

DÁIL ÉIREANN

AN BILLE UM MÍCHUMAS 2004 —AN TUARASCÁIL

DISABILITY BILL 2004 —REPORT

Leasuithe Amendments

158a. In page 26, to delete lines 1 to 5 and substitute the following:

“PART 3

ESTABLISHMENT OF A STATUTORY DUTY

Establishment of a
statutory duty on all
public bodies.

24.—Public bodies including all Government Departments shall have due regard to the need to promote equality of opportunity for people with disabilities within the carrying out of their own functions, including but not limited to access to their buildings and services and the recruitment, hiring and promotion of staff.”

—Aengus Ó Snodaigh.

158b. In page 26, to delete lines 6 to 48 and in page 27, to delete lines 1 to 21 and substitute the following:

“25.—Pursuant to *section 24**, the Equality Authority shall—

- (a) keep under review the effectiveness of the duties imposed by this section,
- (b) offer advice to public bodies and others in connection with those duties, and
- (c) carry out the other functions conferred on it by this section.”

—Aengus Ó Snodaigh.

[*This is the appropriate reference if an earlier amendment is accepted.]

161c. In page 27, to delete lines 22 to 41 and substitute the following:

“26.—(1) Public bodies including all Government Departments shall, before the end of the period of six months beginning with the commencement of this Act or, if later, the establishment of the body, submit an equality plan for people with disabilities to the Equality Authority.

(2) Where appropriate in the opinion of the Equality Authority, the Equality Authority may request any public body or Government Department to submit a revised equality plan for people with disabilities.

(3) A public body or Government Department shall respond to a request under *subsection (2)* by submitting a revised plan to the Equality Authority before the end of the period of six months beginning with the date of the request.

(4) A public body's or Government Department's equality plan for people with disabilities shall—

- (a) show how it proposes to fulfil the duties imposed by *section 24**,
- (b) state its arrangements for assessing its compliance with the duties under *section 24** and for consulting people with disabilities, and others if relevant on matters to which a duty under that section is likely to be relevant, including details of the persons to be consulted,
- (c) state its arrangements for assessing and consulting on the likely impact of policies, plans and programmes adopted or proposed to be adopted by it on the promotion of equality of opportunity for people with disabilities, including but not limited to strategy statements, business plans and customer action plans as required under the Public Services Management Act 1987,
- (d) state its arrangements for monitoring any adverse impact of policies, plans and programmes adopted by it on the promotion of equality of opportunity for people with disabilities, including but not limited to strategy statements, business plans and customer action plans as required under the Public Services Management Act 1987,
- (e) state its arrangements for publishing the results of assessments under *paragraph (c)* and monitoring under *paragraph (d)*,
- (f) state its arrangements for training staff, including compulsory disability awareness training,
- (g) state its arrangements for positive action in the recruitment, hiring and promotion of people with disabilities,
- (h) state its arrangements for assessing and ensuring access by people with disabilities to information and services it provides,
- (i) state its arrangements for assessing and ensuring access by people with disabilities to buildings or other premises which it owns, occupies or is otherwise responsible,
- (j) state its arrangements for ensuring that all goods, services and information technology products and services are accessible to people with disabilities,
- (k) specify a timetable for measures proposed,
- (l) include details of how it will be published,
- (m) conform to any guidelines as to form or content issued by the Equality Authority with the approval of the Minister.

(5) Before submitting an equality plan for people with disabilities a public body or Government Department shall consult, in accordance with any directions given by the Equality Authority, representatives of persons likely to be affected by the equality plan for people with disabilities and any such other persons as may be specified in the directions.

(6) On receipt of an equality plan for people with disabilities the Equality Authority shall—

- (a) approve the plan,
- (b) make a request for a revised plan under *subsection (2)*, or

(c) refer a revised plan under *subsection (2)* to the Minister.

(7) Where the Equality Authority refers an equality plan for people with disabilities to the Minister under *subsection (6)(c)*, it shall notify the Houses of the Oireachtas that it has done so, and lay a copy of the plan before the Houses of the Oireachtas.

(8) Where an equality plan for people with disabilities has been referred to the Minister under *subsection (6)(c)*, the Minister shall:

(a) approve the plan,

(b) request the public body or Government Department concerned to revise the plan, or

(c) revise the plan for the public body or Government Department.

(9) A request under *subsection (8)(b)* shall be treated in the same way as a request under *subsection (2)*.

(10) Where the Minister requests a revised plan under *subsection (8)(b)* or revises the plan for the public body or Government Department under *subsection (8)(c)*, the Minister shall notify the Houses of the Oireachtas in writing and lay a copy of the plan before the Houses of the Oireachtas.

(11) If a public body or Government Department wishes to revise a scheme it may submit a revised scheme to the Equality Authority, which shall be treated as if it were submitted in response to a request under *subsection (2)*.

(12) A public body or Government Department shall, before the end of the period of five years beginning with the submission of its current equality plan for people with disabilities, or the latest review of that plan under this subsection, whichever is the later, review that plan and inform the Equality Authority of the outcome of the review.

(13) A public body or Government Department shall submit to the Equality Authority an annual progress report on the implementation of its current equality plan for people with disabilities, which can either be included as a section in the body's annual report, or a separate report.

(14) The Minister shall publish a national strategy for compliance with this Act within six months of its enactment.

(15) The Minister shall ensure that a progress report on the implementation of this Act is included in any National Action Plan for Social Inclusion.”

—Aengus Ó Snodaigh.

[*This is the appropriate reference if an earlier amendment is accepted.]

a165a. In page 27, to delete lines 42 to 44 and in page 28, to delete lines 1 to 10 and substitute the following:

“27.—The National Disability Authority shall develop a code of practice in relation to developing or otherwise providing accessible complaints mechanisms for the purposes of this Part, and public bodies and Government Departments shall be obliged to provide a complaints mechanism consistent with these guidelines.”

—Aengus Ó Snodaigh.

a165c. In page 28, to delete lines 11 to 30 and substitute the following:

“28.—The Equality Authority and Office of the Director of Equality Investigations shall have the power to compel compliance with this Part, including those powers of investigation and enforcement consistent with the Equal Status Acts 2000 to 2004 and Employment Equality Acts 1998 to 2004.”.

—Aengus Ó Snodaigh.

167b. In page 28, to delete lines 31 to 43 and in page 29, to delete lines 1 to 16 and substitute the following:

“Establishment of a Statutory Duty on all bodies operating public buildings or providing services to the public.

29.—(1) All bodies operating public buildings or providing services to the public shall ensure that their buildings and services including information provision are accessible to people with disabilities, in keeping with guidelines established by the National Disability Authority and the Equality Authority.

(2) The National Disability Authority and Equality Authority shall establish guidelines for the purposes of establishing standards for compliance with *subsection (1)*.

(3) Notwithstanding the generality of *subsection (1)*, those bodies operating public buildings or providing services to the public that are not public bodies or Government Departments shall be considered to have complied with that section if they have submitted a statement to the Equality Authority before the end of the period of six months beginning with the commencement of this Act or, if later, the establishment of the body, indicating their plans to comply with the section within a reasonable timeframe.

(4) Where appropriate in the opinion of the Equality Authority, the Equality Authority may request any body under this section to submit a revised statement.

(5) A body shall respond to a request under *subsection (4)* by submitting a revised plan to the Equality Authority before the end of the period of six months beginning with the date of the request.

(6) A body’s statement under *subsection (3)* shall—

(a) show how it proposes to fulfil the duties imposed under this section,

(b) state its arrangements for assessing its compliance with the duties under this section and for consulting people with disabilities and others if relevant on matters to which a duty under that section is likely to be relevant, including details of the persons to be consulted,

(c) state its arrangements for assessing and consulting on the likely impact of policies, plans and programmes adopted or proposed to people with disabilities, including but not limited to strategy statements, business plans and customer action plans,

(d) state its arrangements for monitoring any adverse impact of policies, plans and programmes adopted by it on the promotion of equality of opportunity for people with disabilities, including but not limited to strategy statements, business plans and customer action plans,

(e) state its arrangements for publishing the results of assessments under *paragraph (c)* and monitoring under *paragraph (d)*,

- (f) state its arrangements for training staff, including compulsory disability awareness training,
- (g) state its arrangements for positive action in the recruitment, hiring and promotion of people with disabilities,
- (h) state its arrangements for assessing and ensuring access by people with disabilities to information and services it provides,
- (i) state its arrangements for assessing and ensuring access by people with disabilities to buildings or other premises which it owns, occupies or is otherwise responsible,
- (j) state its arrangements for ensuring that all goods, services and information technology products and services are accessible to people with disabilities,
- (k) specify a timetable for measures proposed,
- (l) include details of how it will be published,
- (m) conform to any guidelines as to form or content issued by the Equality Authority with the approval of the Minister.

(7) Before submitting an equality plan for people with disabilities a body shall consult, in accordance with any directions given by the Equality Authority, representatives of persons likely to be affected by the equality plan for people with disabilities and any such other persons as may be specified in the directions.”

—Aengus Ó Snodaigh.

167c. In page 29, to delete lines 17 to 42, to delete pages 30 to 35 and in page 36, to delete lines 1 to 41.

—Aengus Ó Snodaigh.

173d. In page 36, to delete lines 42 to 45, to delete page 37 and in page 38, to delete lines 1 to 41.

—Aengus Ó Snodaigh.

182a. In page 38, line 45, to delete “means National Disability Authority;” and substitute the following:

“shall be construed to mean the Equality Authority, working in consultation with the National Disability Authority;”

—Aengus Ó Snodaigh.

182b. In page 39, to delete lines 38 and 39.

—Aengus Ó Snodaigh.

182d. In page 39, line 41, to delete “in so far as practicable”.

—Aengus Ó Snodaigh.

183a. In page 40, lines 4 and 5, to delete “may, with the consent of the Minister” and substitute “shall”.

—Aengus Ó Snodaigh.

185a. In page 40, line 9, after “her” to insert the following:

“, which may be higher but not less than the minimum target under *subsection (4)*”.

—Aengus Ó Snodaigh.

185b. In page 40, lines 10 and 11, to delete “may, with the consent of the Minister for Finance” and substitute “shall”.

—Aengus Ó Snodaigh.

185d. In page 40, line 14, to delete “Any other Minister” and substitute “Other Ministers”.

—Aengus Ó Snodaigh.

185e. In page 40, lines 14 and 15, to delete all words from and including “may,” in line 14 down to and including “Finance” in line 15 and substitute “shall”.

—Aengus Ó Snodaigh.

185g. In page 40, line 18, after “her” to insert the following:

“, which may be higher but not less than the minimum target under *subsection (4)*”.

—Aengus Ó Snodaigh.

185h. In page 40, line 20, to delete “may” and substitute “shall”.

—Aengus Ó Snodaigh.

185j. In page 40, to delete lines 24 to 26.

—Aengus Ó Snodaigh.

185k. In page 40, line 36, after “no” to insert “higher”.

—Aengus Ó Snodaigh.

188a. In page 40, line 40, to delete “may” and substitute “shall”.

—Aengus Ó Snodaigh.

188b. In page 41, lines 3 and 4, to delete all words from and including “subject” in line 3 down to and including “subject” in line 4.

—Aengus Ó Snodaigh.

190a. In page 42, line 17, to delete “with the consent of the relevant Minister.”.

—Aengus Ó Snodaigh.

191b. In page 42, line 41, to delete “reasonably”.

—Aengus Ó Snodaigh.

191g. In page 43, to delete lines 40 to 41.

—Aengus Ó Snodaigh.

a192a. In page 45, line 12, after “provision,” to insert “including those measures taken”.

—Aengus Ó Snodaigh.

a192b. In page 45, between lines 13 and 14, to insert the following:

“52.—All positions created as a result of this Act shall be subject to affirmative action measures under *section 47(1)(a)*, measures under *section 49(3)* and an order under *section 47(3)(d)*.”.

—Aengus Ó Snodaigh.

a192c. In page 45, between lines 13 and 14, to insert the following:

“PART 6

APPLICABILITY OF PROTECTIONS AND REMEDIES UNDER EXISTING EQUALITY AND OTHER LEGISLATION

52.—Failure to comply with the requirements under *Parts 3** and 5 of this Act shall be construed as discrimination under the Equal Status Acts 2000 to 2004 and Employment Equality Acts 1998 to 2004 and the remedies available under the Equal Status Acts 2000 to 2004 and Employment Equality Acts 1998 to 2004 shall apply.”.

—Aengus Ó Snodaigh.

[**This is the appropriate reference if an earlier amendment is accepted.*]

a192d. In page 45, between lines 13 and 14, to insert the following:

“53.—Notwithstanding anything in the Ombudsman Act 1980, that Act shall apply to decisions or failures to comply with the requirements under *Parts 2* and *3** of the Act.”.

—Aengus Ó Snodaigh.

[**This is the appropriate reference if an earlier amendment is accepted.*]

a192e. In page 45, between lines 13 and 14, to insert the following:

“54.—Nothing in this Act or in the regulations shall diminish in any way the rights of or legal obligations towards people with disabilities, nor reduce the current liabilities of public sector and other employers and service providers under the Employment Equality Acts 1998 to 2004 or Equal Status Acts 2000 to 2004.”.

—Aengus Ó Snodaigh.

a192f. In page 45, between lines 13 and 14, to insert the following:

“55.—Nothing in this Act or in the regulations shall diminish the rights and protections available to people with disabilities under the European Convention on Human Rights Act 2003.”.

—Aengus Ó Snodaigh.

a192g. In page 45, between lines 13 and 14, to insert the following:

“56.—Section 14 of the Equal Status Act 2000 does not apply to measures that are a consequence of the enactment of this Act.”.

—Aengus Ó Snodaigh.

199a. In page 51, to delete lines 1 to 11.

—Aengus Ó Snodaigh.