



STATUTORY INSTRUMENTS.

S.I. No. 287 of 2024



INSTITUTIONAL BURIALS ACT 2022 (SECTION 80) REGULATIONS
2024

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I, RODERIC O’GORMAN, Minister for Children, Equality, Disability, Integration and Youth, in exercise of the powers conferred on me by section 80 of the Institutional Burials Act 2022 (No. 18 of 2022), and after consultation with Forensic Science Ireland and the Data Protection Commission, hereby make the following regulations:

Citation

1. These Regulations may be cited as the Institutional Burials Act 2022 (Section 80) Regulations 2024

Interpretation

2. In these Regulations-

“Act” means Institutional Burials Act 2022 (No. 18 of 2022);

“applicant” means a person who applies to a Director to participate in an Identification Programme under section 48(1) of the Act;

“spouse or civil partner” means a person who is a spouse or civil partner of a person whom the spouse or civil partner believes, on reasonable grounds, is buried in the principal burial land or ancillary burial land concerned, and who, in accordance with section 42(1)(d) of the Act, notifies a Director of his or her interest in being the person to whom any identified recovered human remains are returned in accordance with section 57 of the Act and his or her wishes as to the final arrangements for those remains should he or she die or become incapacitated before such arrangements.

Provisions regarding the evidence (documentary or otherwise) that a person is to provide for the purposes of establishing himself or herself as an eligible family member

3. The evidence that a person is to provide for the purposes of establishing himself or herself as an eligible family member is prescribed for the purposes of section 42(1)(f) and 48(2)(a)(ii) of the Act:

- (a) An applicant may provide a Director with such public records, including but not limited to, birth certificates, marriage certificates or death certificates, issued under section 13 of the Civil Registration Act 2004, as will enable the Director to satisfy himself or herself that an applicant is an eligible family member;
- (b) Where public records are not available or the Director deems that they are insufficient, an applicant may provide other records, including but not limited to, institutional records, medical records

*Notice of the making of this Statutory Instrument was published in
"Iris Oifigiúil" of 14th June, 2024.*

- or baptismal records, in order to enable the Director to satisfy himself or herself that an applicant is an eligible family member;
- (c) Where the documents provided to a Director are, in his or her opinion, incomplete or insufficient, and where he or she considers it necessary, a Director may request the provision of an affidavit by an applicant with such information as is considered necessary by the Director in order to satisfy himself or herself that the person is an eligible family member;
 - (d) Where he or she considers it necessary, a Director may use the powers provided to him or her under sections 27 and 29 of the Act in order to support the assessment of evidence provided by an applicant for the purposes of establishing himself or herself as an eligible family member.

Provisions regarding the requirements for a notification of objection referred to in section 44(2)(a) of the Act

4. (1) The requirements for a notification of objection are prescribed for the purposes of section 44(2)(a) of the Act.

(2) A notification shall be made using a form specified by a Director, which shall request the following information:

- (a) name of the eligible family member who is notifying the Director of an objection;
- (b) contact details of the eligible family member who is notifying the Director of an objection;
- (c) genetic relationship, which the eligible family member who is notifying the Director of an objection believes he or she has with a deceased person believed to be buried in the principal burial land or ancillary burial land;
- (d) evidence of the genetic relationship, which the eligible family member who is notifying the Director of an objection believes he or she has with the deceased person believed to be buried in the principal burial land or ancillary burial land;
- (e) the eligible family member whose participation the person notifying the Director objects to
- (f) the grounds for the objection.

Provisions regarding the procedures for the purposes of section 44(4) of the Act

5. (1) The procedures for contacting an eligible family member are prescribed for the purposes of section 44(4) of the Act.

(2) A Director may do any or all of the following for the purposes of obtaining contact information for an eligible family member who is entitled to object to the participation of another eligible family member:

- (a) request contact information for the eligible family member from another eligible family member of the same deceased person who has made a notification to the Director under section 42(1)(b) of the Act;
- (b) use evidence provided to him or her by another eligible family member of the same deceased person under section 42(1)(f) of the Act;
- (c) use the powers provided to him or her under sections 27 and 29 of the Act for the purposes of making contact; or
- (d) identify additional means by which contact information can be obtained.

(3) If contact information is obtained, a Director shall attempt to make contact, by means which he or she considers appropriate, for the purposes of providing the eligible family member with the following information:

- (a) that an Identification Programme is taking place under the Act;
- (b) that the person has a right to object to the participation of another eligible family member who has notified the Director of an interest in participating;
- (c) that any objection will be considered in accordance with section 48(2)(b) of the Act; and
- (d) the deadline for the receipt of an objection, which may not be later than 30 days after receipt of the information provided for in this regulation.

(4) If an eligible family member who has made a notification to a Director under section 42(1)(b)(i) of the Act states that they are not aware of the existence of another eligible family member that would be entitled to object to the person's participation, the Director may request an affidavit or other statutory declaration to that effect.

(5) If an eligible family member who has made a notification to a Director under section 42(1)(b)(i) of the Act states that he or she is unaware of the whereabouts of another eligible family member that would be entitled to object to the person's participation, a Director may request that the person provide an affidavit or other statutory declaration to that effect.

(6) A Director may conclude that it is not possible to make contact with an eligible family member under section 44(4) of the Act where he or she has undertaken the procedures set out in this regulation and has been unable to make such contact.

The form to be completed by an eligible person for the purpose of confirming his or her decision to participate in an Identification Programme

6. The form set out in Part 1 of the Schedule to these Regulations is prescribed for the purposes of an eligible person confirming his or her decision to participate in an Identification Programme.

The form of consent to the taking of a sample from a person under section 60

7. The form set out in Part 2 of the Schedule to these Regulations is prescribed for the purposes of consent to the taking of a sample from a person under section 60 of the Act.

The form of consent to be signed by a person who agrees to be a nominee of a relevant person

8. The form set out in Part 3 of the Schedule to these Regulations is prescribed for the purposes of consent by a person who agrees to be a nominee of a relevant person.

Provisions regarding the evidence that a person is to provide for the purposes of establishing himself or herself as a spouse or civil partner is prescribed for the purposes of section 42(1)(f) of the Act

9. The evidence that a person is to provide for the purposes of establishing himself or herself as a spouse or civil partner is prescribed for the purposes of section 42(1)(f) of the Act:

- (a) A spouse or civil partner may provide a Director with such public records, including but not limited to, birth certificates, marriage certificates or death certificates issued under section 13 of the Civil Registration Act 2004, as will enable the Director to satisfy himself or herself that the person is a spouse or civil partner;
- (b) Where public records are not available or the Director deems that they are insufficient, a spouse or civil partner may provide other records, including but not limited to, institutional records, medical records or baptismal records, in order to enable the Director to satisfy himself or herself that the person is a spouse or civil partner;
- (c) Where the documents provided to a Director are, in his or her opinion, incomplete or insufficient, and where he or she considers it necessary to do so, the Director may request the provision of an affidavit by a spouse or civil partner with such information as is considered necessary by the Director in order to satisfy himself or herself that the person is a spouse or civil partner;
- (d) Where he or she considers it necessary, a Director may use the powers provided to him or her under sections 27 and 29 of the Act in order to support the assessment of evidence provided by a spouse or civil partner for the purposes of establishing himself or herself as a spouse or civil partner.

Schedule

Part 1

Regulation 6

Institutional Burials Act 2022

Section 80(2)(d)

Institutional Burials Act 2022: Identification Programme

Form to be completed by an eligible person for the purpose of confirming his or her decision to participate in an Identification Programme under section 48(2)(iii) of the 2022 Act

Please note that participation in an Identification Programme under the Institutional Burials Act 2022 is entirely voluntary

**[Insert title of Office of Director of Authorised Intervention]
Identification Programme**

I, _____ (print name of eligible person), confirm that I have received the required information from _____ [INSERT TITLE OF DIRECTOR OF AUTHORISED INTERVENTION] with regard to participation in the Identification Programme that is being conducted in connection with that site in accordance with the provisions of the Institutional Burials Act 2022.

I hereby confirm my decision to participate in the Identification Programme.

Signature of eligible person: _____

Date: _____

Part 2

Regulation 7

Institutional Burials Act 2022

Section 80(2)(e)

Institutional Burials Act 2022: Identification Programme

Form to be completed by a relevant person for the purpose of confirming his or her consent to the taking of a sample under section 60 of the 2022 Act

Please note that participation in an Identification Programme under the Institutional Burials Act 2022 is entirely voluntary

**[Insert title of Office of Director of Authorised Intervention]
Identification Programme**

I, _____ [Print name of relevant person], do hereby freely consent to an authorised person to take from me samples and for those samples to be forensically tested and a DNA profile generated from that testing in respect of me to be entered in the family member's index for the purpose of a DNA profile comparison under the Institutional Burials Act 2022.

Signature of relevant person: _____

Date: _____

Name of authorised person taking the sample:

Part 3

Regulation 8

Institutional Burials Act 2022

Section 80(2)(f)

Institutional Burials Act 2022: Identification Programme

Form to be completed by a nominee of a relevant person to confirm their consent to act as a nominee under section 49 of the 2022 Act

Please note that participation in an Identification Programme under the Institutional Burials Act 2022 is entirely voluntary

**[Insert title of Office of Director of Authorised Intervention]
Identification Programme**

I, _____ (print name of nominee) hereby confirm that I have received and read the information provided by the Director of Authorised Intervention with regard to my participation as nominee in the Identification Programme undertaken in accordance with the Institutional Burials Act 2022.

I understand that:

- I was nominated by _____ (print name of relevant person) under Section 49 of the 2022 Act to be notified under section 50(4) of the 2022 Act of the outcome of a DNA profile comparison between the relevant person and his or her relative that is believed to be buried at an intervention site in the event that the relevant person dies or becomes incapacitated and there is no other relevant person in respect of the same deceased person.
- The personal information related to me that is collected below will be processed with due regard to data protection rules and it will be stored securely by the Director for the sole purpose of a notification.
- That I can withdraw my consent to act as a nominee at any time before the relevant person dies or becomes incapacitated by notice in writing to the Director and that, on receipt of that notice, the Director will delete any

personal data it holds relating to me.

I hereby agree to be a nominee of the above relevant person that participates in the Identification Programme.

Nominee's Signature: _____

Date: _____

Address

Telephone No. _____

Email: _____



GIVEN under my Official Seal,
6 June, 2024.

RODERIC O'GORMAN,
Minister for Children, Equality, Disability, Integration and
Youth.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

The purpose of these Regulations is to prescribe procedures, evidence and forms to be used in an Identification Programme conducted under the Institutional Burials Act 2022 (Act no. 18 of 2022).

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
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BÓTHAR BHAILE UÍ BHEOLÁIN,
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