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AN BILLE UM STÁDAS COMHIONANN, 1998
EQUAL STATUS BILL, 1998

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As initiated

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Acts Referred to

Child Care Act, 1991	1991, No. 17
Courts Act, 1981	1981, No. 11
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Licensing Acts, 1833 to 1997	
Petty Sessions (Ireland) Act, 1851	14 & 15 Vict., c. 9
Registration of Clubs Acts, 1904 to 1995	
Roads Act, 1993	1993, No. 14



AN BILLE UM STÁDAS COMHIONANN, 1998
EQUAL STATUS BILL, 1998

BILL

entitled

5 AN ACT TO PROMOTE EQUALITY AND TO PROHIBIT
TYPES OF DISCRIMINATION, HARASSMENT AND
RELATED BEHAVIOUR IN CONNECTION WITH THE
PROVISION OF SERVICES, PROPERTY AND OTHER
10 OPPORTUNITIES TO WHICH THE PUBLIC GENER-
ALLY HAS ACCESS, TO PROVIDE FOR REMEDYING
CERTAIN DISCRIMINATION AND OTHER UNLAWFUL
ACTIVITIES, TO PROVIDE FOR THE ADMIN-
ISTRATION BY THE EQUALITY AUTHORITY OF VAR-
IOUS MATTERS PERTAINING TO THIS ACT AND THE
15 EMPLOYMENT EQUALITY ACT, 1998, AND TO AMEND
CERTAIN ACTS IN RELATION THERETO.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary

20 **1.**—(1) This Act may be cited as the Equal Status Act, 1998. Short title and
commencement.

(2) This Act shall come into operation on the day that is one
month after the date of its passing.

(3) The Act of 1998 shall, unless earlier commenced by order
made under that Act, and to the extent that it has not been so com-
25 menced, come into operation on the day that is one month after the
passing of this Act.

2.—(1) In this Act, unless the contrary intention appears— Interpretation.

“the Act of 1998” means the Employment Equality Act, 1998;

“advertisement” has the meaning assigned by *section 14(3)*;

30 “Authority” means the Equality Authority referred to in *section 38*
of the Act of 1998;

“club” has the meaning assigned by *section 10(1)*;

“Director” means the Director of Equality Investigations referred to in section 75 of the Act of 1998;

“disability” means—

- (a) the total or partial absence of a person’s bodily or mental functions, including the absence of a part of a person’s body, 5
- (b) the presence in the body of organisms causing, or likely to cause, disease or illness,
- (c) the malfunction, malformation or disfigurement of a part of a person’s body, 10
- (d) a condition or malfunction which results in a person learning differently from a person without the condition or malfunction, or
- (e) a condition, disease or illness which affects a person’s thought processes, perception of reality, emotions or judgement or which results in disturbed behaviour; 15

“discriminate” means to discriminate within the meaning of *section 3(1)*;

“discriminatory grounds” has the meaning assigned by *section 3(2)*;

“educational establishment” has the meaning assigned by *section 8(1)*; 20

“family status” means having a natural, step or adopted child, fostering or being the guardian of a child, or living with and caring for an adult;

“firm” has the meaning assigned by *section 9(1)*; 25

“marital status” means single, married, separated, divorced or widowed;

“the Minister” means the Minister for Justice, Equality and Law Reform;

“near relative” means a spouse, lineal descendant or ancestor or a brother or sister; 30

“non-discrimination notice” means a notice under section 62 of the Act of 1998 as applied by *section 50*;

“person”, as that term is used—

- (a) in or in relation to any provision of this Act that prohibits that person from discriminating or from committing any other act or that requires a person to comply with a provision of this Act or regulations made under this Act, includes an organisation, public body or other entity, or 35
- (b) in reference to the person against whom prohibited conduct is or has been directed, includes an organisation described in *paragraph (a)(ii)* of *section 3(1)*; 40

“prohibited conduct” means discrimination against, or sexual harassment or harassment of, or permitting the sexual harassment or harassment of, a person in contravention of this Act;

“refusal” includes a deliberate omission;

5 “religion” includes religious background or outlook;

“service” means a service or facility of any nature and without limiting the generality of the foregoing, includes—

(a) access to and the use of any place,

(b) facilities for—

10 (i) banking or insurance or for grants, loans, credit or financing,

(ii) entertainment, recreation or refreshment,

(iii) cultural activities, or

(iv) transport or travel, and

15 (c) a professional or trade service,

but does not include a service provided to a person under a contract of service or a service not generally available to the public, or a service or facility in relation to which the Employment Equality Act, 1998 applies;

20 “sexual orientation” means heterosexual, homosexual or bisexual orientation.

(2) In this Act, unless the contrary intention appears, a reference to—

(a) a section or Part is to a section or Part of this Act,

25 (b) a subsection, paragraph or other subdivision is to the subsection, paragraph or subdivision of the provision in which the reference occurs, and

(c) an enactment is to that enactment as amended by any enactment.

30 **3.—**(1) For the purposes of this Act, discrimination occurs when— When discrimination occurs.

(a) on any discriminatory grounds that existed, exist, are believed to exist or are considered likely or possible to come into existence—

35 (i) a person in respect of whom the grounds apply is treated less favourably than a person in respect of whom the grounds do not apply is treated, has been treated or would be treated,

40 (ii) an organisation, consisting wholly or mainly of persons in respect of whom the grounds apply or having as its object the furtherance of the interests of such persons, is treated less favourably than an organisation, consisting mainly or wholly of persons in

- respect of whom the grounds do not apply, is treated,
has been treated or would be treated, or
- (iii) a person who is associated with a person or organisation in respect of whom or which the grounds apply is treated less favourably than a person who is not so associated is treated, has been treated or would be treated, or 5
- (b) a person who is in a category of persons in respect of which any of the discriminatory grounds apply, is obliged but is unable, to comply with a condition (whether in the nature of a requirement, practice or otherwise) relating to a matter to which *Part II* applies in circumstances in which— 10
 - (i) the proportion of persons who are not members of the category who are able to comply is substantially higher than the proportion of persons who are members of the category so able, and 15
 - (ii) the obligation to comply cannot be justified as being reasonable in all the circumstances of the case.
- (2) As between any two persons, the following are discriminatory grounds (and the descriptions of those grounds)— 20
- (a) that one is a female and the other is a male (the “gender ground”),
 - (b) that they are of different marital status (the “marital status ground”),
 - (c) that one is pregnant or has family status and the other is not or does not or that one has a different family status from the other (the “family status ground”), 25
 - (d) that they are of different sexual orientation (the “sexual orientation ground”),
 - (e) that one has a different religion from the other, or that one has no religion and the other has (the “religion ground”), 30
 - (f) subject to *subsection (3)*, that they are of different ages (the “age ground”),
 - (g) that one is a person who has a disability and the other either is not or is a person who has a different disability (the “disability ground”), 35
 - (h) that they are of different race, colour, nationality or ethnic or national origins (the “ground of race”),
 - (i) that one is a member of the Traveller community and the other is not (the “Traveller community ground”), or 40
 - (j) that one—
 - (i) in good faith has applied, or proposes to apply, for any determination or redress provided for in *Part II* or *III* and the other has not,

(ii) has attended, or proposes to attend, as a witness before the Authority, the Director or a court in connection with any investigation or proceedings under this Act and the other has not, or

(iii) opposes, or proposes to oppose, by lawful means an act which is unlawful under this Act,

(the “victimisation ground”).

(3) Treating a person who is under 18 years of age less favourably or more favourably than another, whatever that other person’s age, shall not be regarded as discrimination on the age ground.

(4) The Minister shall, not later than two years after the commencement of this section, review the operation of this Act to assess whether there is a need to add to the discriminatory grounds specified in *subsection (2)*.

4.—In proceedings under this Act, the determination of whether undue difficulty exists in relation to any matter shall be made having regard to all the relevant circumstances, including—

(a) all grants, services, facilities, assistance and tax or other incentives available to the person claiming that undue difficulty exists,

(b) the nature of any special treatment or facilities that a person requires in order to be properly admitted, accommodated or otherwise provided for,

(c) the number of persons who would benefit from or be disadvantaged by the special treatment or facilities,

(d) the cost of the special treatment or facilities and the financial circumstances of the person required to provide them,

(e) the disruption, if any, which would be caused by the provision of the special treatment or facilities,

(f) the nature of any benefit or detriment which would accrue to the persons likely to be affected by the provision of the special treatment or facilities, and

(g) the time elapsed since the commencement of this section.

5.—(1) A refusal to do what is reasonably necessary (including by special treatment or the provision of special facilities) to allow a person with a disability satisfactorily to avail himself or herself of any right, privilege, status, property, facility or service the withholding, withdrawal or other act or omission in respect of which would amount to discrimination under *section 6, 7, 8 or 9*, shall itself be discrimination within the meaning of the relevant section, unless to do what is reasonably necessary would give rise to undue difficulty.

(2) Subject to *subsection (1)* and *section 10 (2) (b) (iv)*, a refusal—

(a) to provide any right, privilege, status, property, facility or service to a person with a disability, or

(b) to do so except subject to conditions or limitations,

does not, by that reason alone, constitute discrimination for the purposes of *subsection (1)* or evidence that a club, within the meaning of *section 10*, is a discriminating club where, because of the disability, the person cannot or cannot fully comply with conditions that reasonably apply to persons generally in respect of the right, privilege, status, property, facility or service. 5

PART II

Discrimination and Related Activities

Personal property
and services.

6.—(1) A person shall not discriminate in disposing of personal property or the provision of a service, whether for consideration or otherwise and regardless of whether the disposition or provision is offered to the public or a section of the public. 10

(2) *Subsection (1)* does not apply in respect of—

(a) a one-time disposition of property or provision of a service otherwise than in the course of a business or trade, 15

(b) an activity referred to in *section 8 (2)*,

(c) a service related to a matter provided for under *section 7*, or a service offered by a club in respect of which *section 10* applies, 20

(d) differences in the treatment of persons on the gender ground in relation to services of an aesthetic, cosmetic or similar nature, where the services require physical contact between the service provider and the recipient,

(e) differences in the treatment of persons in relation to annuities, pensions, insurance policies or any other matters related to the assessment of risk where the treatment— 25

(i) is effected by reference to—

(I) actuarial or statistical data obtained from a source on which it is reasonable to rely, or 30

(II) other relevant underwriting or commercial factors, and

(ii) is reasonable having regard to the data, or other relevant factors,

(f) reasonable differences in the treatment of persons on the religion ground in relation to property or services provided for a religious purpose, 35

(g) differences in the treatment of persons on the gender ground, age ground, disability ground or on the basis of nationality or national origin in relation to the provision or organisation of a sporting facility or sporting event, if the differences are reasonably justifiable having regard to the nature of the facility or event and are relevant to the purpose of the facility or event, 40

(h) differences in the treatment of persons on the gender ground where embarrassment or infringement of privacy can reasonably be expected to result from the presence of a person of another gender,

(i) differences in the treatment of persons in a category of persons in respect of services that are provided for the principal purpose of promoting, for a *bona fide* purpose and in a *bona fide* manner, the special interests of those persons to the extent that the differences in treatment are necessary to promote those special interests,

(j) differences in the treatment of persons on the gender ground, marital status ground, age ground, disability ground or ground of race, reasonably required for reasons of authenticity, aesthetics, tradition or custom in connection with a dramatic performance or other entertainment,

(k) an age requirement in order for a person to be an adoptive or foster parent, where the requirement is reasonable having regard to the needs of the children concerned,

(l) a disposition of property by a will or gift, or

(m) differences, not otherwise specifically provided for in this section, in the treatment of persons in respect of property or a service which can reasonably be construed to be property or a service only suitable to the needs of certain persons.

7.—(1) A person shall not discriminate in—

Land dispositions
and
accommodation.

(a) disposing of an estate or interest in land, or

(b) providing, in the course of a business or trade, accommodation or the services and amenities related to any accommodation.

(2) Subsection (1) does not apply in respect of—

(a) a disposal of an estate or interest in land by will or gift, or

(b) a disposal of an estate or interest in land or the provision of accommodation if—

(i) the person making the disposal, a person who has an interest in the land or a person who is a near relative of either of them intends to continue to reside in, or in the immediate future to take up residence in, premises on the land that are small premises, or a part thereof, or

(ii) the person providing the accommodation or a person who is a near relative of that person intends to continue to reside in, or in the immediate future to take up residence in, premises in which the place of accommodation is situated that are small premises, or a part thereof.

(3) For the purposes of subsection (2) (b), premises shall be construed to be “small premises” if, in the case of—

(a) premises comprising residential accommodation for more than one household, not more than three households are intended to be accommodated on the premises, or

(b) premises not comprising residential accommodation for households, not more than six persons (other than the occupier or a near relative of the occupier, together with the persons living with the occupier or near relative, as the case may be) are intended to be accommodated on the premises. 5

(4) A refusal to make accommodation that is intended for use by persons of only one gender available for use by a person of the other gender does not, by that reason alone, constitute discrimination. 10

(5) Where any land or accommodation is reserved for the use of persons in a particular category of persons for a religious purpose or as a refuge, nursing home, retirement home, home for persons with a disability, hostel for homeless persons or a similar purpose, a refusal to dispose of the land or provide the accommodation to a person who is not in that category does not, by that reason alone, constitute discrimination. 15

(6) Nothing in *subsection (1)* shall be construed as prohibiting— 20

(a) a housing authority, pursuant to its functions under the Housing Acts, 1966 to 1998, or

(b) a body approved under section 6 of the Housing (Miscellaneous Provisions) Act, 1992,

from providing, in relation to housing accommodation, different treatment to persons based on family size, family status, disability, age or membership of the Traveller community, or preferential treatment for married persons. 25

Educational establishments.

8.—(1) In this section “educational establishment” means a pre-school service within the meaning of section 49 of the Child Care Act, 1991, a primary or second-level school, college or other institution, a university, a college of a university or any other third-level or higher-level institution, whether or not supported by public funds. 30

(2) An educational establishment shall not discriminate in relation to— 35

(a) the admission or the terms or conditions of admission of a person as a student to the establishment,

(b) the access of a student to any course, facility or benefit provided by the establishment or to any place where the benefit is provided, 40

(c) any other term or condition of participation in the establishment by a student, or

(d) the expulsion of a student from the establishment or any other sanction against the student.

(3) An educational establishment does not discriminate under *subsection (2)* by reason only that— 45

(a) where the establishment is not a third-level or higher-level institution supported by public funds and admits students of one gender only, it refuses to admit as a student a person who is not of that gender,

(b) where the establishment is a school providing primary or post-primary education to students and the objective of the school is to provide education—

(i) in an environment which promotes certain religious values, it admits persons of a particular religious denomination in preference to others or it refuses to admit as a student a person who is not of that denomination and, in the case of a refusal, it is proved that the refusal is essential to maintain the ethos of the school, or

(ii) to persons of a particular nationality or national origin in an environment which fosters the culture of people of that nationality or national origin, it admits persons of the relevant nationality or national origin in preference to others or it refuses to admit as a student a person who is not of that nationality or national origin and, in the case of a refusal, it is proved that the refusal is essential to maintain the ethos of the school,

(c) it offers assistance to particular categories of persons by way of sponsorships, scholarships, bursaries or other awards, which assistance is reasonably justifiable, having regard to traditional and historical considerations.

9.—(1) In this section “firm” means the partners or members or any of them of a business, or of its board or governing authority whether incorporated or not, that is carried on by individuals who are, and share in the capital and profits of the business as, its partners or members. Firms of partners.

(2) A firm shall not discriminate in relation to—

(a) the admission of a person as a partner or member of the firm or the terms or conditions applicable to a partner or member of the firm,

(b) the status of a partner or member of the firm in relation to the work done by the firm or the sharing in the capital and profits of the firm, or

(c) the expulsion of a partner or member from the firm or any other sanction against the partner or member.

10.—(1) In this section “club” means a club that has applied for or holds a certificate of registration under the Registration of Clubs Acts, 1904 to 1995. Discriminating clubs.

(2) For the purposes of this section—

(a) a club shall be considered to be a discriminating club if it has any rule, policy or practice which, or a person involved in its management who, discriminates against a member or an applicant for membership,

- (b) without prejudice to the generality of *paragraph (a)*, any of the following activities carried on by a club or by a person involved in its management on discriminatory grounds is evidence that the club is a discriminating club—
- (i) refusing to admit a person to membership, 5
 - (ii) refusing to make available the same terms and conditions of membership to a member or applicant for membership,
 - (iii) terminating the membership of a person or subjecting the person to any other sanction, or 10
 - (iv) refusing to do what is reasonably necessary (including by special treatment or the provision of special facilities) to allow a member or applicant for membership with a disability satisfactorily to avail himself or herself of any right, privilege, status, property, facility or service that is or would be available to any other member or applicant, as the case may be, who does not have a disability, unless what is reasonably necessary would give rise to undue difficulty. 15
- (3) Any person, including the Authority, (in this section referred to as the “applicant”) may, on application to the District Court (in this section referred to as “the Court”), request that the Court make a determination as to whether a club is a discriminating club. 20
- (4) An application may be dismissed by the Court if it is found to have been brought in bad faith or to be frivolous or vexatious or to relate to a trivial matter. 25
- (5) The applicant shall serve a copy of the application by personal service or by post, on the club at its registered or head office and on such members, officers and employees of the club (if any) and such other persons (if any) as the Court may by order direct, and the application shall be considered by the Court, providing to the applicant, the club and such members, officers, employees or other persons (if any) served with a copy of the application, a reasonable opportunity to make representations. 30
- (6) After considering such representations, the Court shall— 35
- (a) make an order in writing setting out its determination as to whether or not the club is a discriminating club, and
 - (b) direct the relevant District Court Clerk to transmit a copy of the order to the Minister who, on receipt thereof, shall cause the order or a notice thereof to be published or made available in such form and manner as the Minister considers appropriate in the circumstances. 40
- (7) An applicant, the club or any person on whom a copy of the application was served pursuant to an order of the Court under *subsection (5)* affected by an order made under *subsection (6)* may, within 42 days after the order, appeal the order to the Circuit Court which may confirm, vary or discharge the order. 45
- (8) Where an appeal of an order under *subsection (7)* is not made, the order shall come into effect on the expiration of the 42 day period referred to in that subsection. 50

(9) A club that is determined under this section to be a discriminating club or any member thereof may at any time, on application to the Court, request that the Court make a determination as to whether the club continues to be a discriminating club, and where an application is made, all of the provisions of this section apply in the same manner and to the same extent as if the application were made under *subsection (3)*, except that a copy of the application shall, unless the Court otherwise directs, be served by the club, by personal service or by post, on the person who was the original applicant, if possible, and on such other persons (if any) as the Court may by order direct.

11.—(1) For the purposes of *section 10*, a club shall not be considered to be a discriminating club by reason only that—

Non-discriminating clubs.

(a) it refuses membership to a person who, if the principal purpose of the club is to cater to persons in the category of a particular religion, age, nationality or ethnic or national origin, is not in that category,

(b) it makes access to a membership benefit or privilege available only to members outside the category of a particular gender or age, where—

(i) it is not practicable for the persons in the category to enjoy the benefit or privilege at the same time as members who are outside the category, and

(ii) access arrangements have been made by the club which offer separately, the same or a reasonably equivalent benefit or privilege to the persons in the category and members who are outside the category, or

(c) it exists primarily to provide different treatment to persons in the category of a particular gender, age, disability, nationality or national origin in relation to sporting facilities and the different treatment is reasonably justifiable and relevant to the purpose of the facilities or events and such facilities are lawful under *section 6*.

(2) For the purposes of *section 10*, a club shall not be considered to be a discriminating club by reason only that it—

(a) has, for the principal purpose of promoting equality, a reserved place or places on its board or committee of management for persons who are members of a particular category, or

(b) takes other measures for the principal purpose of obtaining a more equal involvement in club matters of persons who are members of a particular category.

12.—(1) Notwithstanding anything in any other Act, while an order made under *section 10* determining that a club is a discriminating club remains in effect—

Sanctions against discriminating clubs.

(a) no grant or loan of public funds shall be made to or in respect of the club, and

- (b) the club shall not be provided with the use of publicly-owned facilities that are intended for recreation.

(2) Notwithstanding anything in the Registration of Clubs Acts, 1904 to 1995—

- (a) subject to *paragraph (b)*, while an order made under *section 10* determining that a club is a discriminating club remains in effect, no certificate of registration under that Act shall be granted to or renewed for the benefit of the club, or 5
- (b) where an order under *section 10* has been made determining that a club is a discriminating club and an application under *section 10(9)* in respect of the club is pending, the certificate of registration of the club under that Act may be renewed in accordance with that Act but shall cease to be in force— 10
 - (i) on the expiration of one year after the date of the renewal, if no determination under *section 10(9)* has been made within that period in respect of the club, or
 - (ii) on the date of a determination under *section 10(9)* that the club has not ceased to be a discriminating club, 20

whichever first occurs.

Sexual and other harassment.

13.—(1) A person shall not sexually harass or harass (within the meaning of *subsection (4)* or *(5)*) another person (“the victim”) where the victim— 25

- (a) is a student at, has applied for admission to or avails or seeks to avail of any service offered by, any educational establishment at which the person is in a position of authority, 30
- (b) is a member of, has applied for membership in or avails or seeks to avail of any service offered by any organisation, club, association or similar entity in which the person is in a position of authority,
- (c) avails or seeks to avail of any service provided by the person or purchases or seeks to purchase any personal property being disposed of by the person, 35
- (d) is the proposed or actual recipient from the person of any estate or interest in land, or of accommodation or services or amenities related to any accommodation, or 40
- (e) is a partner, or has applied to be admitted to partnership, in a firm in which the person is in a position of authority.

(2) A person (“the responsible person”) who is responsible for the operation of any place that is an educational establishment or at which goods, services or accommodation facilities are offered to the public shall not permit another person who has a right to be present in or to avail of any facilities, goods or services provided at that place, to suffer sexual harassment or harassment in that place. 45

(3) It shall be a defence for the responsible person under *subsection (2)* to prove that he or she took such steps (if any) as are reasonably practicable to prevent the sexual harassment or harassment, as the case may be, of the other person referred to in that subsection or of a class of persons of which that other person is a member.

- (4) Sexual harassment takes place where a person—
- (a) subjects another person (“the victim”) to an act of physical intimacy,
 - (b) makes a request of the victim for sexual favours, or
 - (c) subjects the victim to any act or conduct with sexual connotations, including spoken words, gestures or production, display or circulation of written words, pictures or other material,

where the act, request or conduct is unwelcome to the victim and could reasonably be regarded as sexually or otherwise on the gender ground offensive, humiliating or intimidating to the victim, or where the victim is or it could reasonably be anticipated that the victim would be treated differently by reason of his or her rejection of or submission to, as the case may be, the act, request or conduct.

(5) Harassment takes place where a person subjects another person (“the victim”) to any unwelcome act, request or conduct, including spoken words, gestures or production, display or circulation of written words, pictures or other material, which in respect of the victim is based on any discriminatory grounds and which could reasonably be regarded as offensive, humiliating or intimidating to the victim.

14.—(1) A person shall not publish or display or cause to be published or displayed an advertisement which indicates an intention to engage in prohibited conduct or might reasonably be understood as indicating such an intention.

Prohibited
advertising.

(2) A person who contravenes *subsection (1)* or makes a statement which the person knows to be false with a view to securing a publication or display in contravention of *subsection (1)* shall, upon the publication or display being made, be guilty of an offence.

(3) In *subsection (1)*, “advertisement” includes every form of advertisement, whether to the public or not and whether in a newspaper or other publication, 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.

15.—(1) A person shall not procure or attempt to procure another person to engage in prohibited conduct.

Procurement of
discrimination.

(2) A person who contravenes *subsection (1)* shall be guilty of an offence.

16.—Nothing in this Act shall be construed as prohibiting—

Certain measures or
activities not
prohibited.

- (a) the taking of any action that is required by or under any law enacted, act done or measure adopted by the European Union or by the Communities or by institutions thereof,

or by bodies competent under the Treaties establishing the Communities, or

(b) preferential treatment or the taking of positive measures which are *bona fide* intended to—

(i) promote a more equal opportunity for persons who are, in relation to other persons, disadvantaged or have been or will likely be unable to avail themselves of the same opportunities as those other persons, or 5

(ii) cater to the special needs of persons who, because of their circumstances, may require facilities, arrangements, services or assistance not required by persons who do not have those special needs. 10

Certain activities not discrimination.

17.—(1) For greater certainty, nothing in this Act prohibiting discrimination shall be construed as requiring a person to provide personal property, services or accommodation or the services and amenities related to accommodation or to dispose of an interest in land to another person (the “customer”) in circumstances which would lead a reasonable individual having the responsibility, knowledge and experience of the person to the belief, on grounds other than discriminatory grounds, that the provision of the property or services or the accommodation or the services and amenities related to the accommodation or the disposal of the interest in land, as the case may be, to the customer would produce a substantial risk of criminal or disorderly conduct or behaviour or damage to property at or in the vicinity of the place in which the property or services are sought or the accommodation or land is located. 15 20 25

(2) Action taken in good faith by or on behalf of the holder of a licence or other authorisation which permits the sale of intoxicating liquor, for the sole purpose of ensuring compliance with the provisions of the Licensing Acts, 1833 to 1997, shall not constitute discrimination. 30

Other non-discriminatory activities.

18.—(1) Imposing or maintaining a reasonable preferential fee, charge or rate in respect of anything offered or provided to or in respect of persons together with their children, married couples, persons in a specific age group or persons with a disability does not constitute— 35

(a) discrimination for the purposes of *section 6* or *7*, or

(b) a discriminatory rule, policy or practice for the purposes of *section 10(2)(a)*.

(2) Where a person has a disability that, in the circumstances, could cause harm to the person or others, treating the person differently to the extent reasonably necessary to prevent such harm does not constitute discrimination. 40

(3) Treating a person differently solely in the exercise of a clinical judgement in connection with the diagnosis of illness or the treatment of the person does not constitute discrimination. 45

Regulations relating to vehicle equipment.

19.—(1) The Minister may, after consultation with the Minister for Public Enterprise, make regulations requiring that road or rail passenger vehicles that are to be put into use for a first time by

persons who are operators of commercial transport services be equipped so as to be readily accessible to and usable by persons who have disabilities.

5 (2) A regulation made under *subsection (1)* may be of general application or may be made in respect of any class of operator and may specify—

- (a) the number or proportion of an operator's vehicles or any class thereof to which the regulation applies,
- 10 (b) the time or times when the regulation comes into effect in respect of an operator's vehicles or class of vehicles, and
- (c) the terms and conditions to which an operator shall be subject in order for the Minister to ascertain whether the operator is in compliance with the regulation.

15 **20.**—(1) The Minister may, after consultation with the Minister for Public Enterprise, make regulations requiring operators of bus and rail stations to equip them so that they are readily accessible to and usable by persons who have disabilities. Regulations relating to station equipment.

20 (2) A regulation made under *subsection (1)* may be of general application or may be made in respect of any class of operator and may specify—

- (a) the bus or rail stations of an operator or the number or proportion of an operator's stations or any class thereof to which the regulation applies,
- 25 (b) the time or times when the regulation comes into effect in respect of an operator's stations or class of stations, and
- (c) the terms and conditions to which an operator shall be subject in order for the Minister to ascertain whether the operator is in compliance with the regulation.

30 **21.**—Where a road authority, within the meaning of section 2 of the Roads Act, 1993, constructs or alters, or consents to the construction or alteration of, any public footway or other public pavement, it shall, for the purpose of facilitating the mobility of persons who have disabilities, provide, or require the provision of, ramps, dished kerbs or other sloped areas at appropriate places at or in the vicinity of any pedestrian crossing or intersection used by pedestrians in that part of the footway or pavement so constructed or altered. Provision of kerb ramps.

PART III

Enforcement

22.—In this Part, unless the contrary intention appears— Definitions.

40 “complainant” means a person by whom a case under *section 23(1)* is referred to the Director;

“equality mediation officer” and “equality officer” shall be construed in accordance with the Act of 1998;

“respondent” means a person who is alleged by a complainant in a case under *section 23(1)* to have engaged in prohibited conduct.

Redress in respect
of prohibited
conduct.

23.—(1) A person who claims that prohibited conduct has been directed against any person may, subject to this section, seek redress by referring the case to the Director.

5

(2) No investigation of a claim by the Director shall be made unless the Director is satisfied that—

(a) the complainant has, within two months after the prohibited conduct is alleged to have occurred, or where more than one incident of prohibited conduct is alleged to have occurred, within two months after the last such occurrence, in writing notified the respondent of the nature of the allegation, the remedy sought by the complainant in respect thereof and the complainant’s intention to refer the matter to the Director if the complainant is not satisfied with the respondent’s response to the allegation, and

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(b) the respondent has not, within a reasonable time after the notification referred to in *paragraph (a)*, responded to the complainant to the satisfaction of the complainant.

(3) Subject to *subsection (4)*, a claim for redress in respect of prohibited conduct may not be referred under this section after the end of the period of six months from the date of the occurrence or, as the case may require, the most recent occurrence of the incident of prohibited conduct to which the case relates.

20

(4) If, on an application made by the complainant, the Director is satisfied that reasonable grounds prevented the complainant’s case being referred within the time limit in *subsection (3)*—

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(a) the Director may direct that, in relation to that case, *subsection (3)* shall have effect as if for the reference to a period of six months there were substituted a reference to such period not exceeding 12 months as is specified in the direction; and

30

(b) where such a direction is given, this Part shall have effect accordingly.

(5) Where prohibited conduct under *section 9* has been directed against a person in circumstances to which Council Directive 86/613/EEC*, on the application of the principle of equal treatment between men and women engaged in an activity, including agriculture, in a self-employed capacity, and on the protection of self-employed women during pregnancy and motherhood, is relevant, and no complaint in relation to the prohibited conduct has been referred to the Director under this section, the prohibited conduct may be made the subject of civil proceedings for damages, injunctive relief or other remedy in a court but where any such proceedings are commenced, no investigation or decision in respect of the prohibited conduct shall be made by the Director under this Act.

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Information to be
provided to
complainant by
respondent.

24.—On the request of a complainant, a respondent shall, in such form and within such time limit as the Minister may by regulations prescribe, provide the complainant with information in relation to the alleged prohibited conduct that will enable the complainant to

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*O.J. 1986 L359, 381, 382.

reasonably decide whether the matter should be referred to the Director or, where the matter has been so referred, to reasonably present the facts involved in the matter.

5 **25.**—The Director may dismiss a claim at any stage in the investi- Dismissal of claims.
gation where the Director is of the opinion that—

- (a) the complainant does not have a sufficient interest in the subject-matter of the claim, or
- (b) the claim has been made in bad faith or is frivolous or vexatious or relates to a trivial matter.

10 **26.**—(1) Where it appears to the Authority that— Reference of
certain matters to
Director.

- (a) prohibited conduct—
 - (i) is being generally directed against persons, or
 - (ii) has been directed against a person who has not made a claim under *section 23(1)* in respect of the prohibited conduct and it is not reasonable to expect that the person will do so, or
- (b) a person has contravened or is contravening *section 14(1), 15(1) or 21* or a regulation made under *section 19 or 20*,

the matter may be referred by the Authority to the Director.

20 (2) Where a matter is referred to the Director under *subsection (1)* it shall be dealt with in the same manner and to the same extent as if—

- (a) it were a claim referred to the Director under *section 23(1)*,
- 25 (b) the Authority were the complainant and the person alleged to have engaged in the prohibited conduct or to have committed the contravention referred to in *subsection (1)(b)*, as the case may be, were the respondent, and
- 30 (c) where the matter involves a contravention referred to in *subsection (1)(b)*, the contravention were prohibited conduct.

(3) Where, on application to the High Court or the Circuit Court, the Authority satisfies the Court that a person has been determined to have—

- (a) engaged in prohibited conduct, or
- 35 (b) contravened *section 14(1), 15(1) or 21* or a regulation made under *section 19 or 20*,

40 and that there is a likelihood of a further similar occurrence of the prohibited conduct or contravention by the person, the Court may grant an injunction or such other relief as the Court deems necessary to prevent the further occurrence.

27.—(1) Subject to *subsection (2)*, if, at any time after a case has Mediation.
been referred to the Director under *section 23*, it appears to the

Director that the case is one which could be resolved by mediation, the Director shall refer the case for mediation to an equality mediation officer.

(2) If the complainant or the respondent objects to a case being dealt with by way of mediation, the Director shall not exercise his or her powers under this section but shall deal with the case under *section 28*. 5

(3) Mediation shall be conducted in private.

(4) Where a case referred under *section 23* is resolved by mediation— 10

(a) the equality mediation officer concerned shall prepare a written record of the terms of the settlement;

(b) the written record of the terms of the settlement shall be signed by the complainant and the respondent;

(c) the equality mediation officer shall send a copy of the written record, as so signed, to the complainant and the respondent; and 15

(d) a copy of the written record shall be retained by the Director.

(5) If, after a case has been referred to an equality mediation officer it appears to the equality mediation officer the case cannot be resolved by mediation, the officer shall issue a notice to that effect to the complainant and the respondent. 20

(6) Where—

(a) a notice has been issued under *subsection (5)* with respect to a case, and 25

(b) within 28 days from the issue of that notice the complainant makes an application to the Director for the resumption of the hearing of the case, and

(c) a copy of that notice accompanies the application under *paragraph (b)*, 30

the Director shall proceed or, as the case may be, continue to deal with the case under *section 28*.

Investigation by
Director.

28.—(1) Where a case which has been referred to the Director under *section 23*— 35

(a) does not fall to be dealt with by way of mediation under *section 27*, or

(b) falls to be dealt with under this section by virtue of *section 27(6)*,

the Director shall investigate the case and hear all persons appearing to the Director to be interested and desiring to be heard. 40

(2) An investigation under this section shall be held in private.

(3) The Minister may by regulation specify—

(a) procedures to be followed by the Director in carrying out investigations (or any description of investigation) under this section; and

5 (b) time limits applicable to such investigations, including procedures for extending those limits in certain circumstances,

but before making any such regulations, the Minister shall consult the Director and the Authority.

10 (4) At the conclusion of an investigation under this section the Director shall issue a decision and, if the decision is in favour of the complainant, it shall provide for redress in accordance with *section 30*.

15 **29.**—If, in the course of an investigation under *section 28*, it appears to the Director that a respondent has failed to comply with *section 24*, the Director may draw such inferences (if any) from the respondent's failure as seem appropriate. Consequences of failure to supply information.

30.—(1) Subject to this section, the types of redress for which a decision of the Director under *section 28* may provide are either or Redress which may be ordered.
20 both of the following as may be appropriate in the circumstances:

(a) an order for compensation for the effects of discrimination; or

(b) an order that a person or persons specified in the order take a course of action which is so specified.

25 (2) The maximum amount which may be ordered by the Director by way of compensation under *subsection (1)(a)* shall be the maximum amount that could be awarded by the District Court in civil cases in contract.

30 (3) Where a claim is made by a person on behalf of an organisation described in *section 3(1)(a)(ii)* in respect of prohibited conduct directed against the organisation, any award of compensation in respect of the claim shall be paid to the benefit of the organisation.

31.—(1) Not later than 42 days from the date of a decision of the Director under *section 28*, the complainant or respondent involved Appeal.
35 in the claim may appeal the decision to the Circuit Court by notice in writing specifying the grounds of the appeal.

(2) In its determination of the appeal, the Circuit Court may provide for any redress for which provision could have been made by the decision appealed against (substituting the discretion of the Circuit Court for the discretion of the Director).
40

(3) No further appeal lies, other than an appeal to the High Court on a point of law.

32.—(1) Every decision of the Director under this Part shall be in writing and shall include a statement of the reasons why the Director Form and contents of decision.
45 reached that decision.

(2) By notice in writing to the complainant and the respondent the Director may correct any mistake (including an omission) of a verbal or formal nature in a decision under this Part.

(3) If any person who participated in an investigation is not correctly identified in the resulting decision, the correction of that error shall be regarded as falling within *subsection (2)*. 5

Supply and
publication of
decisions.

33.—(1) A copy of every decision of the Director under this Part shall be given to the complainant and the respondent and every such decision shall be published and a copy thereof made available for inspection at the office of the Director. 10

(2) Any reference in this section to a decision includes a reference to any statement of reasons included in the decision as mentioned in *section 32(1)*.

(3) The contents of any document which is published or made available by virtue of this section shall be protected by absolute privilege. 15

Enforcement of
decisions and
mediated
settlements.

34.—(1) If a person who is bound by the terms of a decision of the Director under this Part fails to comply with the terms of the decision, then, on an application under this section, the Circuit Court shall, subject to *section 35*, make an order directing the person affected to carry out the decision in accordance with its terms. 20

(2) If a person who is a party to a settlement to which *section 27* applies fails to give effect, in whole or in part, to the terms of the settlement, then, on an application under this section, the Circuit Court may make an order directing that person to carry out those terms or, as the case may be, the part of those terms to which the application relates, but the Circuit Court shall not, by virtue of this subsection, direct any person to pay any sum or do any other thing which (had the matter been dealt with otherwise than by mediation) could not have been provided for by way of redress under *section 30*. 25 30

(3) An application under this section may not be made within 42 days of the date of the decision or the date of the written record of the settlement, as the case may be.

(4) An application under this section may be made—

(a) by the complainant; 35

(b) in a case where the Authority is not the complainant, then, by the Authority with the consent of the complainant if the Authority considers that the decision or settlement is unlikely to be implemented without its intervention.

(5) On an application under this section, the Circuit Court shall exercise its functions under *subsection (1)* or (2) on being satisfied— 40

(a) of the existence and terms of the decision or settlement, and

(b) of the failure by the person affected to comply with those terms.

(6) Without prejudice to the power of the Circuit Court to make an order for costs in favour of the complainant or the person affected, where an application is made by the Authority by virtue of 45

subsection (4), the costs of the Authority may be awarded by the Circuit Court.

35.—(1) Where the Circuit Court makes an order under *section 34(1)*, it may, if in all the circumstances it considers it appropriate to do so, include in the order the additional direction referred to in *subsection (2)*. Additional powers of Circuit Court on enforcement.

(2) Where the order under *section 34(1)* relates to a decision requiring the payment of compensation to any person, the order may direct the respondent concerned to pay interest on the compensation at the rate referred to in *section 22* of the Courts Act, 1981, in respect of the whole or any part of the period ending on the date of the order and beginning—

- (a) 42 days after the date of the decision; or
- (b) if it is later, on the date on which the compensation was required to be paid under the decision.

36.—(1) In this section— Powers to enter premises and obtain information.
“designated officer” means the Director, an equality officer or a person authorised in that behalf by the Director;

“material information” means information which a designated officer has reasonable grounds for believing to be relevant for the purpose set out in *subsection (2)*.

(2) For the purpose of enabling information to be obtained which the Director may require to enable him or her to exercise his or her functions under this Part, a designated officer may do any one or more of the following:

- (a) at all reasonable times, peaceably enter premises;
- (b) require a person to produce to the designated officer any records, books, documents or other things which are in that person’s power or control and which the designated officer has reasonable grounds for believing to contain material information, and to give the designated officer such information and access as the designated officer may reasonably require in relation to the contents of any such records, books, documents and other things;
- (c) inspect and copy or take extracts from any such records, books, documents or other things;
- (d) inspect any work in progress at any premises.

(3) If a judge of the District Court is satisfied by information on oath of a designated officer that there is reasonable cause for suspecting that any records, books, documents or other things containing material information are to be found at any premises, the judge may issue a search warrant under this section.

(4) A search warrant issued under this section shall be expressed and operate to authorise a named designated officer, accompanied by such other persons as the named designated officer thinks necessary, at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant,

- (a) to enter the premises named in the warrant, if necessary by force;
- (b) to search those premises; and
- (c) to exercise any such power as is described in *subsection (2)(b)* or (c) in relation to persons and records, books, documents or other things found at the premises. 5

Requirement to provide information.

37.—(1) For the purpose of enabling the Director to exercise his or her functions under this Part, the Director—

- (a) may require a person who, in the opinion of the Director is in possession of, or has in his or her power or control, any information relevant to the exercise of those functions to furnish that information to the Director; and 10
- (b) where appropriate, may require such person to attend before the Director for that purpose,

and the person shall comply with the requirement accordingly. 15

(2) A requirement under *subsection (1)* may specify a time and place at which information is to be furnished or a person is to attend, and if no such time or place is specified in the requirement, the person to whom the requirement is addressed shall comply with it as soon as is reasonably practicable. 20

(3) A person required to attend before the Director under *subsection (1)(b)*—

- (a) shall answer fully and truthfully any question put to him or her by the Director (other than a question tending to incriminate the person), and 25
- (b) if so requested by the Director, shall sign a declaration of the truth of his or her answers to any such question.

(4) No information tendered under this section shall be admissible in any criminal proceedings (other than under *section 40*) against the person tendering the information. 30

Sanctions for failure or refusal to supply documents or information.

38.—(1) If it appears to the Director or an equality officer that a person has failed to comply with—

- (a) a requirement under *section 36(2)(b)*, or
- (b) a requirement under *section 37(1)*,

then, according as the case may require, the Director or the equality officer may apply to the Circuit Court for an order under this section. 35

(2) Subject to *subsection (3)* if, on an application under this section, the Circuit Court is satisfied as to the failure of the person concerned to comply with the requirement in question, the Circuit Court may make an order requiring that person to comply with the requirement. 40

(3) If, on an application under this section, the Circuit Court is of the opinion that the requirement in question purports to require the person concerned—

- (a) to produce any record, book, document or other thing, or
- (b) to furnish any information,

for which that person is entitled to claim legal professional privilege, the Circuit Court shall set aside the requirement.

5 **39.—**(1) In this section “information” includes any record, book, document or other thing in which the information is contained. Information not to be disclosed except in certain circumstances.

10 (2) No information furnished to, or otherwise acquired by the Director or any other person, by virtue of *sections 36 to 38*, or otherwise in the course, or for the purposes, of any investigation, mediation or hearing under this Part, shall be published or otherwise disclosed except—

- (a) for the purposes of such an investigation, mediation or hearing,
- (b) on the order of the High Court or the Circuit Court,
- 15 (c) with the consent of the person furnishing the information and of any other person to whom the information may relate,
- (d) in a decision of the Director published or made available under *section 33* and to which the disclosure of the information is relevant, or
- 20 (e) for the purposes of an application under *section 38*.

(3) A person who discloses information in contravention of *subsection (2)* shall be guilty of an offence.

40.—(1) A person who— Obstruction.

- 25 (a) obstructs or impedes the Director or an equality officer in the exercise of powers under this Part, or
- (b) fails to comply with a requirement of the Director or an equality officer given under this Part, or knowingly makes a false statement to the Director,

30 shall be guilty of an offence.

(2) A reference in *subsection (1)* to an equality officer includes a reference to a person authorised as described in the definition of “designated officer” in *section 36(1)*.

35 **41.—**(1) Where a case is referred to the Director and, at any time after the expiry of one year from the date of the reference, it appears to the Director that the complainant has not pursued, or has ceased to pursue, the reference, the Director may dismiss the reference. Striking out of cases not pursued.

40 (2) Before and as soon as practicable after dismissing a reference, the Director shall give notice in writing of that fact to the complainant and the respondent.

(3) Where a reference is struck out under this section, no further proceedings may be taken in relation to that reference, but nothing

in this section prevents a person from making a further reference in relation to the same matter (subject to any applicable time limit).

PART IV

General

Expenses. **42.**—Any expenses incurred in the administration of the Act shall, 5
to such extent as may be sanctioned by the Minister for Finance, be
paid out of moneys provided by the Oireachtas.

Regulations. **43.**—(1) The Minister may make regulations for the purpose of
giving effect to this Act including regulations prescribing forms and
the information to be contained in any notice to be used for any 10
purpose under this Act.

(2) The Minister may by regulations specify, in cases where pro-
vision is not otherwise made in that behalf by regulations under this
Act or the Act of 1998—

(a) procedures to be followed by the Director or, as the case 15
may be, the Labour Court, in carrying out functions
under this Act or the Act of 1998; and

(b) time limits applicable to the carrying out of such functions,
including procedures for extending those limits in certain
circumstances; 20

but before making any such regulations, the Minister shall consult
with the Authority and the Director: provided that in the case of any
such regulations relating to the functions of the Labour Court, the
Minister shall, in place of consulting with the Director, consult with 25
the Labour Court and obtain the consent of the Minister for
Enterprise, Trade and Employment.

(3) Every regulation made under this Act shall be laid before each
House of the Oireachtas as soon as practicable after it is made and,
if a resolution annulling the regulation is passed by either House
within the next 21 days on which that House has sat after the regu- 30
lation is laid before it, the regulation shall be annulled accordingly,
but without prejudice to the validity of anything previously done
thereunder.

(4) Any regulation made under this Act may contain such conse-
quential, supplementary and ancillary provisions as the Minister con- 35
siders necessary or expedient.

Vicarious liability. **44.**—(1) Anything done by a person in the course of the person's
employment shall be treated for the purpose of civil proceedings
under this Act as done also by that person's employer, whether or
not it was done with the employer's knowledge or approval. 40

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

(3) In proceedings brought under this Act against an employer in 45
respect of an act alleged to have been done by an employee of the
employer, it shall be a defence for the employer to prove that the

employer took such steps (if any) as were reasonably practicable to prevent the employee—

(a) from doing that act, or

(b) from doing, in the course of the employee’s employment, acts of that description.

45.—(1) A person guilty of an offence under any provision of this Act shall be liable— Offences generally.

(a) on summary conviction, to a fine not exceeding £1,500 or to imprisonment for a term not exceeding one year or both, or

(b) on conviction on indictment, to a fine not exceeding £500,000 or to imprisonment for a term not exceeding five years or both.

(2) If the contravention in respect of which a person is convicted of an offence under any provision of this Act is continued after the conviction, the person shall be guilty of a further offence on every day on which the contravention continues and for each such offence shall be liable on summary conviction to a fine not exceeding £250 or, on conviction on indictment, to a fine not exceeding £1,500.

46.—(1) Summary proceedings for an offence under any provision of this Act may be instituted by the Minister or the Authority. Offence-related provisions.

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

(3) Where the affairs of a body corporate are managed by its members, *subsection (2)* applies as if the reference to a director in that subsection were a reference to a member of the body corporate.

(4) Notwithstanding subsection 10(4) of the Petty Sessions (Ireland) Act, 1851, summary proceedings for an offence under any provision of this Act may be instituted within 12 months from the date of the offence.

47.—The jurisdiction of the Circuit Court or District Court in any matter under this Act shall be exercised by a judge of that Court for the time being assigned to the circuit or sitting for the district as the case may be in which the respondent in the matter resides or ordinarily carries on any profession, business or occupation. Court jurisdiction.

48.—Any—

Immunities and privileges.

(a) party to an investigation by the Director,

(b) witness before the Director or the Authority, or

- (c) person who is required to answer any question, furnish any document or thing or supply any information to the Director or the Authority,

shall be entitled to the same immunities and privileges as a witness before the High Court. 5

Extent of application of Act.

49.—(1) The provisions of this Act shall extend to and apply on and in respect of—

- (a) any ship registered in the State that is operated by a person who has a principal place of business or ordinary place of residence in the State, and 10
- (b) any aircraft registered in the State that is operated by a person who has a principal place of business or ordinary place of residence in the State,

whether or not the ship or aircraft, as the case may be, is outside the State. 15

(2) An act done on or in respect of a ship or aircraft in or over the territory of a jurisdiction outside the State that is required to be done in order to comply with the law of that jurisdiction shall not constitute prohibited conduct for the purposes of this Act.

PART V 20

AMENDMENT OF ACT OF 1998

General amendment.

50.—(1) Reference to the functions of the Authority in the Act of 1998 shall include reference to the functions of the Authority under this Act.

(2) Parts I, V and VI of the Act of 1998 shall apply to discrimination within the meaning of this Act as if such discrimination was included in any reference to discrimination in those provisions. 25

Amendment of section 39 of Act of 1998.

51.—Section 39 of the Act of 1998 is hereby amended—

- (a) in paragraph (a) by the deletion of “in relation to employment”; 30
- (b) in paragraph (b) by the addition after “this Act” of “or the *Equal Status Act, 1998*”; and
- (c) in paragraph (c) by the addition after “this Act” of “or the *Equal Status Act, 1998*”.

Amendment of section 56 of Act of 1998.

52.—Section 56 of the Act of 1998 is hereby amended— 35

- (a) in paragraph (a) of subsection (1) by the deletion of “in relation to employment”;
- (b) in paragraph (b) of subsection (1) by the deletion of “in relation to employment”; and
- (c) in subsection (4) after “Part VII,” by the insertion of “pro- 40 ceedings under the *Equal Status Act, 1998*, and”.

53.—Section 62 of the Act of 1998 is hereby amended in subsection (1)(b) by the insertion after “contravening” of “the *Equal Status Act, 1998*, or”.

Amendment of
section 62 of Act of
1998.

54.—Section 69 of the Act of 1998 is hereby amended—

Amendment of
section 69 of Act of
1998.

5 (a) in subsections (1)(a) and (2) by the deletion of “in employment”;

 (b) in subsection (1)(b) by the substitution of “business” for “employment” in both places where it occurs;

 (c) in subsection (2) by the deletion of “in that employment”;

10 (d) in subsection (6) by the deletion of “in an employment”;
 and

 (e) in subsection (7)(a) by the addition after “employment” of “or to activities to which the *Equal Status Act, 1998*, applies”.

15 **55.**—Section 73 of the Act of 1998 is hereby amended in subsection (1)—

Amendment of
section 73 of Act of
1998.

 (a) by the insertion after “enactments” of “which restrict the *Equal Status Act, 1998*, or which are”, and

 (b) by the deletion of “in relation to employment”.



[CLICK HERE FOR BILL](#)

AN BILLE UM STÁDAS COMHIONANN, 1998
EQUAL STATUS BILL, 1998

EXPLANATORY MEMORANDUM

Purpose of the Bill

The main purposes of the Bill are as follows:

- To provide for equality in goods and services and generally outside the employment context.
- To deal with inequality in education, property, land, accommodation, partnerships, clubs and other matters.
- The grounds of prohibited discrimination are the same as those under the Employment Equality Act, 1998 — gender, marital status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community.
- The Bill allows the Minister for Justice, Equality and Law Reform to make regulations about accessibility of transport facilities for people with disabilities.
- Claims of discrimination will be dealt with by the Director of Equality Investigations. The Equality Authority will be given an extended remit to cover the new areas for promotion of equality.

Background

The first Equal Status Bill, 1990 (No. 14 of 1990) was presented by Deputy Dick Spring on 10 April, 1990. It was defeated in Dáil Éireann having been opposed by the then Government in 1992.

Following a commitment in the January 1993 Programme for Government, a commitment accepted by the Government which took office in December 1994, a new Equal Status Bill, 1997 (No. 6 of 1997) was presented by the former Minister for Equality and Law Reform, Mervyn Taylor, on 5 February, 1997.

The Equal Status Bill, 1997 was passed by both Houses of the Oireachtas on 29 April, 1997.

The Bill was referred to the Supreme Court and declared unconstitutional on technical grounds on 19 June, 1997. On the same day the Government decided to authorise the re-drafting of the Bill.

No Bill has however been published in the year and a half since then. Consequently this Bill seeks to re-introduce the contents of the 1997 Bill, with appropriate amendments.

Publication of the Equal Status Bill is now also a commitment of the British-Irish Agreement done at Belfast on the 10th day of April, 1998, and enshrined in the Constitution *via* the 19th Amendment.

Changes since the 1997 Bill

The Bill contains some technical changes to reflect developments since the 1997 Bill, mainly the enactment of the Employment Equality Act, 1998. In addition, the provisions which were found unconstitutional are changed in this Bill to reflect the Supreme Court judgement. Apart from these changes, the main substantive changes from the 1997 Bill are as follows—

- This Bill and the 1998 Act will commence within 1 month from enactment.
- The powers of the Equality Authority are extended to cover the new areas under this Bill.
- Some drafting changes, tightening of exemptions and other changes are provided for.

Provisions of Bill

Part I is based on Part I of the 1997 Bill and deals with preliminary matters.

Part II is based on Part II of the 1997 Bill and outlaws discrimination in non-employment areas.

Part III is based on Part III of the 1997 Bill and provides enforcement remedies principally via the Director of Equality Investigations.

Part IV is based on Part V of the 1997 Bill and deals with general matters.

Part V amends the 1998 Act to extend the functions of the Equality Authority to cover the new areas under the Bill.

An Teachta Jan Uí Shúilleabháin,
Nollaig, 1998.