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**AN BILLE UM STÁDAS COMHIONANN, 1990**  
**EQUAL STATUS BILL, 1990**

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*Mar a tionscnaíodh*

*As initiated*

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Agricultural Wages Act, 1936	1936, No. 53
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Courts Act, 1981	1981, No. 11
Employment Equality Act, 1977	1977, No. 16
Industrial Relations Act, 1946	1946, No. 26
Local Government Act, 1941	1941, No. 23
Minimum Notice and Terms of Employment Act, 1973	1973, No. 4
Registration of Clubs Acts, 1904 to 1981	
Trade Union Acts, 1871 to 1975	
Unfair Dismissals Act, 1977	1977, No. 10





AN BILLE UM STÁDAS COMHIONANN, 1990  
EQUAL STATUS BILL, 1990

# BILL

*entitled*

- 5 AN ACT TO MAKE UNLAWFUL CERTAIN KINDS OF DIS-  
CRIMINATION ON GROUNDS OF SEX, MARITAL OR  
PARENTAL STATUS, SEXUAL ORIENTATION, AGE,  
HANDICAP, RELIGION, RACE OR MEMBERSHIP OF  
10 THE TRAVELLING COMMUNITY, TO AMEND THE  
ANTI-DISCRIMINATION (PAY) ACT, 1974, AND THE  
EMPLOYMENT EQUALITY ACT, 1977, AND TO PRO-  
VIDE FOR MATTERS CONNECTED THEREWITH.

WHEREAS the State has declared that recognition of the inherent  
dignity and the equal and inalienable rights of all members of the  
15 human family is the foundation of freedom, justice and peace in the  
world

AND WHEREAS the State affirms that all human persons are  
equal before the law and are entitled to the equal protection of the  
law against invidious discrimination

- 20 AND WHEREAS it is the policy of the State to provide for equal  
rights and opportunities for all persons without discrimination which  
is contrary to law, so that the dignity and freedom of the individual  
may be thereby assured

- AND WHEREAS these principles inform the provisions of Bun-  
25 reacht na hÉireann, the Universal Declaration of Human Rights, the  
International Convention on the Elimination of All Forms of Racial  
Discrimination, the Convention on the Elimination of All Forms of  
Discrimination against Women, the European Convention for the  
Protection of Human Rights and Fundamental Freedoms and the  
30 treaties establishing the European Community

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS  
FOLLOWS:

## PART I

### PRELIMINARY

- 35 1.—(1) In this Act—

Interpretation.

“the Act of 1946” means the Industrial Relations Act, 1946;



"the Act of 1974" means the Anti-Discrimination (Pay) Act, 1974;

"the Act of 1977" means the Employment Equality Act, 1977;

"act" includes a deliberate omission;

"advertisement" includes every form of advertisement, whether to the public or not and whether in a newspaper or other publication, 5  
on television or radio or by display of a notice or by any other means, and references to the publishing of advertisements shall be construed accordingly;

"age" means an age that is eighteen years or more, except in *Part II* where "age" means an age that is eighteen years or more and less 10  
than sixty-five years;

"the Agency" means the Employment Equality Agency established by the Act of 1977;

"close relative" means a wife, husband, parent, child, grandparent, grandchild, brother or sister; 15

"collective agreement" means an agreement relating to terms and conditions of employment made between parties who are or represent employers and parties who are or represent employees;

"the Court" means the Labour Court;

"dismissal" shall be taken to include the termination by an employee 20  
of his contract of employment with his employer (whether prior notice of termination was or was not given to the employer) in circumstances in which, because of the conduct of the employer, the employee was or would have been entitled to terminate the contract without giving such notice, or it was or would have been reasonable for him to do 25  
so, and "dismissed" shall be construed accordingly;

"employee"—

(a) means a person who has entered into or works under (or, in the case of a contract which has been terminated, worked under) a contract of employment with an employer, 30  
whether the contract is (or was) for manual labour, clerical work, or otherwise, is (or was) expressed or implied, oral or in writing, and whether it is (or was) a contract of service or apprenticeship or otherwise, and

(b) includes a civil servant of the State or of the Government, 35  
an officer or servant of a local authority within the meaning of the Local Government Act, 1941, and an officer or servant of a harbour authority, health board, vocational education committee or committee of agriculture, and

(c) in relation to a reference of a dispute under *section 22* or *31* 40  
or the making of a complaint under *section 29*, and any subsequent proceedings, includes, in the case of the death of the employee concerned at any time following the occurrence of the event which is the subject matter of the dispute or complaint, his personal representative, 45

and cognate words or expressions shall be construed accordingly;

"employer", in relation to an employee, means the person by whom an employee is or, in a case where the employment has ceased, was



- employed under a contract of employment, and for the purposes of this definition a civil servant of the State or of the Government shall be deemed to be employed by the State or the Government (as the case may be) and an officer or servant of a local authority within the
- 5 meaning of the Local Government Act, 1941, or of a harbour authority, health board, vocational education committee or committee of agriculture shall be deemed to be employed by the local authority, harbour authority, health board, vocational education committee or committee of agriculture (as the case may be);
- 10 “employment agency” means a person who, whether for profit or otherwise, provides services related to the finding of employment for prospective employees or the supplying of employees to employers;
- “equality officer” means an officer appointed pursuant to section 6 of the Act of 1974;
- 15 “functions” includes powers and duties;
- “group” means a group defined by reference to sex, marital or parental status, sexual orientation, religion, age, handicap, race, colour, nationality, or national or ethnic origins (including membership of the travelling community);
- 20 “handicap” means—
- (a) any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness,
  - (b) a condition of mental retardation or impairment,
  - 25 (c) a learning disability, or a dysfunction in one or more of the processes involved in understanding or using symbols or spoken language, or
  - (d) a mental disorder;
- “marital status” means the status of being married, single, widowed,
- 30 divorced or separated and includes the status of cohabiting with another person;
- “the Minister” means the member of the Government or Minister of State appointed by order of the Government under this subsection to exercise the functions of the Minister either generally or in relation
- 35 to a particular purpose or provision of this Act, and different Ministers may be appointed for different such purposes or provisions of this Act;
- “profession” includes any vocation or occupation;
- “remuneration” includes any consideration, whether in cash or in
- 40 kind, which an employee receives, directly or indirectly, in respect of his employment from his employer, and includes benefits received under an occupational pension scheme;
- “trade union” has the same meaning as it has in the Trade Union Acts, 1871 to 1975.
- 45 (2) The First Schedule to the Minimum Notice and Terms of Employment Act, 1973, as amended by section 20 of the Unfair Dismissals Act, 1977, shall apply for the purpose of ascertaining, in relation to any investigation of a dispute under section 22 or 31 or of



a complaint under *section 29* where the question may arise, the period of service of an employee and whether that service has been continuous.

(3) In this Act a reference to a Part is to a Part of this Act unless it is indicated that reference to some other enactment is intended. 5

(4) In this Act a reference to a section is to a section of this Act unless it is indicated that reference to some other enactment is intended.

(5) In this Act a reference to a subsection is to the subsection of the section in which the reference occurs unless it is indicated that reference to some other section is intended. 10

Discrimination for,  
the purposes of this  
Act.

2.—For the purposes of this Act discrimination shall be taken to occur in any of the following cases—

(a) where by reason of his membership of a particular group a person is treated less favourably than a member of another group is, or would be, treated, 15

(b) where a person is obliged to comply with a condition or requirement relating to any matter to which this Act applies, which—

(i) is not an essential condition or requirement in relation to such matter, and 20

(ii) in respect of which the proportion of members of another group able to comply is substantially higher, or

(c) where a person is penalised for having in good faith— 25

(i) made a reference under *section 22*,

(ii) opposed by lawful means an act which is unlawful under this Act,

(iii) given evidence in any proceedings under this Act, or

(iv) given notice of an intention to do anything referred to in subparagraphs (i) to (iii), 30

and cognate words shall be construed accordingly.

## PART II

### DISCRIMINATION IN THE EMPLOYMENT FIELD

Discrimination by  
employers  
prohibited.

3.—(1) A person who is an employer or who obtains under a contract with another person the services of employees of that other person shall not discriminate against an employee or a prospective employee or an employee of that other person in relation to access to employment, conditions of employment, training or experience for or in relation to employment, promotion or re-grading in employment, or classification of posts in employment. 35 40

(2) An employer shall not, in relation to his employees or to



employment by him, have rules or instructions which would discriminate against a particular group or groups, and shall not otherwise apply or operate a practice which results or would be likely to result in an act which is a contravention of any provision of this Act when  
5 taken in conjunction with *section 2 (b)*.

4.—Without prejudice to the generality of *section 3*, a person shall be taken to discriminate against an employee or prospective employee in relation to access to employment if—

Discrimination in access to employment prohibited.

10 (a) in any arrangements he makes for the purpose of deciding to whom he should offer employment, or

15 (b) by specifying, in respect of one person entry requirements for employment which are not, or which would not be, specified in respect of a person who is a member of another group, in relation to an offer of like work in his employment,

he contravenes *section 3*.

5.—(1) Without prejudice to the generality of *section 3*, a person shall be taken to discriminate against an employee or prospective employee in relation to conditions of employment if he does not offer  
20 or afford to a person the same terms of employment (including remuneration), the same working conditions and the same treatment in relation to overtime, shift work, short time, transfers, lay-offs, redundancies, dismissals (other than a dismissal referred to in *section 28*) and disciplinary measures as he offers or affords, or would offer  
25 or afford, to a person who is a member of another group, in relation to like work in his employment or (in the case of conditions relating to remuneration) in the employment of an associated employer.

Discriminatory terms and conditions of employment prohibited.

30 (2) For the purposes of this section, two employers shall be taken to be associated if one is a body corporate of which the other (whether directly or indirectly) has control or if both are bodies corporate of which a third person (whether directly or indirectly) has control.

35 (3) Nothing in this section shall prevent an employer from offering or affording to his employees or prospective employees who are, or would be, employed on like work different rates of remuneration if the employer proves that such rates of remuneration are genuinely related to the personal characteristics or circumstances (other than membership of a particular group) of a particular employee or employees.

40 (4) Nothing in this section shall prevent an employer from offering or affording to his employees or prospective employees who are, or would be, employed on like work different rates of benefit under an occupational pension scheme where the differences between such rates are related solely to the age, marital or parental status of his employees.

45 6.—Without prejudice to the generality of *section 3*, a person shall be taken to discriminate against an employee in relation to training or experience for or in relation to employment if he refuses to offer or afford to that employee the same opportunities or facilities for employment counselling, training (whether on or off the job) and  
50 work experience as he offers or affords, or would offer or afford, to a member of another group employed on like work.

Discrimination in work training and work experience prohibited.



Discrimination in promotion prohibited.

7.—Without prejudice to the generality of *section 3*, a person shall be taken to contravene that section if he discriminates against an employee in the way he offers or affords that employee access to opportunities for promotion in circumstances in which another eligible and qualified person is, or would be, offered or afforded such access or if in those circumstances he refuses or deliberately omits to offer or afford that employee access to opportunities for promotion. 5

Discriminatory classification of posts in employment prohibited.

8.—Without prejudice to the generality of *section 3*, a person shall be taken to discriminate against an employee or prospective employee where he classifies posts by reference to membership of a group and the classification is not a case referred to in *sections 18* or *19*. 10

Like work.

9.—For the purposes of this Part, work which is (or would be) performed by one person shall be regarded as being like work to that which is (or would be) performed by another person—

- (a) where both perform (or would perform) the same work under the same or similar conditions, or where each is (or would be) in every respect interchangeable with the other in relation to the work, or 15
- (b) where the work which is (or would be) performed by one is (or would be) of a similar nature to that which is (or would be) performed by the other and any differences between the work which is (or would be) performed or the conditions under which it is (or would be) performed by each occur (or would occur) only infrequently or are (or would be) of small importance in relation to the work as a whole, or 20 25
- (c) where the work which is (or would be) performed by one is (or would be) equal in value to that which is (or would be) performed by the other, in terms of the demands it makes (or would make) in relation to such matters as skill, physical or mental effort, responsibility and working conditions. 30

Discrimination in contracts of employment, collective agreements, etc. to be null and void.

10.—(1) Where a contract of employment contains a term (whether expressed or implied) constituting discrimination, that term shall be null and void. 35

(2) Where an agreement or order to which this subsection applies contains a provision which constitutes discrimination, such a provision shall be null and void.

(3) *Subsection (2)* applies to—

- (a) a collective agreement, 40
- (b) an employment regulation order within the meaning of Part IV of the Act of 1946,
- (c) a registered employment agreement within the meaning of Part III of the Act of 1946,
- (d) an order made by the Agricultural Wages Board under section 17 of the Agricultural Wages Act, 1936, 45



whether made before or after the commencement of this Act.

11.—(1) If the terms of a contract under which a person is employed do not include (whether directly or by reference to a collective agreement or otherwise) an equality clause, they shall be deemed to include one.

Equality clause.

(2) An equality clause is a provision which relates to terms of a contract under which a person is employed and has the effect that where the person is employed to perform work which is like work to that which is performed, or would be performed, by a member of another group in the same employment ("the other person")—

(a) if (apart from the equality clause) any term of the contract is or becomes less favourable to the person than a term of a similar kind in the contract under which the other person is, or would be, employed, that term of the person's contract shall be treated as so modified as not to be less favourable, and

(b) if (apart from the equality clause) at any time the person's contract does not include a term corresponding to a term benefiting the other person which is, or which would be, included in the contract under which the other person is, or would be, employed, the person's contract shall be treated as including such a term.

(3) An equality clause shall not operate in relation to a variation between a person's contract of employment and the contract of employment of the other person if the employer proves that the variation is a genuine and necessary consequence of a material difference (other than membership of different groups) between the two cases.

(4) Where a person offers a person employment on certain terms, and if on his acceptance of the offer any of those terms would fall to be modified or any additional term would fall to be included by virtue of this section, the offer shall be taken to contravene sections 3 (1) and 5 (1).

12.—A body which is a firm consisting of six or more partners, an organisation of workers, an organisation of employers or a professional or trade organisation or which controls entry to a profession or the carrying on of a profession shall not discriminate against a person in relation to membership of such body (or any benefits provided by it) or in relation to entry or the carrying on of the profession.

Discrimination in relation to membership of certain bodies prohibited.

13.—(1) Any person or educational or training body offering a course of vocational training shall not, in respect of any such course offered to persons over the age at which those persons are statutorily obliged to attend school, discriminate against a person (whether at the request of an employer, a trade union, or a group of employers or trade unions or otherwise)—

Discrimination in relation to vocational training prohibited.

(a) in the terms on which any such course or related facility is offered,

(b) by refusing or omitting to afford access to any such course or facility, or

(c) in the manner in which any such course or facility is provided.



(2) In this section "vocational training" means any system of instruction which enables a person being instructed to acquire, maintain, bring up to date or perfect the knowledge or technical capacity required for the carrying on of an occupational activity and which may be considered as exclusively concerned with training for such activity. 5

Discrimination by  
employment  
agencies  
prohibited.

14.—(1) An employment agency shall not discriminate—

- (a) in the terms on which it offers to provide any of its services,
- (b) by refusing or omitting to provide any of its services,
- (c) in the manner in which it provides any of its services. 10

(2) References in *subsection (1)* to a service of an employment agency include guidance on careers and any service related to employment.

(3) *Subsection (1)* does not apply where the service concerns only employment which an employer could lawfully refuse to offer to the person concerned. 15

(4) An employment agency shall not be under any liability under this section if it proves—

- (a) that it acted in reliance on a statement made to it by the employer concerned to the effect that, by reason of the operation of *subsection (3)*, its action would not be unlawful, and 20
- (b) that it was reasonable for it to rely on the statement.

(5) An employer who, with a view to obtaining the services of an employment agency, knowingly makes a statement such as is referred to in *subsection (4) (a)* and which in a material respect is false or misleading shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £2,000. 25

Saver for certain  
cases relating to  
non-performance of  
duties, and  
employment  
excluded from  
application of Act.

15.—(1) This Part does not apply to employment in a private residence or by a close relative. 30

(2) Nothing in this Part shall require an employer—

- (a) to employ in a position a person who will not undertake the duties attached to that position or who will not accept the conditions under which those duties are performed, or
- (b) to retain in his employment a person not undertaking the duties attached to the position held by that person. 35

Saver for certain  
training courses  
and work.

16.—Nothing in this Part shall apply to the provision of training or employment for members of a particular group in a type, form or category of work or to the encouragement of members of that group to take advantage of opportunities for such training or employment, where either no, or a disproportionately small number of, members of that group had been engaged in such work in the period of twelve months ending at the commencement of such training or employment. 40



17.—(1) (a) Nothing in this Part shall apply to discrimination against a person on grounds of handicap in relation to employment in a particular position where, by reason of such handicap, that person would be incapable of performing the duties attached to that position under the conditions under which those duties are performed.

Saver for certain cases relating to inability to perform duties on grounds of handicap, etc.

(b) A person shall not be considered to be incapable of performing the duties attached to a position by reason of his handicap if any special needs of that person could be accommodated by his employer or prospective employer without undue hardship, having regard to the cost, health and safety requirements, if any, and all other relevant circumstances.

(2) Nothing in this Part shall apply to discrimination against a person on grounds of age in relation to employment in a particular position where, by reason of the physical strength or physical or mental stamina required to perform the duties attached to the position, employment in positions of that nature is confined to persons beneath a particular age.

18.—(1) This Part does not apply to any act connected with or related to the employment of a person where the sex of the person is an occupational qualification for a post in relation to which the act occurs.

Exclusion of posts where sex is occupational qualification.

(2) For the purposes of this section, the sex of a person shall be taken to be an occupational qualification for a post in the following cases—

(a) where, on grounds of physiology, (excluding physical strength or stamina) or on grounds of authenticity for the purpose of a form of entertainment, the nature of the post requires a member of a particular sex because otherwise the nature of the post would be materially different if carried out by a member of the other sex,

(b) where the duties of the post involve personal services and it is necessary to have persons of both sexes engaged in such duties,

(c) where because of the nature of the employment it is necessary to provide sleeping and sanitary accommodation for employees on a communal basis and it would be unreasonable to expect the provision of separate such accommodation or impracticable for an employer so to provide,

(d) where it is necessary that the post should be held by a member of a particular sex because it is likely to involve the performance of duties outside the State in a place where the laws or customs are such that the duties can only be performed by a member of that sex.

19.—(1) This Part does not apply to any act connected with or related to the employment of a person where the race of the person is an occupational qualification for a post in relation to which the act occurs.

Exclusion of posts where race is occupational qualification.



(2) For the purposes of this section, the race of a person shall be taken to be an occupational qualification for a post where, on grounds of authenticity for the purpose of—

- (a) a form of entertainment,
- (b) participation as an artist's or photographic model, or 5
- (c) working in a place where food or drink is (for payment or not) provided to and consumed by members of the public in a particular setting,

the nature of the post requires a member of a particular race.

- (3) In this section "race" includes race, colour and nationality. 10

### PART III

#### REFERENCE OF DISPUTES TO LABOUR COURT

Equality officers.

**20.—**(1) This section applies to equality officers appointed under section 6 (1) of the Act of 1974.

- (2) (a) An equality officer may, for the purpose of obtaining any 15  
information which he may require for enabling him to  
exercise his functions under this Part, do any one or more  
of the following things:

- (i) at all reasonable times enter premises,
- (ii) require an employer or his representative to produce 20  
to him any records, books or documents in the  
employer's power or control and which the officer  
has reasonable grounds for believing to contain infor-  
mation of the kind so required and to give him such 25  
information as he may reasonably require in regard to  
any entries in any such records, books or documents,
- (iii) inspect and copy or take extracts from any such  
records, books or documents,
- (iv) inspect any work in progress in the premises.

- (b) A person who obstructs or impedes an equality officer in 30  
the exercise of his powers under this subsection or does  
not comply with a requirement of an equality officer under  
this subsection shall be guilty of an offence under this  
section and shall be liable on summary conviction to a fine  
not exceeding £1,000 or on conviction on indictment to a 35  
fine not exceeding £10,000.

(3) An investigation by an equality officer shall be conducted in private.

(4) The powers conferred on an equality officer by this section in relation to an employer may be exercised in relation to a person other 40  
than an employer.

(5) Nothing in this Part shall be construed as requiring any person to furnish any reference (or a copy thereof) from an employer or any report (or a copy thereof), whether of a confidential nature or



otherwise, relating to the character or the suitability for employment of any other person, or to disclose the contents of such a reference or report.

21.—(1) Where a person (in this section referred to as the employee) proposes to refer under *section 22* a dispute to the Court, he may, by way of written questions served on the other person concerned, seek from that other person the reason for the act believed by the employee to have constituted discrimination, and that other person shall reply stating the reason in writing to the employee.

Right of employee, etc., to certain information.

(2) The Minister may by regulation prescribe forms to be used for the purposes of this section and the manner in which questions and any replies thereto may be duly served, and may specify time limits for such replies.

(3) Any questions and replies duly served under this section shall be admissible as evidence for the purpose of a reference under *section 22*.

(4) Where it appears to an equality officer (or, on appeal, the Court) that a person upon whom questions under this section were duly served deliberately, and without reasonable excuse, omitted to reply within the time limit specified by regulations made under *subsection (2)* or that his reply was evasive or equivocal, the equality officer (or the Court) may draw any inferences from that fact that he (or it) considers just and equitable to draw, including an inference that such person has discriminated in contravention of a provision of *Part II*.

22.—(1) A dispute as to whether or not a person has discriminated in contravention of any provision of *Part II* may be referred by any person concerned to the Court and shall upon such reference be investigated in accordance with this Part and not under any other existing provision or arrangement.

Reference of disputes to Court.

(2) Where a dispute is referred under this section to the Court, it shall remit the dispute to an equality officer for investigation and recommendation.

(3) Where a person who refers a dispute under this section satisfies the equality officer (or, on appeal, the Court) as to the reasonable possibility that discrimination has taken place, the person denying discrimination shall bear the burden of proving, on the balance of probabilities, that such discrimination has not taken place.

(4) (a) A recommendation under this section shall be conveyed—

(i) in the case of a dispute referred under this section, to the Court, the Agency and the parties to the dispute, or

(ii) in the case of a reference under *section 23*, to the Court, the Agency and to such person or persons as appear to the equality officer to be concerned.

(b) A recommendation under this section, if not appealed to the Court under *section 24 (1)* within the time limit specified by *section 24 (3) (d)*, shall from the date of the expiry of that time limit be treated for all purposes (other than for



the purpose of *section 24 (4)*) as a determination by the Court under *section 24 (2)*.

(5) Save only where a reasonable cause can be shown, a reference of a dispute under *subsection (1)* shall be lodged—

- (a) not later than six months from the date of the occurrence of the act alleged to constitute discrimination, or 5
- (b) where the act alleged to constitute discrimination is alleged to have been a continuing act, not later than six months from the date of the cesser of that act.

Reference to Court  
by Agency.

23.—Where it appears to the Agency— 10

- (a) that discrimination in contravention of any provision of *Part II* is being generally practised against persons or that a practice referred to in *section 3 (2)* is being applied or operated, or
- (b) that discrimination in contravention of any provision of *Part II* has occurred in relation to a particular person who has not made a reference under *section 22* in relation to the discrimination and that it is not reasonable to expect such a reference by him, or 15
- (c) that a person has procured or attempted to procure another person to do anything in relation to employment which constitutes discrimination in contravention of *section 42*, or 20
- (d) that a publication or display in relation to employment which is in contravention of *section 41* has been made, 25

the matter may be referred to the Court by the Agency and shall be dealt with as if it were a reference under *section 22* of a dispute.

Investigation of  
disputes by Court.

24.—(1) A person or (in the case of a reference under *section 23*) the Agency may appeal to the Court against a recommendation under *section 22*. 30

(2) The Court shall hear and determine an appeal under this section and shall convey its determination to the parties (or, in the case of a reference under *section 23*, to such person or persons as appear to the Court to be concerned) and to the Agency.

- (3) (a) A hearing under this section shall be held in private, but the Court shall, if requested to do so by a party to the dispute or a person referred to in *section 23*, hold the hearing in public. 35
- (b) Where a hearing under this section is being held in public the Court may, if it is satisfied that any part of the hearing concerns a matter that should, in the interests of any party to the dispute, or of a person referred to in *section 23* be treated as confidential, hold that part of the hearing in private. 40
- (c) Sections 14 and 21 of the Act of 1946 shall apply to an appeal under this section. 45



(d) An appeal under this section shall be lodged in the Court not later than 42 days after the date of the relevant recommendation under *section 22* and the notice shall specify the grounds of the appeal.

5 (4) A party to a dispute determined by the Court under *subsection (2)* or, in the case of such a determination in a matter referred under *section 23*, the Agency or a person concerned may appeal to the High Court on a point of law.

10 (5) The Court may state a case for the opinion of the High Court on a point of law arising on the hearing of a dispute under this section.

(6) Any information obtained by an equality officer or by the Court in the course of an investigation, appeal or complaint under this Part or under *Part IV* as to any trade union or person or as to the business carried on by any person which is not available otherwise shall not  
15 be included in any recommendation, determination or order without the consent of the trade union or person concerned, nor shall any person concerned in proceedings before an equality officer or the Court disclose any such information without such consent.

20 25.—(1) A determination of the Court under *section 24* shall do one or more of the following— Decision of Court under *section 24*.

(a) hold that there was or (as the case may be) was not discrimination,

(b) direct a person or persons concerned to adopt a specified course of action,

25 (c) direct the payment of compensation in accordance with *subsection (3)*,

(d) in a case referred to the Court under *section 23 (c)* or *23 (d)*,  
30 hold that the person concerned has or (as the case may be) has not procured or attempted to procure another person to do in relation to employment anything which constitutes discrimination or that a publication or display in contravention of *section 41* relating to employment was or (as the case may be) was not made and, if the Court  
35 thinks fit, direct the person concerned to adopt a specified course of action,

(e) in a case where—

(i) an agreement or order to which *section 10 (2)* applies was the subject of reference to the Court, and

40 (ii) it appears to the Court that the agreement or order contains a provision which constitutes discrimination,

by order amend the provisions of such agreement or order for the purpose of securing compliance with the provisions of that subsection.

45 (2) Where the Court makes an order under *subsection (1) (e)* amending the provisions of an agreement or order then, insofar as the terms and conditions of any person's employment are dependent on that agreement or order, they shall be ascertained by reference to that agreement or order as so amended, and any contract regulating those terms and conditions shall have effect accordingly.



(3) Compensation under *subsection (1) (c)* shall be of such amount as the Court thinks reasonable having regard to all the circumstances of the case but shall not in any case exceed, in a case where the Court holds that there was discrimination, 104 weeks' remuneration at the rate the person was receiving at the date of the discrimination or would have received but for the discrimination. 5

Failure to implement determination of Court.

26.—(1) If, where a determination is made by the Court under *section 24*, any direction contained in the determination is not carried out within 21 days from the date of the making of the determination (or, where there is an appeal under *section 24 (4)* or a case stated under *section 24 (5)*, within 21 days of the date of the order of the High Court on the appeal or case stated, as the case may be), such direction may, by leave of the judge of the Circuit Court in whose circuit the person to whom the direction is addressed resides or carries on his business, be enforced by any person concerned (or by the Agency on behalf of any person concerned), as a judgment or order of the Circuit Court to the like effect and, where leave is so given, judgment may be entered in terms of the determination. 10 15

(2) If, where a determination is made by the Court under *section 24*, any direction contained in the determination is not carried out within 21 days from the date of the making of the determination (or, where there is an appeal under *section 24 (4)* or a case stated under *section 24 (5)*, within 21 days of the date of the order of the High Court on the appeal or case stated, as the case may be), the person to whom the direction is addressed shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 and, in the case of a continuing offence, to a further fine not exceeding £100 for every day during which the offence is continued. 20 25

Power of High Court to grant injunction.

27.—(1) In a case to which this section applies it shall be lawful for the High Court to grant an injunction on the motion of the Agency to prevent discrimination, by a person specified in the order of the High Court, of a type so specified. 30

(2) This section applies to a case where the Agency satisfies the High Court that, following a determination of the Court in a matter referred to it under *section 23* (other than *paragraph (b)*) there is a likelihood of further discrimination, procuring or attempting to procure publication or display (as the case may be), by a person in relation to whom the determination was made, of the type the subject of the determination. 35

## PART IV 40

### DISMISSAL BECAUSE OF ACTION UNDER SECTION 2.

Dismissal because of action under section 2.

28.—(1) Where an employee is dismissed from his employment solely or mainly because he did in good faith anything specified in *subparagraphs (i) to (iv)* of *section 2 (c)*, his employer shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 or on conviction on indictment to a fine not exceeding £10,000. 45

(2) In a prosecution for an offence under this section the onus shall be on the employer to satisfy the court that the reason referred to in *subsection (1)* was not the sole or principal reason for the dismissal. 50



29.—(1) Where an employee complains to the Court that he has been dismissed from his employment solely or mainly because he did in good faith a thing specified in *subparagraphs (i) to (iv) of section 2 (c), subsection (2)* shall apply.

Complaint to  
Labour Court.

5 (2) (a) The Court shall investigate the complaint, and shall hear all persons appearing to the Court to be interested and desiring to be heard.

(b) An investigation under this subsection shall be held in private, but the Court shall, if requested to do so by a  
10 party to the dispute, hold the investigation in public.

(c) Where an investigation under this subsection is being held in public the Court may, if it is satisfied that any part of the investigation concerns a matter that should, in the interests of any party to the dispute, be treated as confidential, hold that part of the investigation in private.  
15

(d) If after such investigation the Court is satisfied that the complaint is well founded, the Court may—

(i) order the reinstatement by the employer of the employee concerned in the position which he held immediately before his dismissal on the terms and conditions on which he was employed immediately before his dismissal, together with a term that the reinstatement shall be deemed to have commenced on the day of his dismissal,  
20

(ii) order the re-engagement by the employer of the employee concerned either in the position which he held immediately before his dismissal or in a different position which would be reasonably suitable for him on such terms and conditions as are reasonable having regard to all the circumstances, or  
25  
30

(iii) by order direct the employer to pay to the employee concerned such compensation as the Court considers reasonable in the circumstances, but not in any case more than 104 weeks' remuneration.

(e) An employer or dismissed person in respect of whom an order under this subsection has been made may appeal to the High Court on a point of law.  
35

(f) The Court may state a case for the opinion of the High Court on a point of law arising on the investigation of a complaint under this subsection.  
40

(g) *Sections 21 and 22 (3)* shall apply, with appropriate modifications, to the investigation of a complaint under this subsection.

(3) A person to whom a direction is given in an order under  
45 *subsection (2)* may, notwithstanding section 17 of the Act of 1946, appeal against the order to the judge of the Circuit Court in whose circuit the person carries on business.

(4) Save only where a reasonable cause can be shown, a complaint under this section shall be lodged not later than six months from the  
50 date of dismissal.



Failure to  
implement order of  
Court.

30.—(1) If where an order is made by the Court under *section 29* (2) the direction contained in the order is not carried out within 21 days of the date of the making of the order (or, where there is an appeal under *section 29 (3)* against the order, within 21 days of the date of the order of the Circuit Court on the appeal or, where there is an appeal under *section 29 (2) (e)* or a case stated under *section 29 (2) (f)*, within 21 days of the date of the order of the High Court on the appeal or case stated, as the case may be), the person to whom the direction is given shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £1,000 and, in the case of a continuing offence, to a further fine not exceeding £100 for every day during which the offence is continued.

(2) If, where an order is made by the Court under *section 29 (2)*, the direction contained in the order is not carried out within 21 days of the date of the making of the order (or, where there is an appeal under *section 29 (3)* against the order, within 21 days of the date of the order of the Circuit Court on the appeal or, where there is an appeal under *section 29 (2) (e)* or a case stated under *section 29 (2) (f)*, within 21 days of the date of the order of the High Court on the appeal or case stated, as the case may be), such order may, by leave of the judge of the Circuit Court in whose circuit the person to whom the order is addressed carries on his business, be enforced by any person concerned (or by the Agency on behalf of any person concerned), as a judgment or order of the Circuit Court to the like effect and, where leave is so given, judgment may be entered in terms of the order.

Reference to Court  
of dispute relating  
to dismissal under  
*section 5 (1)*.

31.—(1) A dispute as to whether or not there has been a contravention of *section 5 (1)* in relation to the dismissal of a person may be referred to the Court by that person.

(2) Where a dispute is referred under this section to the Court, *section 29* shall apply to the dispute as if it were a complaint under that section.

Redress under  
*section 7* of Unfair  
Dismissals Act,  
1977.

32.—A person who accepts in respect of a particular dismissal redress awarded under *section 7* of the Unfair Dismissals Act, 1977, shall not be entitled to accept redress awarded under this Act in respect of that dismissal, and a person who accepts in respect of a particular dismissal redress awarded under this Act shall not be entitled to accept redress awarded under *section 7* of the Unfair Dismissals Act, 1977, in respect of that dismissal.

## PART V

40

### DISCRIMINATION IN OTHER FIELDS

Discrimination in  
provision of goods,  
facilities or services.

33.—(1) A person concerned with the provision of goods, facilities or services shall not discriminate against a person who seeks to obtain or use those goods, facilities or services—

(a) by refusing or deliberately omitting to provide him with any of them, or

(b) by refusing or deliberately omitting to provide him with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in his case in relation to members of another group.



(2) The facilities and services referred to in *subsection (1)* include—

- (a) access to or use of any place which members of the public or a section of the public are permitted to enter;
- 5 (b) accommodation in a hotel, boarding house or other similar establishment;
- (c) facilities by way of banking or insurance or for grants, loans, credit or finance;
- (d) facilities for entertainment, recreation or refreshment;
- (e) facilities for education;
- 10 (f) facilities for transport or travel;
- (g) the services of any profession or trade, or any local or public authority.

(3) A refusal or deliberate omission by a person to provide a handicapped person with goods, facilities or services or to provide  
15 that person with goods, facilities or services of the like quality, in the like manner and on the like terms as are normal in his case in relation to other persons shall not contravene this section if—

- 20 (a) by reason of his handicap that person is incapable of performing or fulfilling essential duties, requirements or conditions relating to the obtaining or use of such goods, facilities or services, and
- (b) the special needs of that person cannot be accommodated by the person providing such goods, facilities or services without undue hardship having regard to the cost, health  
25 and safety requirements, if any, and all other relevant circumstances.

(4) In this section the provision of goods, facilities or services means the provision (whether for payment or otherwise) of such goods, facilities or services to the public at large or to any section  
30 thereof not consisting exclusively of members of an association of which the person providing such goods, facilities or services is a member, servant or agent.

34.—(1) A person who provides at any place facilities or services restricted to a single sex does not for that reason contravene *section*  
35 33 if—

Exemptions from  
*section 33.*

- (a) the place is, or is part of, a hospital or other establishment for persons requiring special care, supervision or attention, or
- (b) the place is (permanently or for the time being) occupied or used for the purposes of an organised religion, or
- 40 (c) the facilities or services are provided for, or are likely to be used by, two or more persons at the same time, and the facilities or services are such that members of one sex are likely to suffer embarrassment at the presence of a member of the other sex.



(2) A person who provides at any place facilities or services restricted to persons over a particular age or to persons suffering from a handicap does not for that reason contravene *section 33* if the place is, or is part of, a hospital or other establishment for persons requiring special care, supervision or attention. 5

Discrimination in disposal of premises.

35.—(1) A person who has power to dispose of premises within the State shall not discriminate against another person—

- (a) in the terms on which he offers that other person those premises, or
- (b) by refusing the other person's application for those premises, 10 or
- (c) in his treatment of the other person in relation to any list of persons in need of premises of that description.

(2) A person managing premises shall not discriminate against another person occupying the premises— 15

- (a) in the way he affords the other person access to any benefits or facilities, or by refusing or deliberately omitting to afford the other person access to them, or
- (b) by evicting the other person, or subjecting him to any other detriment. 20

(3) *Subsection (1)* does not apply to a person who owns an estate or interest in the premises and wholly occupies them unless he uses the services of an estate agent for the purpose of the disposal of the premises, or publishes or causes to be published an advertisement in connection with the disposal. 25

Discrimination: consent for assignment or sub-letting.

36.—(1) Where the licence or consent of the landlord or of any other person is required for the disposal to any person of premises within the State comprised in a tenancy, the landlord or such other person shall not discriminate against that person by withholding the licence or consent for disposal of the premises to him. 30

(2) *Subsection (1)* does not apply if—

- (a) the person withholding the licence or consent, or a close relative of his ("the relevant occupier") resides, and intends to continue to reside, on the premises, and
- (b) there is on the premises, in addition to the accommodation 35 occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household, and
- (c) the premises are small premises as defined in *section 37 (2)*. 40

(3) In this section "tenancy" means a tenancy created by a lease or sub-lease, by an agreement for a lease or sub-lease or by a tenancy agreement or in pursuance of any enactment; and "disposal", in relation to premises comprised in a tenancy, includes assignment or assignation of the tenancy and sub-letting or parting with possession 45 of the premises or any part thereof.



(4) This section applies to tenancies created before the passing of this Act, as well as to others.

37.—(1) Sections 33 (1) and 35 do not apply to the provision by a person of accommodation in any premises, or the disposal of premises by him, if— Exception for small dwellings.

- (a) that person or a close relative of his ("the relevant occupier") resides, and intends to continue to reside, on the premises, and
- (b) there is on the premises, in addition to the accommodation occupied by the relevant occupier, accommodation (not being storage accommodation or means of access) shared by the relevant occupier with other persons residing on the premises who are not members of his household, and
- (c) the premises are small premises.

(2) Premises shall be treated for the purposes of subsection (1) as small premises if—

- (a) in the case of premises comprising residential accommodation for one or more households (under separate letting or similar agreements) in addition to the accommodation occupied by the relevant occupier, there is not normally residential accommodation for more than two such households and only the relevant occupier and any member of his household reside in the accommodation occupied by him;
- (b) in the case of premises not falling within paragraph (a), there is not normally residential accommodation on the premises for more than six persons in addition to the relevant occupier and any members of his household.

38.—(1) (a) This section applies to any school, university, college or other educational establishment which is in receipt of public funds administered by or under the authority of the Oireachtas or of any local authority within the meaning of the Local Government Act, 1941, or of any vocational education committee, whether such funds are received by way of loan, advance, deposit, contribution, gift, grant or guarantee. Discrimination in education.

(b) The Minister may by regulations made under this subsection prescribe the particular person or body, or class of persons or bodies, who shall be deemed to be the responsible body in relation to a particular educational establishment or class of educational establishments for the purposes of this section.

(2) The responsible body of an establishment to which this section applies shall not discriminate against a person—

- (a) in the terms on which it offers to admit him to the establishment as a student,
- (b) by refusing or deliberately omitting to accept an application for his admission to the establishment as a student, or



(c) where he is a student attending such establishment—

(i) in the way in which it affords him access to any benefits, facilities or services, or by refusing or deliberately omitting to afford him access to them, or

(ii) by excluding him from the establishment or subjecting him to any other detriment. 5

(3) Subsections (2) (a) and (b) do not apply—

(a) in relation to discrimination on grounds of nationality, to the admission of students to any establishment which restricts admission to persons of a particular nationality or which reserves a number of places at that establishment for such persons, 10

(b) in relation to discrimination on grounds of sex, to the admission of students to any establishment which admits students of one sex only, 15

(c) in relation to discrimination on grounds of religion, to the admission of students to any establishment which admits students of one religion only, or

(d) to discrimination on grounds of age.

(4) This section does not apply to discrimination by the responsible body of an establishment against a person on grounds of handicap if— 20

(a) by reason of his handicap that person is incapable of performing or fulfilling the duties, requirements or conditions relating to attendance at the establishment as a student or obtaining or using any benefits, facilities or services provided by the establishment, and 25

(b) the special needs of that person cannot be accommodated by the establishment without undue hardship having regard to the cost, health and safety requirements, if any, and all other relevant circumstances. 30

(5) This section does not apply to discrimination on grounds of sex, age or handicap in relation to any further education course being—

(a) a course in physical training, or 35

(b) a course designed for teachers of physical training.

Indirect access to benefits.

39.—(1) References in this Part to the provision to any person of benefits, facilities or services are not limited to benefits, facilities or services provided by that person himself, but include any means by which it is in that person's power to facilitate access to benefits, facilities or services provided by any other person (the "actual provider"). 40

(2) Where by any provision of this Act the affording by any person of access to benefits, facilities or services in a discriminatory way is in certain circumstances not prohibited, the effect of the provision shall extend also to the liability under this Act of the actual provider. 45



40.—(1) A claim by any person that another person—

Claims under this Part.

(a) has committed an act of discrimination against him which is unlawful by virtue of this Part, or

5 (b) is by virtue of section 43 or 44 to be treated as having committed such an act of discrimination against him,

may be made the subject of civil proceedings in like manner as any other claim in tort.

(2) Damages in respect of an unlawful act of discrimination may include compensation for injury to feelings.

10

## PART VI

### GENERAL PROVISIONS RELATING TO DISCRIMINATION

41.—(1) A person shall not publish or display, or cause to be published or displayed, an advertisement which indicates an intention to discriminate in a manner prohibited by this Act, or which might  
15 reasonably be understood as indicating such an intention.

Discriminatory advertising.

(2) *Subsection (1)* does not apply to an advertisement if the intended act would in fact not be prohibited by this Act.

(3) For the purpose of *subsection (1)*, where in an advertisement a word or phrase is used defining or describing a post and the word  
20 or phrase is one which connotes membership of a particular group, or which, although not necessarily connoting membership of a particular group, is descriptive of or refers to a post or occupation of a kind previously held or carried on by members of a particular group only, the advertisement shall be taken to indicate an intention to  
25 discriminate unless the advertisement contains a contrary indication.

(4) A person who makes a statement which he knows to be false with a view to securing publication or display in contravention of *subsection (1)* shall upon such publication or display being made be guilty of an offence and shall be liable on summary conviction to a  
30 fine not exceeding £2,000.

42.—A person shall not procure or attempt to procure another person to do anything which constitutes unlawful discrimination for the purposes of this Act.

Procuring or attempting to procure discrimination.

43.—(1) Anything done by a person in the course of his employment shall be treated for the purposes of this Act as done by his  
35 employer as well as by him, whether or not it was done with the employer's knowledge or approval.

Liability of employers and principals.

(2) Anything done by a person as agent for another person with the authority (whether express or implied, and whether precedent or  
40 subsequent) of that other person shall be treated for the purposes of this Act as done by that other person as well as by him.

(3) In proceedings brought under this Act against any person in respect of an act alleged to have been done by an employee of his it



shall be a defence for that person to prove that he took such steps as were reasonably practicable to prevent the employee from doing that act, or from doing in the course of his employment acts of that description.

Aiding unlawful acts.

44.—(1) A person who knowingly aids another person to do an act prohibited by this Act shall be treated for the purposes of this Act as himself doing an unlawful act of the like description. 5

(2) For the purposes of *subsection (1)* an employee or agent for whose act the employer or principal is liable under *section 43* (or would be liable but for *section 43 (3)*) shall be deemed to aid the doing of the act by the employer or principal. 10

(3) A person does not under this section knowingly aid another to do an act if—

(a) he acts in reliance on a statement made to him by that other person that, by reason of any provision of this Act, the act which he aids would not be unlawful, and 15

(b) it was reasonable for him to rely on the statement.

(4) A person who knowingly or recklessly makes a statement such as is referred to in *subsection (3) (a)* which in a material respect is false or misleading shall be guilty of an offence, and shall be liable on summary conviction to a fine not exceeding £1,000, or on conviction on indictment to a fine not exceeding £10,000. 20

Prohibition of public funding for, or registration by, associations or clubs discriminating on grounds of sex.

45.—(1) This section applies to any sporting or recreational association or club which by its constitution, rules, bye-laws or practices discriminates on grounds of sex in relation to membership of, or any benefits provided by, such association or club where such discrimination is other than by way of— 25

(a) discrimination which is permitted by *section 47*, or

(b) discrimination on grounds of sex by an association or club concerned with a sport, game or other activity of a competitive nature in which either no, or an insignificant number of, members of the sex against which the association or club discriminates, in the area in which the membership of the association or club is located, participate. 30

(2) No payment out of public funds administered by or under the authority of the Oireachtas or of any local authority within the meaning of the Local Government Act, 1941, whether by way of loan, advance, deposit, contribution, gift, grant or guarantee, shall be made to any association or club to which this section applies. 35

(3) A certificate of registration under the Registration of Clubs Acts, 1904 to 1981, shall not be granted (or, where such a certificate has been granted before the passing of this Act, shall not be renewed) in respect of any club to which this section applies. 40

## PART VII

### GENERAL EXEMPTIONS FROM ACT

Acts done under statutory authority.

46.—(1) Nothing in this Act shall render unlawful any act done by 45



a person if it was necessary for him to do it in order to comply with a requirement of an Act or of a statutory instrument made thereunder.

47.—Nothing in this Act shall, in relation to any sport, game or other activity of a competitive nature prohibit any condition or requirement related to the eligibility of persons to compete in events involving that activity by reference to nationality, age, handicap or (where the physical strength, stamina or physique of the average woman puts her at a disadvantage to the average man) sex. Sport, etc.

48.—Nothing in this Act shall prohibit the discriminatory treatment of a person in relation to an annuity, life assurance policy, accident insurance policy, or similar matter involving the assessment of risk, where such treatment— Insurance, etc.

(a) was effected by reference to actuarial or other data from a source on which it was reasonable to rely, and

(b) was reasonable having regard to the data and other relevant factors.

49.—(1) This section applies to any charitable, philanthropic, educational, fraternal or social institution or association (other than an institution or association to which section 50 applies)— Special interest groups.

(a) which is primarily engaged in promoting the welfare of members of a particular group, and

(b) the activities of which are carried on otherwise than for profit.

(2) Nothing in this Act shall apply to any act connected with or related to—

(a) the employment of a member of a particular group by a body to which this section applies for the purpose of providing other members of that group with personal services promoting their welfare, or

(b) the provision by a body to which this section applies of goods, facilities or services to a section of the public defined by reference to membership of a particular group, where—

(i) such goods, facilities or services are provided for the purpose of promoting the welfare of members of that group, and

(ii) the provision of such goods, facilities or services constitutes the main object of that body.

50.—(1) This section applies to—

Religious bodies.

(a) any institution or association established for the purpose of promoting the spiritual welfare of members of a particular religion, and

(b) any establishment for the education of members of a particular religion.

(2) Nothing in this Act shall apply to any act connected with or related to—



- (a) discrimination on grounds of religion in relation to employment in any position by a body to which this section applies,
- (b) any terms or conditions under which a person is employed by a body to which this section applies and which require the compliance by that person with the doctrinal or moral precepts of that religion, or 5
- (c) the provision by a body to which this section applies of facilities or services to a section of the public defined by reference to membership of a particular religion, where such facilities or services are provided for the purpose of promoting the spiritual welfare of members of that religion. 10

Saver for preferential treatment in connection with pregnancy, handicap, etc.

**51.—(1)** Nothing in this Act shall apply to the provision of preferential treatment to— 15

- (a) women in connection with pregnancy or childbirth, or
- (b) persons of sixty-five years or over.

(2) Nothing in this Act shall apply to the provision of special treatment for the purpose of accommodating the special needs of handicapped persons, the elderly, members of the travelling community, or members of groups defined by reference to marital or parental status. 20

## PART VIII

### THE EQUAL STATUS AGENCY

The Equal Status Agency.

**52.—**From the commencement of this section the Agency shall be known as the Equal Status Agency and, accordingly, all references in the Act of 1977 to the Agency shall be construed as references to the Equal Status Agency. 25

Amendment of section 35 of Act of 1977.

**53.—**The Act of 1977 is hereby amended by the substitution for section 35 of the following section: 30

“35.—The Agency shall have, in addition to any functions assigned to it by any other provision of this Act, the following general functions—

- (a) to work towards the elimination of discrimination,
- (b) to promote equality of opportunity between members of different groups, and 35
- (c) to keep under review the Act of 1974, this Act and the *Equal Status Act, 1990*, and, whenever it thinks it necessary, to make proposals to the Minister for amending any of those Acts.”. 40

Amendment of section 37 of Act of 1977.

**54.—**The Act of 1977 is hereby amended by the substitution for section 37 of the following section:

“37.—(1) The Agency may undertake or sponsor such research and undertake or sponsor such activities relating to the dis-



semination of information as it considers necessary and which appear expedient for the purposes of exercising any of its functions.

5 (2) Without prejudice to the generality of subsection (1), the Agency may draft and publish for the information of employers codes of practice relating to discrimination in relation to employment.

10 (3) A failure on the part of any person to observe any provision of a code of practice shall not of itself render him liable to any civil or criminal proceedings; but where in any proceedings under the *Equal Status Act, 1990*, a person is alleged to have discriminated in relation to employment by reason of a contravention of any provision of that Act, being a provision for which there was a code of practice at the time of the alleged  
15 contravention, subsection (4) shall have effect with respect to that code in relation to those proceedings.

20 (4) Any provision of the code of practice which appears to the Court to give practical guidance as to the observance of the provision alleged to have been contravened shall be admissible in evidence; and if it is proved that any act alleged to constitute the contravention is a failure to observe the provision of the code, or if it is proved that any act is a compliance with such provision of the code, then such failure or compliance shall be admissible in evidence.

25 (5) The Agency may make charges for any services provided by it under subsection (1)."

55.—Section 38 of the Act of 1977 is hereby amended by the substitution of the following subsection for subsection (1) thereof: Amendment of section 38 of Act of 1977.

30 "(1) Where in the opinion of the Agency the working or effect of any Act or provision thereof or any statutory instrument made thereunder is likely to affect or impede the elimination of discrimination or the promotion of equality of opportunity between members of different groups, the Agency may if it thinks fit, and shall if required by the Minister, carry out a review of  
35 such Act, provision or instrument or of its working or effect."

56.—Section 41 of the Act of 1977 is hereby amended by the substitution for paragraphs (a) to (e) of subsection (2) of the following paragraphs: Amendment of section 41 of Act of 1977.

"(a) has discriminated or is discriminating within the meaning of,  
40 (b) has failed or is failing to comply with an equality clause under section 11 of,  
(c) has contravened section 41 or 42 of, or  
(d) has engaged in or is engaging in a practice referred to in section 3 (2) of,  
45 the *Equal Status Act, 1990*."

57.—Section 42 of the Act of 1977 is hereby amended by the substitution of "£1,000" and "£10,000" for "£100" and "£1,000" respectively. Amendment of section 42 of Act of 1977.



Amendment of  
section 44 of Act of  
1977.

58.—(1) Section 44 of the Act of 1977 is hereby amended by the substitution for paragraphs (a) to (e) of subsection (1) of the following paragraphs:

- “(a) has discriminated or is discriminating within the meaning of,
- (b) has failed or is failing to comply with an equality clause under section 11 of,
- (c) has contravened section 41 or 42 of, or
- (d) has engaged in or is engaging in a practice referred to in section 3 (2) of,

the *Equal Status Act, 1990*.”

(2) Section 44 of the Act of 1977 is hereby amended by the substitution of the following paragraph for paragraph (b) of subsection (3):

- “(b) require the person on whom it is served not to commit the discrimination or contravention or (where appropriate) to comply with the equality clause under section 11 of the *Equal Status Act, 1990*.”

Amendment of  
section 45 of Act of  
1977.

59.—Section 45 of the Act of 1977 is hereby amended by the substitution of “the High Court” for “the Court” wherever it appears in that section.

Amendment of  
section 48 of Act of  
1977.

60.—Section 48 of the Act of 1977 is hereby amended by the substitution of the following subsection for subsection (1) thereof:

- “(1) Any person may apply to the Agency for assistance in making a reference to the Court under the *Equal Status Act, 1990*, or in relation to any proceedings before any court under that Act.”

Amendment of  
Schedule to Act of  
1977.

61.—The Schedule to the Act of 1977 is hereby amended—

- (a) by the substitution of “chairperson” for “chairman” wherever it occurs,
- (b) by the substitution in paragraph 18 of “the Agency” for “the Minister”, and
- (c) by the repeal of paragraph 19 (2).

## PART IX

### SUPPLEMENTAL

Award of interest  
by Labour Court.

62.—Notwithstanding that the Court is not a court within the meaning of the Courts Act, 1981, where it directs the payment of compensation under *Parts III or IV*, it may also direct the payment of interest on the amount of such compensation pursuant to section 22 of that Act.



63.—The Minister may, by regulations made under this section, make provision for the regulation of proceedings before an equality officer and the Court under this Act.

Regulation of proceedings before equality officer and Labour Court.

- 5 64.—(1) The Minister may, after consultation with the agency, make regulations under this section for the purpose of ensuring that the provisions of this Act relating to employment, and of any code of practice, are communicated by employers, whether generally or of a particular class, to their employees.

Information to employees concerning rights under this Act.

- 10 (2) Without prejudice to the generality of subsection (1), regulations made under that subsection may provide for the communication of information to employees by means of a notice in the form prescribed by such regulations to be conspicuously displayed in a place where it can conveniently be read by such employees.

- 15 65.—(1) The Minister may make regulations in relation to any matter referred to in that Act as the subject of regulations.

Regulations.

- 20 (2) Every regulation made by the Minister under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either such House within the next twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

66.—(1) Proceedings against any person for an offence under this Act may be brought by the Minister.

Offences.

- 25 (2) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent and connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary, or other similar officer of the body corporate, or of any person purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

67.—(1) The Act of 1974, other than sections 1, 6, 12, 13 and 14, is hereby repealed.

Repeals.

- 35 (2) The Act of 1977, other than sections 1, 18 and 34 to 56 inclusive, and the Schedule is hereby repealed.

- 40 68.—(1) This Act shall come into operation on such day or days as may be appointed by order or orders of the Minister, either generally or with reference to a particular purpose or provision, and different days may be fixed for different purposes and different provisions of this Act.

Short title, commencement and citation.

(2) This Act may be cited as the Equal Status Act, 1990.

(3) This Act, the Act of 1974 and the Act of 1977 shall be construed together as one Act.



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**BILLE**

*(mar a tionscnaíodh)*

*dá ngairtear*

Acht chun idirdhealú de chineálacha áirithe ar fhoras gnéis, stádas pósta nó stádas tuismith-eora, claonta ghnéasaigh, aoise, éislinne, creidimh, cine nó comhaltas den lucht siúil a dhéanamh neamhdhleathach, do leasú an Achta in aghaidh Idirdhealú (Pá), 1974, agus an Achta um Chomhionannas Fostaíochta, 1977, agus do dhéanamh socrú i dtaobh nithe a bhaineann leis na nithe sin.

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**BILL**

*(as initiated)*

*entitled*

An Act to make unlawful certain kinds of discrimination on grounds of sex, marital or parental status, sexual orientation, age, handicap, religion, race or membership of the travelling community, to amend the Anti-Discrimination (Pay) Act, 1974, and the Employment Equality Act, 1977, and to provide for matters concerned therewith.

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*An Teachta Risteard Mac An Earraigh a thíolaic,  
10 Aibreán, 1990*

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*Presented by Deputy Dick Spring,  
10th April, 1990*

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ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR**

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