-readable record;
- (o) documentary or processed material;
- (p) a copy or part of any thing which falls within any of the preceding paragraphs (a) to (o); 5
- “relevant body” means a person—
- (a) who operated or was responsible for the running of an institution,
- (b) who was involved in the placement of a relevant person (within the meaning of paragraph (a), (b), (c) or (d) of the definition of “relevant person”)—
- (i) for adoption, 10
- (ii) into a care arrangement,
- (iii) in the case of a relevant person who is a person that was the subject of an incorrect birth registration, with the person or persons who assumed the role of a parent or parents of the relevant person, or
- (iv) in an institution, 15
- or
- (c) designated by order of the Minister as a relevant body under section 8(2);
- “relevant person” means—
- (a) an adopted person,
- (b) a person who was the subject of a care arrangement, 20
- (c) a person who was the subject of an incorrect birth registration,
- (d) a person who was a resident in an institution, or
- (e) the mother (within the meaning of the Act of 2022) of a person referred to in paragraph (a), (b) or (c);
- “relevant record” means, subject to subsections (2) and (3), a record relating to an institution or a relevant body and includes a record— 25
- (a) relating to—
- (i) a relevant person,
- (ii) a member of staff or management of a relevant body or a person working in an institution, 30
- (iii) the financial records, accounts and commercial activities of an institution or a relevant body,

- (iv) the administration, regulatory compliance activities and governance matters, including any inspection records or reports of an institution or a relevant body,
 - (v) contemporaneous or periodical accounts of activities of a relevant body or in an institution (including records commonly known as “house annals”), 5
 - (vi) any burials overseen, or carried out by or on behalf of a relevant body on a premises in which the relevant body operated or elsewhere,
 - (vii) the establishment or management of a relevant body or institution, or
 - (viii) the buildings and grounds associated with an institution, 10
- or
- (b) designated by order of the Minister as a relevant record under *section 8(3)*.
- (2) For the purposes of this Part, a record is not a relevant record if it relates to—
- (a) anything that occurred in, or in relation to, an institution, or
 - (b) an activity of a relevant body,
- at any time after 31 December 1998. 15
- (3) In this Part, a reference to—
- (a) a “record” includes a reference to a class of records, and
 - (b) a “relevant record” includes a reference to a class of relevant records.
- (4) In this Part, a reference to the “public interest” in preserving a record shall be construed as a reference to the public interest in ensuring the preservation of the record for purposes including the following: 20
- (a) ensuring, having regard in particular to the purposes referred to in *paragraph (b)*, that the record does not become incapable of being accessed;
 - (b) enabling future access to the record, so that—
 - (i) persons, in particular relevant persons, may obtain information contained in, and avail of education and undertake research in relation to, the record, and 25
 - (ii) society in general, and in particular relevant persons, may obtain an enhanced understanding of the systems and experiences of institutionalisation, and placement in care arrangements, of persons;
 - (c) facilitating the archiving and memorialising of the record concerned; and 30
 - (d) ascertaining the quantity and nature of relevant records in the possession of information sources.

Power to designate institution, relevant body, relevant record

8. (1) The Minister may, where it is necessary and proportionate for the purposes of this Part to do so, by order designate an institution as an institution for the purposes of *paragraph (f)* of the definition of “institution” in *section 7*, where the Minister reasonably believes that— 5
- (a) the institution was established for a purpose comparable to any of the purposes for which an institution referred to in *paragraph (a), (b), (c), (d)* or *(e)* of that definition was established, and
- (b) a record exists in relation to the institution that there is likely to be a public interest in preserving for the purposes of this Part. 10
- (2) The Minister may, where it is necessary and proportionate for the purposes of this Part to do so, by order designate a person as a relevant body for the purposes of *paragraph (c)* of the definition of “relevant body” in *section 7*, where the Minister reasonably believes that—
- (a) the person was involved in an activity comparable to an activity of a relevant body referred to in *paragraph (a)* or *(b)* of that definition, and 15
- (b) a record exists in relation to the body that there is likely to be a public interest in preserving for the purposes of this Part.
- (3) The Minister may, where it is necessary and proportionate for the purposes of this Part to do so, by order designate a record as a relevant record for the purposes of *paragraph (b)* of the definition of “relevant record” in *section 7*, where the Minister reasonably believes that there is likely to be a public interest in preserving the record for the purposes of this Part. 20
- (4) Every order made by the Minister 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 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 under it. 25

Duty to preserve and furnish statement of relevant records

9. (1) An information source shall, subject to *subsections (8)* and *(11)*, in respect of a relevant record in his or her possession— 30
- (a) retain the relevant record,
- (b) maintain the relevant record, and
- (c) where the relevant record is in the State, prevent the removal of the relevant record from the State. 35
- (2) The Director may, where he or she is of the view that—
- (a) a person is in possession of a relevant record, and

- (b) it is in the public interest to preserve the relevant record for the purposes of this Part,
- and where it is necessary and proportionate for the purposes of this Part to do so, direct, by notice in writing, the person concerned to furnish to the Director within such period, being a period of not less than 3 months, as may be specified in the notice, a statement, in such form as may be specified by the Director, of the relevant records in the possession of the person concerned on the date on which the statement is made. 5
- (3) A person who receives a notice under *subsection (2)* shall, subject to *subsection (5)*, furnish to the Director within the period specified in the notice— 10
- (a) where he or she is not in possession of a relevant record, a statement that he or she is not in possession of a relevant record, or
- (b) where he or she is in possession of one or more than one relevant record, a statement of the relevant record or relevant records concerned.
- (4) Where an information source who has furnished a statement in accordance with *subsection (3)*— 15
- (a) becomes aware that a relevant record was in his or her possession on the date on which the statement was furnished but was not specified in the statement furnished in accordance with *paragraph (b)* of that subsection, or
- (b) comes into possession of a relevant record after the statement is furnished, 20
- the information source shall, subject to *subsection (5)*, as soon as practicable but not later than 6 weeks after the date on which the information source becomes so aware or comes into such possession, as the case may be, furnish to the Director a statement, in such form as may be specified by the Director, of the record concerned.
- (5) The Director may extend the period specified by him or her in a notice under *subsection (2)*, or referred to in *subsection (4)*, on application to him or her in that behalf in writing by the person concerned before the expiration of the period concerned, if the Director is satisfied that there is good and sufficient reason for the extension— 25
- (a) due to the volume or complexity of the relevant records concerned, or 30
- (b) where it is otherwise likely that it will not be possible for the information source to furnish the statement concerned.
- (6) The Director may, subject to *subsection (9)*, certify on application to him or her in writing by a person who is in possession of a relevant record, that the record concerned does not warrant preservation for the purposes of this Part. 35
- (7) For the purposes of providing certification of a relevant record in accordance with *subsection (6)*, the Director may do either or both of the following:
- (a) inspect and examine the record which is the subject of the application under that subsection;

- (b) request further information in relation to the record concerned from the person making the application.
- (8) *Subsection (1)* shall not apply in respect of a relevant record where the Director certifies, in accordance with *subsection (6)*, that the relevant record does not warrant preservation. 5
- (9) The Director shall certify that a relevant record does not warrant preservation in accordance with *subsection (6)* only where—
- (a) he or she is satisfied that the relevant record is already in the public domain, or
- (b) he or she is of the view that—
- (i) the condition of the relevant record is such that the record does not warrant preservation, 10
- (ii) the relevant record has no archival value, having regard to this Part, or
- (iii) there is no historical or public interest in preserving the relevant record for the purposes of this Part.
- (10) The certification of a relevant record in accordance with *subsection (6)* shall not affect any obligations on a person to preserve the record for a purpose other than a purpose under this Part. 15
- (11) Nothing in *subsection (1)* shall prevent—
- (a) compliance by an information source with his or her obligations under section 48(5) of the Act of 2022, 20
- (b) compliance by an information source with his or her obligations under the Commissions of Investigation Act 2004 relating to the work of a commission established under that Act to investigate any matter related to an institution or an activity of a relevant body, or
- (c) the sale, donation, bequest or loan by an information source of a relevant record in accordance with section 4(1)(f) of the Act of 1986. 25
- (12) The Director may prepare and publish guidelines, in such form and manner as he or she considers appropriate, on any matter to which this section relates.

Offences

10. (1) An information source or a person acting on behalf of an information source who, without lawful authority or reasonable excuse, knowingly in relation to a relevant record other than a relevant record certified in accordance with *section 9(6)*— 30
- (a) conceals, destroys, mutilates, or falsifies the relevant record,
- (b) fails to maintain the relevant record, or
- (c) removes the relevant record (where, on the coming into operation of this section, the record was in the State) from the State, 35

shall be guilty of an offence.

- (2) A person who fails to comply with a direction of the Director under *section 9(2)* shall be guilty of an offence.
- (3) 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 5
- (b) on conviction on indictment, to a fine not exceeding €50,000 or imprisonment for a term not exceeding 3 years, or both.
- (4) 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. 10

Service of notice

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- 11.** (1) Subject to *subsection (3)*, a notice under *section 9(2)* to be served on or given to a person shall be addressed to the person concerned by name and may be so served on or given to the person in one of the following ways:
- (a) by delivering it in person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address; 20
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
- (d) by electronic means, in a case in which the person has given notice in writing to the Director of his or her consent to the notice being served on, or given to, him or her in that manner. 25
- (2) For the purposes of this section, a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act shall be deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business. 30
- (3) Where a notice is required or authorised by or under this Part to be served on or given to the owner or occupier of land and the name of the owner or of the occupier cannot be ascertained by reasonable inquiry, it may be addressed to “the owner” or “the occupier”, as the case may require, without naming him, her or it. 35

Amendment of Act of 1986

- 12.** Section 4(1) of the Act of 1986 is amended by the insertion of the following paragraph after paragraph (f):

“(fa) the performance of functions assigned to the Director under *Part 3* of the *Maternity Protection, Employment Equality and Preservation of Certain Records Act 2024*,”.