



<sup>1</sup> The Bill adopts many of the revisions and procedures of the two existing equality standards and the Code of Practice on Employment Equality for the improvement of those procedures, which were published in its 1984 annual report. 

# AN BILLE UM STÁDAS COMHIONANN, 1990

## EQUAL STATUS BILL, 1990

## **EXPLANATORY MEMORANDUM**

Second, the object of the Bill is to develop a sense of responsibility not only in employment, work training, but also in education, in the provision of goods (including recreational and banking services) and in the provision of accommodation, transport, etc.

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## 1. INTRODUCTION

The Bill is, by its long title, "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 connected therewith".

The aim of the Equal Status Bill is to create a climate of understanding and mutual respect in which all people are recognised as equal in dignity and rights. These principles are expressed in the Preamble to the Bill which states:

"WHEREAS the State has declared that recognition of the inherent dignity and the equal and inalienable rights of all members of the 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"

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 Bunreacht 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 treaties establishing the European Community".

The Bill adopts many of the provisions and procedures of the two existing equality statutes (the Anti-Discrimination (Pay) Act, 1974, and the Employment Equality Act, 1977), which prohibit discrimination on grounds of sex in the field of employment. It also incorporates many of the recommendations of the Employment Equality Agency for the improvement of those procedures, which were published in its 1984 annual report.

However, the ambit of the Bill is far broader than that covered by the existing legislation. First, as its title makes clear, it prohibits discrimination on grounds of sex, marital or parental status, sexual orientation, religion, age, handicap, race, colour, nationality, or national or ethnic origins, including membership of the travelling community.

Second, the object of the Bill is to make discrimination unlawful not only in employment, work training and related areas, but also in education, in the provision of goods, facilities and services (including recreational and banking and other financial services, entertainment, accommodation, transport and the services of any trade or profession), and in the disposal and management of premises.

The Bill gives individuals a right of direct access to the civil courts and the Labour Court for legal remedies for unlawful discrimination.

The Bill renames the existing Employment Equality Agency as the Equal Status Agency. The function of the Agency will be to help enforce the legislation and to promote equality of opportunity generally. The Agency will have a general responsibility for advising the Government on the working of the legislation and will also be a source of information and advice for the general public. It will have discretion to assist individuals who consider that they have been discriminated against.

## 2. DEFINITIONS

### A. Prohibited Grounds of Discrimination

The Bill applies to discrimination against a person because of his membership of any group; a "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.

"Age" means an age over 18, except in relation to employment, where it means an age over 18 and under 65.

"Marital status" means the status of being married, single, widowed, divorced or separated and includes the status of cohabiting with another person.

### B. Direct Discrimination

The Bill defines three kinds of discrimination: direct and indirect discrimination, and victimisation.

Direct discrimination arises 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.

This is broader than the existing definition under the employment equality legislation, which only permits a comparison to be made between the treatment afforded to a woman and that which was afforded to a man in similar circumstances; such a comparison is of little assistance to women who work in all-female employment, since there is no actual male comparator.

Under the new definition comparison can be made between the treatment afforded to a woman and that which *would* be afforded to a man in similar circumstances. The introduction of the "hypothetical comparator" was one of the principal recommendations made by the Employment Equality Agency in its review of the Employment Equality Act, 1977.

#### *C. Indirect Discrimination*

Indirect discrimination consists of treatment which may be described as being equal in a formal sense as between two different groups but which is discriminatory in its effect on one group. For example, a woman applying for a particular job would suffer indirect discrimination if the employer imposed a requirement:

- (a) which was not an essential requirement in relation to that job, and
- (b) in respect of which the proportion of men able to comply was substantially higher.

#### *D. Victimation*

The Bill also defines as discrimination the victimisation of a person who has asserted his rights under the legislation.

### **3. DISCRIMINATION IN EMPLOYMENT**

#### *A. Discrimination by Employers Prohibited*

Part II of the Bill prohibits discrimination by an employer against any employee or prospective employee, or against any worker whose services he obtains under a contract with the employer of that worker (such as a contract cleaner).

The prohibition extends to discrimination in relation to access to employment, conditions of employment, work training or work experience, promotion or re-grading in employment, or classification of posts.

An employee or prospective employee who alleges discrimination may compare the treatment which he has received with the treatment which is afforded to a member of another group employed on like work by the employer, or which would be afforded to such a person in those circumstances.

In relation to pay, for example, the Bill provides that an employer shall be taken to discriminate against an employee or prospective employee if he does not offer or afford to that person the same remuneration as he offers or affords, or would offer or afford, to a person who is a member of another group, in relation to like work in his employment.

However, an employer is not prevented from paying to a particular employee a higher rate of remuneration than that which is paid to other persons employed on like work if the higher rate is genuinely related to the personal characteristics or circumstances (other than

The exchange of questions and answers will focus attention on membership of a particular group) of that employee. This exception would apply to the so-called "red circle" cases, where an employee is paid a "personal" rate of pay, frequently on compassionate grounds, which other employees do not enjoy.

Nor is an employer prevented from offering different rates of benefit under an occupational pension scheme where the differences between such rates are related to the age, marital or parental status of employees.

### **C. Contracts of Employment and Collective Agreements**

Discriminatory terms and conditions contained in any contract of employment or in a collective agreement or wage regulation order (whether entered into or made before or after the commencement of the legislation) are rendered null and void.

The Bill imports an equality clause into every contract of employment. Such a clause guarantees that no term of the contract shall be or become less favourable than a similar term which is, or which would be, contained in the contract of employment of a member of another group employed on like work by that employer. Again, an exception is made for terms which are genuinely related to personal characteristics or circumstances of an employee, other than membership of a particular group.

### **D. Professional and Trade Organisations, Vocational Training, Employment Agencies**

Part II also prohibits discrimination in relation to membership of, or any benefits provided by, any partnership, trade union, employers' organisation, or any professional or trade organisation. For example, a rule that a newly qualified member of a profession who is over a certain age must pay higher entrance or registration fees in order to practice that profession would constitute discrimination on grounds of age.

Discrimination by vocational training bodies and by employment agencies is also prohibited.

### **E. Exceptions**

There are a number of exceptions and savers to the provisions of Part II of the Bill. The Part does not apply to employment in a private residence or by a close relative (a spouse, parent, child, grandparent, grandchild, brother or sister).

Part II does not require an employer to employ or to retain in any 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.

Positive discrimination in relation to training or employment in any class of work is permitted by the Bill, where either no, or a disproportionately small number of, members of a particular group have been employed in that class of work.

The Bill also recognises that employment may be refused to a person on grounds of handicap where, by reason of such handicap, that person would be incapable of performing or fulfilling the essential duties or requirements attached to a position.

However, a person would not be considered to be incapable of performing or fulfilling the essential duties or requirements attached to a position by reason of handicap if any special needs of that person could be accommodated by his employer or prospective employer.

This is broader than the existing definition under the Employment Protection Act, 1970, which refers to employment without undue hardship, having regard to the cost, health and safety requirements, if any, and all other relevant circumstances.

Again, discrimination on grounds of age is permitted where, by reason of the physical strength or physical or mental stamina required to perform the duties attached to a position, employment in positions of that nature must be confined to persons beneath a particular age.

Discrimination by an employer is not unlawful where a person's sex or race is a genuine occupational qualification for a job. The criteria for determining whether a person's sex is a genuine occupational qualification are identical to those set out in the Employment Equality Act, 1977, as amended.

A person's race, colour or nationality is an occupational qualification only where, on grounds of authenticity for the purpose of—

- (a) a form of entertainment,
- (b) participation as an artist's or photographic model, or
- (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.

**D. Victimation**

Parts III and IV set out the procedures for the reference to the Labour Court of disputes arising in relation to discrimination in employment, including dismissals which are alleged to have amounted to unlawful victimisation. The procedures are broadly similar to those contained in the Anti-Discrimination (Pay) Act, 1974, and the Employment Equality Act, 1977, which they replace.

Provision is made for the personal representatives of a deceased employee to bring claims to the Labour Court in relation to discrimination which was suffered by that employee before his death.

Disputes referred to the Court are remitted to an equality officer of the Court for investigation and recommendation. Disputes may in certain circumstances be referred by the Equal Status Agency on behalf of an individual. The Labour Court exercises an appellate jurisdiction over recommendations made by equality officers.

Disputes must be referred within six months of the date of the act alleged to constitute discrimination; however, where the discrimination is alleged to have been a continuing act, the dispute must be referred within six months of the date on which that act ended. This replaces the present provision whereby the time limit runs from the date on which discrimination commenced, rather than when it ceased.

**B. Questions Procedure**

There is a new provision in the Bill to assist a person who considers that he may have been discriminated against to decide whether to institute proceedings. Standard forms will be introduced on which the aggrieved person may put questions to the employer about the reasons for the treatment which he believes to constitute discrimination, and on which the employer can reply.

The exchange of questions and answers will focus attention on what would have to be shown in order to prove discrimination. The questions and answers will be admissible in evidence before the Court. Where an employer, without reasonable excuse, deliberately omits to reply or gives an answer which is evasive or equivocal, the Court may draw any appropriate inference from that fact, including the inference that the employer is guilty of discrimination.

#### *C. Burden of Proof*

Where a person who refers a dispute satisfies an equality officer (or, on appeal, the Court) as to the reasonable possibility that discrimination has taken place, the person denying discrimination will then bear the burden of proving, on the balance of probabilities, that such discrimination has not in fact occurred. This provision will assimilate the evidential procedure governing claims before the Labour Court to that which applies to claims heard under the Unfair Dismissals Act, 1977; under that Act the employer bears the burden of proving that a dismissal was not unfair.

#### *D. Appeals*

Recommendations made by equality officers must be conveyed to the Equal Status Agency, so as to enable it to advise claimants whether an appeal to the Labour Court should be made.

Where an employer does not appeal a recommendation to the Labour Court within the prescribed time limit, that recommendation will acquire the status of a determination of the Court, and may be enforced accordingly.

A party to a dispute may appeal a determination of the Labour Court to the High Court on a point of law. The Labour Court is also given a new power to state a case to the High Court on a point of law arising on the hearing of a dispute.

#### *E. Powers of Labour Court*

The Labour Court will have power to award compensation (amounting to a maximum of 104 weeks' pay at the rate which the employee would have received but for the discrimination), or to direct an employer to adopt a specified course of action so as to bring an end to a discriminatory state of affairs. Where a dismissal is found to have been discriminatory the Court may alternatively order the reinstatement or re-engagement of the employee concerned.

The Court is given a new power in relation to collective agreements and wage regulation orders which are the subject matter of a dispute. Where the terms of such an agreement or order are discriminatory the Court may by order amend those terms in order to secure compliance with the provisions of the legislation.

Where the Court makes an order amending the provisions of an agreement or order then, insofar as the terms and conditions of any other person's employment are dependent on that agreement or order, they shall be ascertained by reference to that agreement or order as amended by the Court, and any contract regulating those terms and conditions shall have effect accordingly. The exercise of this power will ensure that a decision made in a single test case will apply automatically to all other employees whose contracts are governed by the agreement or order in question.

#### *F. Enforcement of Discussions of Labour Court*

If, where a determination is made by the Court any direction contained in the determination is not carried out within the appropriate time limit, such direction may, by leave of the Circuit Court, be

enforced by any person concerned (or by the Agency on behalf of any person concerned), as if it were a judgment or order of the Circuit Court to the same effect.

This is a new and simplified procedure for the enforcement of Labour Court determinations. It is similar to the procedure for the enforcement of arbitrations made by county registrars under the Landlord and Tenant (Ground Rents) Acts.

The new procedure replaces the existing enforcement provisions set out in the employment equality legislation, which require that a criminal prosecution be brought by the Director of Public Prosecutions against a person who fails to comply with a determination, following investigation by the Gardaí. Under the present law, it is only following a criminal trial that a court order may be made directing an employer to pay a sum of money to an aggrieved person, by way of a fine, for failure to comply with a determination of the Labour Court.

## 5. GOODS, FACILITIES AND SERVICES

### A. *Discrimination in Provision of Goods, Facilities and Services Prohibited*

Part V of the Bill introduces new provisions into Irish law which makes it unlawful for anyone who is concerned with the provision of goods, facilities or services to the public or a section of the public to discriminate by refusing or deliberately omitting to provide them, or to discriminate as regards their quality or the manner in which or the terms on which he provides them. Discrimination of this kind is unlawful irrespective of whether the goods, facilities or services are provided for payment or free of charge.

The following are examples of the facilities and services to which the Bill applies:

- (a) access to or use of any place which members of the public or a section of the public are permitted to enter;
- (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;
- (f) facilities for transport or travel;
- (g) the services of any profession or trade, or any local or public authority.

This provision applies only to discrimination by persons who are concerned with the provision of goods, facilities or services to the public or a section of the public. It does not apply to any transaction confined exclusively to members of a private association or club.

There is a new provision in the Bill to assist a person who considers

### B. *Exceptions*

Discrimination on grounds of handicap is not prohibited where the special needs of a handicapped person in relation to the obtaining or

use of any goods, facilities or services cannot be accommodated by the provider without undue hardship, having regard to the cost, safety and health requirements, etc.

It is not unlawful to restrict facilities or services to one sex where—

(a) they are provided at an establishment for persons requiring special care, supervision or attention such as, for example, a hospital;

(b) they are provided at a place occupied or used for the purposes of an organised religion; or

(c) it is reasonable so to restrict the facilities or services on grounds of decency or privacy.

It is not unlawful to restrict facilities or services to persons over a particular age or to persons with a handicap, where such facilities or services are provided at an establishment for persons requiring special care, supervision or attention.

## 6. DISPOSAL OR MANAGEMENT OF PREMISES

### A. Disposal of Premises

The Bill makes it unlawful for a person who has power to dispose of premises to discriminate in the terms on which he offers the premises for disposal, in rejecting or accepting applications for the premises, or in his treatment of individuals in relation to lists of people in need of that kind of premises.

But the discrimination is not unlawful if the person with power to dispose of the premises owns and occupies them, provided that he does not use an estate agent or advertise in connection with the disposal. Nor is it unlawful to discriminate in the disposal of "small" premises when the person disposing, or a close relative of his, lives and intends to continue to live on the premises and shares accommodation (other than storage accommodation or means of access) with other persons living there, who are not members of his household.

### B. Management of Premises

Similarly, it is unlawful for a person who manages premises to discriminate in his treatment of occupiers of the premises, in relation to benefits or facilities on the one hand, or to eviction or any other form of detriment on the other.

### C. Assignment or Subletting

Where a tenant requires the licence or consent of his landlord to the assignment or subletting of premises to another person, it is unlawful for the landlord to discriminate in the granting or withholding of such licence or consent. Again, an exception is made in relation to small premises on which the landlord resides and on which accommodation is shared.

## B. Exceptions

## 7. EDUCATION

### A. Discrimination in Education Prohibited

It is unlawful for the body responsible for any educational establishment in receipt of public funds to discriminate:

- (a) as regards terms of admission to the establishment,
- (b) by refusing or deliberately omitting to accept an application for admission,
- (c) in the way in which it affords a student whom it has admitted to the establishment access to any benefits, facilities or services, or by refusing or deliberately omitting to afford such access, or
- (d) by excluding such a student from the establishment or subjecting him to any other detriment.

#### B. Exceptions

The requirements of the Bill which render unlawful a discriminatory admissions policy do not apply—

- (a) in relation to discrimination on grounds of nationality, to the admission of students to an establishment which restricts admission to a particular nationality or which reserves a number of places at that establishment for persons of that nationality,
- (b) in relation to discrimination on grounds of sex, to the admission of students to any single-sex establishment,
- (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.

Apart from discrimination on grounds of age, these exceptions are limited to discrimination in relation to admissions only; a school must not discriminate in the way in which it affords any student whom it has admitted access to benefits or services which it provides.

So, for example, a girls school will be required to provide its students with the same benefits and facilities, including subject options, as are, (or would be) provided to boys in comparable circumstances.

The education provisions do not apply to discrimination on grounds of sex, age or handicap in relation to further education courses in physical training, or for teachers of physical training.

### 8. ENFORCEMENT IN NON-EMPLOYMENT CASES

All complaints relating to discrimination outside of the employment field are dealt with by way of civil proceedings for damages in the same way as any other claim in tort. Damages in respect of an unlawful act of discrimination may in certain circumstances include compensation for injury to feelings whether or not they include compensation under any other head.

### 9. GENERAL PROVISIONS RELATING TO DISCRIMINATION

#### A. Discriminatory Advertising

The Bill makes it unlawful for a person to publish, or place for publication, an advertisement which indicates an intention to discriminate, or which might reasonably be understood as indicating such an intention. However, it is not unlawful to publish, or place for

publication an advertisement which might be taken to indicate such an intention where the intended act would in fact not be prohibited (e.g. because it came within an exception).

In addition, a job advertisement which uses a job description which connotes membership of a particular group (such as "stewardess"), or which is descriptive of or refers to a job usually held by members of a particular group only, is taken to indicate an intention to discriminate unless the advertisement contains a contrary indication.

#### **B. Procuring or Attempting to Procure Discrimination**

The Bill makes it unlawful for a person to procure or attempt to procure another person to do anything which constitutes unlawful discrimination.

#### **C. Liability of Employers and Principals**

A principal is liable for any act done with his authority (whether express or implied, and whether given before or after the act) by his agent; and an employer is liable for any act done, with or without his knowledge or approval, by his employee in the course of his employment. It is a defence for an employer to show that he took such steps as were reasonably practicable to prevent his employee from committing unlawful acts of that kind.

This provision is of importance in placing responsibility on employers to prevent any form of sexual harassment of an employee by fellow employees in the workplace. The Labour Court has already held that it is a term of the contract of employment of a woman that she should be free from such harassment by her employer, but the employer is not at present vicariously liable for the actions of other employees.

### **10. SEX DISCRIMINATION IN ASSOCIATIONS OR CLUBS**

#### **A. Prohibition of Public Funding for, or Registration by, Associations or Clubs Discriminating on Grounds of Sex**

The Constitution guarantees the right of citizens to form private associations and clubs; accordingly the Bill does not seek to interfere with that right and the activities of such bodies do not fall under its general provisions.

There are, however, two special provisions in the Bill which apply to sporting or recreational clubs which by their Constitution, rules, bye-laws or practices discriminate on grounds of sex in relation to membership of, or any benefits provided by them.

First, no payment or grant out of public funds may be made to any such club. Second, no such club may apply for registration, or the renewal of registration, under the Registration of Club Acts, 1904 to 1981. A club which is not registered under those Acts is not permitted to sell or supply excisable liquors to its members for consumption by them or by their guests.

#### **B. Exceptions**

These provisions do not apply where discrimination consists only of:

- (a) the making of rules governing eligibility to compete in sports or other activities by reference to sex where the physical

strength, stamina or physique of the average woman puts her at a disadvantage to the average man, or

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

(d) by excluding such a student from the establishment or sub-

## 11. GENERAL EXEMPTIONS FROM BILL

### A. *Acts Done under Statutory Authority*

The Bill does not apply to any act which was required to be done by virtue of any statute or statutory instrument.

### B. *Sport*

There is a general exemption for acts relating to participation as a competitor in sporting events. It is not unlawful to restrict eligibility 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.

### C. *Insurance*

A person does not commit an unlawful act if, in relation to life or accident insurance or other similar matters involving the assessment of risk, he discriminates against a person on the basis of actuarial or other data, provided that:

- (a) he does not in fact rely on the data to justify the discrimination,
- (b) the data was obtained from a source on which it was reasonable to rely, and
- (c) the discriminatory treatment was reasonable having regard to the data and to any other relevant factors.

### D. *Special Interest Groups*

The provision of goods, facilities or services to members of a particular group, or the employment of members of that group, by a charitable, educational or other non-profit institution which is primarily engaged in promoting the welfare of members of that group is exempted from the provisions of the Bill.

### E. *Religious Bodies*

Again, employment by a religious institution or association, or the provision by such an institution or association of goods, facilities or services to members of that religion for the purpose of promoting their spiritual welfare, is exempt from the legislation.

### F. *Preferential or Special Treatment in Connection with Pregnancy, Handicap etc.*

The Bill does not apply to:

- (a) the provision of preferential treatment to women in connection with pregnancy or childbirth,
- (b) the provision of special or preferential treatment for the purpose of accommodating the special needs of handicapped persons, members of the travelling community,

the elderly, or members of a group defined by reference to parental or marital status, or

(c) the provision of preferential treatment to persons of sixty-five years or over.

## 12. THE EQUAL STATUS AGENCY

### A. Function of Agency

The Employment Equality Agency, established under the Employment Equality Act, 1977, is renamed the Equal Status Agency. It exercises similar powers to those conferred by the Act of 1977. In addition to any particular functions assigned to it by any other provision of the Bill, it has the following general functions—

- (a) to work towards the elimination of discrimination,
- (b) to promote equality of opportunity between members of different groups, and
- (c) to keep under review the Anti-Discrimination (Pay) Act, 1974, the Employment Equality Act, 1977, and the *Equal Status Act, 1990*, and, whenever it thinks it necessary, to make proposals to the Minister for amending any of those Acts.

### B. Codes of Practice

Codes of practice for the guidance of employers regarding the provisions of the legislation are made admissible in evidence in any proceedings under the Bill.

### C. Review of Legislation by Agency

Where in the opinion of the Agency the working or effect of any Act or statutory instrument is likely to affect or impede the elimination of discrimination or the promotion of equality of opportunity, the Agency may, if it thinks fit, and shall, if required by the Minister, carry out a review of such Act or instrument or of its working or effect.

### D. Provision of Assistance by Agency

Any person may apply to the Agency for assistance in making a reference to the Court under the Bill, or in relation to any proceedings before any court under the Bill.

## 13. SUPPLEMENTAL PROVISIONS

### A. Award of Interest on Compensation

The Labour Court is given power to award an additional sum by way of interest on any compensation awarded under the Bill.

### B. Regulation of Procedure before Labour Court

The appropriate Minister is empowered to make regulations setting out the procedure to be followed by an equality officer and by the Labour Court under the Bill. This is to ensure uniformity of procedure, whilst maintaining a degree of informality in the determination of disputes.

### C. Information to Employees Concerning Rights under Bill

The Minister may also, after consultation with the Agency, make regulations for the purpose of ensuring that the provisions of this Bill relating to employment, and of any code of practice, are communicated by employers to their employees. Regulations may provide for

the communication of such information by means of a notice in a prescribed form to be conspicuously displayed in a place where it can conveniently be read by such employees.

#### D. *Criminal Offences*

The Bill creates a number of criminal offences, similar to, and replacing, those established by existing employment equality legislation, which are punishable by fines. Proceedings against any person for an offence under the Bill may be brought by the appropriate Minister, rather than by the Director of Public Prosecutions.

The Bill also provides that where an offence committed by a company 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 company, he, as well as the company, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

#### B. *Sport*

##### *Dick Spring,*

*Aibreán, 1990.*

#### C. *Insurance*

A person does not commit an unlawful act if he does not in fact rely on the opinion of the Minister in respect of any other data, provided that:

(a) the discriminatory treatment was reasonable having regard to the data and to any other relevant factors.

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

(c) the discriminatory treatment was reasonable having regard to the data and to any other relevant factors.

A. *Amendment of Constitution*

The Law Commission is given power to make an application to the Law Commission to the Court under the Bill to obtain a declaration that the Bill is unconstitutional.

Again, except in the case of a provision by such an institution or association of goods, facilities or services to members of the travelling community, the Bill provides that the Minister may, if he considers it necessary, issue a declaration that the Bill is unconstitutional.

The Law Commission is given power to make an application to the Law Commission to the Court under the Bill to obtain a declaration that the Bill is unconstitutional.

The Law Commission is given power to make an application to the Law Commission to the Court under the Bill to obtain a declaration that the Bill is unconstitutional.

The Bill does not apply to:

Wt. P24956/B/3. 1,325. 4/90. Cahill. (A22757). G.16.



the communication of such information by means of a notice in a prescribed form to be conspicuously displayed in a place where it can conveniently be read by such employees.

*D. Criminal Offences*

The Bill creates a number of criminal offences, similar to, and replacing, those established by existing employment equality legislation, which are punishable by fines. Proceedings against any person for an offence under the Bill may be brought by the appropriate Minister, rather than by the Director of Public Prosecutions.

The Bill also provides that where an offence committed by a company 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 company, he, as well as the company, shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

*Dick Spring,  
Albrecht, 1990.*